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Summary

Legal deposit – 1st Quarter 1968
Bibliothèque nationale du Québec

Table of Contents

Page

Regulations and other acts

Draft Regulations

Regulations and other acts

Gouvernement du Québec

O.C. 134-2009, 18 February 2009

Tobacco Tax Act
(R.S.Q., c. I-2)

Taxation Act
(R.S.Q., c. I-3)

An Act respecting the Ministère du Revenu
(R.S.Q., c. M-31)

An Act respecting the Québec sales tax
(R.S.Q., c. T-0.1)

Fuel Tax Act
(R.S.Q., c. T-1)

Various regulations of a fiscal nature — Amendments

Regulations to amend various regulations of a fiscal nature

WHEREAS, under section 19 of the Tobacco Tax Act (R.S.Q., c. I-2), for the purpose of carrying into effect the provisions of the Act according to their true intent or of supplying any deficiency therein, the Government may make such regulations, not inconsistent with the Act, as are considered necessary;

WHEREAS, under subparagraphs *e*, *e*.2 and *f* of the first paragraph of section 1086 of the Taxation Act (R.S.Q., c. I-3), the Government may make regulations to establish classes of property for the purposes of section 130 of the Act, to require any person included in one of the classes of persons it determines to file any return it may prescribe relating to any information necessary for the establishment of an assessment provided for in the Act and to send, where applicable, a copy of the return or of a part thereof to any person to whom the return or part thereof relates and to whom it indicates in the regulation, and to generally prescribe the measures required for the application of the Act;

WHEREAS, under section 94.7 of the Act respecting the Ministère du Revenu (R.S.Q., c. M-31) and for the purposes of section 94.5 of the Act, the Government may, by regulation, fix conditions to be met by an individual so that an advance on a refund may be made to the individual;

WHEREAS, under the first paragraph of section 96 of that Act, the Government may make regulations, in particular to prescribe the measures required to carry out the Act, to give effect to any agreement entered into under section 9 of the Act and to exempt from the duties provided for by a fiscal law, under the conditions which it prescribes, prescribed international organizations, their head officers and their employees and the members of their families;

WHEREAS, under the first paragraph of section 677 of the Act respecting the Québec sales tax (R.S.Q., c. T-0.1), the Government may make regulations to prescribe the measures required for the purposes of the Act;

WHEREAS subparagraph *q* of the first paragraph of section 1 of the Fuel Tax Act (R.S.Q., c. T-1) provides that "regulation" means any regulation made by the Government under the Act;

WHEREAS it is expedient to amend the Regulation respecting the Taxation Act (R.R.Q., 1981, c. I-3, r.1) primarily to revise the divisions and numbering of texts, to simplify texts, to make alterations to ensure a uniform mode of expression and conceptual unity, to eliminate redundancies and needless repetition, to correct obvious errors of reference, data-entry and transcription, to make alterations to ensure a high quality of language and to harmonize the French and English versions of the texts;

WHEREAS it is expedient to amend the Regulation respecting the Taxation Act and the Regulation respecting the Québec sales tax (Order in Council 1607-92 dated 4 November 1992) primarily to give effect to fiscal measures announced by the Minister of Finance in the Budget Speeches delivered on 30 March 2004, 21 April 2005, 23 March 2006 and 24 May 2007 and in Information Bulletins published by the Ministère des Finances in particular on 29 June 2006, 9 November 2007, 20 December 2007, 15 April 2008 and 30 April 2008, and to legislative amendments that were introduced in the Taxation Act and the Act respecting the Québec sales tax in particular by chapter 14 of the Statutes of 1997, chapter 36 of the Statutes of 2006 and chapter 12 of the Statutes of 2007;

WHEREAS it is expedient to amend the Regulation respecting fiscal administration (R.R.Q., 1981, c. M-31, r.1) to fix the conditions to be met by an individual so that an advance on a refund may be made to the individual and to update the delegations of signing authority to reflect the changes that have occurred in certain fiscal laws and in the administrative structure of the Ministère du Revenu;

WHEREAS it is expedient, with a view to more efficient application of the Tobacco Tax Act, the Taxation Act, the Act respecting the Ministère du Revenu, the Act respecting the Québec sales tax, and the Fuel Tax Act, to amend the Regulation respecting the application of the Tobacco Tax Act (Order in Council 1929-86 dated 16 December 1986), the Regulation respecting the Taxation Act, the Regulation respecting fiscal administration, the Regulation respecting tax exemptions granted to certain international governmental organizations and to certain of their employees and members of their families (Order in Council 1799-90 dated 19 December 1990), the Regulation respecting the Québec sales tax and the Regulation respecting the application of the Fuel Tax Act (R.R.Q., 1981, c. T-1, r.1) to make technical and consequential amendments;

WHEREAS, under section 12 of the Regulations Act (R.S.Q., c. R-18.1), a proposed regulation may be made without having been published as provided for in section 8 of the Act, if the authority making it is of the opinion that the fiscal nature of the norms established, amended or revoked in the regulation warrants it;

WHEREAS, under section 18 of that Act, a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority that has made it is of the opinion that the fiscal nature of the norms established, amended or revoked in the regulation warrants it;

WHEREAS the Government is of the opinion that the fiscal nature of the norms established, amended or revoked by the regulations warrants the absence of prior publication and such coming into force;

WHEREAS section 27 of that Act provides that the Act does not prevent a regulation from taking effect before the date of its publication in the *Gazette officielle du Québec* where the Act under which it is made expressly provides therefor;

WHEREAS, under section 20 of the Tobacco Tax Act, every regulation made under the Act comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein; such a regulation may also, once published and where it so provides, take effect on a date prior to its publication but not prior to the date on which the legislative provision under which it is made takes effect;

WHEREAS, under the second paragraph of section 1086 of the Taxation Act, the regulations made under the Act come into force on the date of their publication in the *Gazette officielle du Québec* or on any later date fixed therein and they may also, once published and if they so provide, apply to a period prior to their publication, but not prior to the taxation year 1972;

WHEREAS, under section 97 of the Act respecting the Ministère du Revenu, every regulation made under the Act comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein; such a regulation may also, if it so provides, apply to a period prior to its publication;

WHEREAS, under the second paragraph of section 677 of the Act respecting the Québec sales tax, a regulation made under the Act comes into force on the date of its publication in the *Gazette officielle du Québec*, unless the regulation fixes another date which may in no case be prior to 1 July 1992;

WHEREAS, under section 56 of the Fuel Tax Act, every regulation made under the Act comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein and may also, once published and where it so provides, take effect on a date prior to its publication but not prior to the date on which the legislative provision under which it is made takes effect;

IT IS ORDERED, therefore, on the recommendation of the Minister of Revenue:

THAT the regulations attached to this Order in Council be made:

— Regulation to amend the Regulation respecting the application of the Tobacco Tax Act;

— Regulation to amend the Regulation respecting the Taxation Act;

— Regulation to amend the Regulation respecting fiscal administration;

— Regulation to amend the Regulation respecting tax exemptions granted to certain international governmental organizations and to certain of their employees and members of their families;

— Regulation to amend the Regulation respecting the Québec sales tax;

— Regulation to amend the Regulation respecting the application of the Fuel Tax Act.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the application of the Tobacco Tax Act*

Tobacco Tax Act
(R.S.Q., c. I2, ss. 19 and 20)

1. Section 1.2 of the Regulation respecting the application of the Tobacco Tax Act is amended in the French text by replacing "émise" and "émis" in paragraph *c* by "délivrée" and "délivré" respectively.

2. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

* The Regulation respecting the application of the Tobacco Tax Act, made by Order in Council 1929-86 dated 16 December 1986 (1986, *G.O.* 2, 3156), was last amended by the Regulation to amend the Regulation respecting the application of the Tobacco Tax Act made by Order in Council 193-2006 dated 22 March 2006 (2006, *G.O.* 2, 1184). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2008, updated to 1 September 2008.

Regulation to amend the Regulation respecting the Taxation Act*

Taxation Act

(R.S.Q., c. I 3, s. 1086, 1st par., subpars. *e*, *e*.2 and *f* and 2nd par.)

1. The Regulation respecting the Taxation Act is amended by replacing Titles I to XXXIV, comprising sections 0R1 to 2000R2, and Schedules B to C.1 by the following:

"**TITLE I**

"INTERPRETATION AND RULES OF GENERAL APPLICATION

title I; O.C. 1981-80, title 1; R.R.Q., 1981, c. I-3, r.1, title 1.

"**0R1.** In this Regulation, "Act" means the Taxation Act (R.S.Q., c. I-3).

s. 0R1; O.C. 1981-80, s. 0R1; R.R.Q., 1981, c. I-3, r.1, s. 0R1.

"**0R2.** For the purpose of facilitating the finding of the provisions of the Act giving rise to a regulatory provision, the figures that precede the letter R in the numbering of this Regulation refer, for the purpose of guidance only, to the section of the Act providing for such regulatory provision.

s. 0R2; O.C. 1981-80, s. 0R2; R.R.Q., 1981, c. I-3, r.1, s. 0R2.

"**1R1.** For the purposes of the definition of "share" in section 1 of the Act, a prescribed cooperative means a cooperative described in section 119.2R2.

s. 1R1.1; O.C. 67-96, s. 1.

"**1R2.** For the purposes of the definition of "Canadian stock exchange" in section 1 of the Act, a prescribed Canadian stock exchange is a prescribed stock exchange in Canada listed in section 3200 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 1R6; O.C. 1149-2006, s. 1.

"**1R3.** For the purposes of the definition of "foreign stock exchange" in section 1 of the Act, a prescribed foreign stock exchange is a prescribed stock exchange outside Canada listed in section 3201 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 1R7; O.C. 1149-2006, s. 1.

"**1R4.** For the purposes of the definition of "foreign retirement arrangement" in section 1 of the Act, a prescribed plan or arrangement is a plan or arrangement to which any of subsections 408*a*, *b* and *h* of the United States' Internal Revenue Code of 1986, as amended from time to time, applies.

s. 1R4; O.C. 1660-94, s. 1.

"**1R5.** For the purposes of the definition of "bituminous sands" in section 1 of the Act, viscosity or density of hydrocarbons is determined using a number of individual samples tested

(*a*) at atmospheric pressure;

(*b*) at a temperature of 15.6 degrees Celsius; and

(*c*) free of solution gas.

For the purposes of the first paragraph, the samples collected must constitute a representative sampling of that deposit from which the taxpayer is committed to produce by means of one mine.

s. 1R5; O.C. 1454-99, s. 1.

"**1R6.** For the purposes of the definition of "small business corporation" in section 1 of the Act, a corporation is connected with another corporation at a particular time where, at that time,

(*a*) it is controlled, within the meaning of paragraph *b* of section 739 of the Act, but otherwise than by reason of a right referred to in paragraph *b* of section 20 of the Act, by the other corporation; or

(*b*) it is a corporation, shares of the capital stock of which, representing more than 10% of the issued shares of its capital stock having full voting rights and more than 10% of the fair market value of the aggregate of the issued shares of its capital stock, are the property of the other corporation.

s. 1R2; O.C. 1549-88, s. 1; O.C. 1707-97, s. 98.

"**1R7.** For the purposes of the definition of "lending assets" in section 1 of the Act,

(*a*) a share owned by a bank is a prescribed share for a taxation year where it is a preferred share of the capital stock of a corporation that is dealing at arm's length with the bank that may reasonably be considered to be, and is reported as, a substitute or alternative for a loan to the corporation, or another corporation with whom the corporation does not deal at arm's length, in the bank's annual report for the year to the Superintendent of Financial Institutions of Canada or, where the bank was throughout the year subject to the

*The Regulation respecting the Taxation Act (R.R.Q., 1981, c. I-3, r.1) was last amended by the Regulation to amend the Regulation respecting the Taxation Act made by Order in Council 1116-2007 dated 12 December 2007 (2007, G.O. 2, 4042). For previous amendments, refer to the Tableau des modifications et Index sommaire, Québec Official Publisher, 2008, updated to 1 September 2008.

supervision of the Superintendent of Financial Institutions of Canada but was not required to file an annual report for the year with the Superintendent of Financial Institutions of Canada, in its financial statements for the year; and

(*b*) a property is a prescribed property for a taxation year where

i. in the case of a security held by a bank, the security is reported as part of the bank's trading account in its annual report for the year to the Superintendent of Financial Institutions of Canada or, where the bank was throughout the year subject to the supervision of the Superintendent of Financial Institutions of Canada but was not required to file an annual report for the year with the Superintendent of Financial Institutions of Canada, in its financial statements for the year,

ii. in the case of a security held by a taxpayer other than a bank, the security is at any time in the year a property described in an inventory of the taxpayer; or

iii. the property is a direct financing lease, or any other financing agreement, of a taxpayer that is reported as a loan in the taxpayer's financial statements for the year, prepared in accordance with generally accepted accounting principles, provided that an amount is deductible in computing the taxpayer's income for the year, in respect of the property that is the subject of the lease or agreement, under paragraph *a* of section 130 or the second paragraph of section 130.1 of the Act.

s. 1R3; O.C. 366-94, s. 1; O.C. 1707-97, s. 98; O.C. 1463-2001, s. 1; O.C. 1470-2002, s. 1.

"**7R1.** For the purposes of subparagraph *b* of the second paragraph of section 7 of the Act, Gaz Métro Limited Partnership is a prescribed partnership.

s. 7R1; O.C. 1155-2004, s. 1.

"**8R1.** Every international development assistance program set forth in Part XXXIV of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) is a prescribed program for the purposes of paragraph *d* of section 8 of the Act.

s. 8R1; O.C. 1981-80, s. 8R1; R.R.Q., 1981, c. I-3, r.1, s. 8R1; O.C. 35-96, s. 86.

"**11R1.** For the purposes of section 11 of the Act, a foreign business corporation means a foreign business corporation referred to in subsection 4 of section 250 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 11R1; O.C. 1981-80, s. 11R1; R.R.Q., 1981, c. I-3, r.1, s. 11R1; O.C. 35-96, s. 1; O.C. 1707-97, s. 98.

"**21.6R1.** For the purposes of paragraph *e* of section 21.6 of the Act,

(*a*) a share last acquired before 29 June 1982 and of a class of the capital stock of a corporation that is listed on a Canadian stock exchange is a prescribed share where less than 10% of the issued and outstanding shares of that class are owned by the owner of that share or by the owner of that share and persons related to that owner;

(*b*) a share acquired after 28 June 1982 and of a class of the capital stock of a corporation that is listed on a Canadian stock exchange is a prescribed share at any particular time in respect of another corporation that receives a dividend at the particular time in respect of the share unless

i. where the other corporation is a restricted financial institution,

(1) the share is not a taxable preferred share,

(2) dividends, other than dividends received on shares prescribed under section 21.6R3, are received at the particular time by the other corporation or by the other corporation and restricted financial institutions with which the other corporation does not deal at arm's length, in respect of more than 5% of the issued and outstanding shares of that class, and

(3) a dividend is received at the particular time by the other corporation or a restricted financial institution with which the other corporation does not deal at arm's length, in respect of a share, other than a share prescribed under section 21.6R3, of that class acquired after 15 December 1987 and before the particular time,

ii. where the other corporation is a restricted financial institution, the share

(1) is not a taxable preferred share,

(2) was acquired after 15 December 1987 and before the particular time, and

(3) was, by reason of section 21.9 of the Act or paragraph *a* or *b* of section 21.9.1 of the Act, deemed to have been issued after 15 December 1987 and before the particular time, or

iii. in any case, dividends, other than dividends received on shares prescribed under section 21.6R3, are received at the particular time by the other corporation or by the other corporation and persons with whom the other corporation does not deal at arm's length, in respect of more than 10% of the issued and outstanding shares of that class;

(*c*) a share of any of the following series of preferred shares of the capital stock of Massey-Ferguson Limited issued after 15 July 1981 and before 23 March 1982 is a prescribed share:

i. $25 Cumulative Redeemable Retractable Convertible Preferred Shares, Series C,

ii. $25 Cumulative Redeemable Retractable Preferred Shares, Series D, or

iii. $25 Cumulative Redeemable Retractable Convertible Preferred Shares, Series E.

s. 21.6R2; O.C. 2456-80, s. 1; R.R.Q., 1981, c. I-3, r.1, s. 21.6R2; O.C. 1472-87, s. 1; O.C. 1076-88, s. 1; O.C. 1114-92, s. 1; O.C. 1114-93, s. 2; O.C. 1707-97, s. 98; O.C. 1451-2000, s. 66; O.C. 1463-2001, s. 3.

"**21.6R2.** For the purposes of paragraph *b* of section 21.6R1, of section 21.6R3 and of this section, the following rules apply:

(*a*) where a taxpayer is a beneficiary of a trust and an amount has been designated to the beneficiary by the trust in a taxation year in accordance with section 666 of the Act, the taxpayer is deemed to have received the amount so designated at the time it was received by the trust;

(*b*) where a taxpayer is a member of a partnership and a dividend has been received by the partnership, the taxpayer's share of the dividend is deemed to have been received by the taxpayer at the time the dividend was received by the partnership.

s. 21.6R3; O.C. 1472-87, s. 1; O.C. 1076-88, s. 2; O.C. 1114-92, s. 2; O.C. 1707-97, s. 98.

"**21.6R3.** For the purposes of paragraph *e* of section 21.6 of the Act, a share of a class of the capital stock of a corporation listed on a stock exchange in Canada is a prescribed share at any particular time in respect of another corporation that is registered or licensed under the laws of a province to trade in securities and that holds the share as inventory of the business ordinarily carried on by it, unless

(*a*) it may reasonably be considered that the share was acquired as part of a series of transactions or events one of the main purposes of which was to avoid or limit the application of section 740.1 of the Act; or

(*b*) the share was not acquired by the other corporation in the course of an underwriting of shares of that class to be distributed to the public and

i. dividends are received at the particular time by the other corporation or by the other corporation and corporations controlled by the other corporation in respect of more than 10% of the issued and outstanding shares of that class,

ii. the other corporation is a restricted financial institution and

(1) the share is not a taxable preferred share,

(2) dividends are received at the particular time by the other corporation or by the other corporation and corporations controlled by the other corporation in respect of more than 5% of the issued and outstanding shares of that class, and

(3) a dividend is received at the particular time by the other corporation or a corporation controlled by the other corporation in respect of a share of that class acquired after 15 December 1987 and before that particular time, or

iii. the other corporation is a restricted financial institution and the share:

(1) is not a taxable preferred share,

(2) was acquired after 15 December 1987 and before the particular time, and

(3) was deemed to have been issued after 15 December 1987 and before the particular time by reason of section 21.9 of the Act or paragraph *a* or *b* of section 21.9.1 of the Act.

s. 21.6R4; O.C. 1114-92, s. 3; O.C. 1114-93, s. 3; O.C. 1707-97, s. 2; O.C. 1451-2000, s. 66.

"**21.6R4.** For the purposes of paragraph *e* of section 21.6 of the Act,

(*a*) a share of the capital stock of a corporation that is a member institution of a deposit insurance corporation within the meaning of section 804 of the Act is a prescribed share with respect to the deposit insurance corporation and any subsidiary wholly-owned corporation of the deposit insurance corporation that is deemed to be a deposit insurance corporation under section 806.1 of the Act; and

(*b*) the Exchangeable Preference Shares of Canada Cement Lafarge Ltd., referred to as "subject shares" in this paragraph, the Exchangeable Preference Shares of Lafarge Canada Inc. and the shares of any corporation formed as a result of an amalgamation or merger of Lafarge Canada Inc. with one or more other corporations are prescribed shares at any particular time where the terms and conditions of such shares at the particular time are the same as, or substantially the same as, the terms and conditions of the subject shares as of 18 June 1987, and, for the purposes of this paragraph, the amalgamation or merger of one or more corporations with another corporation formed as a result of the amalgamation or merger of Lafarge Canada Inc. with one or more other corporations is deemed to be an amalgamation of Lafarge Canada Inc. with another corporation.

s. 21.6R5; O.C. 1114-92, s. 3; O.C. 1707-97, s. 98.

"**21.6R5.** For the purpose of determining, under paragraph *b* of section 21.6R1 and of section 21.6R3, the time at which a share of a class of the capital stock of a corporation was acquired by any taxpayer, shares of that class acquired by the taxpayer at any particular time before a disposition by the taxpayer of shares of that class are deemed to have been disposed of before shares of that class acquired by the taxpayer before that particular time.

s. 21.6R6; O.C. 1114-92, s. 3; O.C. 1707-97, s. 98.

"**21.6R6.** For the purposes of paragraph *b* of section 21.6R1 and of section 21.6R3, the following rules apply:

(*a*) a share of the capital stock of a corporation acquired by a person after 15 December 1987 pursuant to an agreement in writing entered into before 16 December 1987 is deemed to have been acquired by that person before 16 December 1987;

(*b*) a share of the capital stock of a corporation acquired by a person after 15 December 1987 and before 1 July 1988 as part of a distribution to the public made in accordance with the terms of a prospectus, preliminary prospectus, registration statement, offering memorandum or notice filed before 16 December 1987 with a public authority in accordance with the securities legislation of the jurisdiction in which the shares were distributed, is deemed to have been acquired by that person before 16 December 1987;

(*c*) where a share that was owned by a particular restricted financial institution on 15 December 1987 has, by one or more transactions between related restricted financial institutions, been transferred to another restricted financial institution, the share is deemed to have been acquired by the other restricted financial institution before that date and after 28 June 1982, unless at any particular time after 15 December 1987 and before the share was transferred to the other restricted financial institution, the share was owned by a shareholder who, at that particular time, was a person other than a restricted financial institution related to the other restricted financial institution; and

(*d*) where, at any particular time there has been an amalgamation, within the meaning of section 544 of the Act, and each of the predecessor corporations, within the meaning of that section, was a restricted financial institution throughout the period beginning 16 December 1987 and ending at the particular time and the predecessor corporations were related to each other throughout that period, or each of the predecessor corporations and the new corporation, within the meaning of that section, is a corporation described in any of paragraphs *a* to *d* of the definition "restricted financial institution" in section 1 of the Act, a share acquired by the new corporation from a predecessor corporation is deemed to have been acquired by the new corporation at the time it was acquired by the predecessor corporation.

s. 21.6R7; O.C. 1114-92, s. 3; O.C. 1707-97, s. 98.

"**21.11.12R1.** For the purposes of paragraph *h* of section 21.11.12 of the Act, a prescribed share is a share referred to in paragraph *b* of section 21.6R4.

s. 21.11.12R1; O.C. 1114-92, s. 5.

"**21.11.15R1.** For the purposes of section 21.11.15 of the Act, the following shares are prescribed shares at any particular time:

(*a*) the 8.5% Cumulative Redeemable Convertible Class A Preferred Shares of St. Marys Paper Inc. issued on 7 July 1987, where such shares are not deemed, by reason of paragraph *c* of section 21.11.16 of the Act, to have been issued after that date and before the particular time;

(*b*) the Cumulative Redeemable Preferred Shares of CanUtilities Holdings Ltd. issued before 1 July 1991, unless the amount of the consideration for which all such shares were issued exceeds $300,000,000 or the particular time is after 1 July 2001; and

(*c*) the shares referred to in paragraph *b* of section 21.6R4.

s. 21.11.15R1; O.C. 1114-92, s. 5.

"**21.11.16R1.** For the purposes of paragraphs *a*, *b* and *e* of section 21.11.16 of the Act, a prescribed share is a share referred to in section 21.11.15R1.

s. 21.11.16R1; O.C. 1114-92, s. 5.

"**21.19R1.** For the purposes of section 21.19 of the Act, a prescribed corporation is a corporation that is registered under the provisions of

(*a*) The Small Business Development Corporations Act, 1979, of Ontario (S.O., 1979, c. 22);

(*b*) Manitoba Regulation 194/84, made under The Loans Act, 1983 (2) of Manitoba (S.M., 1982-83-84, c. 36);

(*c*) The Venture Capital Tax Credit Act of Saskatchewan (S.S., 1983-84, c. V-4.1);

(*d*) the Small Business Equity Corporations Act of Alberta (S.A., 1984, c. S-13.5);

(*e*) the Small Business Venture Capital Act of British Columbia (S.B.C., 1985, c. 56);

(*f*) The Venture Capital Act of Newfoundland (S.N., 1988, c. 15);

(*g*) The Labour-sponsored Venture Capital Corporations Act of Saskatchewan (S.S., 1986, c. L-0.2);

(*h*) Part 2 of the Employee Investment Act of British Columbia (R.S.B.C., 1996, c. 112);

(*i*) Part III of The Community Small Business Investment Funds Act (S.O., 1992, c. 18);

(*j*) The Labour-Sponsored Venture Capital Corporations Act (Continuing Consolidation of the Statutes of Manitoba, c. L12);

(*k*) Part II of the Risk Capital Investment Tax Credits Act of the Northwest Territories, (S.N.W.T., 1998, c. 22); or

(*l*) section 11 or Part II of the Equity Tax Credit Act of Nova Scotia (S.N.S., 1993, c. 3).

The following are also prescribed corporations for the purposes of section 21.19 of the Act:

(*a*) the corporation governed by The Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (R.S.Q., c. F-3.2.1);

(*b*) a corporation that is registered with the Department of Economic Development and Tourism of the Government of the Northwest Territories pursuant to the Venture Capital Policy and Directive issued by the Government of the Northwest Territories on 27 June 1985;

(*c*) a registered labour-sponsored venture capital corporation within the meaning of subsection 1 of section 248 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(*d*) the corporation governed by The Manitoba Employee Ownership Fund Corporation Act (Continuing Consolidation of the Statutes of Manitoba, c. E95);

(*e*) the corporation governed by the Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (R.S.Q., c. F-3.1.2); and

(*f*) the corporation governed by the Act constituting Capital régional et coopératif Desjardins (R.S.Q., c. C-6.1).

s. 21.19R1; Erratum, 1988, G.O. 2, 4642; O.C. 615-88, s. 2; O.C. 1114-92, s. 6; O.C. 1660-94, s. 3; O.C. 35-96, s. 2; O.C. 67-96, s. 3; O.C. 1633-96, s. 1; O.C. 1707-97, s. 98; O.C. 1454-99, s. 2; O.C. 1463-2001, s. 6; O.C. 1470-2002, s. 2; O.C. 1282-2003, s. 1.

"**21.20.1R1.** For the purposes of paragraph *d* of section 21.20.1 of the Act, the prescribed rate of interest in effect during a particular period is equal

(*a*) where the shares referred to in that paragraph *d* were issued before 1 January 1984, to the rate determined in respect of that period for the purposes of subsection 1 of section 161 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) ; and

(*b*) where the shares referred to in that paragraph *d* were issued after 31 December 1983, to the rate determined in respect of that period in accordance with subparagraph i of paragraph *a* of section 4301 of the Income Tax Regulations made under the Income Tax Act.

s. 21.20.1R1; O.C. 67-96, s. 4; O.C. 1707-97, s. 98; O.C. 1463-2001, s. 7.

"**TITLE II**

"INCOME EARNED IN QUÉBEC AND INCOME EARNED IN QUÉBEC AND ELSEWHERE BY AN INDIVIDUAL RESIDENT IN QUÉBEC

title II; O.C. 1981-80, title II; R.R.Q., 1981, c. I-3, r.1, title II.

"**CHAPTER I**

"GENERAL RULES

chap. I; O.C. 1981-80, title II, chapter I; R.R.Q., 1981, c. I-3, r.1, title II, chapter I.

"**22R1.** For the purposes of this Title and the second paragraph of section 22 of the Act, the income earned in Québec by an individual for a taxation year is the individual's income as determined under section 28 of the Act, without reference to section 1029.8.50 of the Act, less that part of the individual's income from carrying on a business that is attributable to an establishment situated outside Québec in Canada, and the individual's income earned in Québec and elsewhere is the individual's income as determined under section 28 of the Act, without reference to section 1029.8.50.

s. 22R1; O.C. 1981-80, s. 22R1; R.R.Q., 1981, c. I-3, r.1, s. 22R1; O.C. 1544-82, s. 1; O.C. 523-96, s. 1; O.C. 1707-97, s. 3; O.C. 1466-98, s. 2; O.C. 1463-2001, s. 9.

"**22R2.** For the purposes of section 22R1, where the individual is an individual referred to in any of sections 726.33, 726.35, 737.16, 737.18.10 and 737.18.28 of the Act, the individual's income earned in Québec, computed for a taxation year under section 22R1, is increased by the amount that is included by the individual in computing the individual's taxable income for the year under section 726.35 of the Act and reduced by the part, not otherwise deducted in computing the individual's income earned in Québec, of the amount deducted by the individual in computing taxable income for the year under any of sections 726.33, 737.14, 737.16, 737.18.10 and 737.18.28 of the Act, and the individual's income earned in Québec and elsewhere, determined for the year under section 22R1, is increased by the amount that is included by the individual in computing taxable income for the year and reduced by the amount that is deducted by the individual in computing the individual's taxable income for the year.

s. 22R1.1; O.C. 1811-86, s. 1; O.C. 1451-2000, s. 1; O.C. 1463-2001, s. 10; O.C. 1155-2004, s. 2; O.C. 1116-2007, s. 1.

"**22R3.** For the purposes of section 22R1, where the individual is a person described in the second paragraph, the individual's income earned in Québec and the individual's income earned in Québec and elsewhere, computed for a taxation year under that section 22R1, is reduced by the amount deducted by the individual in computing taxable income for the year under any of sections 737.14, 737.16.1, 737.21, 737.22.0.0.3, 737.22.0.0.7, 737.22.0.3, 737.22.0.7, 737.25 and 737.28 of the Act.

The person referred to in the first paragraph is a foreign researcher within the meaning assigned by paragraph *a* of section 737.19 of the Act, a foreign researcher on a post-doctoral internship within the meaning assigned by section 737.22.0.0.1 of the Act, a foreign expert within the meaning assigned by section 737.22.0.0.5 of the Act, a foreign specialist within the meaning assigned by section 737.22.0.1 of the Act, a foreign professor, within the meaning assigned by section 737.22.0.5 of the Act, or an individual referred to in any of sections 737.14, 737.16.1, 737.25 and 737.28 of the Act.

s. 22R1.2; O.C. 1666-90, s. 1; O.C. 523-96, s. 1; O.C. 1707-97, s. 4; O.C. 1466-98, s. 3; O.C. 1451-2000, s. 2; O.C. 1463-2001, s. 11; O.C. 1282-2003, s. 2.

"**22R4.** For the purposes of section 22R1, an individual's income earned in Québec and an individual's income earned in Québec and elsewhere, computed for a taxation year under that section 22R1, must be reduced by the amount deducted by the individual in computing the individual's taxable income for the year under section 726.20.2 of the Act.

s. 22R1.3; O.C. 1707-97, s. 5; O.C. 1463-2001, s. 12.

"**22R5.** The income derived from carrying on a business by an individual referred to in the second paragraph of section 22 of the Act is deemed to have been wholly earned in Québec for a taxation year if the individual has no establishment outside Québec in Canada during the year.

s. 22R2; O.C. 1981-80, s. 22R2; R.R.Q., 1981, c. I-3, r.1, s. 22R2.

"**22R6.** The income derived from carrying on a business by an individual referred to in the second paragraph of section 22 of the Act is deemed to have been wholly earned outside Québec for a taxation year if the individual has no establishment in Québec or outside Canada during the year.

s. 22R3; O.C. 1981-80, s. 22R3; R.R.Q., 1981, c. I-3, r.1, s. 22R3; O.C. 2583-85, s. 1.

"**22R7.** An individual resident in Québec on the last day of a taxation year and carrying on a business outside Québec in Canada who is resident in more than one province on that day is deemed, for the purposes of this Title, to have resided only in the province that may reasonably be considered to be the individual's principal place of residence.

However, the first paragraph does not apply in respect of an individual referred to in section 8 of the Act.

s. 22R4; O.C. 1981-80, s. 22R4; R.R.Q., 1981, c. I-3, r.1, s. 22R4; O.C. 1544-82, s. 2; O.C. 1463-2001, s. 13.

"**CHAPTER II**

"ESTABLISHMENTS IN SEVERAL JURISDICTIONS

chap. II; O.C. 1981-80, title II, chapter II; R.R.Q., 1981, c. I-3, r.1, title II, chapter II.

"**DIVISION I**

"GENERALITIES

div. I; O.C. 1981-80, title II, chapter II, division I; R.R.Q., 1981, c. I-3, r.1, title II, chapter II, division I.

"**22R8.** Subject to the special provisions of Chapter III, where, in a taxation year, an individual referred to in the second paragraph of section 22 of the Act carries on a business and owns an establishment outside Québec in Canada and an establishment in Québec or outside Canada, the part of the individual's income from the business that is attributable to the individual's establishment outside Québec in Canada is one-half the aggregate of

(*a*) that proportion of the individual's income from the business that the gross revenue of the business for the fiscal period ending in the year reasonably attributable to an establishment outside Québec in Canada is of the total gross revenue of the business for that period; and

(*b*) that proportion of the individual's income from the business that the aggregate of the salaries and wages paid by the individual in the fiscal period of the business ending in the year to employees of the establishments outside Québec in Canada is of the aggregate of all salaries and wages paid by the individual in that period in the course of the individual's business.

s. 22R5; O.C. 1981-80, s. 22R5; R.R.Q., 1981, c. I-3, r.1, s. 22R5; O.C. 1463-2001, s. 14.

"**22R9.** For the purposes of section 22R8, "gross revenue" does not include interest on a bond, debenture or obligation secured by hypothecary claim, mortgage, or dividends, rentals or royalties from property that is not used in connection with the business of the individual.

s. 22R6; O.C. 1981-80, s. 22R6; R.R.Q., 1981, c. I-3, r.1, s. 22R6; O.C. 1466-98, s. 4.

"**22R10.** Except where a commission is paid to a person who is not an employee of the individual, where an amount is paid under an agreement by the individual to a person in respect of services that would normally be rendered by employees of the individual, the amount so paid is, for the purposes of paragraph *b* of section 22R8, deemed to be salary or wages paid to an employee of the individual's establishment to which the services are reasonably attributable and to the extent that they are so attributable.

s. 22R7; O.C. 1981-80, s. 22R7; R.R.Q., 1981, c. I-3, r.1, s. 22R7; O.C. 1463-2001, s. 15.

"**DIVISION II**

"COMPUTATION OF GROSS REVENUE

div. II; O.C. 1981-80, title II, chapter II, division II; R.R.Q., 1981, c. I-3, r.1, title II, chapter II, division II.

"**22R11.** The rules in this division apply to the computation of the gross revenue reasonably attributable to an establishment of an individual referred to in the second paragraph of section 22 of the Act for a taxation year.

s. 22R8; O.C. 1981-80, s. 22R8; R.R.Q., 1981, c. I-3, r.1, s. 22R8.

"**22R12.** Where the merchandise sold is shipped to a jurisdiction in which the individual has an establishment, the gross revenue derived from the sale is attributable to that establishment and, if there is no such establishment, it is attributable to the establishment to which the person who has negotiated the sale is attached.

Where the buyer instructs that the merchandise be shipped to some other person, the gross revenue derived from the sale is attributable to the establishment situated in the jurisdiction of the buyer's establishment, if the individual has an establishment in that jurisdiction, otherwise, it is attributable to the establishment to which the person who has negotiated the sale is attached.

s. 22R9; O.C. 1981-80, s. 22R9; R.R.Q., 1981, c. I-3, r.1, s. 22R9.

"**22R13.** Despite section 22R12, where the merchandise sold is shipped to another country where the individual has no establishment and if the merchandise was entirely produced or manufactured by the individual in one jurisdiction in Canada, the gross revenue derived from the sale is attributable to the establishment situated in that jurisdiction.

However, if the merchandise sold was produced or manufactured by the individual partly outside Québec in Canada and partly in Québec or outside Canada, the gross revenue derived from the sale attributable to the establishment situated outside Québec in Canada is that proportion of the gross revenue that the salaries and wages paid in the year to employees of that establishment is of the aggregate of the salaries and wages paid in the year to employees of all the establishments where the merchandise sold was produced or manufactured.

The same rules apply where the establishment of the buyer is situated in a jurisdiction outside Canada in which the individual has no establishment and the buyer instructs that the merchandise be shipped to another person.

s. 22R10; O.C. 1981-80, s. 22R10; R.R.Q., 1981, c. I-3, r.1, s. 22R10.

"**22R14.** The gross revenue derived from services rendered in a jurisdiction is attributable to the establishment situated in that jurisdiction and, if there is no such establishment, it is attributable to the establishment to which the person who has negotiated the contract is attached.

s. 22R11; O.C. 1981-80, s. 22R11; R.R.Q., 1981, c. I-3, r.1, s. 22R11.

"**22R15.** Where standing timber or a cutting right thereto is sold, the gross revenue from such sale is attributable to the establishment of the individual in the jurisdiction in which the timber limit containing the standing timber or to which the cutting right refers is located.

s. 22R12; O.C. 1981-80, s. 22R12; R.R.Q., 1981, c. I-3, r.1, s. 22R12.

"**22R16.** Where land is an establishment, the gross revenue derived therefrom is attributable to that establishment.

s. 22R13; O.C. 1981-80, s. 22R13; R.R.Q., 1981, c. I-3, r.1, s. 22R13.

"**CHAPTER III**

"BUS AND TRUCK TRANSPORTATION BUSINESSES

chap. III; O.C. 1981-80, title II, chapter III; R.R.Q., 1981, c. I-3, r.1, title II, chapter III.

"**22R17.** The part of an individual's income for a taxation year from carrying on a bus and truck transportation business that is attributable to the individual's establishment outside Québec in Canada is one-half the aggregate of

(*a*) that proportion of the individual's income therefrom that the number of kilometres travelled by the individual's vehicles outside Québec in Canada in the fiscal period ending in the year is of the total number of kilometres travelled by the individual's vehicles in that period; and

(*b*) that proportion of the individual's income therefrom that the aggregate of salaries and wages paid by the individual in the fiscal period ending in the year to employees of the individual's establishment outside Québec in Canada is of the aggregate of all salaries and wages paid by the individual in that period.

s. 22R14; O.C. 1981-80, s. 22R14; R.R.Q., 1981, c. I-3, r.1, s. 22R14; O.C. 1463-2001, s. 16.

"**CHAPTER IV**

"SPECIAL CASES

chap. IV; O.C. 1981-80, title II, chapter IV; R.R.Q., 1981, c. I-3, r.1, title II, chapter IV.

"**22R18.** If the aggregate of the amounts determined as the income for a taxation year from a business carried on in Québec and elsewhere by an individual referred to in the second paragraph of section 22 of the Act is greater than the individual's income for the year, the part of the individual's income from a business that is attributable to an establishment outside Québec in Canada is deemed to be equal to that proportion of the individual's income for the

year that the part of the individual's income from carrying on that business outside Québec in Canada, as otherwise determined, is of that aggregate.

For the purposes of the first paragraph, the income for a taxation year of an individual is the amount by which the aggregate of the individual's income for the year, as determined under section 28 of the Act without reference to section 1029.8.50 of the Act, and the amount that is included by the individual in computing taxable income for the year under section 726.35 of the Act, exceeds the aggregate of,

(*a*) where the individual is referred to in any of sections 726.33, 737.16, 737.18.10 and 737.18.28 of the Act, the amount deducted by the individual in computing taxable income for the year under any of sections 726.33, 737.14, 737.16, 737.18.10 and 737.18.28 of the Act;

(*b*) where the individual is a foreign researcher within the meaning assigned by paragraph *a* of section 737.19 of the Act, a foreign researcher on a post-doctoral internship within the meaning assigned by section 737.22.0.0.1 of the Act, a foreign expert within the meaning assigned by section 737.22.0.0.5 of the Act, a foreign specialist within the meaning assigned by section 737.22.0.1 of the Act, a foreign professor within the meaning assigned by section 737.22.0.5 of the Act or an individual referred to in any of sections 737.14, 737.16.1, 737.25 and 737.28 of the Act, the amount deducted by the individual in computing taxable income for the year under any of sections 737.14, 737.16.1, 737.21, 737.22.0.0.3, 737.22.0.0.7, 737.22.0.3, 737.22.0.7, 737.25 and 737.28 of the Act; and

(*c*) the amount deducted by the individual in computing taxable income for the year under section 726.20.2 of the Act.

s. 22R15; O.C. 1981-80, s. 22R15; R.R.Q., 1981, c. I-3, r.1, s. 22R15; O.C. 1633- 96, s. 2; O.C. 1707-97, s. 6; O.C. 1466-98, s. 5; O.C. 1451-2000, s. 4; O.C. 1463-2001, s. 17; O.C. 1282-2003, s. 3; O.C. 1155-2004, s. 3; O.C. 1116-2007, s. 2.

"**22R19.** Where an individual carries on more than one business in a taxation year, this Title applies in respect of each business, and the part of the business income that is attributable for the year to the individual's establishments outside Québec in Canada is the aggregate of the amounts so determined in respect of each business.

s. 22R16; O.C. 1981-80, s. 22R16; R.R.Q., 1981, c. I-3, r.1, s. 22R16; O.C. 1463-2001, s. 18.

"**22R20.** Where an individual referred to in the second paragraph of section 22 of the Act became or ceased to be resident in Canada in the taxation year, the part of the individual's income for the year from carrying on a business that is attributable to an establishment outside Québec in Canada is computed by reference solely to a business the income from which is included in computing the individual's taxable income under sections 23 and 24 of the Act.

s. 22R17; O.C. 1981-80, s. 22R17; R.R.Q., 1981, c. I-3, r.1, s. 22R17; O.C. 1463-2001, s. 19.

"**CHAPTER V**

"LOSSES ATTRIBUTABLE TO AN ESTABLISHMENT OUTSIDE QUÉBEC IN CANADA

chap. V; O.C. 1981-80, title II, chapter V; R.R.Q., 1981, c. I-3, r.1, title II, chapter V.

"**22R21.** Sections 22R1 to 22R20 apply with the necessary modifications in determining the part of the losses of an individual referred to in the second paragraph of section 22 of the Act that is attributable to an establishment outside Québec in Canada.

s. 22R18; O.C. 1981-80, s. 22R18; R.R.Q., 1981, c. I-3, r.1, s. 22R18; O.C. 1633-96, s. 44.

"**TITLE III**

"PLAN FOR THE INSURANCE OF PERSONS

title III.0.1; O.C. 473-95, s. 1; O.C. 1633-96, s. 44.

"**37.0.1.2R1.** For the purposes of the second paragraph of section 37.0.1.2 of the Act, the amount prescribed for a particular period in respect of an individual in relation to a particular coverage is the product obtained by multiplying the number of days, after 20 May 1993, included in the particular period by $2.74 where the particular coverage is coverage solely for the individual, or by $10.96 in any other case.

s. 37.0.1.2R1; O.C. 473-95, s. 1; O.C. 1463-2001, s. 20.

"**37.0.1.5R1.** For the purposes of subparagraph *a* of the second paragraph of section 37.0.1.4 of the Act, enacted by paragraph *c* of section 37.0.1.5 of the Act, the amount prescribed in respect of particular coverage and benefits enjoyed by an individual during a taxation year under a plan for the insurance of persons is the total of all amounts each of which corresponds to the product obtained by multiplying, in respect of a particular person described in the second paragraph in relation to the particular coverage and benefits, the number of days, after 20 May 1993, included in the particular period referred to in subparagraph *b* of the second paragraph in respect of the particular person by $2.74 where the particular coverage is coverage solely for the particular person, or by $10.96 in any other case.

A particular person referred to in the first paragraph in respect of particular coverage and benefits enjoyed by an individual during a taxation year under a plan for the insurance of persons means a person who

(*a*) is an employee of the individual's employer; and

(*b*) has enjoyed the particular coverage and benefits under the plan for a particular period, included in the year,

throughout which the person was not entitled to benefit from the provisions of the Health Insurance Act (R.S.Q., c. A-29) and the particular benefits enjoyed by the person in relation to the particular coverage under the plan covered at least all of the services that would have been insured in the person's respect under that Act for the particular period had the person then been entitled to benefit from the provisions of that Act.

s. 37.0.1.5R1; O.C. 473-95, s. 1; O.C. 1633-96, s. 44; 1999, c. 89, s. 53; O.C. 149-2000; O.C. 1463-2001, s. 21.

"**TITLE IV**

"AMOUNTS NOT INCLUDED IN COMPUTING INCOME

title III.1; O.C. 1981-80, title III.1; R.R.Q., 1981, c. I-3, r.1, title III.1.

"**39R1.** The amounts that an individual is not required, pursuant to paragraph *g* of section 39 of the Act, to include in computing the individual's income are

(*a*) the special allowance granted by the Gouvernement du Québec to one of its officers pursuing studies at an educational institution outside Canada;

(*b*) the allowance received pursuant to the Canadian Forces Overseas Schools Order made by the Government of Canada, by personnel employed outside Canada whose services are acquired by the Minister of National Defence pursuant to an order respecting the furnishing of educational facilities outside Canada;

(*c*) travel, personal, living or representation expense allowances fixed by Order of the Government or by a Decision of the Conseil du trésor;

(*d*) a refund to the individual in respect of travel, personal, living or representation expenses, or a payment of such expenses on the individual's behalf, made under an Order of the Government or a Decision of the Conseil du trésor or authorized pursuant to such an Order or Decision; and

(*e*) travel, personal, living or representation expense allowances fixed by a collective agreement entered into pursuant to the Act respecting labour relations, vocational training and workforce management in the construction industry (R.S.Q., c. R-20).

s. 39R1; O.C. 2456-80, s. 2; O.C. 1535-81, s. 1; R.R.Q., 1981, c. I-3, r.1, s. 39R1; O.C. 1544-82, s. 3; O.C. 2962-82, s. 2; O.C. 500-83, s. 2; O.C. 544-86, s. 2; O.C. 1471-91, s. 2; O.C. 1454-99, s. 4; O.C. 1463-2001, s. 22; O.C. 1155-2004, s. 4; 2007, c. 3, s. 72.

"**TITLE V**

"BENEFIT RELATED TO THE OPERATION OF AN AUTOMOBILE

title III.1.1; O.C. 1707-97, s. 7.

"**41.1.1R1.** The amount prescribed to which subparagraph ii of subparagraph *a* of the second paragraph of section 41.1.1 of the Act refers is

(*a*) 22 cents, except where paragraph *b* applies; and

(*b*) 19 cents if the individual referred to in that section 41.1.1 is engaged principally in selling or leasing automobiles and an automobile is made available in the year to the individual or a person related to the individual by the employer or a person related to the employer.

s. 41.1.1R1; O.C. 1707-97, s. 7; O.C. 1466-98, s. 126; O.C. 1463-2001, s. 23; O.C. 1470-2002, s. 3; O.C. 1155-2004, s. 5; O.C. 1149-2006, s. 2; O.C. 1116-2007, s. 3.

"**TITLE VI**

"EMPLOYEE BENEFIT PLANS

title III.2; O.C. 2962-82, s. 3; O.C. 500-83, s. 3; O.C. 1466-98, s. 6.

"**47.6R1.** For the purposes of the second paragraph of section 47.6 of the Act, each of the following is a prescribed arrangement:

(*a*) the "Major League Baseball Players Benefit Plan" of the United States;

(*b*) an arrangement under which all contributions are made pursuant to a law of Canada or a province, where one of the main purposes of the law is to enforce minimum standards with respect to wages, vacation entitlement or severance pay; and

(*c*) an arrangement under which all contributions are made in connection with a dispute regarding the entitlement of one or more persons to receive benefits.

s. 47.6R1; O.C. 2962-82, s. 3; O.C. 500-83, s. 3; O.C. 1466-98, s. 7.

"**TITLE VII**

"SALARY DEFERRAL ARRANGEMENTS

title III.3; O.C. 1471-91, s. 4.

"**47.16R1.** A plan or arrangement referred to in paragraph *l* of section 47.16 of the Act is an arrangement in writing

(*a*) between an employer and an employee that is established after 27 July 1986 where

i. it is reasonable to conclude, having regard to the circumstances, including the terms and conditions of the arrangement and any agreement relating thereto, that the arrangement is not established to provide benefits to the employee on or after retirement but is established for the

main purpose of permitting the employee to fund, through salary or wage deferrals, a leave of absence from the employee's employment of not less than three consecutive months if the leave is to be taken by the employee for the purpose of permitting the full-time attendance of the employee at a designated educational institution within the meaning assigned by subsection 1 of section 118.6 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), or of six consecutive months in any other case, that is to commence immediately after a period, in this section referred to as the "deferral period", not exceeding six years after the date on which the deferrals for the leave of absence commence,

ii. the part of the salary or wages deferred by the employee under the arrangement or any other similar arrangement for the services rendered by the employee to the employer in a taxation year does not exceed one-third of the amount of the salary or wages that the employee would, but for the arrangements, have reasonably expected to receive in the year in respect of the services,

iii. the arrangement provides that throughout the period of the leave of absence referred to in subparagraph i the employee will not receive any salary or wages from the employer, or from any other person or partnership with whom the employer does not deal at arm's length, other than

(1) the amount by which the employee's salary or wages under the arrangement was deferred or is to be reduced, or amounts that are based on a percentage of the salary or wage scale of employees of the employer, which percentage is fixed in respect of the employee for the deferral period and the leave of absence referred to in subparagraph i, or

(2) the reasonable fringe benefits that the employer usually pays to or on behalf of employees,

iv. the arrangement provides

(1) that the amounts deferred in respect of the employee under the arrangement are held by or for the account of a trust governed by a plan or arrangement that is an employee benefit plan and that the amount that may reasonably be considered to be the income of the trust for a taxation year that has been earned by it for the benefit of the employee is to be paid in the year to the employee, or

(2) that the amounts deferred in respect of the employee under the arrangement are held by or for the account of any person other than a trust referred to in subparagraph 1 and that the amount in respect of interest or other additional amounts that may reasonably be considered to have accrued to or for the benefit of the employee to the end of a taxation year is to be paid in the year to the employee;

v. the arrangement provides that the employee is to return to the employee's regular employment with the employer or an employer that participates in the same or a similar arrangement after the leave of absence referred to in subparagraph i for a period that is not less than the period of leave of absence, and

vi. subject to subparagraph iv, the arrangement provides that all amounts held for the employee's benefit under the arrangement are to be paid to the employee not later than the end of the first taxation year that begins after the end of the deferral period;

(*b*) between an employer and an employee that is established before 28 July 1986 where it is reasonable to conclude, having regard to the circumstances, including the terms and conditions of the arrangement and any agreement relating thereto, that the arrangement is not established to provide benefits to the employee on or after retirement but is established for the main purpose of permitting the employee to fund, through salary or wage deferrals, a leave of absence from the employee's employment and under which the deferrals for the leave of absence commenced before 1 January 1987;

(*c*) that is established for the purpose of deferring the salary or wages of a professional referee or linesman for the referee's or linesman's services as such with the National Hockey League if, in the case of a professional referee or linesman resident in Canada, the trust or any other person having custody and control of any funds, investments or other property under the arrangement is resident in Canada; or

(*d*) subject to section 47.16R2, between a corporation and an employee of the corporation or a corporation related thereto under which the employee, or, after the employee's death, a dependant, the legal representative or a relation of the employee, may or is to receive an amount that may reasonably be attributed to duties of an office or employment performed by the employee on behalf of the corporation or a corporation related thereto where

i. all amounts that may be received under the arrangement will be received after the time of the employee's death or retirement from, or loss of, the office or employment, but not later than the end of the first calendar year commencing thereafter, and

ii. the total of all amounts each of which may be received under the arrangement depends on the fair market value of shares of the capital stock of the corporation or a corporation related thereto at a time within the period that commences one year before the time of the employee's death or retirement from, or loss of, the office or employment and that ends at the time the amount is received.

s. 47.16R1; O.C. 1471-91 s. 4; O.C. 35-96, s. 86; O.C. 67-96, s. 5; O.C. 1707-97, s. 98; O.C. 1466-98, s. 126; O.C. 1463-2001, s. 24.

"**47.16R2.** An arrangement referred to in paragraph *d* of section 47.16R1 does not include an arrangement between a corporation and an employee of that corporation or a corporation related thereto where, by reason of the arrangement or a series of transactions that includes the

arrangement, the employee or a person with whom the employee does not deal at arm's length is entitled, either immediately or in the future and either absolutely or contingently, to receive or obtain any amount or benefit granted or to be granted for the purpose of reducing the impact, in whole or in part, of any reduction in the fair market value of the shares of the capital stock of the corporation or a corporation related thereto.

s. 47.16R2; O.C. 1471-91 s. 4; O.C. 1707-97, s. 98; O.C. 1463-2001, s. 25.

"**TITLE VIII**

"CAPITAL COST OF AN EMPLOYEE'S MOTOR VEHICLE OR AIRCRAFT

title IV; O.C. 1981-80, title IV; R.R.Q., 1981, c. I-3, r.1, title IV; O.C. 2962-82, s. 4; O.C. 500-83, s. 4; O.C. 1697-92, s. 1; O.C. 1282-2003, s. 4.

"**64R1.** In computing the income from an office or employment for a taxation year, an individual referred to in section 64 of the Act may deduct, in respect of an aircraft or a motor vehicle, such part of the capital cost thereof as is determined for the year under section 130R1.

a. 64R1; O.C. 1981-80, s. 64R1; R.R.Q., 1981, c. I-3, r.1, s. 64R1; O.C. 2962-82, s. 4; O.C. 500-83, s. 4; O.C. 1697-92, s. 2; O.C. 1463-2001, s. 26.

"**TITLE IX**

"PENSION PLANS

title IV.0.1; O.C. 1282-2003, s. 5.

"**70.2R1.** For the purposes of section 70.2 of the Act, a prescribed plan means

(*a*) the pension plan established as a consequence of the establishment, pursuant to section 27 of the Members of Parliament Retiring Allowances Act (Revised Statutes of Canada, 1985, chapter M-5), of the Members of Parliament Retirement Compensation Arrangements Account; or

(*b*) the pension plan established by the Retirement Compensation Arrangements Regulations, No. 1, made under the Special Retirement Arrangements Act (S.C. 1992, chapter 46, Schedule 1).

s. 70.2R1; O.C. 1282-2003, s. 5.

"**TITLE X**

"CAPITAL COST OF AN EMPLOYEE'S MUSICAL INSTRUMENT

title IV.0.2; O.C. 1282-2003, s. 5.

"**78.4R1.** In computing the income from an office or employment for a taxation year, an individual referred to in section 78.4 of the Act may deduct, under paragraph *b* of that section, in respect of a musical instrument, such part of the capital cost thereof as is determined for the year under section 130R1.

s. 78.4R1; O.C. 1697-92, s. 3; O.C. 1463-2001, s. 27.

"**TITLE XI**

"AMOUNTS TO BE INCLUDED

title V; O.C. 1981-80, title V; R.R.Q., 1981, c. I-3, r.1, title V.

"**CHAPTER I**

"GENERAL RULES AND SPECIFIC AMOUNTS

chap. I; O.C. 1981-80, title V, chapter I; R.R.Q., 1981, c. I-3, r.1, title V, chapter I.

"**83R1.** A taxpayer may, in computing the income of the taxpayer from a business for a taxation year, value all the property included in all the inventories of the business at its fair market value.

s. 83R2; O.C. 1981-80, s. 83R2; R.R.Q., 1981, c. I-3, r.1, s. 83R2; O.C. 1114-92, s. 7; O.C. 1463-2001, s. 28.

"**83R2.** Despite section 83R1, a taxpayer whose business includes the breeding and raising of animals may elect in prescribed form for the taxation year and subsequent taxation years to value each animal of a particular species in the manner described in section 83R5.

However, where the aggregate value of all the animals of a particular species exceeds the fair market value of those animals, the latter may nevertheless be valued at their fair market value.

s. 83R3; O.C. 1981-80, s. 83R3; R.R.Q., 1981, c. I-3, r.1, s. 83R3; O.C. 1463-2001, s. 29.

"**83R3.** The election provided by section 83R2 may not be made in respect of a registered animal, an animal purchased for feedlot or similar operations, or an animal purchased by a trader for resale.

s. 83R4; O.C. 1981-80, s. 83R4; R.R.Q., 1981, c. I-3, r.1, s. 83R4.

"**83R4.** An election under section 83R2 may be revoked in writing by the taxpayer and, in such case, a further election may not be made.

s. 83R5; O.C. 1981-80, s. 83R5; R.R.Q., 1981, c. I-3, r.1, s. 83R5.

"**83R5.** Where animals of a particular species are included in the inventory of a taxpayer at the end of the taxation year immediately preceding the first year in respect of which the taxpayer elects under section 83R2, the unit price of each animal of that species is computed by dividing the total value of all animals of that species in the inventory of the preceding year by the number of animals of that species described in that inventory and, in any other case, the unit price of an animal of a species is determined by the Minister, having regard, among other things, to the unit prices of

animals of a comparable species of animals used in valuing the inventories of other taxpayers in the district.

s. 83R6; O.C. 1981-80, s. 83R6; R.R.Q., 1981, c. I-3, r.1, s. 83R6.

"**87R1.** The amount referred to in paragraph *e*.1 of section 87 of the Act in respect of an insurer for a taxation year is

(*a*) where the amount determined under section 152R5 in respect of the insurer for the year is less than nil, that amount expressed as a positive number; and

(*b*) in any other case, nil.

s. 87R0.1; O.C. 1463-2001, s. 30

"**87R2.** For the purposes of paragraph *p* of section 87 of the Act, the prescribed amount is the amount deducted by the taxpayer pursuant to subsection 13 or 14 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1952, chapter 148) in computing the tax otherwise payable by the taxpayer for the year under Part I of that Income Tax Act.

s. 87R1; O.C. 1981-80, s. 87R1; O.C. 2456-80, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 87R1; O.C. 35-96, s. 86; O.C. 1463-2001, s. 31.

"**87R3.** For the purposes of paragraph *s* of section 87 of the Act, the Canadian Home Insulation Program and the Canada Oil Substitution Program provided for under Part LV of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) are prescribed programs.

s. 87R2; O.C. 2962-82, s. 5; O.C. 500-83, s. 5; O.C. 35-96, s. 86.

"**87R4.** For the purposes of paragraph *u* of section 87 of the Act, a prescribed amount is any amount deducted under subsection 5 or 6 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), other than the part of that amount that may reasonably be considered to be related to

(*a*) an amount that is a qualified expenditure, within the meaning of subsection 9 of that section 127, and that is, for the purposes of the definition of that expression, an expenditure made after 30 April 1987 and before 10 May 1996 or a proxy amount computed by reference to an expenditure incurred as salary or wages before 10 May 1996; or

(*b*) an amount that is a flow-through mining expenditure within the meaning of subsection 9 of that section 127.

s. 87R3; O.C. 2962-82, s. 5; O.C. 500-83, s. 5; O.C. 140-90, s. 1; O.C. 35-96, s. 86; O.C. 523-96, s. 3; O.C. 1707-97, s. 8; O.C. 1155-2004, s. 6.

"**87R5.** For the purposes of paragraph *w* of section 87 of the Act, the following are prescribed amounts:

(*a*) an amount described in paragraph *g* or *i* of section 488R1;

(*b*) an amount of any assistance granted to a taxpayer and that is prescribed assistance under section 241.0.1R2, or would be prescribed assistance under that section if that section applied in respect of, or for the acquisition of, a share of the capital stock of a corporation registered under the Act respecting Québec business investment companies (R.S.Q., c. S-29.1);

(*c*) an amount deducted under subsection 5 or 6 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) that may reasonably be considered to be related to

i. an amount that is a qualified expenditure within the meaning of subsection 9 of that section 127, and that is, for the purposes of the definition of that expression, an expenditure made after 30 April 1987 and before 10 May 1996 or a proxy amount computed by reference to an expenditure incurred as salary or wages before 10 May 1996 or

ii. an amount that is a flow-through mining expenditure, within the meaning of subsection 9 of that section 127;

(*d*) an amount paid by the National Aboriginal Economic Development Board created by Order in Council P.C. 1983-3394 of 31 October 1983 pursuant to the Native Economic Development Program, or paid under the Aboriginal Capital Corporation Program of the Canadian Aboriginal Economic Development Strategy, to a corporation whose purpose is to provide loans, loan guarantees, bridge financing, venture capital, lease financing, surety bonding or other similar financing services to aboriginal enterprises and where all of the shares of the capital stock of the corporation are

i. owned by aboriginal individuals,

ii. held in trust for the exclusive benefit of aboriginal individuals,

iii. owned by a corporation, all the shares of which are owned by aboriginal individuals or held in trust for the exclusive benefit of aboriginal individuals, or

iv. owned or held in a combination of ownership or holding structures described in any of subparagraphs i to iii;

(*e*) the amount that the taxpayer is required to include, for the purposes of the Income Tax Act, in computing the taxpayer's income for the year under paragraph *x*.1 of subsection 1 of section 12 of that Act; and

(*f*) an amount paid pursuant to subparagraph *a* of the first paragraph of section 94.0.3.2 of the Act respecting the Ministère du Revenu (R.S.Q., c. M-31).

s. 87R4; O.C. 140-90, s. 2; O.C. 1232-91, s. 1; O.C. 1114-92, s. 8; O.C. 1539-93, s. 1; O.C. 91-94, s. 1; O.C. 35-96, s. 86; O.C. 523-96, s. 4; O.C. 1707-97, s. 9; O.C. 1466-98, s. 8; O.C. 1282-2003, s. 6; O.C. 1155-2004, s. 7; O.C. 1116-2007, s. 4.

"**87R6.** For the purposes of paragraph z.4 of section 87 of the Act, a taxpayer's resource loss for a taxation year is equal to the amount determined by the formula

A − B.

In the formula referred to in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is a Canadian exploration and development overhead expense, within the meaning given to that expression by section 360R2, made or incurred by the taxpayer in the year, other than an amount included therein because of section 181 or 182 of the Act; and

(*b*) B is the taxpayer's adjusted resource profits for the year within the meaning of section 145R2.

s. 87R5; O.C. 1470-2002, s. 4.

"**91R1.** For the purposes of section 91 of the Act, a prescribed amount is

(*a*) an amount receivable by Her Majesty in right of Canada for the use and benefit of a band, within the meaning of the Indian Act (Revised Statutes of Canada, 1985, chapter I-5), or by Petro-Canada;

(*b*) an amount receivable after 11 December 1979, in respect of a period after that date, by a person described in section 90 of the Act,

i. if that amount may be considered related to the leasing of property described in paragraph *b* or *e* of section 370 of the Act and if it becomes receivable before the beginning of production, in reasonable commercial quantities, of minerals obtained from that property, or

ii. if that amount may be considered related to the leasing of a right, permit or privilege for underground storage in Canada of petroleum, natural gas or related hydrocarbons;

(*c*) an amount paid under section 49 of the Canada Oil and Gas Act (Revised Statutes of Canada, 1985, chapter O-6); or

(*d*) an amount equal to the lesser of the following amounts:

i. an amount that became receivable by a person referred to in section 90 of the Act as rental for property referred to in paragraph *a* of section 370 of the Act or for a portion of such property and that became receivable either in a taxation year in which there was no taking of petroleum, natural gas or related hydrocarbons in relation to the property or portion thereof, as the case may be, to which the rental relates, if the amount became receivable after 31 December 1984, or prior to the taking of petroleum, natural gas or related hydrocarbons in relation to the property or portion thereof, as the case may be, to which the rental relates, if the amount became payable after 31 October 1982 and before 1 January 1985, and

ii. an amount obtained by multiplying $2.50 per year per hectare by the number of hectares to which the amount referred to in subparagraph i relates.

s. 91R1; O.C. 1981-80, s. 91R1; O.C. 1535-81, s. 2; R.R.Q., 1981, c. I-3, r.1, s. 91R1; O.C. 2509-85, s. 1; O.C. 35-96, s. 86.

"**CHAPTER II**

"ACCRUED INTEREST ON A PRESCRIBED DEBT OBLIGATION

chap. I.1; O.C. 7-87, s. 2.

"**DIVISION I**

"GENERAL

div. I; O.C. 7-87, s. 2.

"**92.5R1.** For the purposes of this chapter, a bonus or premium payable on a debt obligation is an amount of interest payable under the debt obligation.

s. 92.5R1; O.C. 7-87, s. 2.

"**92.5R2.** For the purposes of this chapter, where a taxpayer has an interest in a debt obligation, in this section referred to as the "first interest", under which there is a conversion privilege or an option to extend its term upon maturity, and, at the time the obligation was issued or, if later, at the time the conversion privilege or option was added or modified, circumstances could reasonably be foreseen under which the holder of the obligation would, by exercising the conversion privilege or option, acquire an interest in a debt obligation with a principal amount less than its fair market value at the time of acquisition, the subsequent interest in any debt obligation acquired by the taxpayer by exercising the conversion privilege or option is a continuation of the first interest.

s. 92.5R2; O.C. 7-87, s. 2; O.C. 1466-98, s. 9.

"**DIVISION II**

"PRESCRIBED DEBT OBLIGATION

div. II; O.C. 7-87, s. 2.

"**92.5R3.** For the purposes of section 92.5 of the Act, each of the following debt obligations, other than a debt obligation that is an indexed debt obligation, in respect of which a taxpayer has acquired an interest is a prescribed debt obligation:

(*a*) a debt obligation in respect of which no interest is stipulated to be payable in respect of its principal amount;

(*b*) a debt obligation in respect of which the proportion of the payments of principal to which the taxpayer is entitled is not equal to the proportion of the payments of interest to which the taxpayer is entitled;

(*c*) a debt obligation, other than one described in subparagraph *a* or *b*, in respect of which it can be determined, at the time the taxpayer acquired the interest therein, that the maximum amount of interest payable thereon in a year ending after that time is less than the maximum amount of interest payable thereon in a subsequent year; and

(*d*) a debt obligation, other than one described in any of subparagraphs *a* to *c*, in respect of which the amount of interest to be paid in respect of any taxation year is, under the terms and conditions of the obligation, dependent on a contingency existing after the year.

In the first paragraph, a debt obligation includes all of the issuer's obligations to pay principal and interest under that obligation.

s. 92.5R3; O.C. 7-87, s. 2; O.C. 1076-88, s. 3; O.C. 1466-98, s. 10; O.C. 1454-99, s. 6.

"**DIVISION III**

"CALCULATION OF ACCRUED INTEREST

div. III; O.C. 7-87, s. 2.

"**92.5R4.** The amount determined as interest on a debt obligation referred to in section 92.5 of the Act is

(*a*) in the case of a debt obligation referred to in subparagraph *a* of the first paragraph of section 92.5R3, the amount of interest determined under section 92.5R5;

(*b*) in the case of a debt obligation referred to in subparagraph *b* of the first paragraph of section 92.5R3, the amount of interest determined under section 92.5R6;

(*c*) in the case of a debt obligation referred to in subparagraph *c* of the first paragraph of section 92.5R3, other than an obligation in respect of which paragraph *d* applies, the amount of interest determined under section 92.5R8;

(*d*) in the case of a debt obligation referred to in subparagraph *c* of the first paragraph of section 92.5R3 for which the rate of interest stipulated to be payable in respect of each period throughout which the obligation is outstanding is fixed at the date of issue of the obligation and the stipulated rate of interest applicable at each time is not less than each stipulated rate of interest applicable before that time, the amount of interest determined under section 92.5R9; and

(*e*) in the case of a debt obligation referred to in subparagraph *d* of the first paragraph of section 92.5R3, the amount of interest determined under section 92.5R11.

s. 92.5R4; O.C. 7-87, s. 2; O.C. 1466-98, s. 11; O.C. 1463-2001, s. 32.

"**92.5R5.** The amount referred to in paragraph *a* of section 92.5R4 for a taxation year is the amount of interest that would be determined in respect of the debt obligation if the interest thereon for that year were computed on a compound interest basis using the maximum of all rates each of which is a rate computed in respect of each possible circumstance under which an interest of the taxpayer in the debt obligation could mature or be surrendered or retracted, and using assumptions concerning the interest rate and compounding period that would result in a present value, at the date of purchase of the interest, of all the maximum payments thereunder, equal to the cost thereof to the taxpayer.

s. 92.5R5; O.C. 7-87, s. 2; O.C. 1466-98, s. 12.

"**92.5R6.** The amount referred to in paragraph *b* of section 92.5R4 for a taxation year is the aggregate of all amounts each of which is the amount of interest that would be determined in respect of the taxpayer's interest in a payment under the debt obligation if interest thereon for that year were computed on a compound interest basis using the specified cost of the taxpayer's interest in the payment and the specified interest rate in respect of the taxpayer's total interest in the debt obligation.

s. 92.5R6; O.C. 7-87, s. 2; O.C. 1466-98, s. 12.

"**92.5R7.** In this section and section 92.5R6,

"specified cost" of a taxpayer's interest in a payment under a debt obligation is its present value at the date of purchase computed using the specified interest rate; and

"specified interest rate" is the maximum of all rates each of which is a rate computed in respect of each possible circumstance under which an interest of the taxpayer in the debt obligation could mature or be surrendered or retracted, and using assumptions concerning the interest rate and compounding period that would result in a present value, at the date of purchase of the interest, of all the maximum payments to the taxpayer in respect of the taxpayer's total interest in the debt obligation, equal to the cost of that interest to the taxpayer.

s. 92.5R7; O.C. 7-87, s. 2; Erratum, 1988, G.O. 2, 2689; O.C. 1466-98, s. 12.

"**92.5R8.** The amount referred to in paragraph *c* of section 92.5R4 for a taxation year is the greater of

(*a*) the maximum amount of interest on the debt obligation in respect of the year; and

(*b*) the maximum amount of interest that would be determined in respect of the debt obligation if interest thereon for that year were computed on a compound interest basis using the maximum of all rates each of which is a rate computed in respect of each possible circumstance under which an interest of the taxpayer in the debt obligation could mature or be surrendered or retracted, and using assumptions concerning the interest rate and compounding period that would result in a present value, at the date of issue of the

debt obligation, of all the maximum payments thereunder, equal to its principal amount.

s. 92.5R8; O.C. 7-87, s. 2; O.C. 1466-98, s. 12.

"**92.5R9.** The amount referred to in paragraph *d* of section 92.5R4 for a taxation year is the amount of interest that would be determined in respect of the year if interest on the debt obligation for that year were computed on a compound interest basis using the maximum of all rates each of which is the compound interest rate that, for a particular assumption with respect to when the taxpayer's interest in the obligation will mature or be surrendered or retracted, results in a present value, at the date the taxpayer acquires the interest in the obligation, of all payments under the obligation after the acquisition by the taxpayer of the taxpayer's interest in the obligation equal to the principal amount of the obligation at the date of acquisition.

s. 92.5R8.1; O.C. 1466-98, s. 13.

"**92.5R10.** For the purpose of making the computations referred to in sections 92.5R5 to 92.5R9, the compounding period is not to exceed one year and any interest rate used must be constant from the time of acquisition or issue, as the case may be, until the time of maturity, surrender or retraction.

s. 92.5R9; O.C. 7-87, s. 2; O.C. 1466-98, s. 14.

"**92.5R11.** The amount referred to in paragraph *d* of section 92.5R4 for a taxation year is the maximum amount of interest payable under the debt obligation for that year.

s. 92.5R10; O.C. 7-87, s. 2; O.C. 1466-98, s. 15.

"**CHAPTER III**

"PRESCRIBED CONTRACT

chap. I.1.1; O.C. 421-88, s. 1.

"**92.7R1.** For the purposes of subparagraph ix of paragraph *a* of section 92.7 of the Act, a prescribed contract throughout a calendar year is a registered retirement savings plan or a registered retirement income fund, other than such a plan or fund to which a trust is a party, where the annuitant under the plan or fund is alive at any time in the year or was alive at any time in the preceding calendar year.

s. 92.7R1; O.C. 421-88, s. 1; O.C. 67-96, s. 6; O.C. 1707-97, s. 11; O.C. 1466-98, s. 16; O.C. 1149-2006, s. 3.

"**92.7R2.** In section 92.7R1, "annuitant" means

(*a*) in respect of a registered retirement income fund at any time, the annuitant of such a fund within the meaning of paragraph *d* of section 961.1.5 of the Act; and

(*b*) in respect of a registered retirement income plan, the annuitant under such plan within the meaning of paragraph *b* of section 905.1 of the Act.

s. 92.7R2; O.C. 421-88, s. 1; O.C. 1114-93, s. 6; O.C. 1707-97, s. 12.

"**CHAPTER IV**

"AMOUNTS TO BE INCLUDED IN RESPECT OF A LIFE INSURANCE POLICY OR AN ANNUITY CONTRACT

chap. I.2; O.C. 7-87, s. 2.

"**DIVISION I**

"INTERPRETATION

div. III.1; O.C. 67-96, s. 8.

"**92.11R1.** For the purposes of this chapter,

"accumulating fund" at a particular time, in respect of an interest in an annuity contract or a life insurance policy means the amount determined at that time in respect of the interest in accordance with sections 92.11R2 to 92.11R13;

"amount payable" has the meaning assigned to it by paragraph *j* of section 835 of the Act;

"cash surrendered value" has the meaning assigned to it by paragraph *d* of section 966 of the Act;

"death benefit" does not include a dividend on a policy or interest thereon, left on deposit with an insurer, or an additional amount payable following an accidental death;

"exempt policy" has the meaning assigned to it by Division IV;

"life annuity contract" has the meaning assigned to it by sections 966R2 to 966R4;

"policy anniversary" includes, in the case of a life insurance policy that exists for a full calendar year and in respect of which there would not otherwise be a policy anniversary during the year, the end of the calendar year;

"policy loan" has the meaning assigned to it by paragraph *a*.1.1 of section 966 of the Act; and

"prescribed annuity contract" has the meaning assigned to it by Division III.

s. 92.11R0.1; O.C. 67-96, s. 8; O.C. 1470-2002, s. 5; O.C. 1155-2004, s. 8.

"**DIVISION II**

"ACCUMULATING FUNDS

div. III.2; O.C. 67-96, s. 8.

"**92.11R2.** For the purposes of section 92.11 of the Act, an accumulating fund at a particular time is,

(*a*) in respect of a taxpayer's interest in an annuity contract that is not a contract issued by a life insurer, the amount determined under sections 92.11R4 and 92.11R5;

(*b*) in respect of a taxpayer's interest in a life insurance policy that is not a standard policy for the purposes of exemption or an annuity contract described in paragraph *a*, the amount determined under sections 92.11R6 and 92.11R7; and

(*c*) in respect of a standard policy for the purposes of exemption, the amount determined under sections 92.11R8 to 92.11R12.

s. 92.11R1; O.C. 7-87, s. 2; O.C. 1114-93, s. 9; O.C. 67-96, s. 9.

"**92.11R3.** For the purposes of this division, where an amount must be determined under any of sections 840R9 to 840R34, the following rules apply to the determination of that amount:

(*a*) the expression "policy loan" has the meaning assigned to it by paragraph *a*.1.1 of section 966 of the Act;

(*b*) section 840R11 is not to be taken into account; and

(*c*) paragraphs *a* and *b* of section 840R22 are to be read without reference to "or in respect of the interest accrued on such loan for the benefit of the insurer at the end of the year."

s. 92.11R1.0.1; O.C. 67-96, s. 10; O.C. 1470-2002, s. 6; O.C. 1155-2004, s. 9.

"**92.11R4.** An accumulating fund at a particular time in respect of a taxpayer's interest in an annuity contract described in paragraph *a* of section 92.11R2 is an amount equal to the greater of

(*a*) the amount by which the cash surrender value of the taxpayer's interest at that time exceeds the amount payable in respect of a loan unpaid at that time and made under the contract in respect of the interest; and

(*b*) the amount by which the actualized value at that time of the future payments to be made under the contract in respect of the taxpayer's interest exceeds the aggregate of the actualized value at that time of future premiums to be paid under the contract in respect of the taxpayer's interest and the amount payable in respect of a loan unpaid at that time and made under the contract in respect of the taxpayer's interest.

s. 92.11R1.0.2; O.C. 67-96, s. 10.

"**92.11R5.** For the purposes of paragraph *b* of section 92.11R4, the actualized value of future payments and that of future premiums is computed using,

(*a*) in the case where the interest rate used by the issuer for a period in order to fix the terms of the contract at the time of issue is lower than the rate used for that purpose for a subsequent period, the simple rate that, if it applied to each period, would yield the same terms; or

(*b*) in all other cases, the rates that the issuer used in order to fix the terms of the contract at the time of issue.

s. 92.11R1.0.3; O.C. 67-96, s. 10.

"**92.11R6.** An accumulating fund at a particular time in respect of a taxpayer's interest in a life insurance policy described in paragraph *b* of section 92.11R2 is an amount equal to the amount obtained by multiplying the proportional interest of the taxpayer in the policy by,

(*a*) in the case where the policy is not a deposit administration fund, where the particular time immediately follows a person's death and where the policy was issued or subscribed on that person's life, the aggregate of the maximum amounts that, immediately before the death and in respect of the policy, could be determined by the life insurer under section 840R22 and, in respect of a benefit in the case of accidental death, under sections 840R32 to 840R34, if the mortality rates used were adjusted to take into account the assumption that the death would occur at the time at which and in the manner in which it did occur; or

(*b*) in all other cases, the maximum amount that, at the particular time in respect of the policy, would be fixed by the life insurer under section 840R17, computed as if there were only one deposit administration fund, or under section 840R22, whichever applies.

For the purposes of the first paragraph, it is assumed that the life insurer operates its life insurance business in Canada, its taxation year ends at the particular time and the policy is a life insurance policy in Canada.

s. 92.11R1.0.4; O.C. 67-96, s. 10.

"**92.11R7.** For the purposes of section 92.11R6, where the interest rate that a life insurer used for a period, when computing an amended net premium or the amount that it may deduct for a taxation year under section 840R22, is determined in accordance with any of paragraphs *a* to *c* of section 840R23 and that rate is lower than the rate of interest so fixed for a subsequent period, the rate that is required to be used is the simple rate that, if it applied to each period, could be used to fix premiums for the policy.

s. 92.11R1.0.5; O.C. 67-96, s. 10.

"**92.11R8.** An accumulating fund at a particular time in respect of a policy described in paragraph *c* of section 92.11R2 is,

(*a*) in the case where the policy was issued not less than 20 years before the particular time, the amount that, at the particular time and in respect of the policy, would be fixed under paragraph *b* of section 840R22 by the life insurer in respect of future benefits provided for in the policy, if its taxation year ended at the particular time; or

(*b*) in all other cases, the proportion of the amount that, in respect of the policy, would be fixed under paragraph *a* at the time of the twentieth anniversary of the policy, that the number of years since the issue of the policy is of 20.

s. 92.11R1.0.6; O.C. 67-96, s. 10.

"**92.11R9.** For the purposes of section 92.11R8, where on the date of issue of a standard policy for purposes of exemption, the person whose life is insured is

(*a*) not less than 75 years old, the references in that section to the figure "20" and to the word "twentieth" are to be replaced by references to the figure "10" and the word "tenth, respectively"; and

(*b*) not less than 66 years old, but less than 75 years old, the references in that section to the figure "20" and to the word "twentieth" are to be replaced by references to the number obtained by subtracting from 20 the number of years by which the person's age exceeds 65 and to the ordinal number corresponding to the number so obtained, respectively.

s. 92.11R1.0.7; O.C. 67-96, s. 10.

"**92.11R10.** For the purposes of section 92.11R8, the interest rates and mortality rates used and the age of the person whose life is insured must be the same as those used in sections 840R22 to 840R29 in computing an amended net premium or the amount that an insurer may deduct for a taxation year under section 840R22 in respect of the life insurance policy in respect of which the standard policy for purposes of exemption is issued, except that

(*a*) if the life insurance policy is one to which paragraph *c* of section 840R23 applies and if the amount fixed under paragraph *a* of section 840R22 in respect of that policy exceeds the amount fixed in respect of it under paragraph *b* of that section 840R22, the interest rates and mortality rates used may be those used in computing the cash surrender values of that policy; and

(*b*) if the interest rate for a period, otherwise fixed under this section in respect of that interest, is lower than the interest rate so fixed for a subsequent period, the rate that is required to be used is the simple rate that, if it applied to each period, could be used in fixing premiums in respect of the life insurance policy.

s. 92.11R1.0.8; O.C. 67-96, s. 10.

"**92.11R11.** For the purposes of section 92.11R8 and despite section 92.11R10, the following rules apply:

(*a*) where the rates referred to in section 92.11R10 do not exist, the rates that are required to be used are the minimum guaranteed interest rates that were used under the life insurance policy in order to determine the cash surrender values, and the mortality rates set forth in the table entitled "Commissioners 1958 Standard Ordinary Mortality Table", published in Volume X of the "Transactions of the Society of Actuaries", that apply to the person whose life is insured under the life insurance policy; and

(*b*) where, in respect of the life insurance policy in respect of which the standard policy for purposes of exemption is issued, the period for which an amount is fixed under paragraph *b* of section 840R22 does not extend to the date determined under paragraph *b* of section 92.19R5, the rate that is required to be used for the period following that period, but preceding that date, is the weighted arithmetic mean of the interest rates used to fix that amount.

s. 92.11R1.0.9; O.C. 67-96, s. 10.

"**92.11R12.** Despite sections 92.11R10 and 92.11R11, none of the annual interest rates used in computing the accumulating fund in respect of a standard policy for purposes of exemption issued in respect of a life insurance policy may be less than

(*a*) 4%, where the life insurance policy was issued after 30 April 1985; or

(*b*) 3%, where the life insurance policy was issued before 1 May 1985.

s. 92.11R1.0.10; O.C. 67-96, s. 10.

"**92.11R13.** Sections 92.19R3 to 92.19R5 also apply to sections 92.11R2 to 92.11R12.

s. 92.11R1.0.11; O.C. 67-96, s. 10.

"**DIVISION III**

"PRESCRIBED ANNUITY CONTRACT

div. IV; O.C. 7-87, s. 2.

"**92.11R14.** In this division,

"annuitant" under an annuity contract, at any time, means a person who, at that time, is entitled to receive annuity payments under that contract;

"spouse" of a particular individual includes another individual who is a party to a void or voidable marriage with the particular individual.

s. 92.11R1.1; O.C. 1471-91, s. 6; O.C. 1282-2003, s. 8.

"**92.11R15.** For the purposes of this division, an annuitant under an annuity contract is deemed to be the holder of the contract where

(*a*) another person holds the contract in trust for the annuitant; or

(*b*) the annuitant acquired the contract under a group term life insurance policy under which life insurance on another person was effected by reason of or on the occasion of the office or employment, current or former, of that other person.

s. 92.11R1.2; O.C. 1471-91, s. 6.

"**92.11R16.** For the purposes of subparagraph *b* of the second paragraph of section 92.11 of the Act, a prescribed annuity contract for a taxation year means

(*a*) an annuity contract purchased in accordance with a registered pension plan, a registered retirement savings plan, a deferred profit sharing plan or a plan designated in subsection 15 of section 147 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as a plan whose registration has been withdrawn;

(*b*) an income-averaging annuity contract;

(*c*) an income-averaging annuity respecting income from artistic activities;

(*d*) an annuity contract the cost of which may be deducted by the holder under paragraph *f* of section 339 of the Act in computing the holder's income; and

(*e*) an annuity contract described in section 92.11R17.

s. 92.11R2; O.C. 7-87, s. 2; O.C. 1471-91, s. 7; O.C. 35-96, s. 86; O.C. 1466-98, s. 17; O.C. 1155-2004, s. 10; O.C. 1149-2006, s. 4.

"**92.11R17.** An annuity contract referred to in paragraph *e* of section 92.11R16 is, for a taxation year, a contract

(*a*) under which annuity payments commenced in that year or in a preceding taxation year;

(*b*) the issuer of which is either a corporation described in any of paragraphs *b* to *d* of section 250.3 of the Act, a corporation described in subparagraph ii of paragraph *b* of the definition of "retirement savings plan" in subsection 1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), a life insurance corporation, a registered charity or a corporation that is neither a mutual fund corporation nor a mortgage investment corporation, but whose principal activity consists in making loans;

(*c*) a holder of which

i. where the annuity payments commenced before 1 January 1987, notified the issuer of the contract in writing, before the end of the year, that the contract is to be treated as a prescribed annuity contract,

ii. where the annuity payments commenced after 31 December 1986, did not notify the issuer of the contract in writing, before the end of the taxation year in which the annuity payments commenced, that the contract is not to be treated as a prescribed annuity contract, or

iii. where the annuity payments commenced after 31 December 1986, notified the issuer of the contract in writing, before the end of the taxation year in which the annuity payments commenced, that the contract is not to be treated as a prescribed annuity contract, which notification was cancelled by a holder of the contract by means of a notice in writing addressed to the issuer of the contract before the end of the year;

(*d*) each holder of which is an annuitant under the contract who, throughout the year, dealt at arm's length with the issuer of the contract and who is an individual other than a trust that is neither a testamentary trust nor a trust described in subparagraph *a* of the first paragraph of section 653 of the Act and in the second paragraph of that section;

(*e*) the terms of which require that from the time when the contract fulfils the requirement of this section, the conditions mentioned in section 92.11R18 are satisfied; and

(*f*) for which none of the terms provide a remedy against the issuer in case of failure to make a payment prescribed by the contract.

s. 92.11R3; O.C. 7-87, s. 2; O.C. 1471-91, s. 8; O.C. 35-96, s. 3; O.C. 1707-97, s. 13.

"**92.11R18.** For the purposes of paragraph *e* of section 92.11R17, the conditions that must be satisfied are:

(*a*) subject to the holder's right to change the frequency and the quantum of the payments to be made in a taxation year under the contract without changing the present value, at the beginning of the year, of those payments, all the payments made under the contract must be equal annuity payments made at regular intervals at least once a year;

(*b*) the annuity payments under the contract must continue either for a fixed period, or

i. where the holder is an individual other than a trust, for the life of the first holder or until the day of the later of the death of the first holder and the death of any of the spouse, brothers and sisters, referred to as "the survivor" in paragraph *c*, of the first holder, or

ii. where the holder is a trust described in subparagraph *a* of the first paragraph of section 653 of the Act and in the second paragraph of that section, called "spouse trust" in paragraphs *c* and *d*, for the life of the spouse who is entitled to receive the income of the trust;

(*c*) where the period during which the annuity payments are to be made is of a guaranteed or fixed duration, the period so guaranteed or fixed does not extend beyond the time when the following person would, if the person survived, reach the age of 91:

i. where the contract provides a joint and last survivor annuity, the first holder or the survivor, whichever is younger,

ii. where the holder is a spouse trust, the spouse entitled to receive the income of the trust,

iii. where the holder is a testamentary trust other than a spouse trust, the youngest of the beneficiaries of the trust,

iv. where the contract is held jointly, the youngest of the first holders, or

v. in all other cases, the first holder;

(*d*) no loan exists under the contract and the holder's rights under the contract may not be disposed of otherwise than at the holder's death or, where the holder is a spouse trust, at the death of the spouse entitled to receive the income of the trust;

(*e*) no payment may be made under the contract unless it is permitted by this division.

s. 92.11R4; O.C. 7-87, s. 2; O.C. 1471-91, s. 9.

"**92.11R19.** Despite sections 92.11R16 to 92.11R18, an annuity contract may qualify as a prescribed annuity contract even if,

(*a*) in a case where the contract provides a joint and last survivor annuity or is held jointly, the terms of the contract provide that there will be a reduction in the amount of the annuity payments to be made under the contract from the time of the death of one of the annuitants;

(*b*) the terms of the contract provide that if the holder of the contract dies upon reaching the age of 91 or before reaching that age, the contract is terminated and the holder will be paid under the contract an amount not greater than the excess of the total amount of premiums paid under it over the total amount of the annuity payments made under the contract;

(*c*) where the period during which the annuity payments are to be made is of a guaranteed or fixed duration, the terms of the contract provide that, following the death of the holder of the contract during that period, the payments which would have been made during that period, were it not for that death, may be replaced by a single payment; or

(*d*) the terms of the contract as they read on 1 December 1982 and at any time after that date provide that the holder share in the investment earnings of the issuer and that the amount of such share must be paid in the 60 days following the end of the year in respect of which it is computed.

s. 92.11R5; O.C. 7-87, s. 2; O.C. 1471-91, s. 10.

"**DIVISION IV**

"EXEMPT POLICY

div. VII; O.C. 7-87, s. 2.

"**92.19R1.** For the purposes of paragraph *a* of section 92.19 of the Act, an exempt policy at a particular time means a life insurance policy in respect of which the following conditions are met:

(*a*) if the particular time corresponds to a policy anniversary of the policy, the accumulating fund of the policy at that time, determined without considering any policy loan, does not exceed the aggregate of the accumulating funds, at that time, of the accumulating funds of the standard policies for purposes of exemption issued in respect of the policy not later than that time;

(*b*) it is reasonable to expect, at the particular time, that the condition provided for in paragraph *a* will be met on each policy anniversary of the policy on which the policy could remain in force after the particular time but before the date determined under paragraph *b* of section 92.19R5 with respect to the standard policies for purposes of exemption issued in respect of the policy and, to that end,

i. it must be assumed that the terms of the policy do not differ from those that were in force on the last policy anniversary of the policy occurring not later than the particular time, and

ii. any other reasonable assumption must be made, where necessary, about all the other factors, including, in the case of a participating life insurance policy within the meaning of paragraph *f* of section 835 of the Act, the assumption that the amounts of dividends paid will be as shown in the dividend scale;

(*c*) the condition in paragraph *a* was met on all policy anniversaries of the policy prior to the particular time; and

(*d*) the condition in paragraph *b* was met at all times from the first policy anniversary of the policy and before the particular time.

In the first paragraph, a life insurance policy does not include an annuity contract or a deposit administration fund policy.

s. 92.19R1; O.C. 7-87, s. 2; O.C. 67-96, s. 11; O.C. 1470-2002, s. 7.

"**92.19R2.** For the purposes of section 92.19R1, a life insurance policy that is an exempt policy at the time of its first policy anniversary is deemed to have been an exempt policy from the time of its issue up to that anniversary.

s. 92.19R3; O.C. 7-87, s. 2; O.C. 67-96, s. 13.

"**92.19R3.** For the purposes of this division, a standard policy for the purposes of separate exemption is deemed to have been issued to a policy holder in respect of a life insurance policy

(*a*) at the date on which life insurance is issued; and

(*b*) on each anniversary of the life insurance policy where the amount of the death benefit under it exceeds 108% of the amount of the death benefit under it on the date of its issue or, if that date is later, on the date of the preceding policy anniversary.

For the purpose of determining whether the accumulating fund of the life insurance policy, on a particular policy anniversary of the policy, meets the condition in subparagraph *a* of the first paragraph of section 92.19R1, each standard policy for purposes of exemption referred to in the first paragraph is deemed

(*a*) to provide for a death benefit that is uniform throughout the term of the standard policy for purposes of exemption and is equal to the amount determined in section 92.19R4;

(*b*) to provide for the payment of its death benefit on the date determined in section 92.19R5; and

(*c*) to be a life insurance policy in Canada issued by a life insurer carrying on a life insurance business in Canada.

as. 92.19R4; O.C. 7-87, s. 2; Erratum, 1988, G.O. 2, 2689; O.C. 67-96, s. 14.

"**92.19R4.** The amount referred to in subparagraph *a* of the second paragraph of section 92.19R3 is,

(*a*) in the case of the first standard policy for the purposes of exemption issued in respect of the life insurance policy, the amount, on the particular policy anniversary of the policy referred to in the second paragraph of section 92.19R3, of the death benefit of the life insurance policy, less the aggregate of the amounts each of which is the amount, on that policy anniversary, of the death benefit of another standard policy for the purposes of exemption issued not later than that policy anniversary in respect of the life insurance policy; or

(*b*) in all other cases, the amount by which the death benefit of the life insurance policy on the date of issue of the standard policy for the purposes of exemption exceeds 108% of the amount of the death benefit of the life insurance policy on the date of issue of the life insurance policy or, if that date is later, on the date of the preceding policy anniversary.

s. 92.19R5; O.C. 7-87, s. 2; O.C. 67-96, s. 15.

"**92.19R5.** The date referred to in subparagraph *b* of the second paragraph of section 92.19R3 is the earlier of

(*a*) the date of death of the person whose life was insured under the life insurance policy; and

(*b*) the date occurring 10 years after the date of issue of the life insurance policy or, if that date is later, the date on which the person whose life is insured will reach the age of 85, if the person survives.

s. 92.19R6; O.C. 7-87, s. 2.

"**92.19R6.** Despite sections 92.19R1 to 92.19R5, the following rules apply:

(*a*) where the amount of the death benefit of a life insurance policy is, at a particular time, reduced by a particular amount, the amount of the death benefit of the standard policies for purposes of exemption issued before the particular time in respect of the life insurance policy, except the standard policies for purposes of exemption issued in respect thereof in accordance with subparagraph *a* of the first paragraph of section 92.19R3, must be reduced at the particular time, in the order of the dates of issue of those policies from the nearest to the farthest from the particular time, by an amount equal to the lesser of the part of the particular amount that has not yet been used to reduce the death benefit of one or more other standard policies for purposes of exemption, and the amount immediately before the particular time of the death benefit of the standard policy for the purposes of exemption covered by it;

(*b*) where, on the tenth or on any subsequent policy anniversary of a life insurance policy, the accumulating fund thereof, determined without taking into account unpaid policy loans thereon, exceeds 250% of the accumulating fund of the policy at the time of the third preceding policy anniversary, determined without taking into account unpaid policy loans thereon, each standard policy for purposes of exemption that is deemed, under sections 92.19R3 to 92.19R5, to have been issued before that time in respect of the life insurance policy is deemed to have been issued on the date of the third preceding policy anniversary or, if that date is later, on the date on which it was deemed to have been issued under sections 92.19R3 to 92.19R5;

(*c*) where, on one or more occasions after 1 December 1982, a premium referred to in section 92.19R7 is paid by a taxpayer in respect of an interest, acquired for the last time not later than that date in a life insurance policy that is neither an annuity contract nor a deposit administration fund policy, or an interest in a life insurance policy issued not later than that date and that is neither an annuity contract nor a deposit administration fund policy is acquired by a taxpayer from a person who held that interest without interruption from that date, the policy is deemed to be an exempt policy from that date of its issue to the date on which occurred, after 1 December 1982, the first of such occasions; and

(*d*) a life insurance policy that, for a reason other than its conversion into an annuity contract, ceases to be an exempt policy at the time of a policy anniversary is deemed to be an exempt policy at the time of that policy anniversary in cases where either, if the anniversary occurred 60 days later, the policy would have been an exempt policy at that later date, or the person whose life was insured under the policy died

on the day of that policy anniversary or within the following 60 days.

s. 92.19R7; O.C. 7-87, s. 2; O.C. 1470-2002, s. 8; O.C. 1282-2003, s. 9.

"**92.19R7.** A premium paid at a particular time under a life insurance policy is a premium to which paragraph *c* of section 92.19R6 refers where the total amount of one or more premiums paid at that time under the policy exceeds the amount of the premium that was to be paid under the policy at that time, as determined not later than 1 December 1982 and as adjusted to take into account those events among the following events occurring after that date in respect of the policy:

(*a*) a change in the underwriting class;

(*b*) a change in the premium following a change in the frequency of premium payments during a year having no effect on the actualized value at the beginning of the year of the aggregate of the premiums to be paid in that year under the policy;

(*c*) the addition or deletion of an accidental death benefit or a guaranteed purchase option or of a disability benefit providing for annuity payments or a waiver of premium payments;

(*d*) an adjustment of the premium attributable to interest, death or expenses or a change in the death benefit under the policy following an increase in the Consumer Price Index published by Statistics Canada under the Statistics Act (Revised Statutes of Canada, 1985, chapter S-19), the adjustment being made by the life insurer for each class in accordance with the terms of the policy as they read on 1 December 1982 and not resulting from the exercise of a conversion privilege under the policy;

(*e*) a change resulting from the provision of an additional death benefit under a participating life insurance policy within the meaning of paragraph *f* of section 835 of the Act, either as policy dividends or other amounts distributed out of the life insurer's income from the carrying on of the participating life insurance business as determined under sections 841R1 to 841R5, or as interest earned on policy dividends left on deposit with the life insurer;

(*f*) the reinstatement, within the time prescribed in subparagraph iii of paragraph *a* of section 966 of the Act, of lapsed policies or reinstatement owing to an amount outstanding under a policy loan;

(*g*) a change in premium following correction of erroneous information contained in the policy application;

(*h*) payment of a premium after the due date or payment of a premium within 30 days preceding the due date, as determined not later that 1 December 1982; or

(*i*) payment of the interest referred to in paragraph *b*.3 of section 966 of the Act.

s. 92.19R8; O.C. 7-87, s. 2; O.C. 1114-93, s. 12; O.C. 35-96, s. 86; O.C. 1470-2002, s. 9; O.C. 1282-2003, s. 10.

"**92.19R8.** For the purposes of section 92.19R7, a life insurance policy issued following exercise of a renewal privilege provided for in the terms of another policy as they read on 1 December 1982 is the continuation of that other policy.

s. 92.19R9; O.C. 1114-93, s. 13.

"**CHAPTER V**

"TRANSITION AMOUNT IN RESPECT OF UNPAID CLAIMS RESERVE

chap. I.2.2; O.C. 1454-99, s. 8.

"**92.21R1.** In this chapter, "transition amount" of an insurer means the amount deducted under section 157.12 of the Act in computing the insurer's income for its taxation year that includes 23 February 1994.

s. 92.21R9; O.C. 1454-99, s. 8.

"**92.21R2.** For the purposes of section 92.21 of the Act and subject to section 92.21R3, the prescribed portion of an amount in respect of an insurer for a taxation year that ends after 22 February 1994 is equal to the amount determined by the formula

$$[(0{,}05A + 0{,}10B + 0{,}15C) / 365] \times D.$$

In the formula in the first paragraph,

(*a*) A is the total of the number of days in the taxation year that are in 1994 or 1995 and, where the taxation year includes 23 February 1994, the number of days in 1994 that are before the first day of the taxation year;

(*b*) B is the number of days in the taxation year, other than 29 February, that are in any of the years 1996 to 2001;

(*c*) C is the number of days in the taxation year that are in 2002 or 2003; and

(*d*) D is, subject to section 92.21R4 and subparagraph *b* of the first paragraph of section 92.21R5, the insurer's transition amount.

s. 92.21R10; O.C. 1454-99, s. 8.

"**92.21R3.** Where sections 556 to 564.1 and 565 of the Act have applied to the winding-up of an insurer, in this section referred to as the "subsidiary", the following rules apply:

(*a*) for the purposes of subparagraphs *a* to *c* of the second paragraph of section 92.21R2 in respect of the subsidiary, the

days that are after the day on which the subsidiary's property was distributed to its parent on the winding-up are not to be taken into consideration; and

(*b*) for the purposes of section 92.21 of the Act, the prescribed portion of an amount in respect of the parent for a taxation year that includes the day referred to in paragraph *a* is equal to the aggregate of

i. the amount that would be determined under section 92.21R2 in respect of the parent for the year if the parent's transition amount did not include the subsidiary's transition amount, and

ii. the amount that would be determined under section 92.21R2 in respect of the parent for the year if the day referred to in paragraph *a* and any days before that day were not taken into consideration for the purposes of subparagraphs *a* to *c* of the second paragraph of that section and the amount referred to in subparagraph *d* of that paragraph were equal to the subsidiary's transition amount.

s. 92.21R11; O.C. 1454-99, s. 8.

"**92.21R4.** Where section 832.3 or 832.9 of the Act has applied in respect of the transfer of an insurance business of an insurer, there is to be subtracted from the insurer's transition amount, for the purposes of subparagraph *d* of the second paragraph of section 92.21R2 in respect of a taxation year of the insurer ending after the insurer ceased to carry on all or substantially all of the business, the part of the insurer's transition amount that may reasonably be attributed to the business.

s. 92.21R12; O.C. 1454-99, s. 8.

"**92.21R5.** Where an insurer ceases to carry on all or substantially all of an insurance business, otherwise than as a result of an amalgamation to which section 545 of the Act applies, a winding-up to which sections 556 to 564.1 and 565.5 of the Act apply or a transfer of the business to which section 832.3 or 832.9 of the Act applies, the following rules apply:

(*a*) for the purposes of section 92.21 of the Act, the prescribed portion of an amount in respect of the insurer for its taxation year in which the cessation of business occurs is equal to the aggregate of the amount determined in accordance with section 92.21R2 and the amount by which the amount referred to in the second paragraph exceeds that part of the aggregate of the amounts included under section 92.21 of the Act in computing the income of the insurer for preceding taxation years that may reasonably be considered to relate to the amount referred to in the second paragraph; and

(*b*) there is to be subtracted from the insurer's transition amount, for the purposes of subparagraph *d* of the second paragraph of section 92.21R2 in respect of the taxation year of the insurer in which the insurer ceases to carry on the business or a subsequent taxation year, the amount referred to in the second paragraph.

The amount to which the first paragraph refers is equal to the part of the insurer's transition amount that may reasonably be attributed to the insurance business referred to in that paragraph.

s. 92.21R13; O.C. 1454-99, s. 8.

"**CHAPTER VI**

"DISPOSITION OF DEPRECIABLE PROPERTY

chap. I.3; O.C. 7-87, s. 2.

"**93R1.** For the purposes of subparagraph *e* of the second paragraph of section 93 of the Act, the prescribed manner and the prescribed delay are those prescribed by section 130R70.

s. 93R1; O.C. 1981-80, s. 93R1; R.R.Q., 1981, c. I-3, r.1, s. 93R1; O.C. 1282-2003, s. 11.

"**93R2.** For the purposes of subparagraph *f* of the second paragraph of section 93 of the Act, a prescribed amount is an amount referred to in paragraph *c* of section 87R5.

s. 93R2; O.C. 1539-93, s. 2; O.C. 1282-2003, s. 12.

"**93.6R1.** Property referred to in subparagraph *t* of the first paragraph, or the second or fourth paragraph, of Class 12 in Schedule B is prescribed property for the purposes of section 93.6 of the Act.

s. 93.6R1; O.C. 67-96, s. 16; O.C. 1463-2001, s. 33.

"**93.7R1.** An offshore region referred to in section 4609 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) is a prescribed offshore region for the purposes of subparagraph *j* of the first paragraph of section 93.7 of the Act.

s. 93.7R2; O.C. 67-96, s. 16.

"**96.2R1.** For the purposes of section 96.2 of the Act, prescribed energy conservation property means property included in Class 43.1 or 43.2 in Schedule B.

s. 96.2R1; O.C. 1454-99, s. 9; O.C. 1116-2007, s. 5.

"**99R1.** For the purposes of paragraph *d*.3 of section 99 of the Act, the prescribed amount is,

(*a*) in respect of a passenger vehicle acquired between 31 August 1989 and 1 January 1991, $24,000; and

(*b*) in respect of a passenger vehicle acquired after 31 December 1990, the amount determined by the formula

A + B.

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

(*a*) A is

i. $24,000, if the passenger vehicle was acquired before 1 January 1997,

ii. $25,000, if the passenger vehicle was acquired after 31 December 1996 and before 1 January 1998,

iii. $26,000, if the passenger vehicle was acquired after 31 December 1997 and before 1 January 2000,

iv. $27,000, if the passenger vehicle was acquired after 31 December 1999 and before 1 January 2001, and

v. $30,000, if the passenger vehicle was acquired after 31 December 2000; and

(*b*) B is the sum that would have been payable in respect of federal and provincial sales taxes on the acquisition of the passenger vehicle if it had been acquired, at a cost equal to the amount determined in subparagraph *a* before the application of the federal and provincial sales taxes, at the time of the acquisition.

s. 99R2; O.C. 1697-92, s. 4; O.C. 1463-2001, s. 35; O.C. 1470-2002, s. 10.

"**99R2.** For the purposes of paragraph *e* of section 99 of the Act,

(*a*) a prescribed property is a property referred to in section 130R152; and

(*b*) a prescribed business is a business referred to in section 130R153.

s. 99R1; O.C. 1981-80, s. 99R1; R.R.Q., 1981, c. I-3, r.1, s. 99R1; O.C. 1282-2003, s. 13.

"**101R1.** For the purposes of section 101 of the Act, an amount referred to in paragraph *c* of section 87R5 is a prescribed amount.

s. 101R0.1; O.C. 1539-93, s. 3.

"**101R2.** For the purposes of section 101 of the Act, the assistance referred to therein does not include

(*a*) a deduction granted under the Act to promote industrial development by means of fiscal advantages (R.S.Q., c. D-9) or under the Act respecting fiscal incentives to industrial development (R.S.Q., c. S-34), as those Acts read before they were repealed;

(*b*) an amount deducted under sections 360 and 361 of the Act;

(*c*) an amount paid under the Act to promote scientific research and development (Revised Statutes of Canada, 1970, chapter I-10), or an amount paid before 20 December 1984 under the Act respecting assistance for regional industrial development (S.Q., 1968, c. 27) or a plan equivalent to that instituted by that Act and considered to be equivalent under it;

(*d*) an amount received as a grant under a program referred to in section 313.1R1;

(*e*) an amount described in paragraph *b* of section 225 of the Act; or

(*f*) an amount referred to in paragraph *g* or *i* of section 488R1.

s. 101R1; O.C. 1981-80, s. 101R1; R.R.Q., 1981, c. I-3, r.1, s. 101R1; O.C. 544-86, s. 4; O.C. 140-90, s. 3; O.C. 1232-91, s. 2; O.C. 1539-93, s. 4; O.C. 523-96, s. 5; O.C. 1707-97, s. 14; O.C. 1466-98, s. 18.

"**101.1R1.** For the purposes of section 101.1 of the Act, the amount that an insurer is deemed to have deducted in respect of depreciable property of a prescribed class for taxation years prior to its 1977 taxation year is the amount deemed to have been so deducted under subsection 22 of section 13 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 101.1R1; O.C. 1981-80, s. 101.1R1; R.R.Q., 1981, c. I-3, r.1, s. 101.1R1; O.C. 35-96, s. 86.

"**101.2R1.** For the purposes of section 101.2 of the Act, the amount that a life insurer is deemed to have deducted in computing its income for taxation years prior to its 1978 taxation year in respect of depreciable property of a prescribed class is equal to the aggregate of the total depreciation, determined immediately after the 1977 taxation year of the insurer and without reference to that section, that was granted to the insurer in respect of property of that class, and the amount that the maximum depreciation which the insurer was entitled to claim in respect of that property for its taxation years ending after 1968 and before 1978 exceeds that aggregate depreciation.

s. 101.2R1; O.C. 1981-80, s. 101.2R1; R.R.Q., 1981, c. I-3, r.1; s. 101.2R1.

"**101.3R1.** For the purposes of section 101.3 of the Act, a prescribed amount is

(*a*) an amount determined under subsection 7 or 8 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), other than the part of that amount that may reasonably be considered to be related to an amount that is a qualified expenditure, within the meaning of subsection 9 of that section 127, and that constitutes, for the purposes of the definition of that expression, an expenditure made after 30 April 1987 and before 10 May 1996; and

(*b*) a tax deduction provided for in subsection 5 or 6 of section 127 of the Income Tax Act.

s. 101.3R1; O.C. 2962-82, s. 7; O.C. 500-83, s. 7; O.C. 35-96, s. 86; O.C. 1707-97, s. 15.

"**101.8R1.** For the purposes of paragraph *a* of section 101.8 of the Act, a prescribed property in respect of a taxpayer is a property that, if it were acquired by the taxpayer, would be included in Class 10 in Schedule B under subparagraph *f* of the second paragraph of that class.

s. 101.8R1; O.C. 1470-2002, s. 11.

"**101.8R2.** For the purposes of paragraph *b* of section 101.8 of the Act, the following properties are prescribed:

(*a*) a road, other than a specified temporary access road, sidewalk, runway, parking area, storage area or similar surface construction;

(*b*) a bridge; and

(*c*) a property ancillary to any property referred to in paragraph *a* or *b*.

s. 101.8R2; O.C. 1470-2002, s. 11.

"**CHAPTER VII**

"DISPOSITION OF VESSELS

chap. II; O.C. 1981-80, title IV, chap. II; R.R.Q., 1981, c. I-3, r.1, title IV, chap. II.

"**104R1.** In this chapter,

"conversion" has the meaning assigned by subsection 21 of section 13 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

"conversion cost" has the meaning assigned by subsection 21 of section 13 of the Income Tax Act;

"vessel" means a vessel as defined in the Canada Shipping Act, 2001 (Statutes of Canada, 2001, chapter 26).

s. 104R1; O.C. 1981-80, s. 104R1; R.R.Q., 1981, c. I-3, r.1, s. 104R1; O.C. 35-96, s. 4.

"**104R2.** Where a deduction has been made for a year under the Act, the Provincial Income Tax Act (R.S.Q., 1964, c. 69) or the Corporation Tax Act (R.S.Q., 1964, c. 67) in respect of capital cost allowance of a vessel, section 94 of the Act is applicable to the prescribed class, as well as to any other class prescribed by either of those Acts, to which the vessel may have been transferred.

s. 104R2; O.C. 1981-80, s. 104R2; R.R.Q., 1981, c. I-3, r.1, s. 104R2.

"**104R3.** Where a vessel owned by a taxpayer on 1 January 1966, or constructed pursuant to a construction contract entered into by the taxpayer prior to that date without the vessel being completed by such date, is disposed of by the taxpayer prior to 1974, section 94 of the Act and Title IV of Book III of Part I of the Act does not apply to the proceeds of disposition

(*a*) if an amount at least equal to the proceeds of disposition is used by the taxpayer, before the month of May 1974 and during the taxation year in which the taxpayer disposed of the vessel or within 4 months following the end of that taxation year, under the conditions provided for in subparagraph i of paragraph *a* of subsection 15 of section 13 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), either for replacement of the vessel or to incur any conversion cost with respect to another vessel owned by the taxpayer; or

(*b*) if, under the conditions provided for in subparagraph ii of paragraph *a* of subsection 15 of section 13 of the Income Tax Act, the taxpayer deposits on or before the day on which the taxpayer's fiscal return is to be filed for the taxation year of disposal of the vessel, either an amount at least equal to the tax that would, but for this paragraph, be payable by the taxpayer under Part I of the Act in respect of the proceeds of disposition, or satisfactory security therefor to guarantee that the proceeds of disposition will be used before 1975 for replacement of the vessel.

s. 104R3; O.C. 1981-80, s. 104R3; R.R.Q., 1981, c. I-3, r.1, s. 104R3; O.C. 35-96, s. 5; O.C. 1707-97, s. 16.

"**104R4.** In the case of a disposition referred to in section 104R3, the taxpayer may, within the time prescribed under the Act for the filing of the taxpayer's fiscal return for the taxation year in which the taxpayer disposed of the vessel, elect to have the vessel considered as a prescribed class or, if any conversion cost in respect of the vessel has been included in a separate prescribed class, have the vessel transferred to that class and, if the taxpayer so elects, the vessel is deemed to have been so transferred immediately before the disposition by the taxpayer.

However, this section does not apply unless the proceeds of disposition of the vessel exceed the amount that would be the undepreciated capital cost of property of the class to which the vessel would be so transferred.

s. 104R4; O.C. 1981-80, s. 104R4; R.R.Q., 1981, c. I-3, r.1, s. 104R4; O.C. 1282-2003, s. 14.

"**104R5.** If section 104R3 does not apply to the proceeds of disposition of a vessel or if the taxpayer does not make an election under section 104R4 within the time prescribed therein, the taxpayer may, on disposal of a vessel owned by the taxpayer, elect to have the proceeds that would be included in computing the taxpayer's income for the year under Part I of the Act, treated as proceeds of disposition

of property of another prescribed class that includes a vessel owned by the taxpayer.

s. 104R5; O.C. 1981-80, s. 104R5; R.R.Q., 1981, c. I-3, r.1, s. 104R5.

"**104R6.** Where a separate prescribed class has been constituted under the Act, the Provincial Income Tax Act (R.S.Q., 1964, c. 69) or the Corporation Tax Act (R.S.Q., 1964, c. 67), by virtue of the conversion of a vessel, owned by a taxpayer and the vessel is disposed of by the taxpayer without making an election under section 104R4, such separate prescribed class is deemed to have been transferred to the class in which the vessel was included immediately before the disposition thereof.

s. 104R6; O.C. 1981-80, s. 104R6; R.R.Q., 1981, c. I-3, r.1, s. 104R6.

"**104R7.** All or any part of a deposit made under paragraph *b* of section 104R3, under the Provincial Income Tax Act (R.S.Q., 1964, c. 69) or under the Corporation Tax Act (R.S.Q., 1964, c. 67) may be paid out to or on behalf of any person who, before 1975 and under the conditions in paragraph *a* of section 104R3, replaces the vessel disposed of by another vessel

(*a*) that was constructed in Canada;

(*b*) that is registered in Canada or in any place to which the *British Commonwealth Merchant Shipping Agreement* signed at London on 10 December 1931 applies; and

(*c*) in respect of the capital cost of which no allowance has been made to any other taxpayer under this Act, the Provincial Income Tax Act, or the Corporation Tax Act.

Similarly, such amount may be paid out to or on behalf of any person who incurs any conversion cost with respect to a vessel the person owns and that is described in subparagraph *b* of the first paragraph.

However, the ratio of the amount paid out to the amount of the deposit may not exceed the ratio of the capital cost of the vessel or the conversion cost of the vessel, as the case may be, to the proceeds of disposition of the vessel disposed of and any deposit or part of a deposit not so paid out before the month of July 1975 or not paid out pursuant to section 104R8 is assigned to the consolidated revenue fund.

s. 104R7; O.C. 1981-80, s. 104R7; R.R.Q., 1981, c. I-3, r.1, s. 104R7.

"**104R8.** Despite any other provision of this chapter, where a deposit was made by a taxpayer under paragraph *b* of section 104R3 and the proceeds of disposition in respect of which the deposit was made are not used by any person before 1975, in accordance with the conditions in paragraph *a* of that section, to acquire a vessel described in subparagraphs *a* to *c* of the first paragraph of section 104R7 or to incur any conversion cost with respect to a vessel owned by that person and described in subparagraph *b* of the first paragraph of that section, the Minister may refund to the taxpayer the deposit, or the part thereof not paid out to the taxpayer under that section.

Where a refund is so made, the taxpayer is required, in computing the income of the taxpayer for the taxation year in which the vessel was disposed of, to add that proportion of the amount that would have been included in computing the taxpayer's income for the year under Part I of the Act, had the deposit not been made under paragraph *b* of section 104R3, that the portion of the proceeds of disposition not so used before 1975 as replacement of a vessel is of the total proceeds of disposition.

s. 104R8; O.C. 1981-80, s. 104R8; R.R.Q., 1981, c. I-3, r.1, s. 104R8.

"**104R9.** Where a taxpayer has made an election under section 104R4 with respect to a vessel and the proceeds of disposition of that vessel have been used before 1975 for replacement thereof, under conditions mentioned in paragraph *a* of section 104R3, or where a refund is made under section 104R8, the Minister is to issue such reassessments of tax, interest or penalties as are necessary to give effect to sections 104R3, 104R4 and 104R8.

This section also applies with respect to an election under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 104R9; O.C. 1981-80, s. 104R9; R.R.Q., 1981, c. I-3, r.1, s. 104R9; O.C. 35-96, s. 86.

"**104R10.** For the purposes of this Title, of sections 130.1, 142 and 149 of the Act, and of the regulatory provisions made under paragraph *a* of section 130 of the Act, a vessel in respect of which any conversion cost is incurred after 23 March 1967 is, to the extent of the conversion cost, deemed to be included in a separate prescribed class.

s. 104R10; O.C. 1981-80, s. 104R10; R.R.Q., 1981, c. I-3, r.1, s. 104R10.

"**CHAPTER VIII**

"DEVELOPMENT BONDS

chap. II.1; O.C. 2962-82, s. 8; O.C. 500-83, s. 8.

"**119.2R1.** The expression "qualified corporation" in section 119.2 of the Act means a taxable Canadian corporation that is a cooperative, within the meaning of section 119.2R2, all or substantially all of the assets of which are used in a qualified business carried on by it in Canada, or a small business corporation.

s. 119.2R1; O.C. 2962-82, s. 8; O.C. 500-83, s. 8; O.C. 615-88, s. 4; O.C. 1232-91, s. 3; O.C. 1633-96, s. 3; O.C. 1707-97, s. 98; O.C. 1466-98, s. 19.

"**119.2R2.** For the purposes of section 119.2R1, a cooperative is a cooperative incorporated under a statute of Québec, of another province or of Canada for the purposes of marketing natural products belonging to its members or customers or acquired from those persons, carrying out any processing operation necessary or related to that marketing, purchasing supplies, materials or necessary household articles for its members or customers, or for resale to its members or customers, or for furnishing services to them and for which

(*a*) the Act under which it was incorporated, its charter, articles of association, by-laws or contracts with its members or customers, give reason to believe that payments will be made to them in proportion to their purchases;

(*b*) none of the members, except other cooperatives, has more than one vote in the conduct of the corporation's business; and

(*c*) at least 90% of the members are individuals, other cooperatives, or corporations or partnerships carrying on a farming business, holding at least 90% of its shares.

s. 119.2R3; O.C. 2962-82, s. 8; O.C. 500-83, s. 8; O.C. 67-96, s. 17; O.C. 1707-97, s. 98.

"**CHAPTER IX**

"INDEXED DEBT OBLIGATIONS

chap. III.0.1; O.C. 1454-99, s. 10.

"**125.0.1R1.** In this chapter,

"excluded payment" with respect to a taxpayer for a taxation year means, subject to the second paragraph, an indexed payment under an indexed debt obligation where

(*a*) the non-indexed debt obligation associated with the indexed debt obligation provides for the payment, at least annually, of interest at a single fixed rate; and

(*b*) the indexed payment corresponds to one of the interest payments referred to in paragraph *a*;

"indexed payment" means, in relation to an indexed debt obligation, an amount payable under the obligation that is determined by reference to the purchasing power of money;

"inflation adjustment period" of an indexed debt obligation means, in relation to a taxpayer,

(*a*) where the taxpayer acquires and disposes of the taxpayer's interest in the obligation in the same regular adjustment period of the obligation, the period that begins when the taxpayer acquires the interest in the obligation and ends when the taxpayer disposes of the interest; and

(*b*) in any other case, each of the following consecutive periods:

i. the period that begins when the taxpayer acquires the taxpayer's interest in the obligation and ends at the end of the regular adjustment period of the obligation in which the taxpayer acquires the interest in the obligation,

ii. each succeeding regular adjustment period of the obligation throughout which the taxpayer holds the interest in the obligation, and

iii. where the taxpayer does not dispose of the interest in the obligation at the end of a regular adjustment period of the obligation, the period that begins immediately after the last period referred to in subparagraph i or ii and that ends when the taxpayer disposes of the interest in the obligation;

"regular adjustment period" of an indexed debt obligation means

(*a*) where the terms or conditions of the obligation provide that, while the obligation is outstanding, indexed payments are to be made at regular intervals not exceeding 12 months in length, each of the following periods:

i. the period that begins when the obligation is issued and ends when the first indexed payment is required to be made, and

ii. each succeeding period beginning when an indexed payment is required to be made and ending when the next indexed payment is required to be made;

(*b*) where paragraph *a* does not apply and the obligation is outstanding for less than 12 months, the period that begins when the obligation is issued and ends when the obligation ceases to be outstanding; and

(*c*) in any other case, each of the following periods:

i. the 12-month period that begins when the obligation is issued,

ii. each succeeding 12-month period throughout which the obligation is outstanding, and

iii. where the obligation ceases to be outstanding at a time other than the end of a 12-month period referred to in subparagraph i or ii, the period that commences immediately after the last period referred to in those subparagraphs and that ends when the obligation ceases to be outstanding.

For the purposes of the definition of "excluded payment" in the first paragraph, an excluded payment does not include payments under an indexed debt obligation where, at any time in the taxation year, the taxpayer's proportionate interest in a payment to be made under the obligation after that time differs from the taxpayer's proportionate interest in any other payment to be made under the obligation after that time.

s. 125.0.1R1; O.C. 1454-99, s. 10.

"**125.0.1R2.** For the purposes of this chapter, the non-indexed debt obligation associated with an indexed debt obligation is the debt obligation that would result if the indexed debt obligation were amended to eliminate all adjustments determined by reference to changes in the purchasing power of money.

s. 125.0.1R2; O.C. 1454-99, s. 10.

"**125.0.1R3.** For the purposes of paragraph *a* of section 125.0.1 of the Act, where, at any time in a taxation year of a taxpayer, the taxpayer holds an interest in an indexed debt obligation, the amount determined in accordance with the second paragraph is deemed to be interest received or receivable by the taxpayer in the year in respect of the obligation.

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

(*a*) the amount determined by the formula

A − B;

(*b*) where the non-indexed debt obligation associated with the indexed debt obligation is an obligation that is described in any of subparagraphs *a* to *d* of the first paragraph of section 92.5R3, the amount of interest that would be determined in accordance with section 92.5R4 to accrue to the taxpayer in respect of the non-indexed debt obligation in the particular period described in the fifth paragraph if, for the purposes of that section 92.5R4, the particular period were a taxation year of the taxpayer and the taxpayer's interest in the indexed debt obligation were an interest in the non-indexed debt obligation.

In the formula in subparagraph *a* of the second paragraph,

(*a*) A is the aggregate of all amounts each of which is the amount by which the amount payable in respect of the taxpayer's interest in an indexed payment under the indexed debt obligation, other than a payment that is an excluded payment with respect to the taxpayer for the year, has, because of a change in the purchasing power of money, increased over an inflation adjustment period of the indexed debt obligation that ends in the year, exceeds

(*b*) B is the aggregate of

i. the aggregate of all amounts each of which is that portion of the aggregate determined in accordance with subparagraph *a* that is required, otherwise than because of section 125.0.1 of the Act, to be included in computing the taxpayer's income for the year or a preceding taxation year;

ii. the aggregate of all amounts each of which is the amount by which the amount payable in respect of the taxpayer's interest in an indexed payment under the indexed debt obligation, other than a payment that is an excluded payment with respect to the taxpayer for the year, has, because of a change in the purchasing power of money, decreased over an inflation adjustment period of the obligation that ends in the year.

For the purpose of determining the amount by which an indexed payment under an indexed debt obligation has increased or decreased over a period because of a change in the purchasing power of money, the amount of the indexed payment is determined using the method for computing the amount of the payment at the time it is to be made, adjusted in a reasonable manner to take into account the earlier date of computation.

The particular period to which subparagraph *b* of the second paragraph refers is the period that begins at the beginning of the first inflation adjustment period of the indexed debt obligation in respect of the taxpayer that ends in the year, and ends at the end of the last inflation adjustment period of the indexed debt obligation in respect of the taxpayer that ends in the year.

s. 125.0.1R3; O.C. 1454-99, s. 10.

"**125.0.1R4.** For the purposes of paragraph *b* of section 125.0.1 of the Act, where, at any time in a taxation year of a taxpayer, the taxpayer holds an interest in an indexed debt obligation, the amount by which the amount determined in accordance with subparagraph *b* of the third paragraph of section 125.0.1R3 in respect of the taxpayer's interest in the obligation exceeds the amount determined in accordance with subparagraph *a* of that paragraph in respect of the taxpayer's interest in the obligation, is deemed to be interest paid or payable in respect of the year by the taxpayer in respect of the obligation.

s. 125.0.1R4; O.C. 1454-99, s. 10.

"**125.0.2R1.** For the purposes of subparagraph *a* of the first paragraph of section 125.0.2 of the Act, where at any time in a taxation year of a taxpayer an indexed debt obligation is an obligation of the taxpayer, the amount that would be determined in accordance with subparagraph *a* of the second paragraph of section 125.0.1R3 in respect of the taxpayer for the year if, at each time at which the obligation is an obligation of the taxpayer, the taxpayer were the holder of the obligation and not the debtor under the obligation, is deemed to be interest payable in respect of the year by the taxpayer in respect of the obligation.

s. 125.0.2R1; O.C. 1454-99, s. 10.

"**125.0.2R2.** For the purposes of subparagraph *b* of the first paragraph of section 125.0.2 of the Act, where at any time in a taxation year of a taxpayer an indexed debt obligation is an obligation of the taxpayer, the amount that would be determined in accordance with section 125.0.1R4 in respect of the taxpayer for the year if, at each time at which the obligation is an obligation of the taxpayer, the taxpayer were the holder of the obligation and not the debtor under the

obligation, is deemed to be interest received or receivable by the taxpayer in the year in respect of the obligation.

s. 125.0.2R2; O.C. 1454-99, s. 10.

"**CHAPTER X**

"LEASING PROPERTIES

chap. III.1; O.C. 366-94, s. 3.

"**125.1R1.** For the purposes of section 125.1 of the Act, the following properties are prescribed:

(*a*) an exempt property, within the meaning assigned to that expression by the first paragraph of section 130R71, other than a property leased before 3 February 1990 that is

i. a truck or a tractor that is designed to be used on public highways and has a "gross vehicle weight rating" within the meaning of the Motor Vehicle Safety Regulations made under the Motor Vehicle Safety Act (Statutes of Canada, 1993, chapter 16) of at least 11,778 kilograms,

ii. a trailer that is designed to be used on public highways and to be hauled, under normal operating conditions, by a truck or tractor described in subparagraph i, or

iii. a railway car; and

(*b*) a property that is the subject of a lease, where the fair market value of the tangible property that is the subject of that lease, other than exempt property within the meaning assigned to that expression by the first paragraph of section 130R71, did not exceed, at the time the lease was entered into, $25,000.

s. 125.1R1; O.C. 366-94, s. 3; O.C. 35-96, s. 86.

"**125.1R2.** For the purposes of paragraph *d* of section 125.1 of the Act, the rate of interest that is prescribed at any time is the rate equal to the rate that is determined for the month including that time pursuant to section 4302 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 125.1R2; O.C. 366-94, s. 3; O.C. 35-96, s. 86.

"**CHAPTER XI**

"AMOUNT OWING BY A PERSON NOT RESIDENT IN CANADA

chap. IV; O.C. 1981-80, title V, chap. IV; O.C. 2456-80, s. 4; R.R.Q., 1981, c. I-3, r.1, title V, chap. IV; O.C. 1155-2004, s. 11.

"**127.6R1.** For the purposes of section 127.6 of the Act, the rate of interest prescribed, for any particular period, is the rate that corresponds to the rate determined, for that period, under subparagraph i of paragraph *a* of section 4301 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 127.6R1; O.C. 1155-2004, s. 13.

"**127.12R1.** For the purposes of section 127.12 of the Act, the prescribed tax is that referred to in Part XIII of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 127.12R1; O.C. 1155-2004, s. 13.

"**TITLE XII**

"ALLOWANCES IN RESPECT OF CAPITAL COST

title VI; O.C. 1981-80, title VI; R.R.Q., 1981, c. I-3, r.1, title VI.

"**CHAPTER I**

"APPLICATION

chap. I; O.C. 1981-80, title VI, chap. I; R.R.Q., 1981, c. I-3, r.1, title VI, chap. I.

"**130R1.** The amounts that a taxpayer may deduct in computing the taxpayer's income for a taxation year as allowances in respect of capital cost of property are those provided for by this Title and by the following provisions of Part XI of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement):

(*a*) paragraphs *d* and *n* to *q* of subsection 1 of section 1100; and

(*b*) subsection 11 of section 1100 and subsections 12 and 13 of section 1102.

The amounts described in first paragraph are the prescribed amounts of the capital cost of property that a taxpayer may deduct in computing the taxpayer's income under paragraph *a* of section 130 of the Act and under other special provisions of that Act.

s. 130R1; O.C. 1981-80, s. 130R1; R.R.Q., 1981, c. I-3, r.1, s. 130R1; O.C. 1697-92, s. 5; O.C. 35-96, s. 86.

"**CHAPTER II**

"INTERPRETATION

chap. II; O.C. 1981-80, title VI, chap. II; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, title VI, chap. II; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6.

"**130R2.** Where the taxpayer is an individual and the taxpayer's income for the taxation year includes income from a business, the fiscal period of which does not coincide with the calendar year, in respect of the depreciable properties acquired for the purpose of gaining or producing income from the business, a reference in this Title to "the

taxation year" is deemed to be a reference to the fiscal period of the business and a reference to "the end of the taxation year" is deemed to be a reference to the end of the fiscal period of the business.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**130R3.** In this Title and Schedule B referred to therein, unless the context indicates otherwise,

"Canadian field processing" means

(*a*) the processing in Canada of raw natural gas at a field separation and dehydration facility;

(*b*) the processing in Canada of raw natural gas at a natural gas processing plant, to any stage that is not beyond the stage of natural gas that is acceptable to a common carrier of natural gas;

(*c*) the processing in Canada of hydrogen sulphide derived from raw natural gas to any stage that is not beyond the marketable sulphur stage;

(*d*) the processing in Canada of natural gas liquids, at a natural gas processing plant where the input is raw natural gas derived from a natural accumulation of natural gas, to any stage that is not beyond the marketable liquefied petroleum stage or its equivalent; or

(*e*) the processing in Canada of crude oil, other than heavy crude oil recovered from an oil or gas well or a tar sands deposit, recovered from a natural accumulation of petroleum to any stage that is not beyond the crude oil stage or its equivalent;

"Canadian film or video production" means a film or video production of a corporation, other than a Québec film production, in respect of which the Minister of Canadian Heritage has issued to the corporation, for the purposes of section 125.4 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), a certificate that has not been revoked;

"certified feature film" has the meaning assigned by subsection 2 of section 1104 of the Income Tax Regulations made under the Income Tax Act;

"certified production" has the meaning assigned by subsection 2 of section 1104 of the Income Tax Regulations made under the Income Tax Act, but does not include a motion picture film or a video tape that is a certified Québec film or a Québec film production;

"certified Québec film" for a taxation year means a motion picture film or a video tape recognized as a Québec film by the Institut québécois du cinéma or the Société de développement des entreprises culturelles and in respect of which

(*a*) the Institut québécois du cinéma or the Société de développement des entreprises culturelles has issued a certificate that has not been revoked, certifying that it is a Québec film for which the work of scenery, filming or taping and editing began after 31 December 1982 and for which the principal taping or filming work began before the end of the taxation year but not later than 18 December 1990, unless it is a film or a tape described in subparagraph *b* or *c* of the fifth paragraph in this section, or was completed not later than 60 days after the end of the taxation year; and

(*b*) unless it is a film or a tape that would be described in section 726.4.7.2 of the Act if the references made therein to an individual read as references to a taxpayer, the Ministère du Revenu made, not later than at the end of the taxation year during which the film or tape was acquired, an advance ruling confirming the rate of depreciation applicable in respect of the film or tape and, where applicable, the percentage indicated, applicable for an individual referred to in section 726.4.6 or 726.4.7 of the Act, in respect of the film or tape;

"computer software" includes system software and a right or licence to use computer software;

"data network infrastructure equipment" means network infrastructure equipment that controls, transfers, modulates or directs data, and that operates in support of telecommunications applications such as e-mail, instant messaging, audio- and video-over-Internet Protocol or Web browsing, Web searching and Web hosting, including data switches, multiplexers, routers, remote access servers, hubs, domain name servers and modems, but does not include

(*a*) network equipment, other than radio network equipment, that operates in support of telecommunications applications, if the bandwidth made available by that equipment to a single end-user of the network is 64 kilobits per second or less in either direction;

(*b*) radio network equipment that operates in support of wireless telecommunications applications unless the equipment supports digital transmission on a radio channel;

(*c*) network equipment that operates in support of broadcast telecommunications applications and that is unidirectional;

(*d*) network equipment that is end-user equipment, including telephone sets, personal digital assistants and facsimile transmission devices;

(*e*) equipment that is described in subparagraph *i* of the first paragraph of Class 10 in Schedule B, subparagraph *p* of the second paragraph of that Class or Class 45 in that Schedule;

(*f*) wires or cables, or similar property; and

(*g*) structures;

"designated costs of underground storage" for a designated taxpayer means the costs incurred by the taxpayer, after 11 December 1979, for development of a well, mine or other similar underground property for the purposes of storing petroleum, natural gas related hydrocarbons in Canada;

"gas or oil well equipment" includes equipment, structures and pipelines acquired to be used in a gas or oil field in the production therefrom of natural gas or crude oil, other than a well casing, and a pipeline acquired to be used solely for transmitting gas to a natural gas processing plant, but does not include

(*a*) equipment or structures acquired for the refining of oil or the processing of natural gas, including the separation therefrom of liquid hydrocarbons, sulphur or other joint products or by-products; or

(*b*) a pipeline for removal or for collection for immediate removal of natural gas or crude oil from a gas or oil field, except a pipeline acquired to be used solely for transmitting gas to a natural gas processing plant;

"general-purpose electronic data processing equipment" means electronic equipment that, in its operation, requires an internally stored computer program that

(*a*) is executed by the equipment;

(*b*) can be altered by the user of the equipment;

(*c*) instructs the equipment to read and select, alter or store data from an external medium such as a card, disk or tape; and

(*d*) depends upon the characteristics of the data being processed to determine the sequence of its execution;

"ore" includes any ore from a mineral resource that has been processed to any stage that is prior to the prime metal stage or its equivalent;

"overburden removal cost" of a taxpayer means any expense incurred by the taxpayer in clearing or removing overburden from a mine in Canada that the taxpayer operates or owns, to the extent that the expense

(*a*) is incurred between 16 November 1978 and 1 January 1988 and after the mine has come into production in reasonable commercial quantities;

(*b*) has not been deducted by the taxpayer in computing the taxpayer's income at the end of the taxation year during which it was incurred; and

(*c*) is not, in whole or in part, deductible otherwise than pursuant to paragraph *a* of section 130 of the Act in computing the income of the taxpayer for a taxation year subsequent to that in which it was incurred;

"Québec film production" means a motion picture film or a video tape recognized as a Québec film by the Société de développement des entreprises culturelles and in respect of which the Société has made a favourable advance ruling that is in force or has issued a certificate that has not been revoked, certifying that it is a Québec film for which the principal taping or filming work began after 18 December 1990 and before the end of the taxation year, or was completed not later than 60 days after the end of the taxation year;

"railway system" includes a railroad owned or operated by a common carrier, together with all buildings, rolling stock, equipment and other properties pertaining thereto, but does not include a tramway;

"specified temporary access road" means

(*a*) a temporary access road to an oil or gas well in Canada; or

(*b*) a temporary access road in Canada, the cost of which would be a Canadian exploration expense under paragraph *c* or *c*.1 of section 395 of the Act if section 396 of the Act were read without reference to paragraph *c* thereof;

"system software" means a combination of computer programs and associated procedures, related technical documentation and data or a right or licence to use such a combination, where the combination

(*a*) performs compilation, assembly, mapping, management or processing of other programs;

(*b*) facilitates the functioning of a computer system by other programs;

(*c*) provides service or utility functions such as media conversion, sorting, merging, system accounting, performance measurement, system diagnostics or programming aids;

(*d*) provides general support functions such as data management, report generation or security control; or

(*e*) provides general capability to meet widespread categories of problem solving or processing requirements where the attributes of the work to be performed are introduced mainly in the form of parameters, constants or descriptors rather than in program logic;

"tar sands ore" means ore extracted from a deposit of bituminous sands or oil shales;

"telegraph system" includes the buildings, structures, general plant and communication and other equipment pertaining thereto;

"telephone system" includes the buildings, structure, general plant and communication and other equipment pertaining thereto;

"television commercial message" has the meaning assigned by subsection 2 of section 1104 of the Income Tax Regulations made under the Income Tax Act;

"tramway or trolley bus system" includes the buildings, structures, rolling stock and general plan and equipment pertaining thereto and, where omnibuses other than trolley buses are operated in connection therewith, includes the properties pertaining to those operations.

In the definition of "certified Québec film" in the first paragraph, for the taxation year concerned, "certified Québec film" does not include a motion picture film or a video tape for which, unless it is a film or a tape described in subparagraph *b* or *c* of the fifth paragraph, the principal taping or filming work began after 18 December 1990, or that is acquired

(*a*) after the first day of its use for commercial purposes or the first anniversary of the day on which the principal filming or taping work was completed, whichever is earlier;

(*b*) from a person to whom the purchaser did not pay cash before the end of the year in an amount at least equal to 5% of the capital cost to the purchaser of the film or the video tape at that time;

(*c*) from a person to whom the purchaser gave in total or partial payment for the film or the video tape a bond, debenture, bill, note, hypothecary claim, mortgage or any other similar security under which an amount was payable after the fourth year following the taxation year during which the film or the video tape was purchased;

(*d*) from a person not resident in Canada; or

(*e*) unless it is a film or a tape that would be described in section 726.4.7.2 of the Act if the references made therein to an individual read as references made to a taxpayer, by a taxpayer or partnership whose financial commitment in the film or tape represents not more than 30% of the capital cost of the film or tape for the taxpayer or partnership, whichever applies.

In subparagraph *e* of the second paragraph, the expression "financial commitment" of a taxpayer or partnership in a motion picture film or video tape means the amount that would be determined for the taxpayer or partnership in respect of the film or tape under section 726.4.7.4 of the Act if the references made in that section to a certified Québec film were read as references made to the motion picture film or video tape and if the references made therein to an investor who is an individual likewise included an investor that is a corporation.

In the definition of "Québec film production" in the first paragraph, for the taxation year referred to in that definition, "Québec film production" does not include a motion picture or a video tape

(*a*) for which the principal taping or filming work began before 19 December 1990;

(*b*) for which the principal taping or filming work began after 18 December 1990 and was completed not later than 31 December 1991 and in respect of which the funds for its production were obtained from an individual or a partnership, as the case may be, not later than 28 February 1991;

(*c*) that is referred to in paragraph *b* of section 726.4.7.2 of the Act; or

(*d*) that is acquired

i. after the first day it is used for commercial purposes or the first anniversary of the day on which the principal taping or filming work is completed, whichever is earlier,

ii. from a person to whom the purchaser does not pay in cash before the end of the year at least 5% of the capital cost to the purchaser of the film or the video tape at that time,

iii. from a person to whom the purchaser issues in payment or part payment of the film or the video tape, a bond, debenture, bill, note, hypothecary claim, mortgage or similar security under which an amount is payable after the fourth year following the taxation year during which the film or the video tape is acquired, or

iv. from a person not resident in Canada.

For the purposes of paragraphs *b* to *d* of the definition of "Canadian field processing" in the first paragraph,

(*a*) gas is not considered to cease to be raw natural gas solely because of its processing in a field separation and dehydration facility until it is received by a common carrier of natural gas; and

(*b*) where all or part of a natural gas processing plant is devoted primarily to the recovery of ethane, the plant, or the

part of the plant, as the case may be, is considered not to be a natural gas processing plant.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**130R4.** For the purposes of sections 130R109 and 130R110, "revenue guarantee" means a contract or other arrangement entitling a taxpayer to receive a minimum rental revenue from a certified feature film, a certified production, a certified Québec film or a Québec film production, or other fixed revenue in respect of a right to the use of such property.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**130R5.** In this Title and Schedule B referred to therein, unless the provisions of section 130R6 indicates otherwise,

"industrial mineral mine" includes a peat bog or peat deposit but does not include a mineral resource;

"mineral" includes peat; and

"mining" includes the harvesting of peat.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**130R6.** In Class 10 in Schedule B, "mine" includes a well for the extraction of material from a deposit of bituminous sands or oil shales or from a deposit of calcium chloride, sylvite or halite.

For the purposes of Class 10 in Schedule B, income from a mine includes income attributable to the processing of

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

b) iron ore from a mineral resource not owned by the taxpayer, to any stage that is not beyond the pellet stage or its equivalent,

c) tar sands ore from a mineral resource not owned by the taxpayer, to any stage that is not beyond the crude oil stage or its equivalent, or

d) material extracted by a well from a mineral resource not owned by the taxpayer that is a deposit of bituminous sands or oil shales to any stage that is not beyond the crude oil stage or its equivalent.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**130R7.** For the purposes of sections 1R5, 130R66 to 130R70, 130R143, 130R144 and 130R169 to 130R172 and Classes 12, 28 and 41 in Schedule B,

(*a*) "mine" includes a well for the extraction of material from a deposit of bituminous sands or oil shales or from a deposit of calcium chloride, sylvite or halite, and a pit for the extraction of kaolin or tar sands ore, but does not include

i. an oil or gas well, or

ii. a sand pit, gravel pit, clay pit, shale pit, peat bog, deposit of peat or a stone quarry, other than a deposit of bituminous sands or oil shales or a kaolin pit;

(*b*) all wells of a taxpayer for the extraction of material from one or more deposits of calcium chloride, sylvite or halite, the material produced from which is sent to the same plant for processing, are deemed to be one mine of the taxpayer;

(*c*) all wells of a taxpayer for the extraction of material from a deposit of bituminous sands or oil shales that may reasonably be considered to constitute one project, are deemed to be one mine of the taxpayer.

For the purposes of subparagraph *a* of the first paragraph, "stone quarry" includes a mine producing dimension stone or

crushed rock for use as aggregates or for other construction purposes.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**130R8.** For the purposes of sections 130R66 to 130R70 and 130R169 to 130R172 and Classes 10, 28 and 41 in Schedule B, a taxpayer's income from a mine includes income that may reasonably be attributed to

(*a*) the processing by the taxpayer of

i. ore, other than iron ore or tar sands ore, all or substantially all of which is from a mineral resource owned by the taxpayer to any stage that is not beyond the prime metal stage or its equivalent,

ii. iron ore all or substantially all of which is from a mineral resource owned by the taxpayer to any stage that is not beyond the pellet stage or its equivalent,

iii. tar sands ore all or substantially all of which is from a mineral resource owned by the taxpayer to any stage that is not beyond the crude oil stage or its equivalent, or

iv. material extracted by a well, all or substantially all of which is from a deposit of bituminous sands or oil shales owned by the taxpayer, to any stage that is not beyond the crude oil stage or its equivalent;

(*b*) the production by the taxpayer of material from a deposit of bituminous sands or oil shales; and

(*c*) the transportation by the taxpayer of ore that would be referred to in any of subparagraphs i to iii of paragraph *a* if that subparagraph were read without reference to "all or substantially all of which is" and that has been processed by the taxpayer to any stage that is not beyond the stage mentioned in any of those subparagraphs i to iii, as the case may be, to the extent that such transportation is effected through the use of property of the taxpayer that is included in Class 10 in Schedule B because of subparagraph *m* of the second paragraph of that class or that would be so included if that subparagraph *m* were read without reference to "property included in Class 28 or" and if subparagraph i of subparagraph *e* of the first paragraph of Class 41 in that schedule were read without the reference therein to that subparagraph *m*.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**130R9.** For the purposes of Class 41 in Schedule B, gross revenue from a mine includes

(*a*) revenue that may reasonably be attributed to the processing by the taxpayer of

i. ore, other than iron ore or tar sands ore, from a mineral resource owned by the taxpayer to any stage that is not beyond the prime metal stage or its equivalent,

ii. iron ore from a mineral resource owned by the taxpayer to any stage that is not beyond the pellet stage or its equivalent,

iii. tar sands ore from a mineral resource owned by the taxpayer to any stage that is not beyond the crude oil stage or its equivalent, or

iv. material extracted by a well from a mineral resource owned by the taxpayer that is a deposit of bituminous sands or oil shales to any stage that is not beyond the crude oil stage or its equivalent;

(*b*) the amount by which any revenue that may reasonably be attributed to the processing by the taxpayer of the following ore or material exceeds the cost to the taxpayer of the ore or material processed:

i. ore, other than iron ore or tar sands ore, from a mineral resource not owned by the taxpayer, to any stage that is not beyond the prime metal stage or its equivalent,

ii. iron ore from a mineral resource not owned by the taxpayer to any stage that is not beyond the pellet stage or its equivalent,

iii. tar sands ore from a mineral resource not owned by the taxpayer to any stage that is not beyond the crude oil stage or its equivalent, and

iv. material extracted by a well from a mineral resource not owned by the taxpayer that is a deposit of bituminous sands or oil shales to any stage that is not beyond the crude oil stage or its equivalent; and

(*c*) revenue that may reasonably be attributed to the production by the taxpayer of material from a deposit of bituminous sands or oil shales.

For the purposes of the first paragraph, gross revenue from a mine does not include revenue that may reasonably be attributed to the addition of diluent, for the purpose of transportation, to material extracted from a deposit of bituminous sands or oil shales.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**130R10.** In subparagraph *t* of the first paragraph of Class 12 in Schedule B,

"incorporeal property" means a patent, a licence, a permit, know-how, a commercial secret or other similar property constituting knowledge, but does not include a trade mark, in industrial design, a copyright or other similar property constituting the expression of knowledge;

"technology transfer" means the transmission to a taxpayer of knowledge in the form of know-how, techniques, processes or formulas, with a view to enabling the taxpayer to implement an innovation or invention concerning the taxpayer's business.

For the purposes of subparagraph *t* of the first paragraph of Class 12 in Schedule B, an incorporeal property is deemed to be used only in Québec where it is used as part of the process of implementing an innovation or invention and where the efforts to implement that innovation or invention are made only in Québec.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**130R11.** For the purposes of section 130R98 and of paragraphs *b* of section 130R123, *b* of section 130R149 and *a* of section 130R160, where, but for this section, a taxpayer would be considered to be dealing not at arm's length with another person as a result of a transaction or series of transactions the principal purpose of which may reasonably be considered to have been to cause one or more of sections 130R98, 130R124, 130R148 and 130R160 to apply in respect of the acquisition of a property, the taxpayer is deemed to be dealing at arm's length with the other person in respect of the acquisition of that property.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**130R12.** For the purposes of section 130R52 and Class 29 in Schedule B, "manufacturing or processing" does not include

(*a*) farming or fishing;

(*b*) logging;

(*c*) construction;

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

(*e*) extracting minerals from a mineral resource;

(*f*) processing of

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

ii. iron ore from a mineral resource to any stage that is not beyond the pellet stage or its equivalent, or

iii. tar sands ore from a mineral resource to any stage that is not beyond the crude oil stage or its equivalent;

(*g*) producing industrial minerals;

(*h*) producing or processing electrical energy or steam for sale;

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

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

(*k*) Canadian field processing.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**130R13.** For the purposes of subparagraph *d* of the first paragraph of Class 34 in Schedule B and the second paragraph of that class, the Minister may revoke the certificate granted if inaccurate information was provided or if the taxpayer does not comply with the plan described in subparagraph *d*, and a certificate so revoked is null and void from the date on which it was issued.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**130R14.** In Class 37 in Schedule B, an "amusement park" means a park open to the public where there are sideshows, rides and permanent audiovisual shows.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**130R15.** For the purposes of this section, section 130R16 and Classes 43.1 and 43.2 in Schedule B,

"basic oxygen furnace gas" means the gas that is produced intermittently in a basic oxygen furnace of a steel mill by the chemical reaction of carbon in molten steel and pure oxygen;

"bio-oil" means liquid fuel that is created from wood waste or plant residues using a thermo-chemical conversion process that takes place in the absence of oxygen;

"blast furnace gas" means the gas produced in a blast furnace of a steel mill, by the chemical reaction of carbon in the form of coke, coal or natural gas, the oxygen in air and iron ore;

"digester gas" means a mixture of gases that are produced from the decomposition of organic waste in a digester and that are extracted from an eligible sewage treatment facility;

"distribution equipment" means equipment, other than transmission equipment, used to distribute electrical energy generated by electrical generating equipment;

"district energy equipment" means property that is part of a district energy system and that consists of pipes or pumps used to collect and distribute an energy transfer medium, meters, control equipment, chillers and heat exchangers that are attached to the main distribution line of a district energy system, but does not include

(*a*) property used to distribute water that is for consumption, disposal or treatment; or

(*b*) property that is part of the internal heating or cooling system of a building;

"district energy system" means a system that is used primarily to provide heating or cooling by continuously circulating, from a central generation unit to one or more buildings through a system of interconnected pipes, an energy transfer medium that is heated or cooled using thermal energy that is primarily produced by electrical cogeneration equipment that meets the requirements of subparagraphs *a* to *c* of the first paragraph of Class 43.1 in Schedule B, as they read having regard to, if applicable, paragraph *a* of Class 43.2 in that Schedule;

"eligible landfill site" means a landfill site that is situated in Canada, or a former landfill site that is situated in Canada, and, if a permit or licence in respect of the site is or was required under any law of Canada or of a province, for which the permit or licence has been issued;

"eligible sewage treatment facility" means a sewage treatment facility that is situated in Canada and for which a permit or licence is issued under any law of Canada or of a province;

"eligible waste management facility" means a waste management facility that is situated in Canada and for which a permit or licence is issued under any law of Canada or of a province;

"enhanced combined cycle system" means an electrical generating system in which thermal waste from one or more natural gas compressor systems is recovered and used to contribute at least 20% of the energy input of a combined cycle process in order to enhance the generation of electricity, but does not include the natural gas compressor systems;

"fossil fuel" means a fuel that is petroleum, natural gas or related hydrocarbons, basic oxygen furnace gas, blast furnace gas, coal, coal gas, coke, coke oven gas, lignite or peat;

"landfill gas" means a mixture of gases that are produced from the decomposition of organic waste and that are extracted from an eligible landfill site;

"municipal waste" means the combustible portion of waste material, other than waste material that is considered to be toxic or hazardous waste pursuant to any law of Canada or of a province, that is generated in Canada and that is accepted at an eligible landfill site or an eligible waste management facility and that, when burned to generate energy, emits only those fluids or other emissions that are in compliance with the laws of Canada or of a province;

"plant residue" means the residue of plants that would, but for its use in a system to convert biomass into bio-oil, be waste material, but does not include wood waste or waste that no longer has the chemical properties of the plants of which it is a residue;

"solution gas" means a fossil fuel that is gas that would otherwise be flared and has been extracted from a solution of gas and produced oil;

"spent pulping liquor" means the by-product of a chemical process of transforming wood into pulp, consisting of wood residue and pulping agents;

"thermal waste" means heat energy extracted from a distinct point of rejection in an industrial process;

"transmission equipment" means equipment used to transmit more than 75% of the annual electrical energy generated by electrical generating equipment, but does not include a building;

"wood waste" includes scrap wood, sawdust, wood chips, bark, limbs, saw-ends and hog fuel, but does not include spent pulping liquor and any waste that no longer has the physical or chemical properties of wood.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**130R16.** Where property of a taxpayer is not operating in the manner required by subparagraph *c* of the first paragraph of Class 43.1 in Schedule B, as it reads having regard to, if applicable, paragraph *a* of Class 43.2 in that Schedule, solely because of a deficiency, failing or shutdown, that is beyond the control of the taxpayer, of the system of which it is part and that previously operated in the manner required by that subparagraph, that property is deemed, for the purposes of that subparagraph, to be operating in the manner required under that subparagraph during the period of the deficiency, failing or shutdown, if the taxpayer makes all reasonable efforts to rectify the circumstances within a reasonable time.

For the purposes of the first paragraph, a taxpayer's system referred to in that paragraph that has at any particular time operated in the manner required by subparagraph *c* of the first paragraph of Class 43.1 in Schedule B, as it reads having regard to, if applicable, paragraph *a* of Class 43.2 in that Schedule, includes at any time after the particular time a property of another person or partnership if

(*a*) the property would reasonably be considered to be part of the taxpayer's system were the property owned by the taxpayer;

(*b*) the property utilizes steam obtained from the taxpayer's system primarily in an industrial process, other than the generation of electrical energy;

(*c*) the operation of the property is necessary for the taxpayer's system to operate in the manner required by subparagraph *c* of the first paragraph of Class 43.1 in Schedule B, as it reads having regard to, if applicable, paragraph *a* of Class 43.2 in that Schedule; and

(*d*) at the time that the taxpayer's system first became operational, the deficiency, failing or shutdown in the operation of the property could not reasonably have been anticipated by the taxpayer to occur within five years after that time.

For the purposes of the first paragraph, a district energy system is deemed to meet the requirements of subparagraph *c* of the first paragraph of Class 43.1 in Schedule B, as it reads having regard to, if applicable, paragraph *a* of Class 43.2 in that Schedule, if the electrical cogeneration equipment that produces the thermal energy used by the system is deemed by the first paragraph to meet the requirements of that subparagraph *c*, as it reads having regard to, if applicable, paragraph *a* of Class 43.2 of that Schedule.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**130R17.** Where a taxpayer acquired a property that is described in Class 43.1 in Schedule B in circumstances in which the fourth paragraph of that Class applied,

(*a*) the portion of the property, determined by reference to capital cost, that does not exceed the capital cost of the property to the person from whom the property was acquired is included in that Class; and

(*b*) the portion of the property, determined by reference to capital cost, that exceeds the capital cost of the property to the person from whom the property was acquired is not included in that Class.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**130R18.** Where a taxpayer acquired a property that is described in Class 43.2 in Schedule B in circumstances in which the fourth paragraph of Class 43.1 in that Schedule applied and the property was included in Class 43.2 of the person from whom the taxpayer acquired the property,

(*a*) the portion of the property, determined by reference to capital cost, that does not exceed the capital cost of the property to the person from whom the property was acquired is included in Class 43.2 in Schedule B; and

(*b*) the portion of the property, determined by reference to capital cost, that exceeds the capital cost of the property to the person from whom the property was acquired is not included in Class 43.1 or 43.2 in Schedule B.

s. 130R2; O.C. 1981-80, s. 130R2; O.C. 1983-80, s. 1; O.C. 3926-80, s. 1; O.C. 1535-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R2; O.C. 2962-82, s. 11; O.C. 500-83, s. 11; O.C. 2727-84, s. 2; L.Q., 1984, c. 47, s. 216; O.C. 2509-85, s. 2; O.C. 2583-85, s. 3; O.C. 615-88, s. 6; O.C. 1666-90, s. 3; O.C. 1114-92, s. 10; O.C. 1697-92, s. 6; O.C. 1539-93, s. 5; 1994, c. 21, s. 50; O.C. 216-95; O.C. 35-96, s. 6; O.C. 1631-96, s. 1; O.C. 1707-97, s. 18; O.C. 1466-98, s. 20; O.C. 1454-99, s. 11; O.C. 1463-2001, s. 36; O.C. 1470-2002, s. 12; O.C. 1282-2003, s. 15; O.C. 1249-2005, s. 2; O.C. 1149-2006, s. 5; O.C. 1116-2007, s. 6.

"**CHAPTER III**

"CLASSES OF PROPERTY

chap. III; O.C. 1981-80, title VI, chap. III; O.C. 1983-80, s. 2; R.R.Q., 1981, c. I-3, r.1, title VI, chap. III; O.C. 2847-84, s. 1.

"**DIVISION I**

"GENERAL ALLOWANCES

div. I; O.C. 1981-80, title VI, chap. III, div. I; 1983-80, s. 2; R.R.Q., 1981, c. I-3, r.1, title VI, chap. III, div. I; O.C. 2847-84, s. 1.

"**130R19.** Subject to sections 130R21, 130R119 and 130R120, the allowance referred to in section 130R1 may not exceed, for a class of property mentioned in section 130R22, the amount obtained by applying the percentage determined in respect of that class in section 130R22 to the undepreciated capital cost of the property of the same class at the end of the taxation year for which the taxpayer claims such an allowance, before any deduction under this section for the year.

Where the class of property mentioned in section 130R22 includes an automobile acquired by the taxpayer after 18 April 1978 and before 18 June 1987 or after 17 June 1987 pursuant to an obligation in writing entered into before 18 June 1987, and the automobile is used exclusively for earning income, is not intended to be leased by the taxpayer to a person, where the principal business of the taxpayer is the leasing of automobiles to persons dealing with the taxpayer at arm's length, and is not used under a permit for the transport of passengers for remuneration, the allowance under section 130R1 is respect of that class may not exceed the amount that would have been obtained under the first paragraph if the undepreciated capital cost of the property of the class, determined with reference to section 130R119 and before any deduction under this section for the year, had been reduced by the aggregate of

(*a*) the amount by which, in respect of each automobile, its capital cost exceeds $16,000; and

(*b*) 50%, in respect of each automobile acquired during the taxation year, of its capital cost or $16,000, whichever is lesser.

s. 130R3; O.C. 1981-80, s. 130R3; O.C. 1983-80, s. 2; R.R.Q., 1981, c. I-3, r.1, s. 130R3; O.C. 2847-84, s. 1; O.C. 1697-92, s. 7.

"**130R20.** Subparagraph *b* of the second paragraph of section 130R19 does not apply where the taxpayer acquired the automobile in any of the circumstances set forth in paragraph *a* or *b* of section 130R123 if,

(*a*) the automobile was a depreciable property of the person from whom the taxpayer acquired it and belonged to that person without interruption for at least 364 days before the end of the taxation year of the taxpayer during which the taxpayer acquired the automobile, until the day of its acquisition by the taxpayer; or

(*b*) this section was applied in respect of the automobile for the purpose of determining the amount that the person from whom the taxpayer acquired the property was entitled to deduct under section 130R1.

s. 130R3.1; O.C. 2847-84, s. 1; O.C. 1697-92, s. 8.

"**130R21.** The allowance under section 130R1 that a taxpayer may claim for a taxation year in respect of a class of property referred to in section 130R22 that includes an automobile, other than an automobile used under a permit for the transport of passengers for remuneration, that the taxpayer acquired before 18 June 1987, or after 17 June 1987 pursuant to an obligation in writing entered into before 18 June 1987, or an automobile that would have been such an automobile if the taxpayer had acquired it before 18 June 1987 and that is a passenger vehicle acquired during the taxpayer's 1987 taxation year, may not exceed, where the taxpayer is an individual who, during the year, uses the automobile in part for the purpose of earning income and in part for personal use, the amount that would have been obtained under the first paragraph of section 130R19 in respect of the class for the year if

(*a*) the cost of the automobile to the taxpayer, other than an automobile referred to in subparagraph *a* or *c* of the second paragraph of section 130.1R1 or a passenger vehicle, did not exceed $16,000; or

(*b*) where the year is the 1988 taxation year or a taxation year subsequent to the 1988 taxation year and where the taxpayer has, without interuption since the year in question, used the automobile in part for the purpose of earning income and in part for personal use, the aggregate of the amounts each of which is an amount that the taxpayer deducted as an allowance in respect of the automobile in computing the taxpayer's income for a preceding taxation year, referred to as "particular preceding taxation year" in this section, for which section 130R4 of the preceding Regulation, within the meaning of section 2000R1, applied in respect of the automobile and that, where applicable, is not a taxation year that ended before a taxation year prior to the 1988 taxation year, for which that section 130R4 did not apply in respect of the automobile was equal to the aggregate of the amounts each of which is an amount determined in respect of the automobile for a particular preceding taxation year according to the following formula:

$(A - B) \times C$.

In the formula in subparagraph *b* of the first paragraph in respect of an automobile of a taxpayer for a particular taxation year,

(*a*) A is the product obtained by multiplying the cost of the automobile for the taxpayer by the proportion that the number of kilometres travelled by the automobile during the 1988 taxation year for the purpose of enabling the taxpayer to earn income, is of the total number of kilometres travelled by the automobile during that year;

(*b*) B is the aggregate of the amounts each of which is an amount determined using the formula in subparagraph *b* of the first paragraph in respect of the automobile for a taxation year that is prior to the particular year and that is a particular preceding taxation year in respect of the automobile; and

(*c*) C is a rate of 15% where the particular year is the taxation year during which the automobile was acquired by the taxpayer, and 30% in all other cases.

For the purposes of subparagraph *a* of the second paragraph, the cost of an automobile to a taxpayer, other than an automobile referred to in subparagraph *a* or *c* of the second paragraph of section 130.1R1, may not exceed $16,000, where the automobile was acquired by the taxpayer before 18 June 1987 or after 17 June 1987 pursuant to an obligation in writing entered into before 18 June 1987, or $20,000 in all other cases.

s. 130R3.2; O.C. 1697-92, s. 9.

"**130R22.** The percentage mentioned in section 130R19, in respect of the property of classes mentioned in Schedule B, is the following:

(*a*) Class 1: 4%;

(*b*) Class 2: 6%;

(*c*) Class 3: 5%;

(*d*) Class 4: 6%;

(*e*) Class 5: 10%;

(*f*) Class 6: 10%;

(*g*) Class 7: 15%;

(*h*) Class 8: 20%;

(*i*) Class 8.1: 33 1/3%;

(*j*) Class 9: 25%;

(*k*) Class 10: 30%;

(*l*) Class 10.1: 30%;

(*m*) Class 11: 35%;

(*n*) Class 12: 100%;

(*o*) Class 16: 40%;

(*p*) Class 17: 8%;

(*q*) Class 18: 60%;

(*r*) Class 22: 50%;

(*s*) Class 23: 100%;

(*t*) Class 25: 100%;

(*u*) Class 26: 5%;

(*v*) Class 28: 30%;

(*w*) Class 30: 40%;

(*x*) Class 31: 5%;

(*y*) Class 32: 10%;

(*z*) Class 33: 15%;

(*z*.1) Class 35: 7%;

(*z*.2) Class 37: 15%;

(*z*.3) Class 41: 25%;

(*z*.4) Class 42: 12%;

(*z*.5) Class 43: 30%;

(*z*.6) Class 43.1: 30%;

(*z*.7) Class 43.2: 50%;

(*z*.8) Class 44: 25%;

(*z*.9) Class 45: 45%;

(*z*.10) Class 46: 30%;

(*z*.11) Class 47: 8%;

(*z*.12) Class 48: 15%; and

(*z*.13) Class 49: 8%.

s. 130R6; O.C. 1981-80, s. 130R6; O.C. 1983-80, s. 5; R.R.Q., 1981, c. I-3, r.1, s. 130R6; O.C. 2962-82, s. 12; O.C. 500-83, s. 12; O.C. 1697-92, s. 11; O.C. 1631-96, s. 2; O.C. 1454-99, s. 12; O.C. 1149-2006, s. 6; O.C. 1116-2007, s. 7.

"**130R23.** Where the taxpayer's taxation year is less than 12 months, the amount allowed as a deduction under this Title, otherwise than under sections 130R37, 130R40 to 130R43, 130R66 to 130R69, 130R106, 130R107, 130R113, 130R115 or 130R209 to 130R221, may not exceed the proportion of the maximum amount allowable that the number of days in the taxation year is of 365.

s. 130R7; O.C. 1981-80, s. 130R7; R.R.Q., 1981, c. I-3, r.1, s. 130R7; O.C. 2847-84, s. 2; O.C. 1631-96, s. 3; O.C. 1282-2003, s. 16; O.C. 1249-2005, s. 3.

"**DIVISION II**

"LEASEHOLD INTERESTS

div. III; O.C. 1981-80, title VI, chap. III, div. III; R.R.Q., 1981, c. I-3, r.1, title VI, chap. III, div. III.

"**130R24.** In respect of property of Class 13 in Schedule B, the taxpayer may deduct an amount not exceeding the lesser of the aggregate of each amount equal to the proportion, described in section 130R27, of that part of the capital cost to the taxpayer, incurred in a taxation year of a particular leasehold interest, and the undepreciated capital cost of property of that class at the end of the taxation year, before any deduction under this section.

s. 130R13; O.C. 1981-80, s. 130R13; R.R.Q., 1981, c. I-3, r.1, s. 130R13.

"**130R25.** For the purposes of this division, the capital cost to a taxpayer of a property is deemed to have been incurred at the time when the property became available for use by the taxpayer for the purposes of the Act.

s. 130R13.1; O.C. 1631-96, s. 4.

"**130R26.** For the purposes of section 130R24, capital cost includes any amount expended by a taxpayer for or in respect of an improvement or alteration to a leased property, other than an amount expended by reason of the fact that the taxpayer or a former lessee

(*a*) erected a building or other structure on leased land;

(*b*) made an addition to a leased building or other structure; or

(*c*) made an alteration to a leased building or other structure that substantially changed its nature.

However, in the case of property not included in Class 31 or 32 in Schedule B and acquired from a former lessee before 1976, the first paragraph is to be read without reference to "or a former lessee".

s. 130R14; O.C. 1981-80, s. 130R14; R.R.Q., 1981, c. I-3, r.1, s. 130R14.

"**130R27.** The proportion of the capital cost referred to in section 130R24 is the lesser of:

(*a*) 1/5; and

(*b*) that proportion that the number 1 is of the number of 12 month periods, not exceeding 40, falling between the beginning of the taxation year in which the capital cost was incurred and the day the lease is to terminate.

Despite the foregoing, where the part of the capital cost referred to in section 130R24, other than the part of the capital cost of a property referred to in any

of subparagraphs *b* to *d* of the second paragraph of section 130R119, is incurred after 12 November 1981, the proportion of that part is equal, for the taxation year during which it is incurred, to 50% of the amount that would be determined in its respect under the first paragraph.

s. 130R15; O.C. 1981-80, s. 130R15; R.R.Q., 1981, c. I-3, r.1, s. 130R15; O.C. 2847-84, s. 3; O.C. 366-94, s. 4; O.C. 1631-96, s. 5.

"**130R28.** Where an item of the capital cost of a leasehold interest was incurred before the taxation year in which the interest was acquired, it is deemed to have been incurred in the taxation year in which the interest was acquired.

s. 130R16; O.C. 1981-80, s. 130R16; R.R.Q., 1981, c. I-3, r.1, s. 130R16.

"**130R29.** Where, under a lease, a lessee has a right to renew the lease after the term and such term occurs after the end of the taxation year in which the capital cost was incurred, the lease is deemed to terminate on the day on which the term next succeeding the term in which the capital cost was incurred is to terminate.

s. 130R17; O.C. 1981-80, s. 130R17; R.R.Q., 1981, c. I-3, r.1, s. 130R17.

"**130R30.** The proportion of the part of the capital cost incurred in a particular taxation year of a particular leasehold interest may not exceed the amount remaining after deducting from that part of the capital cost the aggregate of the amounts deductible and claimed in previous years in respect thereof.

s. 130R18; O.C. 1981-80, s. 130R18; R.R.Q., 1981, c. I-3, r.1, s. 130R18.

"**130R31.** Where, at the end of a taxation year, the total of the aggregate referred to in section 130R30 and the proceeds of disposition of part or all of a particular leasehold interest equals or exceeds the capital cost of the interest, the proportion in that section is, for all subsequent years, deemed to be nil.

s. 130R19; O.C. 1981-80, s. 130R19; R.R.Q., 1981, c. I-3, r.1, s. 130R19.

"**130R32.** Where, at the end of a taxation year, the undepreciated capital cost of property of Class 13 in Schedule B is nil, the proportion of any part of the capital cost is, for all subsequent years, deemed to be nil.

s. 130R20; O.C. 1981-80, s. 130R20; R.R.Q., 1981, c. I-3, r.1, s. 130R20.

"**130R33.** Where the taxpayer has a leasehold interest, a reference in Schedule B to a property that is a building or other structure includes that leasehold interest to the extent that the taxpayer acquired it by reason of the fact that the taxpayer has carried out an operation referred to in any of subparagraphs *a* to *c* of the first paragraph of section 130R26, or acquired it after 1975 or, in the case of property of Class 31 or 32 in that Schedule, after 18 November 1974, from a former lessee who has acquired it by reason of the fact that the lessee or a preceding lessee had carried out such an operation.

s. 130R21; O.C. 1981-80, s. 130R21; R.R.Q., 1981, c. I-3, r.1, s. 130R21.

"**130R34.** Where a taxpayer acquires a property that, if it were acquired by a person with whom the taxpayer does not deal at arm's length at the time of the acquisition, would be a leasehold interest referred to in section 130R33 for that person, a reference in Schedule B to a property that is a building or other structure includes that property.

s. 130R21.1; O.C. 1631-96, s. 6.

"**130R35.** Where a taxpayer acquires a property that, if it were acquired by a person with whom the taxpayer does not deal at arm's length at the time of the acquisition, would be a leasehold interest of that person, a reference in this division to a leasehold interest includes, in respect of the taxpayer, that property, and the terms and conditions of the leasehold interest in that property for the taxpayer are deemed to be the same as those that would have applied to that person if the person had acquired the property.

s. 130R21.2; O.C. 1631-96, s. 6.

"**130R36.** For the purposes of this division, where an item of capital cost has been incurred before the commencement of the taxpayer's 1949 taxation year, there is to be added to the capital cost of each item the amount that was allowed in respect thereof as depreciation under the Income War Tax Act (R.S.C., 1927, c. 97) and was deducted from the original cost to arrive at the capital cost of the item.

s. 130R22; O.C. 1981-80, s. 130R22; R.R.Q., 1981, c. I-3, r.1, s. 130R22.

"**DIVISION III**

"PATENTS, CONCESSIONS AND LICENCES

div. IV; O.C. 1981-80, title VI, chap. III, div. IV; R.R.Q., 1981, c. I-3, r.1, title VI, chap. III, div. IV.

"**130R37.** In respect of property of Class 14 in Schedule B, the taxpayer may deduct an amount not exceeding the lesser of

(*a*) the aggregate of the amounts obtained by apportioning the capital cost to the taxpayer of each property over the life of the property remaining at the time the cost was incurred; and

(*b*) the undepreciated capital cost to the taxpayer of property of the class at the end of the taxation year, before any deduction under this section.

s. 130R23; O.C. 1981-80, s. 130R23; R.R.Q., 1981, c. I-3, r.1, s. 130R23.

"**130R38.** Where a part or all of the cost of a patent is determined by reference to the use of the patent, a taxpayer may, in computing the taxpayer's income for a taxation year from a business or property, as the case may be, deduct in lieu of the deduction allowed under section 130R37 such amount as the taxpayer may claim in respect of property of Class 14 in Schedule B not exceeding the lesser of

(*a*) the aggregate of that part of the capital cost determined by reference to the use of the patent in the year, and the amount that would be computed under paragraph *a* of that section 130R37 if the capital cost of the patent did not include the amount determined by reference to the use of the patent in that year and previous years; and

(*b*) the undepreciated capital cost to the taxpayer of property of the class as of the end of the taxation year before making any deduction under this section.

s. 130R24; O.C. 1981-80, s. 130R24; R.R.Q., 1981, c. I-3, r.1, s. 130R24.

"**130R39.** Where the capital cost to a taxpayer of a property that is a patent or a right to use patented information is determined in whole or in part by reference to the use of the property and that property is included in Class 44 in Schedule B, in lieu of the amount provided for in section 130R19, the taxpayer may deduct for a taxation year in respect of the property of that class an amount not exceeding the lesser of

(*a*) the aggregate of

i. the part of the capital cost that is determined by reference to the use of the property in the year, and

ii. the amount that would be deductible for the year under section 130R19 in respect of property of that class if the capital cost thereof did not include the amounts determined under subparagraph i for the year and preceding taxation years; and

(*b*) the undepreciated capital cost to the taxpayer at the end of the year, before any deduction under this section for the year, of property of that class.

s. 130R24.1; O.C. 1631-96, s. 7.

"**DIVISION IV**

"PROPERTY USED IN TIMBER LIMITS

div. V; O.C. 1981-80, title VI, chap. III, div. V; R.R.Q., 1981, c. I-3, r.1, title VI, chap. III, div. V.

"**130R40.** In respect of property of Class 15 in Schedule B, the taxpayer may deduct the lesser of an amount computed on the basis of a rate per cubic metre of timber cut in the taxation year and the undepreciated capital cost to the taxpayer of property of that class at the end of the year, before any deduction under this division.

s. 130R25; O.C. 1981-80, s. 130R25; R.R.Q., 1981, c. I-3, r.1, s. 130R25.

"**130R41.** The rate referred to in section 130R40, where all the property of the class is used in connection with a timber limit, is the amount determined by dividing the undepreciated capital cost, to the taxpayer, of the property at the end of the taxation year, before any deduction under this Title, by the number of cubic metres of timber in that limit computed by deducting from the quantity shown by the latest cruise, the quantity cut since that cruise up to the beginning of the year.

s. 130R26; O.C. 1981-80, s. 130R26; R.R.Q., 1981, c. I-3, r.1, s. 130R26.

"**130R42.** Where a part of the property of Class 15 in Schedule B is used in connection with one timber limit and a part is used in connection with another limit, the rate is computed as though each part of the property were a separate class.

s. 130R27; O.C. 1981-80, s. 130R27; R.R.Q., 1981, c. I-3, r.1, s. 130R27.

"**130R43.** In this division, capital cost includes the amount expended by the taxpayer on improvements to a watercourse in order to facilitate the removal of timber from a limit.

s. 130R28; O.C. 1981-80, s. 130R28; R.R.Q., 1981, c. I-3, r.1, s. 130R28.

"**DIVISION V**

"PROPERTY OF CLASSES 24, 27, 29 AND 34

div. VI; O.C. 1981-80, title VI, chap. III, div. IV; R.R.Q., 1981, c. I-3, r.1, title VI, chap. III, div. VI; O.C. 2847-84, s. 4.

"**130R44.** In this division,

"designated property" of a class means a property deemed to be such under section 130R124, a property of the class acquired by the taxpayer before 13 November 1981 or a property described in any of subparagraphs *b* to *d* of the second paragraph of section 130R119;

"specified transaction" means a transaction in respect of which any of sections 527, 544, 556, 617, 620 and 626 of the Act applies.

s. 130R29; O.C. 1981-80, s. 130R29; R.R.Q., 1981, c. I-3, r.1, s. 130R29; O.C. 2847-84, s. 4; O.C. 366-94, s. 5; O.C. 1631-96, s. 8.

"**130R45.** For the purposes of this division, a property is deemed, subject to subparagraph *d* of the first paragraph of section 130R124, to have been acquired by a taxpayer at the time when the property became available for use by the taxpayer according to the Act.

s. 130R29.1; O.C. 1631-96, s. 9.

"**130R46.** In respect of property of Classes 24, 27, 29 and 34 in Schedule B, a taxpayer may, subject to section 130R49, deduct

(*a*) for the taxation year including 12 November 1981, the amount prescribed by section 130R47; and

(*b*) for a taxation year beginning after 12 November 1981, the amount prescribed by section 130R48.

s. 130R30; O.C. 1981-80, s. 130R30; R.R.Q., 1981, c. I-3, r.1, s. 130R30; O.C. 2847-84, s. 4.

"**130R47.** The taxpayer may deduct under paragraph *a* of section 130R46 an amount not exceeding the aggregate of

(*a*) 50% of the lesser of the capital cost to the taxpayer of the designated property of the class acquired by the taxpayer during the year and the undepreciated capital cost to the taxpayer of the property of that class at the end of the year, computed before any deduction under section 130R46 for the year, and as if no amount had been included in respect of property acquired after 12 November 1981 that was not designated property of the class;

(*b*) the amount by which the undepreciated capital cost referred to in paragraph *a* exceeds the capital cost of the designated property referred to in paragraph *a*; and

(*c*) the lesser of 25% of the capital cost to the taxpayer of all property of the class that is not designated property and acquired by the taxpayer during the year and the undepreciated capital cost to the taxpayer of the property of the class at the end of the year, before any deduction under section 130R46 for the year.

s. 130R30.1; O.C. 2847-84, s. 4.

"**130R48.** A taxpayer may deduct under paragraph *b* of section 130R46 an amount not exceeding the aggregate of

(*a*) the lesser of 50% of the capital cost to the taxpayer of all the designated properties of the class acquired by the taxpayer during the year and the undepreciated capital cost to the taxpayer of the property of that class at the end of the year, computed before any deduction under section 130R46 for the year and, where one of the designated properties referred to in this paragraph was acquired in a specified transaction, as if no amount had been included in respect of the property that was not designated property of the class acquired by the taxpayer during the year;

(*b*) 25% of the lesser of the undepreciated capital cost to the taxpayer of the property of the class at the end of the year, computed before any deduction under section 130R46 for the year and as if no amount had been included in respect of a designated property of that class acquired by the taxpayer during the year, and the capital cost to the taxpayer of the property in the class acquired by the taxpayer during the year and that was not designated property; and

(*c*) the lesser of

i. the amount by which the undepreciated capital cost to the taxpayer of the property of the class at the end of the year, before any deduction under section 130R46 for the year, exceeds the capital cost to the taxpayer of the property of the class acquired by the taxpayer during the year, and

ii. the aggregate of 50% of the capital cost to the taxpayer of the property of the class acquired by the taxpayer during the preceding taxation year but that is not designated property acquired in a specified transaction and of the amount by which the amount determined under subparagraph i for the year in respect of the class exceeds the aggregate of 75% of the capital cost to the taxpayer of the property of the class that is not designated property acquired by the taxpayer during the preceding taxation year and of 50% of the capital cost to the taxpayer of the designated property of the class acquired by the taxpayer during the preceding taxation year that is not designated property acquired in a specified transaction.

s. 130R30.2; O.C. 2847-84, s. 4.

"**130R49.** The amount that a taxpayer may deduct for a taxation year under section 130R46 in respect of property of a class in Schedule B may also not exceed the undepreciated capital cost to the taxpayer of the property of the class at the end of the year, computed before any deduction under section 130R46 for the year.

s. 130R30.3; O.C. 2847-84, s. 4.

"**DIVISION VI**

"SPECIFIED ENERGY PROPERTY

div. VI.0.1; O.C. 91-94, s. 2.

"**130R50.** In no case may the aggregate of the deductions that a taxpayer may claim for a taxation year as capital cost allowance in respect of property of any of Classes 34, 43.1, 43.2, 47 and 48 in Schedule B that is specified energy property owned by the taxpayer exceed the amount by which

the amount determined under the second paragraph exceeds the aggregate of the amounts each of which is

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

i. the amount that would be the income of the taxpayer for the year from property described in any of Classes 34, 43.1, 43.2, 47 and 48, other than specified energy property, or from the business of selling the product of the property, if that income were computed after deducting the maximum amount allowable in respect of the property for the year under paragraph *a* of section 130 of the Act, and

ii. the taxpayer's income for the year from specified energy property or from the business of selling the product of such property, computed without reference to paragraph *a* of section 130 of the Act, or

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

i. the taxpayer's share of the amount that would be the income of a partnership for the year from property described in any of Classes 34, 43.1, 43.2, 47 and 48, other than specified energy property, or from the business of selling the product of the property, if that income were computed after deducting the maximum amount allowable in respect of the property for the year under paragraph *a* of section 130 of the Act, and

ii. the income of a partnership for the year from specified energy property or from the business of selling the product of such property of the partnership, to the extent of the taxpayer's share of such income.

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

(*a*) the taxpayer's loss for the year from specified energy property or from the business of selling the product of such property, computed without reference to paragraph *a* of section 130 of the Act, or

(*b*) the loss of a partnership for the year from specified energy property or from the business of selling the product of such property of the partnership, to the extent of the taxpayer's share of such loss.

s. 130R30.3.1; O.C. 91-94, s. 2; O.C. 1707-97, s. 98; O.C. 1454-99, s. 13; O.C. 1116-2007, s. 8.

"**130R51.** Subject to sections 130R53 to 130R55, in this division and Chapter V, "specified energy property" of a taxpayer or partnership, in this section referred to as "the owner", for a taxation year means property in Class 34 in Schedule B acquired by the owner after 9 February 1988 or property in any of Classes 43.1, 43.2, 47 and 48 in that Schedule, other than, where the owner is a corporation or a partnership described in the second paragraph, a particular property

(*a*) acquired to be used by the owner primarily for the purpose of gaining or producing income from a business carried on in Canada, other than the business of selling the product of the particular property, or from another property situated in Canada; or

(*b*) leased in the year, in the ordinary course of carrying on a business of the owner in Canada, to

i. a person who may reasonably be expected to use the property primarily for the purpose of gaining or producing income from a business carried on in Canada, other than the business of selling the product of the particular property, or from another property situated in Canada, or

ii. a corporation or partnership described in section 130R52.

The corporation or the partnership to which the first paragraph refers in respect of a particular property for a taxation year is

(*a*) a corporation at least 90% of whose gross revenue from all sources for the year is derived from a principal business that is, throughout the year, one of the following:

i. the renting or leasing of leasing property or property that would be leasing property but for sections 130R97 to 130R99,

ii. the renting or leasing of property referred to in subparagraph i combined with the selling and servicing of similar property, or

iii. the manufacturing of property described in any of Classes 34, 43.1, 43.2, 47 and 48 in Schedule B that it sells or leases; or

(*b*) a partnership each member of which is a corporation described in subparagraph *a* or in paragraph *a* of section 130R52.

s. 130R30.3.2; O.C. 91-94, s. 2; O.C. 1707-97, s. 20; O.C. 1466-98, s. 126; O.C. 1454-99, s. 14; O.C. 1116-2007, s. 9.

"**130R52.** Section 130R50 does not apply to a taxation year of a taxpayer that is, throughout the year,

(*a*) a corporation whose principal business throughout the year is

i. manufacturing or processing,

ii. mining operations, or

iii. the sale, distribution or production of electricity, natural gas, oil, steam, heat or any other form of energy or potential energy; or

(*b*) a partnership each member of which is a corporation described in paragraph *a*.

s. 130R30.3.3; O.C. 91-94, s. 2; O.C. 1707-97, s. 98; O.C. 1454-99, s. 15.

"**130R53.** Specified energy property of a person or partnership does not include property acquired by the person or partnership after 9 February 1988 but before 1 January 1990,

(*a*) pursuant to an obligation in writing entered into by the person or partnership before 10 February 1988;

(*b*) pursuant to the terms of a final prospectus, preliminary prospectus, registration statement or offering memorandum filed before 10 February 1988 with a public authority in Canada pursuant to the securities legislation of a province;

(*c*) pursuant to the terms of an offering memorandum distributed as part of an offering of securities where the following conditions are fulfilled:

i. the offering memorandum contains a complete or substantially complete description of the securities in the offering as well as the terms and conditions of the offering,

ii. the offering memorandum was distributed before 10 February 1988,

iii. solicitations in respect of the sale of the securities in the offering memorandum were made before 10 February 1988, and

iv. the sale of the securities was substantially in accordance with the offering memorandum; or

(*d*) as part of a project where, before 10 February 1988, the following conditions were fulfilled:

i. some of the machinery or equipment to be used in the project was acquired, or agreements in writing for the acquisition of that machinery or equipment were entered into, by or on behalf of the person or partnership, and

ii. an approval had been received by or on behalf of the person or partnership from a government environmental authority in respect of the location of the project.

s. 130R30.3.4; O.C. 91-94, s. 2; O.C. 1707-97, s. 98; O.C. 1466-98, s. 21.

"**130R54.** Where a taxpayer acquires a property in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, section 308.1 of the Act would not be applicable to the dividend by reason of the application of section 308.3 of the Act, or from a person with whom the taxpayer does not deal at arm's length, otherwise than by virtue of a right referred to in paragraph *b* of section 20 of the Act, at the time the property was acquired, and where the property would otherwise be specified energy property of the taxpayer, the property is deemed not to be specified energy property of the taxpayer if, immediately before it was so acquired, it was not, by virtue of this section or section 130R53 or 130R55, specified energy property of the person from whom the property was so acquired.

s. 130R30.3.5; O.C. 91-94, s. 2; O.C. 1707-97, s. 98.

"**130R55.** Where a taxpayer or a partnership has acquired a property that is a replacement property within the meaning of subsection 3 of section 96 of the Act, and where the property would otherwise be specified energy property of the taxpayer or partnership, the property is deemed not to be specified energy property of the taxpayer or partnership if the former property, referred to in subsection 1 of that section, was not, by virtue of this section or section 130R53 or 130R54, specified energy property of the taxpayer or partnership immediately before it was disposed of by the taxpayer or partnership.

s. 130R30.3.6; O.C. 91-94, s. 2; O.C. 1707-97, s. 98.

"**DIVISION VII**

"PROPERTY OF CLASS 38

div. VI.1; O.C. 1697-92, s. 12.

"**130R56.** A taxpayer may deduct, in respect of property of Class 38 in Schedule B, an amount not exceeding the amount obtained by applying to the undepreciated capital cost to the taxpayer of the property of that class at the end of the taxation year, computed before any deduction under this section for the year, the percentage represented by the aggregate of the following percentages:

(*a*) 40% multiplied by the proportion that the number of days in the year that follow 31 December 1987 but that precede 1 January 1989, is of the number of days in the year that follow 31 December 1987;

(*b*) 35% multiplied by the proportion that the number of days in the year that follow 31 December 1988 but that precede 1 January 1990, is of the number of days in the year; and

(*c*) 30% multiplied by the proportion that the number of days in the year that follow 31 December 1989, is of the number of days in the year.

s. 130R30.4; O.C. 1697-92, s. 12.

"**DIVISION VIII**

"PROPERTY OF CLASS 39

div. VI.2; O.C. 1697-92, s. 12.

"**130R57.** A taxpayer may deduct, in respect of property of Class 39 in Schedule B, an amount not exceeding the amount obtained by applying to the undepreciated capital cost to the taxpayer of the property of that class at the end of the taxation year, computed before any deduction under this section for

the year, the percentage represented by the aggregate of the following percentages:

(*a*) 40% multiplied by the proportion that the number of days in the year that follow 31 December 1987 but that precede 1 January 1989, is of the number of days in the year that follow 31 December 1987;

(*b*) 35% multiplied by the proportion that the number of days in the year that follow 31 December 1988 but that precede 1 January 1990, is of the number of days in the year;

(*c*) 30% multiplied by the proportion that the number of days in the year that follow 31 December 1989 but that precede 1 January 1991, is of the number of days in the year; and

(*d*) 25% multiplied by the proportion that the number of days in the year that follow 31 December 1990, is of the number of days in the year.

s. 130R30.5; O.C. 1697-92, s. 12.

"**DIVISION IX**

"PROPERTY OF CLASS 40

div. VI.3; O.C. 1697-92, s. 12.

"**130R58.** A taxpayer may deduct, in respect of property of Class 40 in Schedule B, an amount not exceeding the amount obtained by applying to the undepreciated capital cost to the taxpayer of the property of that class at the end of the taxation year, computed before any deduction under this section for the year, the percentage represented by the aggregate of the following percentages:

(*a*) 40% multiplied by the proportion that the number of days in the year that follow 31 December 1987 but that precede 1 January 1989, is of the number of days in the year that follow 31 December 1987;

(*b*) 35% multiplied by the proportion that the number of days in the year that follow 31 December 1988 but that precede 1 January 1990, is of the number of days in the year; and

(*c*) 30% multiplied by the proportion that the number of days in the year that follow 31 December 1989 but that precede 1 January 1991, is of the number of days in the year.

s. 130R30.6; O.C. 1697-92, s. 12.

"**DIVISION X**

"GRAIN STORAGE

div. VII; O.C. 1981-80, title VI, chap. III, div. VII; R.R.Q., 1981, c. I-3, r.1, title VI, chap. III, div. VII.

"**130R59.** A taxpayer may deduct as additional allowance the amount provided by section 130R61 in respect of property that is

(*a*) a grain elevator, situated in that part of Canada that is defined in section 2 of the Canada Grain Act (Revised Statutes of Canada, 1985, chapter G-10) as the "Eastern Division", the principal use of which

i. is the receiving of grain directly from producers for storage or forwarding or both,

ii. is the receiving and storing of grain for direct processing into other products, or

iii. has been certified or authorized by the Minister to be the receiving of grain that has not been officially inspected or weighed;

(*b*) an addition to a grain elevator described in paragraph *a*;

(*c*) fixed machinery installed in a grain elevator in respect of which, or in respect of an addition to which, an additional amount has been or may be claimed under this section;

(*d*) fixed machinery, designed for the purpose of drying grain, installed in a grain elevator described in paragraph *a*;

(*e*) machinery designed for the purpose of drying grain on a farm; or

(*f*) a building or other structure designed for the purpose of storing grain on a farm.

s. 130R31; O.C. 1981-80, s. 130R31; R.R.Q., 1981, c. I-3, r.1, s. 130R31; O.C. 35-96, s. 86.

"**130R60.** The property referred to in section 130R59 must have been acquired by the taxpayer in the taxation year or in one of the three immediately preceding taxation years, at a time after 1 April 1972 but before 1 August 1974, and must not have been used for any purpose whatever before it was acquired by the taxpayer.

s. 130R32; O.C. 1981-80, s. 130R32; R.R.Q., 1981, c. I-3, r.1, s. 130R32.

"**130R61.** The additional allowance provided by section 130R59 may not exceed the lesser of

(*a*) where the property is included in Class 3 in Schedule B, 22% of the capital cost thereof; where the property is included in Class 6 in that schedule, 20% of the capital cost thereof; or where the property is included in Class 8 in that schedule,

i. 14% of the capital cost thereof in the case of property referred to in any of paragraphs *c*, *d* and *f* of section 130R59, or

ii. 14% of the lesser of $15,000 and the capital cost thereof in the case of property described in paragraph *e* of section 130R59; and

(*b*) the undepreciated capital cost to the taxpayer as of the end of the taxation year of property of the class, before making any deduction under this section for the year.

s. 130R33; O.C. 1981-80, s. 130R33; R.R.Q., 1981, c. I-3, r.1, s. 130R33.

"**DIVISION XI**

"VESSELS

div. VIII; O.C. 1981-80, titre VI, chap. III, div. VIII; R.R.Q., 1981, c. I-3, r.1, title VI, chap. III, div. VIII; O.C. 2847-84, s. 5.

"**130R62.** A taxpayer may deduct the amount provided for in section 130R63 in respect of a property that is

(*a*) a vessel described in section 130R165;

(*b*) a property included in a separate prescribed class by reason of section 104R10; or

(*c*) a property constituted as a class under subsection 2 of section 24 of Chapter 91 of the Statutes of Canada, 1966-1967.

s. 130R34; O.C. 1981-80, s. 130R34; R.R.Q., 1981, c. I-3, r.1, s. 130R34; O.C. 2847-84, s. 5; O.C. 1631-96, s. 10.

"**130R63.** The deduction under section 130R62 may not exceed the lesser of the following amounts:

(*a*) in the case of a property, other than a property described in any of subparagraphs *b* to *d* of the second paragraph of section 130R119, acquired during the taxation year and after 12 November 1981, 16 2/3% of the capital cost of the property to the taxpayer and, in all other cases, 33 1/3% of that capital cost; and

(*b*) the undepreciated capital cost of the property of the class at the end of the taxation year, before any deduction under this division for the year.

For the purposes of subparagraph *a* of the first paragraph, a property is deemed to have been acquired by a taxpayer at the time when the property became available for use by the taxpayer according to the Act.

s. 130R35; O.C. 1981-80, s. 130R35; R.R.Q., 1981, c. I-3, r.1, s. 130R35; O.C. 2847-84, s. 6; O.C. 366-94, s. 6; O.C. 1631-96, s. 11.

"**DIVISION XII**

"OFFSHORE DRILLING VESSELS

div. IX; O.C. 1981-80, title VI, chap. III, div. IX; R.R.Q., 1981, c. I-3, r.1, title VI, chap. III, div. IX.

"**130R64.** A taxpayer may deduct, as additional allowance in respect of property for which a separate class is prescribed by section 130R166, an amount not exceeding 15% of the undepreciated capital cost to the taxpayer of property of that class as of the end of the taxation year, before any deduction under section 130R19 and this section for the year.

s. 130R36; O.C. 1981-80, s. 130R36; R.R.Q., 1981, c. I-3, r.1, s. 130R36.

"**DIVISION XIII**

"FISHING VESSELS

div. X; O.C. 1981-80, title VI, chap. III, div. X; R.R.Q., 1981, c. I-3, r.1, title VI, chap. III, div. X; O.C. 1076-88, s. 5.

"**130R65.** A taxpayer may deduct as additional allowance in respect of property of the class prescribed under section 130R164, an amount not exceeding the lesser of

(*a*) the amount by which the depreciation that could have been taken on the property, if the Orders in Council referred to in that section were applicable to the taxation year, exceeds the amount allowed under section 130R22 in respect of the property; and

(*b*) the undepreciated capital cost to the taxpayer of property of the prescribed class at the end of the taxation year, before any deduction under this section for the year.

s. 130R37; O.C. 1981-80, s. 130R37; R.R.Q., 1981, c. I-3, r.1, s. 130R37.

"**DIVISION XIV**

"MINES

div. XI; O.C. 1981-80, title VI, chap. III, div. XI; R.R.Q., 1981, c. I-3, r.1, title VI, chap. III, div. XI; O.C. 2509-85, s. 3.

"**130R66.** A taxpayer may deduct as additional allowance in respect of property described in Class 28 in Schedule B acquired for the purpose of gaining or producing income from a mine or in respect of property acquired for the purpose of gaining or producing income from a mine and for which a separate class is prescribed by section 130R169, an amount not exceeding the lesser of

(*a*) the taxpayer's income for the year from the mine, determined without reference to paragraph z.4 of section 87 of the Act and before any deduction under this section, sections 130R67 to 130R69, section 145 of the Act, Division II, III, IV or IV.2 of Chapter X of Title VI of Book III of Part I of the Act or section 88.4 of the Act respecting the application of the Taxation Act (R.S.Q., c. I-4); and

(*b*) the undepreciated capital cost to the taxpayer of property of that class at the end of the taxation year, before any deduction under this division for the year.

s. 130R38; O.C. 1981-80, s. 130R38; R.R.Q., 1981, c. I-3, r.1, s. 130R38; O.C. 2509-85, s. 3; O.C. 1697-92, s. 13; O.C. 1454-99, s. 62; O.C. 1470-2002, s. 13; O.C. 1282-2003, s. 17.

"**130R67.** A taxpayer may deduct as additional allowance in respect of property acquired for the purpose of gaining or producing income from more than one mine and for which a separate class is prescribed under section 130R170, an amount not exceeding the lesser of

(a) the taxpayer's income for the year from the mines, determined without reference to paragraph z.4 of section 87 of the Act and before any deduction under this section, section 130R69, section 145 of the Act, Division II, III, IV or IV.2 of Chapter X of Title VI of Book III of Part I of the Act or section 88.4 of the Act respecting the application of the Taxation Act (R.S.Q., c. I-4); and

(b) the undepreciated capital cost to the taxpayer of property of that class at the end of the taxation year, before any deduction under this division for the year.

s. 130R39; O.C. 1981-80, s. 130R39; R.R.Q., 1981, c. I-3, r.1, s. 130R39; O.C. 1697-92, s. 14; O.C. 1454-99, s. 62; O.C. 1470-2002, s. 14; O.C. 1282-2003, s. 18.

"**130R68.** A taxpayer may deduct as additional allowance in respect of property acquired for the purpose of gaining or producing income from a mine and for which a separate class is prescribed under section 130R171, an amount not exceeding the lesser of

(*a*) the taxpayer's income for the year from the mine, determined without reference to paragraph z.4 of section 87 of the Act and before any deduction under this section, section 130R67 or 130R69, section 145 of the Act, Division II, III, IV or IV.2 of Chapter X of Title VI of Book III of Part I of the Act or section 88.4 of the Act respecting the application of the Taxation Act (R.S.Q., c. I-4); and

(*b*) the undepreciated capital cost to the taxpayer of property of that class at the end of the taxation year, determined without reference to section 130R119 and before any deduction under this division for the year.

s. 130R39.1; O.C. 1697-92, s. 15; O.C. 1454-99, s. 62; O.C. 1470-2002, s. 15; O.C. 1282-2003, s. 19.

"**130R69.** A taxpayer may deduct as additional allowance in respect of property acquired for the purpose of gaining or producing income from more than one mine and for which a separate class is prescribed under section 130R172, an amount not exceeding the lesser of

(*a*) the taxpayer's income for the year from the mines, determined without reference to paragraph z.4 of section 87 of the Act and before any deduction under this section, section 145 of the Act, Division II, III, IV or IV.2 of Chapter X of Title VI of Book III of Part I of the Act or section 88.4 of the Act respecting the application of the Taxation Act (R.S.Q., c. I-4); and

(*b*) the undepreciated capital cost to the taxpayer of property of that class at the end of the taxation year, determined without reference to section 130R119 and before any deduction under this division for the year.

s. 130R39.2; O.C. 1697-92, s. 15; O.C. 1454-99, s. 62; O.C. 1470-2002, s. 16; O.C. 1282-2003, s. 20.

"**130R70.** Any election under subparagraph *e* of the second paragraph of section 93 of the Act in respect of property of a prescribed class acquired by a corporation for the purpose of gaining or producing income from a mine must be made by filing with the Minister, on or before the corporation's filing-due date for the corporation's taxation year in which the exempt period in respect of the mine ended, one of the following documents in duplicate:

(*a*) where the directors of the corporation are legally entitled to administer the affairs of the corporation, a certified copy of the resolution authorizing the election to be made in respect of that class; and

(*b*) where the directors of the corporation are not legally entitled to administer the affairs of the corporation, a certified copy of the authorization to make the election in respect of that class, by the person or persons legally entitled to administer the affairs of the corporation.

s. 130R41; O.C. 1981-80, s. 130R41; R.R.Q., 1981, c. I-3, r.1, s. 130R41; O.C. 1797-97, s. 98; O.C. 1466-98, s. 22; O.C. 1282-2003, s. 21.

"**DIVISION XV**

"LEASING PROPERTIES

div. XI.1; O.C. 366-94, s. 7.

"**130R71.** In this division,

"exempt property" means

(*a*) a property whose capital cost to the taxpayer does not exceed $1,000,000 and that is general-purpose office furniture or office equipment included in Class 8 in Schedule B, including mobile office equipment such as cellular telephones and pagers, or general-purpose electronic data processing equipment and ancillary data processing equipment described in subparagraph *g* of the first paragraph of Class 10 in that schedule;

(*b*) a property whose capital cost to the taxpayer does not exceed $1,000,000 and that is general-purpose electronic data processing equipment and ancillary data processing equipment included in Class 45 in Schedule B;

(*c*) furniture, appliances, television receivers, radio receivers, telephones, furnaces, hot-water heaters and other similar property designed for residential use;

(*d*) a motor vehicle that is designed or adapted primarily to carry individuals on public highways and streets and that has a seating capacity for not more than the driver and eight

passengers, or a motor vehicle of a type commonly called a van or pick-up truck, or a similar vehicle;

(*e*) a truck or tractor designed to haul freight on public highways;

(*f*) a trailer designed to haul freight and to be hauled, under normal operating conditions, by a truck or tractor referred to in subparagraph *e*;

(*g*) a building or part thereof included in any of Classes 1, 3, 6, 20, 31 and 32 in Schedule B, including its component parts such as electric wiring, plumbing, sprinkler systems, air-conditioning equipment, heating equipment, lighting fixtures, elevators and escalators, other than a building or part thereof leased primarily to a lessee referred to in the third paragraph who owned the building or part thereof at any time before the commencement of the lease, but not during a period ending not later than one year after the later of the date on which the construction of the building or part thereof was completed and the date of acquisition by the lessee of that building or part thereof;

(*h*) vessel mooring space; and

(*i*) a property that is included in Class 35 in Schedule B;

"specified leasing property" of a taxpayer at any time means tangible depreciable property other than exempt property, that is

(*a*) used at that time by the taxpayer or a person with whom the taxpayer does not deal at arm's length primarily for the purpose of gaining or producing gross revenue that is rent or leasing revenue;

(*b*) the subject of a lease at that time to a person with whom the taxpayer deals at arm's length, the expected term of which at the time it was entered into was more than one year; and

(*c*) the subject of a lease where the fair market value of the tangible property that is the subject of the lease, other than the exempt property, exceeded $25,000 at the time the lease was entered into.

For the purposes of the definition of "specified leasing property" in the first paragraph and for greater precision, specified leasing property does not include systems software or property described in subparagraph *q* or *r* of the second paragraph of Class 10 in Schedule B or in any of subparagraphs *n*, *o* and *r* of the first paragraph of Class 12 in that schedule.

The lessee referred to in paragraph *g* of the definition of "exempt property" in the first paragraph is a person exempt from tax under Book VIII of Part I of the Act or a person who uses the building in the course of carrying on a business the income from which is, by reason of a provision of the Act, exempt from tax under Part I of the Act, or a Canadian government, a municipality or any other Canadian public authority.

s. 130R42.1; O.C. 366-94, s. 7; O.C. 1631-96, s. 12; O.C. 1466-98, s. 126; O.C. 1155-2004, s. 14; O.C. 1149-2006, s. 7.

"**130R72.** For the purposes of paragraph *c* of the definition of "specified leasing property" in the first paragraph of section 130R71, where it may reasonably be concluded, in view of the circumstances, that one of the main reasons for the existence of two or more leases is to avoid the application of section 130R76 by reason of each such lease being a lease where the fair market value of the tangible property that is the subject of the lease, other than exempt property, did not exceed $25,000 at the time the lease was entered into, each such lease is deemed to be a lease of tangible property that had, at the time the lease was entered into, a fair market value exceeding $25,000.

s. 130R42.2; O.C. 366-94, s. 7; O.C. 1466-98, s. 126.

"**130R73.** For the purposes of the definition of "specified leasing property" in the first paragraph of section 130R71 and despite section 130R72, where a taxpayer referred to in section 130R92 so elects in the taxpayer's fiscal return required be filed under Part I of the Act for a taxation year in respect of the year and subsequent taxation years, the property of the taxpayer that is the subject of leases entered into during those years is deemed not to be exempt property for those years and the fair market value of the tangible property that is the subject of each such lease is deemed to exceed $25,000 at the time the lease is entered into.

s. 130R42.3; O.C. 366-94, s. 7.

"**130R74.** Subject to section 130R79 and for the purposes of the definition of "specified leasing property" in the first paragraph of section 130R71, a taxpayer who at any time acquires from a person with whom the taxpayer deals at arm's length a property that is the subject of a lease with a remaining term at that time of more than one year is deemed to have entered into, at that time, a lease with an expected term of more than one year.

s. 130R42.4; O.C. 366-94, s. 7.

"**130R75.** For the purposes of paragraph *a* of the definition of "exempt property" in the first paragraph of section 130R71, where a property is owned by two or more persons or partnerships or a combination of persons or partnerships, the capital cost of the property to each such person or partnership is deemed to be equal to the aggregate of the amounts each of which represents the capital cost of the property to each of those persons or partnerships.

s. 130R42.5; O.C. 366-94, s. 7; O.C. 1707-97, s. 98; O.C. 1466-98, s. 126.

"**130R76.** Despite Chapter I and Divisions I, II, IV to XIV and XVIII, the amount deductible by a taxpayer for

a taxation year in respect of a property that is a specified leasing property at the end of the year is equal to the lesser of

(*a*) the amount by which the aggregate of the following amounts exceeds the aggregate of the amounts deducted by the taxpayer in respect of the property by reason of this section before the beginning of the year and after the time, referred to in this section as the "particular time", when the property last became a specified leasing property of the taxpayer:

i. the amounts that would be considered to be repayments during the year or a preceding taxation year as principal on a loan made by the taxpayer if

(1) the taxpayer had made the loan at the particular time and the principal amount of the loan were equal to the fair market value of the property at that time,

(2) interest, capitalized semi-annually and not in advance, had been charged on the principal amount of the loan outstanding from time to time at the rate, determined pursuant to section 125.1R2, in effect at the earlier of the particular time and any time prior to the particular time at which the taxpayer last entered into an agreement to lease the property or, where a particular lease provides that the amount paid or payable by the lessee of the property for the use of or right to use the property varies according to the rates of interest in effect from time to time, at the beginning of the period for which the interest is computed if the taxpayer so elects, in respect of all property that is the subject of the particular lease, in the taxpayer's fiscal return filed under Part I of the Act for the taxation year during which the particular lease was entered into, and

(3) the amounts received or receivable by the taxpayer before the end of the year for the use of or the right to use the property before the end of the year and after the particular time were blended payments of principal and interest on the loan, computed pursuant to subparagraph 2, that are applied firstly on account of interest on principal, secondly on account of interest on unpaid interest and thirdly on account of the principal amount outstanding, and

ii. the amount that would have been deductible under this Title for the taxation year that includes the particular time if

(1) the property had been transferred to a separate prescribed class at the later of the beginning of that taxation year or the time when the property was acquired by the taxpayer,

(2) that taxation year had ended immediately before the particular time, and

(3) where the property was not a specified leasing property immediately before the particular time, section 130R23 had applied; or

(*b*) the amount by which the aggregate of the amounts that would have been deducted by the taxpayer in respect of the property under paragraph *a* of section 130 of the Act in computing the taxpayer's income for the year and the preceding taxation years, if this section and sections 130R85 and 130R91 had not applied and if the taxpayer, in each such year, had deducted under paragraph *a* of that section 130 the maximum amount deductible in respect of the property under this Title if it were read without reference to this section and sections 130R85 and 130R91, exceeds the total depreciation allowed to the taxpayer before the beginning of the year in respect of the property.

s. 130R42.6; O.C. 366-94, s. 7; O.C. 1466-98, s. 126.

"**130R77.** For the purposes of this division, a property is deemed to be the subject of a lease for an expected term of more than one year at any time if at that time, as the case may be,

(*a*) the property had been leased by the lessee, by a person with whom the lessee does not deal at arm's length or by the lessee and such person for a period of more than one year ending at that time; or

(*b*) it may reasonably be concluded, in view of the circumstances, that the lessor knew or ought to have known that the lessee, a person with whom the lessee does not deal at arm's length or the lessee and such person would lease the property for more than one year.

s. 130R42.7; O.C. 366-94, s. 7.

"**130R78.** Despite section 130R76 as well as Chapter I and Divisions I, II, IV to XIV and XVIII, where in a taxation year a taxpayer has acquired a property that the taxpayer has not used for any purpose in that year and where the first use made of it is a lease of the property in respect of which section 130R76 applies, the amount deductible by the taxpayer for the year under this Title in respect of the property is deemed to be nil.

s. 130R42.8; O.C. 366-94, s. 7.

"**130R79.** Where, at any time, a taxpayer acquires, from a person with whom the taxpayer does not deal at arm's length or by reason of an amalgamation, within the meaning of section 544 of the Act, a property that was a specified leasing property of the person from whom the taxpayer acquired it, the taxpayer is deemed, for the purposes of paragraph *a* of section 130R76 and for the purposes of computing the taxpayer's income in respect of the lease for any period subsequent to that time, to be the same person as, and the continuation of, the person from whom the taxpayer acquired the property.

s. 130R42.9; O.C. 366-94, s. 7.

"**130R80.** For the purposes of the definition of "specified leasing property" in the first paragraph of section 130R71 and section 130R76, where, at a particular time, a taxpayer provides a property, referred to in this section as the "replacement property", to a lessee for the remaining term

of a lease as a replacement for a similar property, referred to in this section as the "original property", that the taxpayer had leased to the lessee and where the amount payable by the lessee for the use of or the right to use the replacement property is the same as the amount that was so payable in respect of the original property, the following rules apply:

(*a*) the replacement property is deemed to have been leased by the taxpayer to the lessee at the same time and for the same term as the original property;

(*b*) the amount of the loan referred to in subparagraph 1 of subparagraph i of paragraph *a* of section 130R76 is deemed to be equal to the amount of that loan determined in respect of the original property;

(*c*) the amount determined under subparagraph ii of paragraph *a* of section 130R76 in respect of the replacement property is deemed to be equal to the amount so determined in respect of the original property;

(*d*) the amounts received or receivable by the taxpayer for the use of or the right to use the original property before the particular time are deemed to have been received or receivable, as the case may be, by the taxpayer for the use of or the right to use the replacement property; and

(*e*) the original property is deemed to have ceased to be the subject of the lease at the particular time.

s. 130R42.10; O.C. 366-94, s. 7; O.C. 1466-98, s. 126.

"**130R81.** For the purposes of section 130R76, where, for any period, an amount that would have been received or receivable by a taxpayer during that period for the use of or the right to use any of the taxpayer's properties during that period is not received or receivable by the taxpayer by reason of a breakdown or defect in the property during that period and before the end of the lease for the property, that amount is deemed to be an amount received or receivable, as the case may be, by the taxpayer.

s. 130R42.11; O.C. 366-94, s. 7.

"**130R82.** For the purposes of the definition of "specified leasing property" in the first paragraph of section 130R71 and section 130R76, where, at a particular time, an addition or alteration, referred to in this section as the "additional property", is made by a taxpayer to any of the taxpayer's properties, referred to in this section as the "original property", that is a specified leasing property at the particular time and where by reason of the addition or alteration, the total amount receivable by the taxpayer after the particular time for the use of or the right to use the original property and the additional property exceeds the amount so receivable in respect of the original property, the following rules apply:

(*a*) the taxpayer is deemed to have leased the additional property to the lessee at the particular time;

(*b*) the expected term of the lease for the additional property is deemed to be greater than one year;

(*c*) the rate of interest in effect at the particular time in respect of the additional property is deemed to be equal to the rate of interest in effect at that time in respect of the lease for the original property;

(*d*) the definition of "specified leasing property" in the first paragraph of section 130R71 is, in respect of the additional property, to be read without reference to its subparagraph *c*; and

(*e*) the amount by which the total amount receivable by the taxpayer after the particular time for the use of or the right to use the original property and the additional property exceeds the amount so receivable in respect of the original property is deemed to be an amount receivable by the taxpayer for the use of or the right to use the additional property.

s. 130R42.12; O.C. 366-94, s. 7; O.C. 1466-98, s. 126.

"**130R83.** For the purposes of the definition of "specified leasing property" in the first paragraph of section 130R71 and section 130R76, where, at any time, a lease, referred to in this section as the "original lease", is renegotiated in the course of a *bona fide* renegotiation and where by reason of that renegotiation the amount paid or payable by the lessee for the use of or the right to use the property that is the subject of the lease is altered in respect of a period subsequent to that time, otherwise than by reason of an addition or alteration to which section 130R82 applies, the following rules apply:

(*a*) the original lease is deemed to have expired and the renegotiated lease is deemed to be a new lease, in respect of the property, entered into at that time; and

(*b*) section 130R77 does not apply in respect of a period preceding that time during which the property was leased by the lessee or a person with whom the lessee did not deal at arm's length.

s. 130R42.13; O.C. 366-94, s. 7.

"**130R84.** For the purposes of the definition of "specified leasing property" in the first paragraph of section 130R71 and section 130R76, where a taxpayer leases to another person a building or part thereof that is not exempt property, subparagraph *b* of the definition of "specified leasing property" in the first paragraph of section 130R71, sections 130R74 and 130R77 and paragraph *b* of section 130R82 is to be read, in respect of that building or part thereof, with the words "three years" substituted for the words "one year" wherever they occur.

s. 130R42.14; O.C. 366-94, s. 7; O.C. 1466-98, s. 126.

"**DIVISION XVI**

"RENTAL PROPERTIES

div. XII; O.C. 1981-80, title VI, chap. III, div. XII; R.R.Q., 1981, c. I-3, r.1, title VI, chap. III, div. XII.

"**130R85.** The aggregate of the deductions that a taxpayer may claim for a taxation year as capital cost allowance in respect of rental property owned by the taxpayer may not exceed the amount by which the amount determined under the second paragraph exceeds the aggregate of the amounts each of which is

(*a*) the taxpayer's revenue for the year, computed without reference to paragraph *a* of section 130 of the Act, arising from the rental, whether or not by lease, of rental property of which the taxpayer is the owner, or

(*b*) the revenue of a partnership for the year arising from the rental, whether or not by lease, of rental property of the partnership, to the extent of the taxpayer's participation in that revenue.

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

(*a*) the taxpayer's loss for the year, computed without reference to paragraph *a* of section 130 of the Act, arising from the rental, whether or not by lease, of rental property of which the taxpayer is the owner, or

(*b*) the loss of a partnership for the year arising from the rental, whether or not by lease, of rental property of the partnership, to the extent of the taxpayer's participation in that loss.

s. 130R43; O.C. 1981-80, s. 130R43; R.R.Q., 1981, c. I-3, r.1, s. 130R43; O.C. 1697-92, s. 16; O.C. 1707-97, s. 98.

"**130R86.** Subject to section 130R87, section 130R85 does not apply in respect of a taxation year of a taxpayer that was, throughout the year,

(*a*) a life insurance corporation or a corporation whose principal business was the leasing, rental, development, sale or any combination thereof, of immovable property owned by it; or

(*b*) a partnership each member of which was a corporation described in paragraph *a*.

s. 130R45; O.C. 1981-80, s. 130R45; R.R.Q., 1981, c. I-3, r.1, s. 130R45; O.C. 2962-82, s. 13; O.C. 500-83, s. 13; O.C. 1707-97, s. 98.

"**130R87.** Section 130R86 does not apply where a taxpayer or a partnership holds a leasehold interest in a property included, under section 130R33, in any of Classes 1, 3 and 6 in Schedule B, and that property is leased by the taxpayer or the partnership to the owner of the land on which the property is located or to a person who has an interest in or an option on that land.

s. 130R45.1; O.C. 2962-82, s. 14; O.C. 500-83, s. 14; O.C. 1697-92, s. 18; O.C. 1707-97, s. 98.

"**130R88.** In this division and sections 130R156 to 130R203, a rental property of a taxpayer or of a partnership is a property that, during the year, is used by the taxpayer or partnership mainly for earning or producing a gross revenue that is a rent and that

(*a*) is a building owned by the taxpayer or the partnership, whether jointly with another person or otherwise, or a leasehold interest in immovable property included in any of Classes 1, 3, 6 and 13 in Schedule B and owned by the taxpayer or partnership; and

(*b*) is not a property leased by the taxpayer or the partnership to a lessee, in the ordinary course of the taxpayer's or partnership's business of selling goods or rendering services, under an agreement by which the lessee undertakes to use the property to carry on the business of selling or promoting the sale of the taxpayer's or partnership's goods or services.

s. 130R46; O.C. 1981-80, s. 130R46; R.R.Q., 1981, c. I-3, r.1, s. 130R46; O.C. 1697-92, s. 18; O.C. 1707-97, s. 98.

"**130R89.** For the purposes of section 130R88, the gross revenue derived from the following sources in a taxation year must be considered to be rent derived from property in that taxation year:

(*a*) the right of a person or partnership, other than the owner of the property, to use or occupy the property or a part thereof; and

(*b*) services offered to a person or partnership that are ancillary to the use or occupation by the person or the partnership of the property or the part thereof.

s. 130R46.1; O.C. 1549-88, s. 2; O.C. 1697-92, s. 19; O.C. 1707-97, s. 98.

"**130R90.** Section 130R89 does not apply, in a particular taxation year, to property owned by

(*a*) a corporation, where the property is used in a business carried on in the year by the corporation;

(*b*) an individual, where the property is used in a business carried on in the year by the individual in which the individual is personally active on a continuous basis throughout that portion of the year during which the business is ordinarily carried on; or

(*c*) a partnership, where the property is used in a business carried on in the year by the partnership if not less than 2/3 of the income or loss, as the case may be, of the partnership for the year is included in the computation of the income of

i. members of the partnership who are individuals that are personally active in the business of the partnership on a continuous basis throughout that portion of the year during which the business is ordinarily carried on, and

ii. members of the partnership that are corporations.

s. 130R46.2; O.C. 1549-88, s. 2; O.C. 1707-97, s. 98.

"**DIVISION XVII**

"LEASING PROPERTIES

div. XIV; O.C. 1981-80, title VI, chap. III, div. XIV; R.R.Q., 1981, c. I-3, r.1, title VI, chap. III, div. XIV.

"**130R91.** The aggregate of deductions that a taxpayer may claim for a taxation year as allowance in respect of capital cost in respect of leasing property owned by the taxpayer may not exceed the amount by which the amount determined under the second paragraph is exceeded by the aggregate of the amounts each of which is

(*a*) the taxpayer's revenue for the year, computed without reference to paragraph *a* of section 130 of the Act, arising from the rental of, whether or not by lease, or from royalties earned on leasing property or property that would be leasing property but for sections 130R97 to 130R99, of which the taxpayer is the owner, or

(*b*) the revenue of a partnership for the year arising from the rental of, whether or not by lease, or from royalties earned on leasing property or property that would be leasing property but for sections 130R97 to 130R99, of which the partnership is the owner, to the extent of the taxpayer's participation in that revenue.

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

(*a*) the taxpayer's loss for the year, computed without reference to paragraph *a* of section 130 of the Act, arising from the rental of, whether or not by lease, or from royalties earned on property referred to in subparagraph *a* of the first paragraph, or

(*b)* the loss of a partnership for the year arising from the rental of, whether or not by lease, or from royalties earned on property referred to in subparagraph *b* of the first paragraph, to the extent of the taxpayer's participation in that loss.

s. 130R48; O.C. 1981-80, s. 130R48; R.R.Q., 1981, c. I-3, r.1, s. 130R48; O.C. 1697-92, s. 20; O.C. 1707-97, s. 98.

"**130R92.** Section 130R91 does not apply in respect of a taxation year of a taxpayer that was, throughout the year,

(*a*) a corporation whose principal business was the rental of leasing property or property that would be leasing property but for sections 130R97 to 130R99 or the rental of such property combined with the sale and servicing of property similar to the property leased if the gross revenue of the corporation for the year from such principal business was not less than 90% of its gross revenue for the year from all sources; or

(*b*) a partnership each member of which was a corporation described in paragraph *a*.

s. 130R50; O.C. 1981-80, s. 130R50; R.R.Q., 1981, c. I-3, r.1, s. 130R50; O.C. 1707-97, s. 98.

"**130R93.** Subject to section 130R97 and for the purposes of this division and sections 130R156 to 130R203, a leasing property of a taxpayer or of a partnership is a depreciable property of which the taxpayer or the partnership is the owner, together with another person or otherwise, and which, during the year, is used by the taxpayer or partnership mainly for earning or producing gross revenue consisting of rent, royalty or leasing revenue and that is not

(*a*) rental property within the meaning of section 130R88;

(*b*) computer software tax shelter property;

(*c*) a property described in subparagraph *q* or *r* of the second paragraph of Class 10 in Schedule B or in subparagraph *n* or *r* of the first paragraph of Class 12 in that schedule; or

(*d*) a property leased by the taxpayer or the partnership to a lessee, in the ordinary course of the taxpayer's or partnership's business of selling goods or rendering services, under an agreement by which the lessee undertakes to use the property to carry on the business of selling, or promoting the sale of, the taxpayer's or partnership's goods or services.

s. 130R51; O.C. 1981-80, s. 130R51; R.R.Q., 1981, c. I-3, r.1, s. 130R51; O.C. 2727-84, s. 3; O.C. 1697-92, s. 22; O.C. 1539-93, s. 6; O.C. 1707-97, s. 98; O.C. 1282-2003, s. 22.

"**130R94.** For the purposes of section 130R93 where, in a taxation year, a taxpayer or a partnership acquired a property that was not used during that year, and subsequently the taxpayer first used the property principally for the purpose of earning or producing gross revenue consisting of rent, royalty or leasing revenue, the property is deemed to have been so used during the taxation year in which it was acquired.

s. 130R51.1; O.C. 2962-82, s. 15; O.C. 500-83, s. 15; O.C. 1707-97, s. 98.

"**130R95.** For the purposes of the definition of "specified leasing property" in the first paragraph of section 130R71 and section 130R93, the gross revenue derived from the following sources in a taxation year must be considered to be rent derived from a property in that taxation year:

(*a*) the right of a person or partnership, other than the owner of the property, to use or occupy the property or a part thereof; and

(*b*) services offered to a person or partnership that are ancillary to the use or occupation by the person or the partnership of the property or the part thereof.

s. 130R51.2; O.C. 1549-88, s. 3; O.C. 1697-92, s. 23; O.C. 366-94, s. 8; O.C. 1707-97, s. 98.

"**130R96.** Section 130R95 does not apply, in a particular taxation year, to property owned by

(*a*) a corporation, where the property is used in a business carried on in the year by the corporation;

(*b*) an individual, where the property is used in a business carried on in the year by the individual in which the individual is personally active on a continuous basis throughout that portion of the year during which the business is ordinarily carried on; or

(*c*) a partnership, where the property is used in a business carried on in the year by the partnership if not less than 2/3 of the income or loss, as the case may be, of the partnership for the year is included in the computation of the income of

i. members of the partnership who are individuals that are personally active in the business of the partnership on a continuous basis throughout that portion of the year during which the business is ordinarily carried on, and

ii. members of the partnership that are corporations.

s. 130R51.3; O.C. 1549-88, s. 3; O.C. 1707-97, s. 98.

"**130R97.** Leasing property referred to in section 130R93 does not include

(*a*) any property that the taxpayer or the partnership acquired before 26 May 1976 or was obliged to acquire under the terms of an agreement in writing entered into before 26 May 1976;

(*b*) any property the construction, manufacture or production of which was commenced by the taxpayer or the partnership before 26 May 1976 or was commenced under an agreement in writing entered into by the taxpayer or the partnership before 26 May 1976; or

(*c*) any property that the taxpayer or the partnership acquired on or before 31 December 1976 or was obliged to acquire under the terms of an agreement in writing entered into on or before 31 December 1976, if

i. arrangements, evidenced by writing, respecting the acquisition, construction, manufacture or production of the property had been substantially advanced before 26 May 1976, and

ii. the taxpayer or the partnership had, before 26 May 1976, demonstrated a *bona fide* intention to acquire the property for the purpose of gaining or producing gross revenue that is rent, royalty or leasing revenue.

s. 130R52; O.C. 1981-80, s. 130R52; R.R.Q., 1981, c. I-3, r.1, s. 130R52; O.C. 1697-92, s. 24; O.C. 1707-97, s. 98.

"**130R98.** Despite section 130R93, where a taxpayer acquires, in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, section 308.1 of the Act would not be applicable to the dividend by reason of the application of section 308.3 of the Act, or from a person with whom the taxpayer was not dealing at arm's length, otherwise than by virtue of a right referred to in paragraph *b* of section 20 of the Act, at the time the property was acquired, a property that would otherwise be leasing property of the taxpayer, that property is deemed not to be such property if, immediately before it was so acquired, it was not, by virtue of this section or section 130R97 or 130R99, a leasing property of the person from whom it was so acquired.

s. 130R53; O.C. 1981-80, s. 130R53; R.R.Q., 1981, c. I-3, r.1, s. 130R53; O.C. 2962-82, s. 16; O.C. 500-83, s. 16; O.C. 1472-87, s. 5; O.C. 1471-91, s. 14; O.C. 1697-92, s. 25; O.C. 1707-97, s. 98.

"**130R99.** Despite section 130R93, a property acquired by a taxpayer or a partnership that is a "replacement property" referred to in section 96 of the Act and that would otherwise be a leasing property of the taxpayer or partnership is deemed not to be such a property, if the replaced property referred to in that section 96 was, by reason of this section or section 130R97 or 130R98, not such a property immediately before it was disposed of by the taxpayer or partnership.

s. 130R54; O.C. 1981-80, s. 130R54; R.R.Q., 1981, c. I-3, r.1, s. 130R54; O.C. 1631-96, s. 13; O.C. 1707-97, s. 98.

"**DIVISION XVIII**

"RAILWAY AND RELATED PROPERTY

div. XV; O.C. 1981-80, title VI, chap. III, div. XV; R.R.Q., 1981, c. I-3, r.1, title VI, chap. III, div. XV.

"**130R100.** A taxpayer may deduct as additional allowance in respect of property for which a separate class is prescribed by paragraph *a* of section 130R176 or section 130R179 or 130R181, an amount not exceeding 8%, 4% and 3% respectively of the undepreciated capital cost to the taxpayer of property of that class at the end of the taxation year, before any deduction under section 130R19 and this section for the year.

s. 130R55; O.C. 1981-80, s. 130R55; R.R.Q., 1981, c. I-3, r.1, s. 130R55; O.C. 366-94, s. 9.

"**130R101.** A taxpayer may deduct as additional allowance in respect of property for which a separate class is prescribed by any of paragraphs *b* to *d* of section 130R176, an amount not exceeding 6% of the undepreciated capital cost to the taxpayer of property of that class at the end of the taxation

year, before any deduction under section 130R19 and this section for the year.

s. 130R55.0.1; O.C. 366-94, s. 10.

"**130R102.** A taxpayer that, throughout the taxation year, is a common carrier owning and operating a railway may deduct, as additional allowance in respect of property for which a separate class is prescribed by any of sections 130R177, 130R178, 130R180 and 130R182, an amount not exceeding 3% in the case of section 130R177, 6% in the case of sections 130R178 and 130R180 or 5% in the case of section 130R182, of the undepreciated capital cost to the taxpayer of property of that class at the end of the taxation year, before any deduction under section 130R19 and this section for the year.

s. 130R55.0.2; O.C. 1631-96, s. 14; O.C. 1707-97, s. 98; O.C. 1149-2006, s. 8.

"**130R103.** A taxpayer that is a common carrier owning and operating a railway may deduct, as additional allowance for a taxation year in respect of property described in section 130R104 and included in any class in Schedule B, an amount not exceeding the lesser of the undepreciated capital cost to the taxpayer of property of that class at the end of the year, after any deductions under sections 130R19 and 130R100 for the year, but before any deduction under this section for the year, and 6% of the capital cost to the taxpayer of the property of that class.

s. 130R55.1; O.C. 1983-80, s. 7; R.R.Q., 1981, c. I-3, r.1, s. 130R55.1; O.C. 1707-97, s. 98.

"**130R104.** The property referred to in section 130R103 is the property of the taxpayer that is described in section 130R105 and that

(*a*) is located in Canada or was acquired by the taxpayer principally for use in Canada;

(*b*) was acquired by the taxpayer for that railway, after 10 April 1978 and before 1 January 1988, in the taxation year referred to in section 130R103 or in one of the four taxation years immediately preceding that year; and

(*c*) was not used for any purpose whatever before it was acquired by the taxpayer.

s. 130R55.2; O.C. 1983-80, s. 7; R.R.Q., 1981, c. I-3, r.1, s. 130R55.2; O.C. 2583-85, s. 4.

"**130R105.** The property described in section 130R104 means property that is

(*a*) included in Class 1 in Schedule B pursuant to paragraph *h* or *i* of that class;

(*b*) included in Class 6 in Schedule B pursuant to paragraph *j* of that class:

(*c*) included in Class 10 in Schedule B pursuant to any of subparagraphs i to iii of subparagraph *m* of the second paragraph of that class;

(*d*) included in Class 28 in Schedule B pursuant to subparagraph ii of subparagraph *e* of the first paragraph of that class, except for a property described in subparagraph iv of subparagraph *m* of the second paragraph of Class 10;

(*e*) included in Class 35 in Schedule B;

(*f*) a bridge, a culvert, a subway or a tunnel used for a railway track and grading and included in Class 1 in Schedule B;

(*g*) a trestle used for a railway track and grading and included in Class 3 in Schedule B;

(*h*) machinery or equipment included in Class 8 in Schedule B and used for a railway track and grading or a property that is railway traffic control or signalling equipment, including switching, block signalling, interlocking, crossing protection, detection, speed-control or retarding equipment, but not including property that is principally electronic equipment or systems software therefor; or

(*i*) machinery or equipment included in Class 8 in Schedule B and that was acquired principally for purposes of maintenance or service of a railway locomotive or railway car or was used as part of either.

s. 130R55.3; O.C. 1983-80, s. 7; R.R.Q., 1981, c. I-3, r.1, s. 130R55.3; O.C. 1631-96, s. 61.

"**DIVISION XIX**

"CERTIFIED PRODUCTIONS

div. XV.1; O.C. 1114-92, s. 11.

"**130R106.** A taxpayer may deduct an amount as additional depreciation in respect of property for which section 130R189 prescribes a separate class, to the extent that that amount does not exceed the lesser of

(*a*) the aggregate of the taxpayer's revenue for the year from that property and from property described in subparagraph *n* of the first paragraph of Class 12 in Schedule B, determined before any deduction under this section; and

(*b*) the undepreciated capital cost to the taxpayer of property of that class at the end of the taxation year, before any deduction under this section for the year.

s. 130R55.3.1; O.C. 1114-92, s. 11; O.C. 1697-92, s. 26.

"**DIVISION XX**

"CANADIAN FILM OR VIDEO PRODUCTIONS

div. XV.2; O.C. 1249-2005, s. 4.

"**130R107.** A taxpayer may deduct an amount as additional depreciation in respect of property for which

section 130R190 prescribes a separate class, to the extent that that amount does not exceed the lesser of

(*a*) the taxpayer's income for the year from that property, determined before any deduction under this section; and

(*b*) the undepreciated capital cost to the taxpayer of property of that class at the end of the taxation year, before any deduction under this section for the year.

s. 130R55.3.2; O.C. 1249-2005, s. 4.

"**DIVISION XXI**

"MOTION PICTURE FILMS AND VIDEO TAPES

div. XVI; O.C. 1983-80, s. 7; R.R.Q., 1981, c. I-3, r.1, title VI, chap. III, div. XVI; O.C. 2727-84, s. 4.

"**130R108.** The allowance that a taxpayer may claim for a particular taxation year in respect of property of Class 12 in Schedule B, where the taxpayer has acquired after the 1977 taxation year but before 1979 a property of that class that is a certified feature film, a certified short production or a certified feature production for which the principal photography or taping was completed after the particular year but before 2 March 1979, may not exceed the amount that would otherwise be computed under section 130R19 in respect of the property of that class for the particular year if the capital cost of the property to the taxpayer were reduced by an amount equal to the amount by which the capital cost to the taxpayer of that property at the end of the particular year exceeds the amount that may reasonably be deemed to be the proportional share of the taxpayer in production expenses incurred in respect of the property before 2 March 1979.

s. 130R55.4; O.C. 1983-80, s. 7; R.R.Q., 1981, c. I-3, r.1, s. 130R55.4.

"**130R109.** The depreciation that a taxpayer may claim for a particular taxation year in respect of property in Class 10 or 12 in Schedule B, where the taxpayer acquired a property of that class that is a certified feature film, a certified production, a certified Québec film or a Québec film production, may not exceed the amount that could be deducted under section 130R19 in respect of property in that class for the particular year if the capital cost of the property to the taxpayer were reduced by the amount prescribed by section 130R110.

s. 130R55.5; O.C. 1983-80, s. 7; R.R.Q., 1981, c. I-3, r.1, s. 130R55.5; O.C. 2727-84, s. 5; O.C. 615-88, s. 7; O.C. 1114-92, s. 12; O.C. 1539-93, s. 7.

"**130R110.** The amount referred to in section 130R109 is equal to the aggregate of

(*a*) where the principal photography or taping of the property referred to therein is not completed until the 60 days immediately following the end of the particular year referred to therein, the amount by which the capital cost to the taxpayer of the property at the end of that year exceeds the aggregate of the amounts computed under paragraphs *c* to *f* in respect of the property at the end of that year and the amount that may reasonably be considered to be the proportional share of the taxpayer in the production costs incurred in respect of the property before the end of that year;

(*b*) where the principal filming or taping work of the property referred to is not completed before the expiry of 60 days immediately following the end of the particular year, the amount by which the capital cost to the taxpayer of the property at the end of that year exceeds the aggregate of the amounts computed under paragraphs *c* to *f* in respect of the property at the end of that year and the amount that may be considered to be the proportional share of the taxpayer of the lesser of the production cost incurred in respect of the property before the end of that year, and the proportion of the production cost incurred with respect to the property before the time when the principal filming or taping work of the property was completed, that the proportion, certified by the Société de développement des entreprises culturelles or the Minister of Communications of Canada, as the case may be, that the part of the work completed at the end of that year is of the whole of the work;

(*c*) where a revenue guarantee, other than a revenue guarantee that is certified by the Minister of Communications of Canada to be a guarantee under which the person who agrees to provide the revenue is a licensed broadcaster or a *bona fide* film or tape distributor, is granted in respect of the property referred to therein at any time before the later of the day on which the principal photography or taping was completed and the day on which the taxpayer acquired the property and that, by reason of that guarantee, it may reasonably be considered certain, having regard to all the circumstances, that the taxpayer will receive revenue according to the terms and conditions of that guarantee, the amount that may reasonably be considered to be the portion of the revenue that the taxpayer did not include in computing the taxpayer's income for the particular year referred to therein or for a prior taxation year;

(*d*) where a revenue guarantee is entered into at any time in respect of the property referred to therein, other than a revenue guarantee in respect of which paragraph *c* applies, or under which the person who agrees to provide the revenue under the terms of the guarantee does not deal at arm's length with the taxpayer or the person from whom the taxpayer acquired the property, and in respect of which the Minister of Communications of Canada certifies that the person who agrees to provide the revenue under the terms of the guarantee is a licenced broadcaster or *bona fide* film or tape distributor and that the cost of the property does not include any amount for or in respect of the guarantee, and where the taxpayer and the person who agrees to furnish the revenue under the terms of the guarantee do not deal at arm's length, the person from whom the taxpayer acquired the property and the person who agrees to furnish the revenue under the terms of the guarantee do not deal at arm's length or the person from whom the taxpayer acquired the property or a

person who does not deal at arm's length with that person agrees, in any manner whatsoever, to fulfill, in whole or in part, the obligations of the person who agrees to furnish the revenue under the terms of the guarantee, the amount that may reasonably be considered to be the portion of the revenue that the taxpayer is to receive under the terms of the guarantee that has not been included in computing the taxpayer's income for the particular year referred to therein or for a prior taxation year;

(*e*) where a revenue guarantee is granted at any time in respect of the property referred to therein, other than a guarantee in respect of which paragraph *c* or *d* applies, the amount that may reasonably be considered to be the portion of the revenue that the taxpayer is to receive according to the terms and conditions of that guarantee, that the taxpayer is not entitled to until the fourth year following the first day on which the person who agrees to furnish the revenue according to the terms and conditions of that guarantee has the right to use the property and that was not included in computing the income of the taxpayer for the particular year referred to therein or for a prior taxation year; and

(*f*) the portion of any debt obligation of the taxpayer outstanding at the end of that year that is convertible into an interest in the property referred to in section 130R109.

s. 130R55.6; O.C. 1983-80, s. 7; O.C. 1535-81, s. 4; R.R.Q., 1981, c. I-3, r.1, s. 130R55.6; O.C. 2727-84, s. 6; S.Q., 1984, c. 47, s. 216; O.C. 615-88, s. 8; Erratum, 1988, G.O. 2, 4642; O.C. 1666-90, s. 4; O.C. 1114-92, s. 13; 1994, c. 21, s. 50; O.C. 216-95; O.C. 1249-2005, s. 5.

"**130R111.** For the purposes of paragraphs *a* and *b* of section 130R110, the reference to "until the 60 days immediately following the end of the particular year referred to therein" used in paragraph *a* of that section and the reference to "before the expiry of 60 days immediately following the end of the particular year" used in paragraph *b* of that section are to be read as a reference to

(*a*) "before 1 July 1988", in respect of a motion picture film or video tape acquired in 1987, other than a certified Québec film or a film or tape in respect of which paragraph *b* applies; and

(*b*) "before 1 January 1989", in respect of a motion picture film or video tape acquired in 1987 or 1988 that is described in subparagraph *n* of the first paragraph of Class 12 in Schedule B and that is part of a series of motion picture films or video tapes that includes another property described in subparagraph *n* of the first paragraph of that class.

s. 130R55.6.1; O.C. 1114-92, s. 14; O.C. 1697-92, s. 27.

"**130R112.** Where a taxpayer has acquired property described in subparagraph *l* of the second paragraph of Class 10 in Schedule B or subparagraph *m* of the first paragraph of Class 12 in that Schedule, the deduction in respect of the property otherwise allowed to the taxpayer in computing the taxpayer's income for a taxation year may not exceed the amount that would otherwise be deducted under section 130R19 if the capital cost to the taxpayer of the property were reduced by the portion of any debt obligation of the taxpayer outstanding at the end of that year that is convertible into an interest in the property.

s. 130R55.6.1.1; O.C. 1249-2005, s. 6.

"**DIVISION XXII**

" YEAR 2000 COMPUTER HARDWARE AND SYSTEMS SOFTWARE

div. XVI.1; O.C. 1282-2003, s. 23.

"**130R113.** A taxpayer may elect to deduct as additional allowance, for a taxation year, an amount that does not exceed the amount determined under section 130R114, where the taxpayer

(*a*) is not a large corporation within the meaning of subsection 8 of section 225.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in the year, or a partnership any member of which is such a corporation in a taxation year that includes any time that is in the partnership's fiscal period; and

(*b*) acquired property included in Class 10 in Schedule B under subparagraph *g* of the first paragraph of that Class in the year but after 31 December 1997 and before 1 November 1999, for the purpose of replacing property that was acquired before 1 January 1998 that has a material risk of malfunctioning because of the change of the calendar year to 2000 and that is described in that subparagraph *g* or in subparagraph *o* of the first paragraph of Class 12 in Schedule B.

s. 130R55.6.2; O.C. 1282-2003, s. 23.

"**130R114.** The amount to which section 130R113 refers is equal to the least of

(*a*) the amount by which $50,000 exceeds

i. the aggregate of all amounts each of which is an amount claimed by the taxpayer under section 130R113 for a preceding taxation year,

ii. the aggregate of all amounts each of which is an amount claimed by the taxpayer under section 130R115 for the year or a preceding taxation year, and

iii. the aggregate of all amounts each of which is an amount claimed under section 130R113 or 130R115 by a corporation for a taxation year in which it was associated with the taxpayer;

(*b*) 85% of the capital cost to the taxpayer of all property described in paragraph *b* of section 130R113; and

(*c*) the undepreciated capital cost to the taxpayer, at the end of the year, of property included in Class 10 in Schedule B,

computed without reference to Division XXIV and after all deductions claimed under this Title for the year except those under section 130R113.

s. 130R55.6.3; O.C. 1282-2003, s. 23.

"**130R115.** A taxpayer may elect to deduct as additional allowance, for a taxation year, an amount that does not exceed the amount determined under section 130R116, where the taxpayer

(*a*) is not a large corporation within the meaning of subsection 8 of section 225.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in the year, or a partnership any member of which is such a corporation in a taxation year that includes any time that is in the partnership's fiscal period; and

(*b*) acquired property included in Class 12 in Schedule B under subparagraph *o* of the first paragraph of that Class in the year but after 31 December 1997 and before 1 November 1999, for the purpose of replacing property that was acquired before 1 January 1998 that has a material risk of malfunctioning because of the change of the calendar year to 2000 and that is described in subparagraph *g* of the first paragraph of Class 10 in Schedule B or in that subparagraph *o*.

s. 130R55.6.4; O.C. 1282-2003, s. 23.

"**130R116.** The amount to which section 130R115 refers is equal to the least of

(*a*) the amount by which $50,000 exceeds

i. the aggregate of all amounts each of which is an amount claimed by the taxpayer under section 130R115 for a preceding taxation year,

ii. the aggregate of all amounts each of which is an amount claimed by the taxpayer under section 130R113 for the year or a preceding taxation year, and

iii. the aggregate of all amounts each of which is an amount claimed under section 130R113 or 130R115 by a corporation for a taxation year in which it was associated with the taxpayer;

(*b*) 50% of the capital cost to the taxpayer of all property described in paragraph *b* of section 130R115; and

(*c*) the undepreciated capital cost to the taxpayer, at the end of the year, of property included in Class 12 in Schedule B, computed without reference to Division XXIV after all deductions claimed under this Title for the year except those under section 130R115.

s. 130R55.6.5; O.C. 1282-2003, s. 23.

"**DIVISION XXIII**

"COMPUTER SOFTWARE TAX SHELTER PROPERTY

div. XVI.2; O.C. 1282-2003, s. 23.

"**130R117.** The aggregate of all amounts each of which is a deduction in respect of computer software tax shelter property allowed to a taxpayer under this Title in computing the taxpayer's income for a taxation year may not exceed the amount determined according to the formula

A − B.

In the formula in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is

i. the taxpayer's income for the year from a business in which computer software tax shelter property owned by the taxpayer is used, computed without reference to any deduction under this Title in respect of such property, or

ii. the income of a partnership from a business in which computer software tax shelter property owned by the partnership is used, to the extent of the taxpayer's share of such income that is included in computing the taxpayer's income for the year;

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

i. a loss of the taxpayer from a business in which computer software tax shelter property is used, computed without reference to any deduction under this Title in respect of such property, or

ii. a loss of a partnership from a business in which computer software tax shelter property is used, to the extent of the taxpayer's share of such loss that is included in computing the taxpayer's income for the year.

s. 130R55.6.6; O.C. 1282-2003, s. 23.

"**130R118.** For the purposes of this Title, computer software tax shelter property is computer software that is depreciable property of a prescribed class of a person or partnership where

(*a*) the person's or partnership's interest in the property is a tax shelter investment within the meaning of section 851.38 of the Act, determined without reference to section 130R117; or

(*b*) an interest in the person or partnership is a tax shelter investment within the meaning of section 851.38 of the Act, determined without reference to section 130R117.

s. 130R55.6.7; O.C. 1282-2003, s. 23.

"**DIVISION XXIV**

"PROPERTY ACQUIRED DURING THE YEAR

div. XVII; O.C. 2847-84, s. 8.

"**130R119.** Where, in a taxation year, a taxpayer added an amount to the undepreciated capital cost to the taxpayer of property of a class in Schedule B, the amount that the taxpayer may deduct for the year under section 130R1 in respect of property of the class is computed as if the undepreciated capital cost to the taxpayer at the end of the year, before any deduction under section 130R1 for the year, of the property were reduced by half the amount determined in respect of that class at the end of the year under section 130R120.

The rule prescribed in the first paragraph does not apply in respect of an amount added to the undepreciated capital cost to the taxpayer of

(*a*) property that is

i. property referred to in any of sections 130R62, 130R161, 130R192, 130R193 and 130R194,

ii. property included in any of Classes 13 to 15, 23, 24, 27, 29 and 34 in Schedule B, or

iii. property included in a separate class pursuant to an election made by the taxpayer in accordance with section 130R198 or 130R199;

(*b*) where the taxpayer is a corporation referred to in section 130R92 throughout the year, a property that is a specified leasing property, within the meaning assigned to that expression by the first paragraph of section 130R71, of the taxpayer at the end of the year;

(*c*) a property that is deemed to have been acquired by the taxpayer in a prior taxation year by reason of paragraph *b* of section 125.1 of the Act in respect of the lease of which the property was the subject immediately before the time at which the taxpayer last acquired it; and

(*d*) a property that is considered to be available for use by the taxpayer by reason of subparagraph *b* of the first paragraph of section 93.7 of the Act or subparagraph *c* of the first paragraph of section 93.8 of that Act.

s. 130R55.7; O.C. 2847-84, s. 8; O.C. 544-86, s. 5; O.C. 1697-92, s. 28; O.C. 366-94, s. 11; O.C. 1631-96, s. 15; O.C. 1707-97, s. 98; O.C. 1463-2001, s. 37; O.C. 1470-2002, s. 18.

"**130R120.** The amount that, in accordance with section 130R119, must be determined in respect of a class in Schedule B at the end of a taxation year is established according to the formula

A − B.

In the formula in the first paragraph,

(*a*) A is any amount added, in respect of a property that is neither a property described in subparagraph *q* or *r* of the second paragraph of Class 10 in Schedule B, in any of subparagraphs *a* to *c*, *e* to *i*, *k*, *l*, *p*, *q* and *s* of the first paragraph of Class 12 in that schedule or in the third paragraph of that Class 12, nor a property to which subparagraph *b* of the second paragraph of section 130R19 applies for the year, to the undepreciated capital cost to the taxpayer of property of the class either under subparagraph i of subparagraph *e* of the first paragraph of section 93 of the Act in respect of a property acquired during the year or that became available for use by the taxpayer in the year, or under subparagraph ii.1 or ii.2 of that paragraph *e* in respect of an amount repaid during the year; and

(*b*) B is any amount deducted from the undepreciated capital cost to the taxpayer of property of the class under subparagraph *c* or *d* of the second paragraph of section 93 of the Act in respect of a property disposed of during the year or under subparagraph *g* of that paragraph in respect of an amount that the taxpayer received or was entitled to receive during the year.

s. 130R55.8; O.C. 2847-84, s. 8; O.C. 1114-92, s. 15; O.C. 1697-92, s. 29; O.C. 1539-93, s. 8; O.C. 366-94, s. 12; O.C. 1631-96, s. 16; O.C. 1282-2003, s. 24; O.C. 1249-2005, s. 7.

"**130R121.** For the purposes of subparagraph *b* of the second paragraph of section 130R120, the proceeds of disposition of a property of Class 10 in Schedule B that would be referred to in the third paragraph of Class 16 in that schedule if it had been acquired after 12 November 1981 are deemed to be the proceeds of disposition of a property of Class 16 and not of a property of Class 10.

s. 130R55.9; O.C. 2847-84, s. 8; O.C. 1282-2003, s. 25.

"**130R122.** Where a taxpayer has acquired a property of a class in Schedule B or incurred a capital cost in respect of a property of such a class, between 12 November 1981 and 1 January 1983, the rules in section 130R124 apply in respect of the property if

(*a*) the taxpayer was required to acquire the property under an agreement in writing entered into before 13 November 1981 or, where the property is a property described in Class 31 in Schedule B, before 1 January 1982;

(*b*) the taxpayer or a person with whom the taxpayer was not dealing at arm's length commenced construction, manufacture or production of the property before 13 November 1981 or, where the property is a property described in Class 31 in Schedule B, before 1 January 1982;

(*c*) the taxpayer or a person with whom the taxpayer was not dealing at arm's length made, for the construction, manufacture or production of the property, arrangements in writing that were substantially advanced before

13 November 1981, and if the construction, manufacture or production commenced before 1 June 1982; or

(*d*) the taxpayer was required to acquire the property under an agreement in writing entered into before 1 June 1982 and if arrangements in writing for the acquisition or leasing of the property were substantially advanced before 13 November 1981.

s. 130R55.10; O.C. 2847-84, s. 8.

"**130R123.** Where a taxpayer acquired a property of a class in Schedule B that was a depreciable property of the person from whom the taxpayer acquired it and that had belonged to that person without interruption for at least 364 days before the end of the taxation year of the taxpayer during which the taxpayer acquired the property, or since 12 November 1981, to the day of its acquisition by the taxpayer, or that was a property in respect of which the rules in section 130R124 were applied for the purpose of determining the amount that the person from whom the taxpayer acquired the property was entitled to deduct under section 130R1, the rules in section 130R124 apply in respect of the property if it was acquired

(*a*) in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, section 308.1 of the Act would not be applicable to the dividend by reason of the application of section 308.3 of the Act; or

(*b*) from a person with whom the taxpayer did not deal at arm's length at the time of acquisition of the property otherwise than under a right referred to in paragraph *b* of section 20 of the Act.

s. 130R55.11; O.C. 2847-84, s. 8; O.C. 1471-91, s. 15; O.C. 1697-92, s. 30; O.C. 1707-97, s. 98.

"**130R124.** The following rules apply in respect of a property referred to in section 130R122 or 130R123:

(*a*) no amount may be included under subparagraph *a* of the second paragraph of section 130R120 in respect of the property;

(*b*) if sections 130R24 to 130R36 apply in respect of the property, section 130R27 must be read, in respect of the property, without reference to the second paragraph;

(*c*) if the property is acquired before 1 January 1988 and is included in a class in respect of which section 130R46 applies, the property is deemed to be a designated property of the class;

(*d*) if the property is acquired after 31 December 1987 and is included in a class in respect of which paragraph *b* of section 130R46 applies, the following rules apply:

i. the property is deemed to be a designated property of the class, and

ii. for the purposes of computing the amount determined under section 130R48 for any taxation year of the taxpayer ending after the time the property was actually acquired by the taxpayer, the property is deemed, other than for the purposes of determining the period referred to in section 130R123 during which a person from whom the taxpayer acquired the property, referred to as the "last transferor" in this section, owned the property before it was acquired by the taxpayer, and subject to the third paragraph, to have been acquired by the taxpayer immediately after the commencement of the taxpayer's first taxation year that commenced at the time that is the earlier of

(1) the time when the property was last acquired by the last transferor, and

(2) where the property was transferred in a series of transfers to which section 130R123 and this section apply, the time when the property was last acquired by the first taxpayer, referred to as the "first transferor" in this section, having transferred the property in that series,

iii. the property is deemed to have become available for use by the taxpayer at the earlier of

(1) the time when it became available for use by the taxpayer, and

(2) the time, determined without reference to subparagraph *c* of the first paragraph of section 93.7 of the Act and subparagraph *d* of the first paragraph of section 93.8 of the Act, when, as the case may be, it became available for use by the last transferor or it became available for use by the first transferor in a series of transfers of the same property to which section 130R123 and this section apply; and

(*e*) if the property is property described in section 130R62, subparagraph *a* of the first paragraph of section 130R63 is to be read as follows in respect of that property:

"(*a*) 33 1/3% of the capital cost of the property to the taxpayer;".

For the purposes of subparagraph ii of subparagraph *d* of the first paragraph, where the taxpayer is a corporation incorporated after the end of the first or the last transferor's taxation year, as the case may be, during which the transferor last acquired the property, the following rules apply:

(*a*) the taxpayer is deemed to have been in existence throughout the period commencing immediately before the end of that year and ending immediately after the time when it was so incorporated; and

(*b*) the taxpayer's fiscal periods, throughout the period described in subparagraph *a*, are deemed to have ended on the day of the year on which its first fiscal period ended.

Subparagraph ii of subparagraph *d* of the first paragraph does not apply where the property was acquired by the taxpayer before the end of the first or the last transferor's taxation year,

as the case may be, that includes the time when the transferor acquired the property.

s. 130R55.12; O.C. 2847-84, s. 8; O.C. 1631-96, s. 17; O.C. 1707-97, s. 21; O.C. 1466-98, s. 126; O.C. 1282-2003, s. 26.

"**130R125.** A taxpayer who disposes of a property in any of the circumstances mentioned in section 130R123 may not include any amount under subparagraph *b* of the second paragraph of section 130R120 in respect of that disposition if subparagraph *a* of the first paragraph of section 130R124 applied in respect of the property for the purchaser.

s. 130R55.13; O.C. 2847-84, s. 8; O.C. 1631-96, s. 18; O.C. 1282-2003, s. 27.

"**130R126.** Where a taxpayer is deemed under a provision of the Act to have disposed of and acquired or reacquired a property,

(*a*) for the purposes of paragraph *b* of section 130R123 and of sections 130R98, 130R149, 130R150 and 130R160, the acquisition or reacquisition by the taxpayer is deemed to have been from a person with whom the taxpayer was not dealing at arm's length at the time of the acquisition or reacquisition; and

(*b*) for the purposes of the portion of section 130R123 before paragraph *a*, the taxpayer is deemed to be the person from whom the taxpayer acquired or reacquired the property.

s. 130R55.14; O.C. 1697-92, s. 31.

"**130R127.** Where in a particular taxation year a taxpayer disposes of a property included in Class 10.1 in Schedule B that was owned by the taxpayer at the end of the preceding taxation year, the following rules apply:

(*a*) the amount that the taxpayer may deduct in computing the taxpayer's income for the year under section 130R1 in respect of the property is computed as if the property had not been disposed of in the particular year and as if the number of days in the particular year were one-half of the number of days in the particular year otherwise determined; and

(*b*) no amount may be deducted in computing the taxpayer's income under section 130R1 in respect of the property for any subsequent taxation year.

s. 130R55.15; O.C. 1631-96, s. 19.

"**CHAPTER IV**

"RULES RESPECTING CLASSES OF PROPERTY

chap. IV; O.C. 1981-80, title VI, chap. IV; R.R.Q., 1981, c. I-3, r.1, title VI, chap. IV.

"**DIVISION I**

"ELECTION BY A TAXPAYER

div. I; O.C. 1981-80, title VI, chap. IV, div. I; R.R.Q., 1981, c. I-3, r.1, title VI, chap. IV, div. I.

"**130R128.** In respect of properties otherwise included in any of Classes 2 to 10 and 11 in Schedule B or in Class 12 in that Schedule, except in the case of a property referred to in any of sections 130R192 to 130R194, a taxpayer may elect to include in Class 1 of that schedule all such properties acquired for the purpose of gaining or producing income from the same business.

s. 130R56; O.C. 1981-80, s. 130R56; R.R.Q., 1981, c. I-3, r.1, s. 130R56; O.C. 1697-92, s. 32; O.C. 1463-2001, s. 38; O.C. 1470-2002, s. 19.

"**130R129.** Where the chief depreciable properties of a taxpayer are included in any of Classes 2, 4 and 17 in Schedule B, the taxpayer may elect to include in any of Classes 2, 4 and 17, as the case may be, a property that would otherwise be included in another class and that was acquired by the taxpayer before 26 May 1976 for the purpose of gaining or producing income from the same business as that for which those properties otherwise included in any of Classes 2, 4 and 17 were acquired.

s. 130R57; O.C. 1981-80, s. 130R57; R.R.Q., 1981, c. I-3, r.1, s. 130R57.

"**130R130.** In respect of properties otherwise included in Class 19 or 21 in Schedule B, a taxpayer may elect to include in Class 8 in that schedule all properties of Class 19 or all properties of Class 21, as the case may be, owned by the taxpayer at the beginning of the year.

s. 130R58; O.C. 1981-80, s. 130R58; R.R.Q., 1981, c. I-3, r.1, s. 130R58.

"**130R131.** In respect of properties otherwise included in Class 20 in Schedule B, a taxpayer may elect to include in any of Classes 1, 3 and 6 in Schedule B, as specified in the letter to be filed pursuant to section 130R139 in respect of such election, all the properties in Class 20 in that schedule owned by the taxpayer at the commencement of the year.

s. 130R58.0.1; O.C. 1697-92, s. 33.

"**130R132.** A taxpayer may elect to include in Class 37 in Schedule B the properties that the taxpayer acquired before

10 March 1982 and that would be included in that class if the taxpayer had acquired them after that date.

s. 130R58.1; O.C. 2962-82, s. 17; O.C. 500-83, s. 17.

"**130R133.** In respect of a property that would otherwise be included in Class 7 in Schedule B under paragraph *h* of that Class and to which sections 130R101 and 130R176, or sections 130R102 and 130R178 would apply if Class 35 in that Schedule applied to the property, a taxpayer may elect to include the property in Class 35 if the taxpayer so elects by letter attached to the taxpayer's fiscal return for the taxation year in which the property was acquired by the taxpayer, on or before the taxpayer's filing-due date for that year.

s. 130R58.1.1; O.C. 1149-2006, s. 9.

"**130R134.** A taxpayer may elect not to include a property in Class 44 in Schedule B, provided the election is made, by letter attached to the taxpayer's fiscal return for the taxation year in which the property was acquired by the taxpayer, on or before the taxpayer's filing-due date for that year.

s. 130R58.2; O.C. 1631-96, s. 20; O.C. 1466-98, s. 23.

"**130R135.** Where a taxpayer has acquired after 25 May 1976, all or any part of a property included in a particular class in Schedule B and where the property or a part thereof would have been included in another class in that schedule if it had been acquired before 26 May 1976, the taxpayer may elect to transfer, in the year of acquisition:

(*a*) the property, or the part thereof, from the particular class to the other class; or

(*b*) the part of the property acquired before 26 May 1976 from the other class to the particular class.

An election under the first paragraph must be made by letter attached to the taxpayer's fiscal return, on or before the taxpayer's filing-due date for the taxation year in which the acquisition occurred or for the following taxation year.

s. 130R59; O.C. 1981-80, s. 130R59; R.R.Q., 1981, c. I-3, r.1, s. 130R59; O.C. 1466-98, s. 24.

"**130R136.** Section 130R135 applies only if

(*a*) the taxpayer was required to acquire the property under the terms of an agreement in writing entered into before 26 May 1976;

(*b*) the taxpayer commenced the construction, manufacture or production of the property before 26 May 1976 or the construction, manufacture or production of the property was commenced under an agreement in writing entered into by the taxpayer before 26 May 1976; or

(*c*) the taxpayer acquired the property on or before 31 December 1976 or was required to acquire the property under the terms of an agreement in writing entered into on or before 31 December 1976, if

i. arrangements in writing, respecting the acquisition, construction, manufacture or production of the property had been substantially advanced before 26 May 1976, or

ii. the taxpayer had, before 26 May 1976, demonstrated a *bona fide* intention to acquire the property.

s. 130R60; O.C. 1981-80, s. 130R60; R.R.Q., 1981, c. I-3, r.1, s. 130R60.

"**130R137.** A taxpayer referred to in section 130R138 may elect to transfer the property referred to in paragraph *a* of that section, immediately before it is disposed of, from the class referred to in that paragraph *a* to the class referred to in paragraph *b* of that section.

An election under the first paragraph must be made by letter to that effect attached to the taxpayer's fiscal return, on or before the taxpayer's filing-due date for the taxation year in which the property referred to in paragraph *a* of section 130R138 is disposed of by the taxpayer.

s. 130R61; O.C. 1981-80, s. 130R61; R.R.Q., 1981, c. I-3, r.1, s. 130R61; O.C. 1466-98, s. 25.

"**130R138.** A taxpayer may make the election referred to in section 130R137 if the taxpayer

(*a*) disposed of a property included in a class in Schedule B that would have been a property included in the class referred to in paragraph *b* if the taxpayer had acquired it at the time the property referred to in paragraph *b* was acquired and from the person from whom that property was acquired; and

(*b*) acquired, before the end of the taxation year during which the property referred to in paragraph *a* was disposed of, a property included in a class in Schedule B, other than the class referred to in paragraph *a* and other than a separate class referred to in Chapter V, with the exception of section 130R176, that would have been a property included in the class referred to in paragraph *a* if the taxpayer had acquired it at the time the property referred to in paragraph *a* was acquired and from the person from whom that property was acquired.

s. 130R62; O.C. 1981-80, s. 130R62; R.R.Q., 1981, c. I-3, r.1, s. 130R62; O.C. 2847-84, s. 9; O.C. 1697-92, s. 34; O.C. 366-94, s. 13.

"**130R139.** Any election by a taxpayer under sections 130R128 to 130R132 for a taxation year is made by filing with the taxpayer's fiscal return for the year, on or before the taxpayer's filing-due date for the year, a letter to that effect.

s. 130R63; O.C. 1981-80, s. 130R63; R.R.Q., 1981, c. I-3, r.1, s. 130R63; O.C. 2962-82, s. 18; O.C. 500-83, s. 18; O.C. 1466-98, s. 26.

"**130R140.** An election under paragraph *b* of section 130R143 in respect of property described therein or property described in section 130R144, or under this division is effective from the first day of the taxation year in respect of which the election is made and continues to be effective for all subsequent years.

s. 130R64; O.C. 1981-80, s. 130R64; R.R.Q., 1981, c. I-3, r.1, s. 130R64; O.C. 1454-99, s. 17.

"**DIVISION II**

"TRANSFER OF PROPERTY FROM CLASS 40 TO CLASS 10

div. I.1; O.C. 1697-92, s. 35.

"**130R141.** For the purposes of this Title and Schedule B, where property owned by a taxpayer would otherwise be included in Class 40 in that schedule, all such property owned by the taxpayer must be transferred from that class to Class 10 in that schedule immediately after the beginning of the first taxation year of the taxpayer beginning after 31 December 1989.

s. 130R64.1; O.C. 1697-92, s. 35.

"**DIVISION III**

"TRANSFER OF PROPERTY TO CLASS 8, 10 OR 43

div. I.2; O.C. 1631-96, s. 21; O.C. 1149-2006, s. 10.

"**130R142.** For the purposes of this Title and Schedule B, where one or more properties of a taxpayer are included in a separate class pursuant to an election made by the taxpayer in accordance with section 130R198 or 130R199, all the properties in that class immediately after the beginning of the taxpayer's fifth taxation year beginning after the end of the first taxation year in which a property of the class became available for use by the taxpayer for the purposes of section 93.6 of the Act must be transferred immediately after the beginning of that fifth taxation year from the separate class to the class in which the property would, but for the election, have been included.

s. 130R64.2; O.C. 1631-96, s. 21; O.C. 1463-2001, s. 39.

"**DIVISION IV**

"ELECTRICAL PLANT USED FOR MINING

div. II; O.C. 1981-80, title VI, chap. IV, div. II; R.R.Q., 1981, c. I-3, r.1, title VI, chap. IV, div. II.

"**130R143.** Where the generating or distributing equipment and plant, including structures, of a producer or distributor of electrical energy were acquired for the purpose of providing power to a consumer for use by the consumer in the operation in Canada of a mine, ore mill, smelter, metal refinery or any combination thereof and at least 80% of the producer's or distributor's output of electrical energy for the first two taxation years in which the producer or the distributor, as the case may be, sold power was sold to the consumer for that purpose, the property must be included in

(*a*) Class 10 in Schedule B if it is property that the producer or the distributor acquired

i. before 1 January 1988, or

ii. before 1 January 1990

(1) pursuant to an obligation in writing entered into by the taxpayer before 18 June 1987,

(2) that was under construction by or on behalf of the taxpayer on 18 June 1987, or

(3) that is machinery or equipment that is a fixed and integral part of a building, structure, plant facility or other property that was under construction by or on behalf of the taxpayer on 18 June 1987; or

(*b*) Class 41 in Schedule B in any other case, except where the property would otherwise be included in Class 43.1 or 43.2 in Schedule B and the taxpayer has, by a letter filed with the fiscal return of the taxpayer filed in accordance with sections 1000 to 1003 of the Act for the taxation year in which the property was acquired, elected to include the property in Class 43.1 or 43.2, as the case may be.

s. 130R65; O.C. 1981-80, s. 130R65; R.R.Q., 1981, c. I-3, r.1, s. 130R65; O.C. 1697-92, s. 36; O.C. 1454-99, s. 18; O.C. 1116-2007, s. 10.

"**130R144.** Section 130R143 also applies where a taxpayer has acquired generating or distributing equipment and plant, including structures, for the purpose of providing power for the taxpayer's own consumption in operating a mine, ore mill, smelter, metal refinery or any combination thereof and where at least 80% of the output of electrical energy was so used in the first two taxation years in which power was so produced.

s. 130R66; O.C. 1981-80, s. 130R66; R.R.Q., 1981, c. I-3, r.1, s. 130R66; O.C. 1454-99, s. 19.

"**130R145.** Sections 130R143 and 130R144 are to be read without reference to the expression "metal refinery" where the property referred to therein was acquired before 8 November 1969.

s. 130R67; O.C. 1981-80, s. 130R67; R.R.Q., 1981, c. I-3, r.1, s. 130R67.

"**130R146.** Despite sections 130R143 and 130R144, where a taxpayer acquired property referred to therein after 7 November 1969 from a person with whom the taxpayer was not dealing at arm's length, that property may not be included in Class 10 in Schedule B unless it had been included in that class by the person from whom it was acquired pursuant to subsections 8 and 9 of section 1102 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), as they applied before 8 November 1969 for the purposes of the former Acts within the meaning

of section 1 of the Act respecting the application of the Taxation Act (R.S.Q. c. I-4).

s 130R68; O.C. 1981-80, s. 130R68; R.R.Q., 1981, c. I-3, r.1, s. 130R68; O.C. 35-96, s. 86.

"**DIVISION V**

"RAILWAYS

div. III; O.C. 1981-80, title VI, chap. IV, div. III; R.R.Q., 1981, c. I-3, r.1, title VI, chap. IV, div. III.

"**130R147.** For the purposes of section 221 of the Act, where a taxpayer is deemed to have acquired depreciable property of a prescribed class at the time a repair, replacement, alteration or renovation expenditure in respect of property described therein was incurred,

(*a*) if the expenditure was incurred before 26 May 1976, the class prescribed is Class 4 in Schedule B; and

(*b*) if the expenditure was incurred after 25 May 1976, the class prescribed is the class in Schedule B in which the depreciable property that was repaired, replaced, altered or renovated would be included if such property had been acquired at the time the expenditure was incurred.

s. 130R69; O.C. 1981-80, s. 130R69; R.R.Q., 1981, c. I-3, r.1, s. 130R69.

"**DIVISION VI**

"PROPERTY ACQUIRED BY CERTAIN TRANSFERS, OR REORGANIZATIONS

div. IV; O.C. 1981-80, title VI, chap. IV, div. IV; R.R.Q., 1981, c. I-3, r.1, title VI, chap. IV, div. IV; O.C. 1697-92, s. 37.

"**130R148.** Subject to section 130R149 and for the purposes of this Title and Schedule B, where a property, immediately before it was acquired by the taxpayer, was property of a prescribed class or a separate prescribed class of the person from whom it was so acquired, the property is deemed to be property of that same prescribed class or separate prescribed class, as the case may be, of the taxpayer.

s. 130R70; O.C. 1981-80, s. 130R70; R.R.Q., 1981, c. I-3, r.1, s. 130R70.

"**130R149.** Section 130R148 does not apply unless the taxpayer acquires the property referred to therein,

(*a*) in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, section 308.1 of the Act would not be applicable to the dividend by reason of the application of section 308.3 of the Act; or

(*b*) from a person with whom the taxpayer is not dealing at arm's length, otherwise than by virtue of a right referred to in paragraph *b* of section 20 of the Act, at the time the property is acquired.

s. 130R71; O.C. 1981-80, s. 130R71; R.R.Q., 1981, c. I-3, r.1, s. 130R71; O.C. 1472-87, s. 6; O.C. 1471-91, s. 16; O.C. 1697-92, s. 38; O.C. 1707-97, s. 98.

"**130R150.** For the purposes of this Title and Schedule B, where a taxpayer has acquired, after 25 May 1976, property of a particular class in that schedule that had been previously owned before 26 May 1976 by the taxpayer or by a person with whom the taxpayer was not dealing at arm's length, otherwise than by virtue of a right referred to in paragraph *b* of section 20 of the Act, at the time the property was acquired, and at that particular time, the property was included in a different class in that schedule, the property is deemed to be property in the different class and not property in the particular class.

s. 130R72; O.C. 1981-80, s. 130R72; R.R.Q., 1981, c. I-3, r.1, s. 130R72; O.C. 1697-92, s. 39.

"**130R151.** Where property, while leased by a taxpayer under a lease contract, was the subject of the joint election referred to in section 125.1 of the Act and the taxpayer subsequently acquires the property through the exercise of a right to acquire it under the contract, the second and fourth paragraphs of Class 12 in Schedule B apply, in respect of the property while it was so leased by the taxpayer, as if the period during which the property was so leased by the taxpayer also included the subsequent period during which the taxpayer owns the property.

Where the property, while leased by the taxpayer under the lease contract, was property that was included in Class 12 in Schedule B under the second or fourth paragraph of that Class and in respect of which a separate prescribed class had been created, the property must, where it is acquired by the taxpayer through the exercise of a right to acquire it under the lease contract, be included in the same separate prescribed class of the taxpayer.

s. 130R72.1; O.C. 1249-2005, s. 8.

"**DIVISION VII**

"MANUFACTURING AND PROCESSING BUSINESSES

div. V; O.C. 1981-80, title VI, chap. IV, div. V; R.R.Q., 1981, c. I-3, r.1, title VI, chap. IV, div. V.

"**130R152.** For the purposes of paragraph *e* of section 99 of the Act, property is prescribed that is a building included in Class 3 or 6, or machinery and equipment included in Class 8 in Schedule B.

Such property does not include, however, property acquired for use outside Canada, or property that may reasonably be regarded as having been acquired for the purpose of producing coal from a coal mine, or oil, gas, metals

or industrial minerals from a resource referred to in section 360R4.

s. 130R73; O.C. 1981-80, s. 130R73; R.R.Q., 1981, c. I-3, r.1, s. 130R73.

"**130R153.** For the purposes of paragraph *e* of section 99 of the Act, a business carried on by the taxpayer is considered to be a manufacturing or processing business, if for the fiscal period during which the property was acquired, or for the fiscal period during which a reasonable volume of business was first carried on, whichever was later, the revenue received by the taxpayer, in the course of carrying on the business, from manufacturing or processing, was not less than 2/3 of the revenue of the business for the period.

For the purposes of this section, the revenue from manufacturing or processing includes the revenue arising from

(*a*) the sale of goods processed or manufactured by the taxpayer in Canada;

(*b*) the leasing or renting of goods processed or manufactured by the taxpayer in Canada;

(*c*) advertisements in a newspaper or magazine produced by the taxpayer in Canada; and

(*d*) construction carried on by the taxpayer in Canada.

s. 130R74; O.C. 1981-80, s. 130R74; R.R.Q., 1981, c. I-3, r.1, s. 130R74.

"**130R154.** For the purposes of section 130R153, "revenue" means gross revenue, minus

(*a*) amounts that were paid or credited in the period to customers of the business in relation to such revenue as a bonus, rebate or discount, or for returned or damaged goods; and

(*b*) amounts included therein pursuant to any of sections 93 to 104 and 186 of the Act.

s. 130R75; O.C. 1981-80, s. 130R75; R.R.Q., 1981, c. I-3, r.1, s. 130R75.

"**DIVISION VIII**

"ADDITIONS AND ALTERATIONS

div. VI; O.C. 1983-80, s. 8; R.R.Q., 1981, c. I-3, r.1, title VI, chap. IV, div. VI.

"**130R155.** For the purposes of this Title and Schedule B, where a taxpayer acquires a property that is an addition or alteration to another property included in a particular class of that schedule, where the property would have been included in that particular class if it had been acquired at the same time as the other property and where the other property would have been included in a class other than that particular class if it had been acquired at the same time as that property, it is deemed, except where otherwise provided by that Title or that schedule, to be a property included in that other class.

s. 130R75.1; O.C. 1983-80, s. 8; R.R.Q., 1981, c. I-3, r.1, s. 130R75.1.

"**CHAPTER V**

"SEPARATE CLASSES

chap. V; O.C. 1981-80, title VI, chap. V; R.R.Q., 1981, c. I-3, r.1, title VI, chap. V.

"**130R156.** Where two or more properties of a taxpayer are described in the same class in Schedule B and where some of the properties were acquired for the purpose of gaining or producing income from a business and some other properties for gaining or producing income from another business or from property, a separate class is hereby prescribed for each business in respect of such properties.

s. 130R76; O.C. 1981-80, s. 130R76; R.R.Q., 1981, c. I-3, r.1, s. 130R76.

"**130R157.** For the purposes of section 130R156, a life insurance business and an insurance business other than a life insurance business must each be regarded as a separate business.

s. 130R77; O.C. 1981-80, s. 130R77; R.R.Q., 1981, c. I-3, r.1, s. 130R77.

"**130R158.** Properties of a member of a partnership that can reasonably be regarded to be the member's interest in a depreciable property of the partnership must be included in a separate class from other properties of such member described in the same class in Schedule B.

s. 130R80; O.C. 1981-80, s. 130R80; R.R.Q., 1981, c. I-3, r.1, s. 130R80; O.C. 1707-97, s. 98.

"**130R159.** Subject to section 130R184, rental properties of a taxpayer, the capital cost of which is $50,000 or more must be included in a separate class from other properties of the taxpayer described in the same class in Schedule B.

However, this section does not apply to a rental property acquired by the taxpayer before 1972 or to a rental property that is a building, an interest therein or a leasehold interest acquired by the taxpayer by reason of the fact that the taxpayer erected a building on leased land, if the erection of the building was commenced by the taxpayer before 1972 or pursuant to an agreement in writing entered into by the taxpayer before 1972.

s. 130R81; O.C. 1981-80, s. 130R81; R.R.Q., 1981, c. I-3, r.1, s. 130R81; O.C. 2962-82, s. 19; O.C. 500-83, s. 19; O.C. 1697-92, s. 40.

"**130R160.** Section 130R159 does not apply to a rental property

(*a*) that was acquired by the taxpayer either in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, section 308.1 of the Act would not apply to the dividend by reason of the application of section 308.3 of the Act, or from a person with whom the taxpayer was not dealing at arm's length, otherwise than by virtue of a right referred to in paragraph *b* of section 20 of the Act, at the time of the acquisition of the property; and

(*b*) that was, immediately before it was so acquired by the taxpayer, a rental property of the person from whom it was so acquired of a prescribed class otherwise than under section 130R159.

s. 130R82; O.C. 1981-80, s. 130R82; R.R.Q., 1981, c. I-3, r.1, s. 130R82; O.C. 1472-87, s. 7; O.C. 1471-91, s. 17; O.C. 1697-92, s. 41; O.C. 1707-97, s. 98.

"**130R161.** Each property of a taxpayer that is a certified Quebec film must be included in a separate class from that of the other properties of the taxpayer belonging to the same class in Schedule B.

s. 130R82.1; O.C. 2727-84, s. 7; O.C. 1539-93, s. 9.

"**130R162.** Except in the case of a corporation or partnership described in section 130R86, rental properties of a taxpayer, other than properties that must be included in a separate class under section 130R159, must be included in a separate class from other properties of the taxpayer described in the same class in Schedule B.

s. 130R83; O.C. 1981-80, s. 130R83; R.R.Q., 1981, c. I-3, r.1, s. 130R83; O.C. 1707-97, s. 98.

"**130R163.** For the purposes of this Title, where any property of a taxpayer is a property of Class 31 or 32 in Schedule B and the capital cost of the property is $50,000 or more, a separate class is hereby prescribed for each such property of the taxpayer that would otherwise be included in the same class in Schedule B.

s. 130R84; O.C. 1981-80, s. 130R84; R.R.Q., 1981, c. I-3, r.1, s. 130R84.

"**130R164.** Where property of a taxpayer that would otherwise be included in Class 7 in Schedule B is a property in respect of which a depreciation allowance could have been taken under Order in Council P.C. 2798 of 10 April 1942, P.C. 7580 of 26 August 1942, as amended by P.C. 3297 of 22 April 1943, or P.C. 3979 of 1 June 1944, if those Orders in Council were applicable to the taxation year, a separate class is hereby prescribed for each ship, including the furniture, fittings and equipment attached hereto.

s. 130R85; O.C. 1981-80, s. 130R85; R.R.Q., 1981, c. I-3, r.1, s. 130R85.

"**130R165.** A separate class is hereby prescribed for each vessel of a taxpayer, including the furniture, fittings, radiocommunication equipment and other equipment attached thereto, where the vessel

(*a*) was constructed in Canada;

(*b*) is registered in Canada; and

(*c*) had not been used for any purpose whatever before it was acquired by the taxpayer.

s. 130R86; O.C. 1981-80, s. 130R86; R.R.Q., 1981, c. I-3, r.1, s. 130R86; O.C. 1631-96, s. 22.

"**130R166.** A separate class is hereby prescribed for all vessels included in Class 7 in Schedule B, including furniture, fittings, radiocommunication equipment and other equipment attached thereto, acquired by a taxpayer

(*a*) after 25 May 1976 and designed principally to determine the existence of accumulation of petroleum or natural gas, except a mineral resource, and to locate such accumulation or to determine its extent or quality, or to drill an oil or gas well; or

(*b*) after 22 May 1979 and designed principally to determine the existence of a mineral resource, to locate such resource or determine its extent or quality.

s. 130R87; O.C. 1981-80, s. 130R87; O.C. 1983-80, s. 9; R.R.Q., 1981, c. I-3, r.1, s. 130R87; O.C. 35-96, s. 7.

"**130R167.** For the purposes of this Title, each property of a taxpayer that is a timber limit or a right to cut timber in such limit is deemed to be a separate class of property, except where that property is a timber resource property.

s. 130R88; O.C. 1981-80, s. 130R88; R.R.Q., 1981, c. I-3, r.1, s. 130R88.

"**130R168.** For the purposes of this Title, where a taxpayer has more than one industrial mineral mine in respect of which an allowance may be claimed under section 130R216, or has more than one right to remove industrial minerals from such a mine, each such mine and each such right is deemed to be a separate class.

The same applies where the taxpayer has both such a mine and such a right.

s. 130R89; O.C. 1981-80, s. 130R89; R.R.Q., 1981, c. I-3, r.1, s. 130R89.

"**130R169.** Property of a taxpayer included in Class 28 in Schedule B that was acquired for the purpose of gaining or producing income from only one mine must be included in a separate class from other property of the taxpayer included

in the same class and acquired for the purpose of gaining or producing income from another mine.

s. 130R90; O.C. 1981-80, s. 130R90; R.R.Q., 1981, c. I-3, r.1, s. 130R90; O.C. 1282-2003, s. 28.

"**130R170.** The rule in section 130R169 applies to property acquired for the purpose of gaining or producing income from particular mines, and such property must be included in a separate class from other property of the same class acquired for the purpose of gaining income from other mines.

s. 130R91; O.C. 1981-80, s. 130R91; R.R.Q., 1981, c. I-3, r.1, s. 130R91; O.C. 1282-2003, s. 29.

"**130R171.** Where one or more properties of a taxpayer that are included in Class 41 in Schedule B because of any of subparagraphs *a* to *c* of the first paragraph of that class were acquired for the purpose of gaining or producing income from only one mine, they must be included in a class separate from the class of the other properties of the taxpayer, including those acquired for the purpose of gaining or producing income from another mine, belonging to the same class.

s. 130R91.1; O.C. 1697-92, s. 42; O.C. 1454-99, s. 20; O.C. 1282-2003, s. 30.

"**130R172.** Where more than one property of a taxpayer is included in Class 41 in Schedule B because of any of subparagraphs *a* to *c* of the first paragraph of that class and one of the properties was acquired for the purpose of gaining or producing income from particular mines, and one of the properties was acquired for the purpose of gaining or producing income from only one mine or more than one mine other than any of the particular mines, a separate class must be created for the properties that were acquired for the purpose of gaining or producing income from the particular mines.

s. 130R91.2; O.C. 1697-92, s. 42; O.C. 1454-99, s. 20; O.C. 1282-2003, s. 31.

"**130R173.** Where, by virtue of an agreement, contract or arrangement entered into on or after 31 May 1954, a taxpayer was deemed to have acquired a property of a separate class under the Corporation Tax Act (R.S.Q., 1964, c. 67) or under the Provincial Income Tax Act (R.S.Q., 1964, c. 69) and the taxpayer subsequently effectively acquires the property, such property remains included in the same class.

s. 130R92; O.C. 1981-80, s. 130R92; R.R.Q., 1981, c. I-3, r.1, s. 130R92.

"**130R174.** For the purposes of this Title, each unmanned telecommunication spacecraft included in Class 10 in Schedule B under subparagraph *i* of the first paragraph of that class, or in Class 30 in that schedule, is deemed to be a separate class of property.

s. 130R93; O.C. 1981-80, s. 130R93; R.R.Q., 1981, c. I-3, r.1, s. 130R93; O.C. 1697-92, s. 43.

"**130R175.** For the purposes of this Title, except in the case of a corporation or a partnership described in section 130R92, where more than one property of a taxpayer is described in the same class in Schedule B and where one of the properties is a leasing property and one of the properties is a property other than a leasing property, a separate class is hereby prescribed for properties that are leasing properties and would otherwise be included in the class.

s. 130R94; O.C. 1981-80, s. 130R94; R.R.Q., 1981, c. I-3, r.1, s. 130R94; O.C. 1707-97, s. 98.

"**130R176.** Where a taxpayer has more than one railway car included in Class 35 in Schedule B that is leased or used in Canada in a taxation year, other than a railway car owned by a corporation or by a partnership any member of which is a corporation, that at any time in the year was a common carrier that owned or operated a railway or leased railway cars, through one or more transactions between persons not dealing with each other at arm's length, to an associated corporation that was, at that time, a common carrier that owned or operated a railway, a separate class is hereby prescribed for each of the following:

(*a*) the aggregate of such property acquired by the taxpayer before 3 February 1990, other than property acquired for the purpose of being leased to another person;

(*b*) the aggregate of such property acquired by the taxpayer after 2 February 1990, other than property acquired for the purpose of being leased to another person;

(*c*) the aggregate of such property acquired by the taxpayer before 27 April 1989 for the purpose of being leased to another person; and

(*d*) the aggregate of such property acquired by the taxpayer after 26 April 1989 for the purpose of being leased to another person.

s. 130R95; O.C. 1981-80, s. 130R95; R.R.Q., 1981, c. I-3, r.1, s. 130R95; O.C. 366-94, s. 14; O.C. 1707-97, s. 98.

"**130R177.** A separate class is hereby prescribed for all property included in Class 35 in Schedule B that is acquired after 6 December 1991 and before 28 February 2000 by a taxpayer that at the time of the acquisition is a common carrier owning and operating a railway.

s. 130R95.1; O.C. 1631-96, s. 23; O.C. 1707-97, s. 98; O.C. 1149-2006, s. 11.

"**130R178.** A separate class is hereby prescribed for all property included in Class 35 in Schedule B that is acquired

at a time after 27 February 2000 by a taxpayer that was at that time a common carrier that owned and operated a railway.

s. 130R95.2; O.C. 1149-2006, s. 12.

"**130R179.** A separate class is hereby prescribed for all property included in Class 1 in Schedule B that a taxpayer has acquired after 31 March 1977 and before 1 January 1988 and that is

(*a*) railway track and grading, including components such as rails, ballast, ties and other material;

(*b*) a bridge, culvert, subway or tunnel that is ancillary to railway track or grading; or

(*c*) railway traffic control or signalling equipment, including switching, block signalling, interlocking, crossing protection, detection, speed control or retarding equipment, but not including property that is principally electronic equipment or system software therefor.

s. 130R96; O.C. 1981-80, s. 130R96; O.C. 3211-81, s. 1; R.R.Q., 1981, c. I-3, r.1, s. 130R96; O.C. 2583-85, s. 5; O.C. 1631-96, s. 61.

"**130R180.** A separate class is hereby prescribed for all property included in Class 1 in Schedule B acquired after 6 December 1991 by a taxpayer that at the time of the acquisition is a common carrier owning and operating a railway, and that is

(*a*) railway track and grading, including components such as rails, ballast, ties and other material;

(*b*) a bridge, culvert, subway or tunnel that is ancillary to railway track and grading; or

(*c*) railway traffic control or signalling equipment, including switching, block signalling, interlocking, crossing protection, detection, speed control or retarding equipment, but not including property that is principally electronic equipment or systems software therefor.

s. 130R96.1; O.C. 1631-96, s. 24; O.C. 1707-97, s. 98.

"**130R181.** A separate class is hereby prescribed for all property included in Class 3 in Schedule B that a taxpayer has acquired after 31 March 1977 and before 1 January 1988 and that is trestles ancillary to railway track or grading.

s. 130R97; O.C. 1981-80, s. 130R97; O.C. 3211-81, s. 2; R.R.Q., 1981, c. I-3, r.1, s. 130R97; O.C. 2583-85, s. 6.

"**130R182.** A separate class is hereby prescribed for all property included in Class 3 in Schedule B that is acquired after 6 December 1991 by a taxpayer that at the time of the acquisition is a common carrier owning and operating a railway, where that property is trestles ancillary to railway track and grading.

s. 130R97.0.1; O.C. 1631-96, s. 25; O.C. 1707-97, s. 98.

"**130R183.** A separate class is hereby prescribed for each property of a taxpayer included in Class 36 in Schedule B.

s. 130R97.1; O.C. 2962-82, s. 20; O.C. 500-83, s. 20.

"**130R184.** For the purposes of this Title, where two or more properties of a taxpayer are included in the same class in Schedule B and those properties are not all leasehold interests referred to in section 130R87, a separate class is hereby prescribed for all the properties constituting such leasehold interests that would otherwise be included in that class.

s. 130R97.2; O.C. 2962-82, s. 20; O.C. 500-83, s. 20.

"**130R185.** A separate class is hereby prescribed for each automobile acquired by an individual before 18 June 1987 or after 17 June 1987 pursuant to an obligation in writing entered into before 18 June 1987 and used by the taxpayer in part to earn income and in part for personal use, other than an automobile used by virtue of a permit for transportation of passengers for remuneration.

s. 130R98; O.C. 1981-80, s. 130R98; O.C. 1983-80, s. 10; R.R.Q., 1981, c. I-3, r.1, s. 130R98; O.C. 1697-92, s. 44.

"**130R186.** A separate class is hereby prescribed for each property described in Class 10.1 in Schedule B.

s. 130R98.0.1; O.C. 1697-92, s. 45.

"**130R187.** A separate class is hereby prescribed for each pipeline included in Class 2 in Schedule B and referred to in section 130R188 which is the property of a taxpayer and in respect of which the taxpayer has elected, in the manner referred to in the second paragraph, to apply this section.

Such election must be made by the taxpayer by means of a letter attached to the taxpayer's fiscal return filed pursuant to sections 1000 to 1003 of the Act for the taxation year during which the construction, extension, conversion or program referred to in section 130R188 was completed.

Such election is effective from the first day of the taxation year for which it is made and continues to be effective for all subsequent taxation years.

s. 130R98.1; O.C. 615-88, s. 9; O.C. 366-94, s. 15.

"**130R188.** A pipeline to which section 130R187 may apply is a pipeline of a taxpayer

(*a*) the construction of which began after 31 December 1984 and was completed after 1 September 1985 and the capital cost of which to the taxpayer is not less than $10,000,000;

(*b*) that has been extended or converted, where the extension or conversion was completed after 1 September 1985 and where the capital cost to the taxpayer of the extension or the

cost to the taxpayer of the conversion, as the case may be, is not less than $10,000,000; or

(*c*) that has been extended or converted as part of a single program of extension and conversion, where that program was completed after 1 September 1985 and where the total capital cost to the taxpayer of the extension and the total cost to the taxpayer of the conversion is not less than $10,000,000.

s. 130R98.2; O.C. 615-88, s. 9.

"**130R189.** A separate class is hereby prescribed for all property of a taxpayer included in Class 10 in Schedule B under subparagraph *q* or *r* of the second paragraph of that class.

s. 130R98.3; O.C. 1114-92, s. 16; O.C. 1539-93, s. 10.

"**130R190.** A separate class is hereby prescribed for all property of a corporation included in Class 10 in Schedule B under subparagraph *s* of the second paragraph of that class that is property

(*a*) in respect of which the corporation is deemed under subsection 3 of section 125.4 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) to have paid an amount on account of its tax payable under Part I of that Act for a taxation year; or

(*b*) acquired from another corporation where

i. the other corporation is deemed under subsection 3 of section 125.4 of the Income Tax Act to have paid an amount on account of its tax payable under Part I of that Act for a taxation year in respect of the property, and

ii. the corporations are related to each other throughout the period that began when the other corporation first incurred a qualified labour expenditure, within the meaning of subsection 1 of section 125.4 of the Income Tax Act, in respect of the property and that ended when the other corporation disposed of the property to the corporation.

s. 130R98.3.1; O.C. 1249-2005, s. 9.

"**130R191.** A separate class is hereby prescribed for each property included in Class 38 in Schedule B or in Class 8 of that schedule under paragraph *l* of that class, of which a taxpayer is the owner and in respect of which the taxpayer elected, in the manner referred to in the second paragraph, to apply this section.

Such election must be made by the taxpayer by means of a letter attached to the fiscal return of the taxpayer filed pursuant to sections 1000 to 1003 of the Act for the taxation year in which the property was acquired.

Such election is effective from the first day of the taxation year for which it is made and continues to have effect for all subsequent taxation years.

s. 130R98.4; O.C. 1697-92, s. 46.

"**130R192.** A separate class is hereby prescribed for each property of a taxpayer described in Class 12 in Schedule B under subparagraph *t* of the first paragraph or under the second paragraph of that class.

s. 130R98.5; O.C. 1697-92, s. 46.

"**130R193.** A separate class is hereby prescribed for all property of a taxpayer that is included in Class 12 in Schedule B under subparagraphs i to iii of subparagraph *b* of the fourth paragraph of that class.

s. 130R98.5.1; O.C. 1463-2001, s. 40; O.C. 1470-2002, s. 20.

"**130R194.** A separate class is hereby prescribed for all property of a taxpayer included in Class 12 in Schedule B under subparagraph iv of subparagraph *b* of the fourth paragraph of that class.

s. 130R98.5.2; O.C. 1470-2002, s. 21.

"**130R195.** Where, for a taxation year, a property of a taxpayer or partnership is a specified energy property, a separate class is hereby prescribed in respect of that property for that taxation year and for all subsequent taxation years.

s. 130R98.6; O.C. 91-94, s. 3; O.C. 1707-97, s. 98.

"**130R196.** Despite section 130R175, where at the end of a taxation year a property of a taxpayer is a specified leasing property within the meaning assigned to that expression by the first paragraph of section 130R71, a separate class is hereby prescribed in respect of that property, including any addition or alteration to that property included in the same class in Schedule B, for that taxation year and for all subsequent taxation years.

s. 130R98.7; O.C. 366-94, s. 16.

"**130R197.** A separate class is hereby prescribed for the property included in a class in Schedule B that is exempt property within the meaning assigned to that expression by the first paragraph of section 130R71, of the taxpayer referred to in section 130R92 and in respect of which the taxpayer has elected, in the manner referred to in the second paragraph, to apply this section.

Such election must be made by the taxpayer by means of a letter attached to the taxpayer's fiscal return filed pursuant to sections 1000 to 1003 of the Act for the taxation year during which the property was acquired.

Such election is effective from the first day of the taxation year for which it is made and continues to be effective for all subsequent taxation years.

s. 130R98.8; O.C. 366-94, s. 16.

"**130R198.** A separate class is hereby prescribed for one or more properties of a taxpayer acquired in a taxation year and included in the year in Class 8 in Schedule B, in respect of which the taxpayer has, by means of a letter attached to the taxpayer's fiscal return filed pursuant to sections 1000 to 1003 of the Act for that taxation year, elected to apply this section, where each of the properties has a capital cost to the taxpayer of at least $400 and is

(*a*) computer software;

(*b*) a photocopier; or

(*c*) office equipment that is electronic communications equipment, such as a facsimile transmission device or telephone equipment.

s. 130R98.9; O.C. 1631-96, s. 26; O.C. 1463-2001, s. 41; O.C. 1149-2006, s. 13.

"**130R199.** A separate class is hereby prescribed for one or more properties of a taxpayer acquired in a taxation year and included in the year in Class 43 in Schedule B because of paragraph *a* of that class, in respect of which the taxpayer has, by means of a letter attached to the taxpayer's fiscal return filed pursuant to sections 1000 to 1003 of the Act for that taxation year, elected to apply this section, where each of the properties has a capital cost to the taxpayer of at least $400.

s. 130R98.10; O.C. 1463-2001, s. 42.

"**130R200.** For the purposes of this Title, where one or more properties of a taxpayer are included in the same class in Schedule B and the properties are not all computer software tax shelter property, a separate class is hereby prescribed for all the properties that are computer software tax shelter properties and that would otherwise be included in the class.

s. 130R98.11; O.C. 1282-2003, s. 32.

"**130R201.** A separate class is hereby prescribed for one or more properties of a taxpayer included in Class 7 in Schedule B because of paragraph *j* of that Class if the taxpayer has, by means of a letter attached to the taxpayer's fiscal return filed pursuant to sections 1000 to 1003 of the Act for the taxation year in which the property or properties were acquired, elected to apply this section to the property or properties.

s. 130R98.13; O.C. 1116-2007, s. 12.

"**130R202.** A separate class is hereby prescribed for one or more properties of a taxpayer included in Class 49 in Schedule B if the taxpayer has, by a letter attached to the taxpayer's fiscal return filed in accordance with sections 1000 to 1003 of the Act for the taxation year in which the property or properties were acquired, elected that this section apply to the property or properties.

s. 130R98.14; O.C. 1116-2007, s. 12.

"**130R203.** A reference in this Title to a class mentioned in Schedule B includes a reference to the corresponding separate classes established by this chapter.

s. 130R99; O.C. 1981-80, s. 130R99; R.R.Q., 1981, c. I-3, r.1, s. 130R99.

"**CHAPTER VI**

"PROPERTY NOT INCLUDED

chap. VI; O.C. 1981-80, title VI, chap. VI; R.R.Q., 1981, c. I-3, r.1, title VI, chap. VI.

"**130R204.** The property described in this chapter is excluded from the application of this Title and Schedule B and does not give rise to any capital cost allowance.

s. 130R100; O.C. 1981-80, s. 130R100; R.R.Q., 1981, c. I-3, r.1, s. 130R100.

"**130R205.** Property excluded from the application of this Title and Schedule B is property

(*a*) the cost of which would be deductible in computing the taxpayer's income but for Divisions I to IV.1 of Chapter X of Title VI of Book III of Part I of the Act;

(*b*) the cost of which is included in the taxpayer's Canadian renewable and conservation expense within the meaning assigned by section 399.7R1;

(*c*) that is described in the taxpayer's inventory;

(*d*) that was not acquired by the taxpayer for the purpose of gaining or producing income;

(*e*) that was acquired by an expenditure in respect of which the taxpayer is allowed a deduction in computing the taxpayer's income under sections 222 to 230 of the Act;

(*f*) that is mentioned in section 134 of the Act and acquired after 31 December 1974 and in respect of which an amount disbursed or expended by the taxpayer for its use or maintenance is not deductible under that section if such property is not property

i. that the taxpayer was required to acquire under the terms of an agreement in writing entered into before 13 November 1974, or

ii. whose construction was commenced by the taxpayer before 13 November 1974 or was commenced under an agreement in writing entered into by the taxpayer before that

date if, in each case, it is completed substantially according to plans and specifications agreed to by the taxpayer before that date;

(*g*) in respect of which an allowance is claimed and permitted in accordance with Title XIII;

(*h*) that was deemed under section 18 of the Income Tax Act (Statutes of Canada), enacted by subsection 1 of section 8 of Chapter 32 of the Statutes of Canada, 1958, to have been acquired by the taxpayer and that did not vest in the taxpayer before the 1963 taxation year;

(*i*) of a life insurer and used or held by the life insurer in the carrying on of an insurance business outside Canada;

(*j*) that the taxpayer acquired after 12 November 1981, that was not acquired from a person with whom the taxpayer did not deal at arm's length, otherwise than under a right referred to in paragraph *b* of section 20 of the Act, at the time of the acquisition, if the property was acquired in one of the circumstances in which section 130R148 applies, and that is

i. a drawing, a print, an etching, a sculpture, a painting or other similar work of art, whose cost to the taxpayer was at least $200 and of which the artist was not a Canadian at the time the property was created,

ii. a hand-woven tapestry or carpet or a hand-made appliqué, whose cost to the taxpayer was at least $215 per square metre, and of which the artist was not a Canadian at the time the property was created,

iii. an engraving or etching, a lithograph, a woodcut or a geographical or a marine chart, made before 1 January, 1900, or

iv. an antique object made more than 100 years before the time of its acquisition and whose cost to the taxpayer was at least $1,000; and

(*k*) that is linefill in a pipeline.

In subparagraphs i and ii of subparagraph *j* of the first paragraph, "Canadian" means a Canadian citizen within the meaning of the Citizenship Act (Revised Statutes of Canada, 1985, chapter C-29) or a permanent resident within the meaning of the Immigration and Refugee Protection Act (Statutes of Canada, 2001, chapter 27).

s. 130R101; O.C. 1981-80, s. 130R101; O.C. 3926-80, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 130R101; O.C. 2847-84, s. 10; O.C. 35-96, s. 86; O.C. 1631-96, s. 27; O.C. 1466-98, s. 27; O.C. 1470-2002, s. 22; O.C. 1155-2004, s. 15.

"**130R206.** In the case of a taxpayer who is a member of a partnership, the classes of property described in this Title and in Schedule B are deemed not to include any property that is an interest of the taxpayer in depreciable property of the partnership.

s. 130R102; O.C. 1981-80, s. 130R102; R.R.Q., 1981, c. I-3, r.1, s. 130R102; O.C. 1707-97, s. 98.

"**130R207.** The classes of property described in Schedule B are deemed not to include the land upon which a property described therein was constructed or is situated.

s. 130R103; O.C. 1981-80, s. 130R103; R.R.Q., 1981, c. I-3, r.1, s. 130R103.

"**130R208.** Where the taxpayer is not resident in Canada, the classes of property described in this Title and in Schedule B are deemed not to include property that is situated outside Canada.

s. 130R104; O.C. 1981-80, s. 130R104; R.R.Q., 1981, c. I-3, r.1, s. 130R104.

"**CHAPTER VII**

"SPECIAL CASES

chap. VII; O.C. 1981-80, title VI, chap. VII; R.R.Q., 1981, c. I-3, r.1, title VI, chap. VII.

"**DIVISION I**

"TIMBER LIMITS AND CUTTING RIGHTS

div. I; O.C. 1981-80, title VI, chap. VII, div. I; R.R.Q., 1981, c. I-3, r.1, title VI, chap. VII, div. I.

"**130R209.** This division applies in respect of a timber limit or a right to cut timber that is not a timber resource property.

s. 130R105; O.C. 1981-80, s. 130R105; R.R.Q., 1981, c. I-3, r.1, s. 130R105.

"**130R210.** A taxpayer may deduct in computing the taxpayer's income for a taxation year, in respect of the capital cost of a timber limit or of a cutting right, the lesser of such undepreciated capital cost, before any deduction under this division and, the amount computed under section 130R211.

s. 130R106; O.C. 1981-80, s. 130R106; R.R.Q., 1981, c. I-3, r.1, s. 130R106.

"**130R211.** The amount to which section 130R210 refers is the aggregate of an amount computed on the basis of a rate determined under sections 130R212 to 130R214 per cubic metre of timber cut in the year and the lesser of

(*a*) one tenth of the amount expended by the taxpayer after the commencement of the 1949 taxation year for surveys, cruises or preparation of prints, maps and plans for the purpose of obtaining a timber limit or cutting right, where

such amount is included in the capital cost to the taxpayer of the timber limit or cutting right; and

(*b*) the amount by which the amount so expended exceeds the amounts deducted by the taxpayer under this paragraph and paragraph *a* for the taxpayer's previous taxation years.

s. 130R107; O.C. 1981-80, s. 130R107; R.R.Q., 1981, c. I-3, r.1, s. 130R107.

"**130R212.** Where the taxpayer has not been granted an allowance in respect of a timber limit or cutting right in computing the taxpayer's income for a previous taxation year, the rate referred to in section 130R211 is the amount equal to the quotient obtained by dividing the amount by which the capital cost of the limit or right exceeds the aggregate of the estimated value of the property if the merchantable timber were removed and the amount referred to in paragraph *a* of section 130R211 by the quantity of timber, expressed in cubic metres of timber, in the timber limit or that the taxpayer has obtained a right to cut, as shown by a *bona fide* cruise.

s. 130R108; O.C. 1981-80, s. 130R108; R.R.Q., 1981, c. I-3, r.1, s. 130R108.

"**130R213.** Where the taxpayer has been granted an allowance in respect of a timber limit or cutting right in computing the taxpayer's income for a previous taxation year, the rate computed in section 130R212 is, except where section 130R214 applies, the rate employed to determine the allowance for the last year for which an allowance was granted.

s. 130R109; O.C. 1981-80, s. 130R109; R.R.Q., 1981, c. I-3, r.1, s. 130R109.

"**130R214.** In the case described in section 130R213, where it is established that the quantity of timber that is in the limit or that the taxpayer has a right to cut is in fact substantially different from the quantity that was employed in determining the rate for the last year for which an allowance was granted, the rate referred to in section 130R211 is the amount equal to the quotient obtained by dividing the amount by which the undepreciated capital cost to the taxpayer of the limit or right at the beginning of the year exceeds the estimated value of the property if the merchantable timber were removed by the estimated quantity of timber, expressed in cubic metres, that is in the limit or that could be subject to a cutting right, at the beginning of the year.

The same rule applies where it is established that the capital cost of the limit or cutting right is substantially different from the amount that was employed in determining the rate used for that last year.

s. 130R110; O.C. 1981-80, s. 130R110; R.R.Q., 1981, c. I-3, r.1, s. 130R110.

"**130R215.** Despite the deduction determined under sections 130R211 to 130R214, the taxpayer may elect for a taxation year that the deduction be the lesser of $100 and the amount received by the taxpayer in the taxation year from the sale of the timber.

s. 130R111; O.C. 1981-80, s. 130R111; R.R.Q., 1981, c. I-3, r.1, s. 130R111.

"**DIVISION II**

"INDUSTRIAL MINERAL MINES

div. II; O.C. 1981-80, title VI, chap. VII, div. II; R.R.Q., 1981, c. I-3, r.1, title VI, chap. VII, div. II.

"**130R216.** A taxpayer may deduct, in computing the taxpayer's income for a taxation year, the amounts provided in this division in respect of the capital cost of an industrial mineral mine or of a right to remove industrial minerals from such mine, hereinafter respectively called "mine" and "right".

s. 130R112; O.C. 1981-80, s. 130R112; R.R.Q., 1981, c. I-3, r.1, s. 130R112.

"**130R217.** The amount that may be deducted by a taxpayer under this division is the lesser of the amount computed on the basis of a rate determined under sections 130R218 to 130R220 per unit of mineral mined in the taxation year and that of the undepreciated capital cost to the taxpayer of the mine or right at the end of the taxation year, before any deduction under this division.

s. 130R113; O.C. 1981-80, s. 130R113; R.R.Q., 1981, c. I-3, r.1, s. 130R113.

"**130R218.** Where the taxpayer has not been granted an allowance in respect of a mine or right in computing the taxpayer's income for a previous taxation year, the rate referred to in section 130R217 is the amount equal to the quotient obtained by dividing the amount by which the capital cost to the taxpayer of the mine or right exceeds the estimated value of the property if all merchantable mineable material were removed by the specified number of units of material that the taxpayer acquired the right to remove or, in any other case, the number of units of merchantable mineable material estimated as being in the mine when the mine or right was acquired.

s. 130R114; O.C. 1981-80, s. 130R114; R.R.Q., 1981, c. I-3, r.1, s. 130R114.

"**130R219.** Where the taxpayer has been granted an allowance in respect of a mine or a right in computing the taxpayer's income for a previous taxation year, the rate referred to in section 130R218 is, except where section 130R220 applies, that employed to determine the allowance for the last year for which an allowance was granted.

s. 130R115; O.C. 1981-80, s. 130R115; R.R.Q., 1981, c. I-3, r.1, s. 130R115.

"**130R220.** In the case referred to in section 130R219, where it is established that the number of units of material remaining to be mined in the previous taxation year was substantially different from that employed in determining the rate used for the last year for which an allowance was granted, the rate described in section 130R217 is the amount equal to the quotient obtained by dividing the amount by which the undepreciated capital cost to the taxpayer of the mine or right at the beginning of the year exceeds the estimated value of the property if all merchantable mineable material were removed by the specified number of units that the taxpayer had a right to remove, at the beginning of the year, or in any other case, the number of units of merchantable mineable material estimated as remaining in the mine at the beginning of the year.

The same rule applies where it is established that the capital cost of the mine or right is substantially different from the amount that was employed in determining the rate used for that year.

s. 130R116; O.C. 1981-80, s. 130R116; R.R.Q., 1981, c. I-3, r.1, s. 130R116.

"**130R221.** Despite the deduction provided in sections 130R217 to 130R220, the taxpayer may elect, for the taxation year, that the deduction be the lesser of $100 and the amount received by the taxpayer in the year from the sale of mineral.

s. 130R117; O.C. 1981-80, s. 130R117; R.R.Q., 1981, c. I-3, r.1, s. 130R117.

"**DIVISION III**

"RAILWAY SIDINGS

div. IV; O.C. 1981-80, title VI, chap. VII, div. IV; R.R.Q., 1981, c. I-3, r.1, title VI, chap. VII, div. IV.

"**130R222.** Where a taxpayer, other than an operator of a railway system, has made a capital expenditure pursuant to a contract or arrangement with an operator of a railway system under which a railway siding that does not become the taxpayer's property is constructed to provide service to the taxpayer's place of business or to a property acquired by the taxpayer for the purpose of gaining or producing income, the latter, in computing income from the business or property for the taxation year, is allowed a deduction not exceeding 4% of any amount remaining, after deducting from the capital expenditure the aggregate of all amounts previously allowed as deductions in respect of the expenditure.

s. 130R120; O.C. 1981-80, s. 130R120; R.R.Q., 1981, c. I-3, r.1, s. 130R120; O.C. 1707-97, s. 22.

"**TITLE XIII**

"DEPRECIATION WITH RESPECT TO FARMING AND FISHING

title VII; O.C. 1981-80, title VII; R.R.Q., 1981, c. I-3, r.1, title VII.

"**130R223.** A taxpayer who, in computing the taxpayer's income for a taxation year from farming or fishing, has elected to have the provisions of the Corporation Tax Act (R.S.Q., 1964, c. 67) or of the Provincial Income Tax Act (R.S.Q., 1964, c. 69) apply and has deducted a part of the capital cost of property used for the purpose of gaining or producing income for farming or fishing in accordance with the method allowed under Part XVII of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1952, chapter 148) as it read on 31 December 1971, may still use such method in respect of any such property acquired before 1972 and, for such purpose, that Part XVII of this Regulation applies to determine the amount that may be deducted under paragraph *a* of section 130 of the Act.

s. 130R200; O.C. 1981-80, s. 130R200; R.R.Q., 1981, c. I-3, r.1, s. 130R200; O.C. 35-96, s. 86.

"**TITLE XIV**

"TERMINAL LOSS

title VIII; O.C. 1981-80, title VIII; O.C. 1983-80, s. 11; R.R.Q., 1981, c. I-3, r.1, title VIII.

"**130.1R1.** For the purposes of the third paragraph of section 130.1 of the Act, the prescribed amount is $16,000.

Despite the first paragraph, the prescribed amount is the capital cost, otherwise determined, of the automobile to the taxpayer where it is an automobile

(*a*) acquired by the taxpayer before 19 April 1978;

(*b*) used under a permit to transport passengers for remuneration; or

(*c*) intended to be leased to a person by the taxpayer, if the principal business of the taxpayer is the leasing of automobiles to persons dealing at arm's length with the taxpayer.

s. 130.1R1; O.C. 1981-80, s. 130.1R1; O.C. 1983-80, s. 11; R.R.Q., 1981, c. I-3, r.1, s. 130.1R1; O.C. 2847-84, s. 11; O.C. 1697-92, s. 48.

"**130.1R2.** For the purposes of the third paragraph of section 130.1 of the Act, the prescribed part of the excess amount referred to in the first paragraph of that section at the end of a taxation year in respect of the depreciable property of a taxpayer of a class referred to in Schedule B that includes an automobile is

(*a*) where the year is a taxation year beginning before 18 June 1987 and ending after 31 December 1987, and

where the automobile was acquired by the taxpayer after 17 June 1987 otherwise than in accordance with an obligation in writing entered into before 18 June 1987 and is not an automobile described in subparagraph *c* of the second paragraph of section 130.1R1, an amount equal to what that excess amount would be if the cost of the automobile to the taxpayer did not exceed $16,000; and

(*b*) in all other cases, an amount equal to what that excess amount would be if

i. the cost of the automobile to the taxpayer, other than an automobile described in subparagraph *a* or *c* of the second paragraph of section 130.1R1 or a passenger vehicle that the taxpayer acquired during the 1987 taxation year, did not exceed $16,000; and

ii. where the year is the 1988 taxation year or a taxation year subsequent to the 1988 taxation year and where the taxpayer has, without interruption since the year in question, used the automobile in part for the purpose of earning income and in part for personal use, the aggregate of the amounts each of which is an amount that the taxpayer deducted as an allowance in respect of the automobile in computing the taxpayer's income for a preceding taxation year, referred to as "particular preceding taxation year" in this subparagraph, for which section 130R4 of the preceding Regulation, within the meaning of section 2000R1, applied in respect of the automobile and which, where applicable, is not a taxation year that ended before a taxation year preceding to the 1988 taxation year, for which that section 130R4 did not apply in respect of the automobile, was equal to the aggregate of the amounts each of which is an amount determined, according to the formula in subparagraph *b* of the first paragraph of section 130R21, in respect of the automobile for a particular preceding taxation year.

s. 130.1R2; O.C. 1697-92, s. 49.

"**TITLE XV**

"ALLOWANCE FOR THE USE OF AN AUTOMOBILE

title IX; O.C. 1981-80, title IX; R.R.Q., 1981, c. I-3, r.1, title IX; O.C. 1697-92, s. 50.

"**133.2.1R1.** For the purposes of section 133.2.1 of the Act, the amount prescribed in respect of the use of one or more automobiles in a taxation year by an individual for kilometres driven in the year for the purpose of earning income of the individual is the aggregate of

(*a*) the product obtained by multiplying $0.50 by the number of those kilometres, up to and including 5,000;

(*b*) the product obtained by multiplying $0.44 by the number of those kilometres in excess of 5,000; and

(*c*) the product obtained by multiplying $0.04 by the number of those kilometres driven in the Yukon Territory, the Northwest Territories or Nunavut.

s. 133.2.1R1; O.C. 1697-92, s. 52; O.C. 1463-2001, s. 43; O.C. 1470-2002, s. 23; O.C. 1155-2004, s. 16; O.C. 1149-2006, s. 15; O.C. 1116-2007, s. 13.

"**TITLE XVI**

"OTHER DEDUCTIONS

title X; O.C. 1981-80, title X; R.R.Q., 1981, c. I-3, r.1, title X.

"**CHAPTER I**

"PRESCRIBED RESERVE AMOUNT AND RECOVERY RATE

chap. I.1; O.C. 366-94, s. 17.

"**140.1R1.** In this chapter,

"designated country" has the meaning assigned by the Guidelines for banks established pursuant to section 175 of the Bank Act (Revised Statutes of Canada, 1985, chapter B-1), as it read in its version of 31 May 1992, and issued by the Office of the Superintendent of Financial Institutions of Canada, as amended from time to time;

"exposure to a designated country" has the same meaning as in the Guidelines for banks established pursuant to section 175 of the Bank Act, as it read in its version of 31 May 1992, and issued by the Office of the Superintendent of Financial Institutions of Canada, as amended from time to time;

"general provisions" means the general country risk provisions within the meaning of the Guidelines for banks established pursuant to section 175 of the Bank Act, as it read in its version of 31 May 1992, and issued by the Office of the Superintendent of Financial Institutions of Canada, as amended from time to time;

"provisionable assets" has the same meaning as in the Guidelines for banks established pursuant to section 175 of the Bank Act, as it read in its version of 31 May 1992, and issued by the Office of the Superintendent of Financial Institutions of Canada, as amended from time to time;

"specific provisions" has the meaning assigned by the Guidelines for banks established pursuant to section 175 of the Bank Act, as it read in its version of 31 May 1992, and issued by the Office of the Superintendent of Financial Institutions of Canada, as amended from time to time;

"specified loan" means

(*a*) a United Mexican States Collateralized Par Bond maturing in 2019; or

(*b*) a United Mexican States Collateralized Discount Bond maturing in 2019.

s. 140.1R1; O.C. 366-94, s. 17; O.C. 35-96, s. 86; O.C. 1633-96, s. 4; O.C. 1470-2002, s. 24.

"**140.1R2.** For the purposes of subparagraph *a* of the first paragraph of section 140.1 of the Act, the prescribed reserve amount for a taxpayer for a taxation year means the aggregate of

(*a*) where the taxpayer is a bank, an amount equal to the lesser of the following amounts:

i. the reserve amount reported in its annual report for the year that is filed with and accepted by the Superintendent of Financial Institutions of Canada or, where the taxpayer was subject to the supervision of the Superintendent of Financial Institutions of Canada throughout the year but was not required to file an annual report with the Superintendent for the year, in its financial statements for the year, as general provisions or as specific provisions in respect of exposures to designated countries that are related to loans or lending assets made or acquired by it in the ordinary course of its business, and

ii. an amount in respect of its loans or lending assets at the end of the year that were made or acquired by it in the ordinary course of its business and reported for the year to the Superintendent of Financial Institutions of Canada, pursuant to the guidelines established by the Superintendent, as being part of the aggregate of the exposures to designated countries for the taxpayer, for the purpose of determining the taxpayer's general provisions or specific provisions referred to in subparagraph i, or that the taxpayer acquired after 16 August 1990 and reported for the year to the Superintendent of Financial Institutions of Canada, pursuant to the guidelines established by the Superintendent, as an exposure to a designated country, referred to in the second paragraph as "loans" equal to the positive or negative amount, as the case may be, determined by the following formula:

[45% × (A + B)] − (B + C); and

(*b*) where the taxpayer is a bank, the positive or negative amount that would be determined by the formula referred to in subparagraph ii of subparagraph *a*, in respect of specified loans owned by the taxpayer at the end of the year, if that subparagraph ii applied in respect of the loans.

In the formula in subparagraph ii of subparagraph *a* of the first paragraph,

(*a*) A is the aggregate of the amounts each of which is equal to the amount that would be the amortized cost of a loan to the taxpayer at the end of the year if section 21.26 of the Act were read without reference to its paragraph *e* and section 21.27 of the Act without reference to its paragraph *d*;

(*b*) B is the aggregate of the amounts each of which is equal to the amount by which the principal amount of a loan outstanding at the time it was acquired by the taxpayer exceeds the amortized cost of the loan to the taxpayer immediately after that time; and

(*c*) C is the aggregate of the amounts each of which is equal to

i. an amount deducted in respect of a loan under subparagraph *b* of the first paragraph of section 140.1 of the Act in computing the taxpayer's income for the year, or

ii. an amount in respect of a loan representing the amount by which the aggregate of the amounts deducted in respect of the loan under section 141 of the Act in computing the taxpayer's income for the year or a preceding taxation year exceeds the aggregate of the amounts included in respect of the loan under paragraph *i* of section 87 of the Act in computing the taxpayer's income for the year or a preceding taxation year.

s. 140.1R2; O.C. 366-94, s. 17; O.C. 1466-98, s. 126; O.C. 1463-2001, s. 44; O.C. 1470-2002, s. 25.

"**140.1R3.** The loans and lending assets of a taxpayer referred to in subparagraph ii of subparagraph *a* of the first paragraph of section 140.1R2 do not include the loans and lending assets acquired by the taxpayer before 1 November 1988 from a person with whom the taxpayer dealt at arm's length, if the taxpayer elects to have this section apply by notifying the Minister in writing, with supporting evidence, that the taxpayer has made a valid election with the Minister of National Revenue under section 8003 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) concerning the application of subparagraph ii of paragraph *a* of section 8000 of those Regulations.

s. 140.1R3; O.C. 366-94, s. 17; O.C. 35-96, s. 86; O.C. 1466-98, s. 126; O.C. 1451-2000, s. 66

"**140.1R4.** For the purposes of subparagraph ii of subparagraph *a* of the first paragraph of section 140.1R2, the rules in the second paragraph apply where a loan or lending asset of a person related to a taxpayer, referred to in this section as the "holder",

(*a*) was reported by the taxpayer for the year to the Superintendent of Financial Institutions of Canada, pursuant to the guidelines established by the Superintendent, as an exposure to a designated country;

(*b*) was acquired by the holder, or by another person related to the taxpayer, after 16 August 1990, as part of a series of transactions or events in which the taxpayer or a person related to the taxpayer disposed of a loan or lending asset that

i. is, for the taxation year immediately preceding the year during which it was disposed of, a loan or lending asset that the taxpayer reported to the Superintendent of Financial Institutions of Canada, pursuant to the guidelines established by the Superintendent, as an exposure to a designated country, and

ii. is a loan or lending asset in respect of which the loss that would result from the disposition thereof would be a loss in respect of which the taxpayer or a person related to the taxpayer could claim a deduction under Part I of the Act; and

(*c*) had an amortized cost to the holder, immediately after the time of its acquisition by the holder, of less than 55% of its principal amount.

The rules referred to in the first paragraph are the following:

(*a*) the loan or lending asset is deemed

i. to be a loan or lending asset of the taxpayer at the end of the year,

ii. to be a loan or lending asset of the taxpayer acquired by the taxpayer at the time of its acquisition by the holder, and

iii. to have an amortized cost to the taxpayer, at any time, equal to its amortized cost to the holder at that time; and

(*b*) the amounts deducted in respect of the loan or lending asset under section 141 of the Act or included under paragraph *i* of section 87 of the Act in computing the income of the holder for a particular year are deemed to have been so deducted or included, as the case may be, in computing the taxpayer's income for the year during which the particular year ends.

s. 140.1R4; O.C. 366-94, s. 17; O.C. 1466-98, s. 126.

"**140.1R5.** For the purposes of subparagraph *b* of the second paragraph of section 140.1R2, the following rules apply:

(*a*) the principal amount outstanding at any time of a lending asset of a taxpayer that is a share of the capital stock of a corporation is equal to the part of the consideration received by the corporation for the issue of the share that is outstanding at that time;

(*b*) where a taxpayer realizes a loss on the disposition of a loan or lending asset described in subparagraph ii of subparagraph *a* of the first paragraph of section 140.1R2 or on the disposition of a specified loan described in subparagraph *b* of that first paragraph, referred to in this paragraph as the "former loan", for consideration that included another loan or lending asset that was a loan or lending asset described in that subparagraph ii or in that subparagraph *b*, referred to in this paragraph as the "new loan", and where, in the case of a former loan that is not a specified loan, that loss is included in computing the taxpayer's provisionable assets, as reported for the year with the Superintendent of Financial Institutions of Canada, pursuant to the guidelines established by the Superintendent, for the purpose of determining the taxpayer's general provisions or specific provisions in respect of exposures to designated countries, the principal amount of the new loan outstanding at the time it was acquired by the taxpayer is deemed to be equal to the principal amount of the former loan outstanding immediately before that time; and

(*c*) where, at the end of a particular taxation year, a taxpayer is the owner of a specified loan that was described in an inventory of the taxpayer at the end of the preceding taxation year, the amortized cost of the specified loan for the taxpayer at the end of the particular taxation year is equal to its value determined in accordance with sections 83 to 85.6 of the Act at the end of the preceding taxation year for the purposes of computing the taxpayer's income for that preceding year.

s. 140.1R6; O.C. 366-94, s. 17; O.C. 1707-97, s. 98; O.C. 1470-2002, s. 27.

"**CHAPTER II**

"MINING TAXES

chap. II; O.C. 1981-80, title X, chap. II; R.R.Q., 1981, c. I-3, r.1, title X, chap. II; O.C. 1116-2007, s. 15.

"**143R1.** In this chapter,

"income" of a taxpayer for a taxation year from mining operations in a province means the income, for the taxation year, that is derived from mining operations in the province as computed under the laws of the province that impose an eligible tax described in the second paragraph of section 143R2;

"mine" includes any work or undertaking in which a mineral ore is extracted or produced and includes a quarry;

"mineral ore" includes an unprocessed mineral or mineral-bearing substance;

"mining operations" means

(*a*) the extraction or production of mineral ore from or in a mine;

(*b*) the transportation of mineral ore to the point of egress from the mine; and

(*c*) the processing of

i. mineral ore, other than iron ore, to a stage that is not beyond the prime metal stage or its equivalent, and

ii. iron ore to a stage that is not beyond the pellet stage or its equivalent;

"non-Crown royalty" means a royalty contingent on production of a mine or computed by reference to the volume or value of production from mining operations in a province but does not include a royalty that is payable to the

State or Her Majesty in right of Canada or a province other than Québec;

"processing" includes all forms of beneficiation, smelting and refining.

s. 143R1; O.C. 1981-80, s. 143R1; R.R.Q., 1981, c. I-3, r.1, s. 143R1 ; O.C. 1116-2007, s. 16.

"**143R2.** For the purposes of section 143 of the Act, the amount allowed in respect of taxes on income from mining operations of a taxpayer for a taxation year is the aggregate of all amounts each of which is an eligible tax referred to in the second paragraph that is paid or payable by the taxpayer

(*a*) on the income of the taxpayer for the taxation year from mining operations; or

(*b*) on a non-Crown royalty included in computing the income of the taxpayer for the taxation year.

An eligible tax is

(*a*) a tax, on the income of a taxpayer for a taxation year from mining operations in a province, that is

i. levied under a law of the province,

ii. imposed only on persons engaged in mining operations in the province, and

iii. paid or payable to

(1) the province,

(2) an agent or mandatary of Her Majesty in right of the province, or

(3) a municipality in the province, in lieu of taxes on property or on any interest in property, or any right in property, other than in lieu of taxes on residential property or on any interest, or any right, in residential property; and

(*b*) a tax, on an amount received or receivable by a person as a non-Crown royalty, that is

i. levied under a law of a province,

ii. imposed specifically on persons who hold a non-Crown royalty on mining operations in the province, and

iii. paid or payable to the province or to an agent or mandatary of Her Majesty in right of the province.

s. 143R5; O.C. 1981-80, s. 143R5; R.R.Q., 1981, c. I-3, r.1, s. 143R5; O.C. 1116-2007, s. 18.

"**CHAPTER III**

" DEDUCTION IN RESPECT OF RESOURCE PROFITS

chap. III; O.C. 1981-80, title X, chap. III; R.R.Q., 1981, c. I-3, r.1, title X, chap. III.

"**145R1.** For the purpose of computing the income of a taxpayer for a taxation year that begins before 1 January 2007, the amount to which the first paragraph of section 145 of the Act refers is the amount determined by the formula

$[0.25 \times (A - B)] - C.$

In the formula in the first paragraph,

(*a*) A is the taxpayer's adjusted resource profits for the year;

(*b*) B is the aggregate of all amounts each of which is a Canadian exploration and development overhead expense, within the meaning given to that expression by section 360R2, made or incurred by the taxpayer in the year, other than an amount included therein because of section 181 or 182 of the Act; and

(*c*) C is the amount by which the aggregate that would be determined under subparagraph *b* of the second paragraph of section 360R42 in computing the taxpayer's earned depletion base at the end of the year, other than any portion of that aggregate determined under subparagraph v of that paragraph as a consequence of a disposition in the year of property in circumstances to which section 360R18 applies, exceeds the aggregate that would be determined under subparagraph *a* of the second paragraph of section 360R42 in computing the taxpayer's earned depletion base at the end of the year.

s. 145R1; O.C. 1981-80, s. 145R1; R.R.Q., 1981, c. I-3, r.1, s. 145R1; O.C. 2962-82, s. 24; O.C. 500-83, s. 24; O.C. 2509-85, s. 4; O.C. 91-94, s. 4; O.C. 35-96, s. 8; O.C. 1466-98, s. 28; O.C. 1249-2005, s. 11.

"**145R2.** For the purposes of this chapter, "adjusted resource profits" of a taxpayer for a taxation year means the amount, which may be positive or negative, determined by the formula

$A + B - C.$

In the formula in the first paragraph,

(*a*) A is the aggregate of the taxpayer's resource profits for the year in respect of a mining business, within the meaning of section 360R24, and the taxpayer's resource profits for the year in respect of an oil business, within the meaning of section 360R27, computed as if

i. the amount determined under paragraph *a* of sections 360R21 and 360R25 were equal to zero,

ii. section 360R21 were read without reference to subparagraph iii of paragraph *b* thereof,

iii. the first paragraph in section 360R3 were read without reference to subparagraph *e* thereof,

iv. the following amounts were not deducted in computing the taxpayer's gross resource profits and resource profits for the year in respect of a mining business or oil business, determined in accordance with sections 360R21 to 360R27:

(1) each amount deducted in computing the taxpayer's income for the year in respect of a rental or royalty paid or payable by the taxpayer, other than an amount prescribed in section 91R1, an amount paid or payable in respect of a specified royalty, within the meaning given to that expression by section 360R2, or an amount that is a production royalty within the meaning given to that expression by section 360R2, computed by reference to the amount or value of petroleum, natural gas or related hydrocarbons produced from a natural accumulation, other than a resource within the meaning given to that expression by section 360R2, of petroleum or natural gas in Canada or an oil or gas well in Canada, or produced from a resource, within the meaning given to that expression by section 360R2, that is a bituminous sands deposit, oil sands deposit or oil shale deposit,

(2) each amount deducted in computing the taxpayer's income for the year under any of sections 147, 176, 176.4, 176.6 and 179 of the Act, or as, on account of or in lieu of, interest in respect of a debt owed by the taxpayer, and

(3) each amount deducted under section 145 or Chapter X of Title VI of Book III of Part I of the Act or under section 88.4 of the Act respecting the application of the Taxation Act (R.S.Q., c. I-4),

v. each amount that is the taxpayer's share of the income or loss of a partnership from any source were not taken into account, and

vi. sections 360R21 to 360R27 provided for the computation of negative amounts where the amounts subtracted in computing gross resource profits and resource profits in respect of a mining business or in respect of an oil business exceed the amounts added in computing those amounts;

(*b*) B is the aggregate of all amounts each of which is the taxpayer's share of the adjusted resource profits of a partnership for the year, determined in accordance with sections 145R3 and 145R4; and

(*c*) C is the amount by which the aggregate of the following amounts exceeds the amount determined in accordance with the third paragraph:

i. the aggregate of all amounts, each of which is an amount included in the taxpayer's gross resource profits for the year in respect of a mining business or oil business, determined in accordance with section 360R21 or 360R25, as the case may be, as a rental or royalty, other than a specified royalty within the meaning given to that expression by section 360R2 or a production royalty within the meaning given to that expression by section 360R2, computed by reference to the amount or value of petroleum, natural gas or related hydrocarbons produced from a natural accumulation, other than a resource within the meaning given to that expression by section 360R2, of petroleum or natural gas in Canada or an oil or gas well in Canada, or produced from a resource, within the meaning given to that expression by section 360R2, that is a bituminous sands deposit or oil shale deposit, and

ii. 50% of the amounts included in the taxpayer's gross resource profits for the year in respect of a mining business or oil business, determined in accordance with section 360R21 or 360R25, as the case may be, in respect of specified royalties.

The amount referred to in subparagraph *c* of the second paragraph is equal to the total, where the taxation year ends after 6 March 1996, of all outlays and expenses that were made or incurred in respect of the aggregate described in subparagraph i of subparagraph *c* of the second paragraph, to the extent that the outlays and expenses were deducted in computing the taxpayer's gross resource profits in respect of a mining business or oil business for the year.

s. 145R1.1; O.C. 2509-85, s. 4; O.C. 91-94, s. 5; O.C. 35-96, s. 9; O.C. 1466-98, s. 28; O.C. 1451-2000, s. 5; O.C. 1470-2002, s. 29.

"**145R3.** Where a taxpayer is a member of a partnership in a fiscal period of the partnership that ends in a taxation year of the taxpayer, the taxpayer's share of the partnership's adjusted resource profits for the year is equal to

(*a*) zero, where the fiscal period of the partnership began before 21 December 1991; and

(*b*) in any other case, the amount, which may be positive or negative, that could, but for this section, reasonably be considered to represent the taxpayer's share of the partnership's adjusted resource profits for the fiscal period, each partnership being, in that respect, deemed to be a taxpayer the fiscal period of which is a taxation year.

s. 145R2; O.C. 1981-80, s. 145R2; R.R.Q., 1981, c. I-3, r.1, s. 145R2; O.C. 1707-97, s. 98; O.C. 1466-98, s. 28.

"**145R4.** Despite section 145R3, where a taxpayer is a member of an exempt partnership, within the meaning given to that expression by section 360R2, in a fiscal period of the partnership that begins before 1 January 2000 and ends in a taxation year of the taxpayer, and the taxpayer's share of the partnership's adjusted resource profits for the year would, but for this section, be a negative amount, the taxpayer's share of the partnership's adjusted resource profits for the year is deemed to be equal to the product obtained, which may be positive or negative, when the particular amount is multiplied

(*a*) by zero, where the partnership is an exempt partnership, within the meaning given to that expression by section 360R2, in respect of the taxpayer at the end of the fiscal period and, at that time, all or substantially all of the assets of the partnership were held in connection with one or more working interests the production from which began in reasonable commercial quantities before 21 December 1991 or the production from which was to begin in reasonable commercial quantities after 20 December 1991 in accordance with an agreement in writing made before 21 December 1991; or

(*b*) in any other case, by the lesser of one and the fraction that the amount that would be the partnership's adjusted resource profits for the fiscal period if the partnership did not have any working interest described in paragraph *a*, is of the partnership's adjusted resource profits for the fiscal period.

s. 145R3; O.C. 1466-98, s. 29; O.C. 1116-2007, s. 20.

"**CHAPTER IV**

" ALLOWANCES

chap. IV; O.C. 1981-80, title X, chap. IV; O.C. 3926-80, s. 4; R.R.Q., 1981, c. I-3, r.1, title X, chap. IV.

"**152R1.** In this chapter,

"claim liability" of an insurer at the end of a taxation year means

(*a*) in respect of a claim made to the insurer before that time under an insurance policy, an amount equal to the amount by which the present value at that time, computed using a rate of interest that is reasonable in the circumstances, of a reasonable estimate, determined in accordance with accepted actuarial practice, of the insurer's future payments and claim adjustment expenses in respect of the claim exceeds the present value at that time, computed using a rate of interest that is reasonable in the circumstances, of a reasonable estimate, determined in accordance with accepted actuarial practice, of the amounts that the insurer will recover after that time in respect of the claim because of salvage, subrogation or any other reason; or

(*b*) in respect of the possibility that there are claims under an insurance policy incurred before that time that have not been made to the insurer before that time, an amount equal to the amount by which the present value at that time, computed using a rate of interest that is reasonable in the circumstances, of a reasonable estimate, determined in accordance with accepted actuarial practice, of the insurer's payments and claim adjustment expenses in respect of those claims exceeds the present value at that time, computed using a rate of interest that is reasonable in the circumstances, of a reasonable estimate, determined in accordance with accepted actuarial practice, of the amounts that the insurer will recover in respect of those claims because of salvage, subrogation or any other reason;

"extended motor vehicle warranty" means an agreement, in this definition referred to as the "extended warranty", under which a person agrees to provide property or render services in respect of the repair or maintenance of a motor vehicle manufactured by the person or a corporation related to the person where

(*a*) the extended warranty is in addition to a basic or limited warranty in respect of the vehicle;

(*b*) the basic or limited warranty has a term of three or more years, although it may expire before the end of such term on the vehicle's odometer registering a specified number of kilometres or miles;

(*c*) more than 50% of the expenses to be incurred under the extended warranty are reasonably expected to be incurred after the expiry of the basic or limited warranty; and

(*d*) the person's risk under the extended warranty is insured by an insurer that is subject to the supervision of the Superintendent of Financial Institutions;

"non-cancellable or guaranteed renewable accident and sickness policy" has the meaning assigned by section 840R1;

"policy liability" has the meaning assigned by section 840R1;

"post-1995 non-cancellable or guaranteed renewable accident and sickness policy" has the meaning assigned by section 840R1;

"pre-1996 non-cancellable or guaranteed renewable accident and sickness policy" has the meaning assigned by sections 840R1 and 840R5;

"reinsurance commission", in respect of a policy, means

(*a*) where the risk under the policy is fully reinsured, the amount by which the amount of the premium paid by the policyholder in respect of the policy exceeds the amount of the consideration payable by the insurer in respect of the reinsurance of the risk; or

(*b*) where only a portion of the risk under the policy is reinsured, the amount by which the portion of the amount of the premium paid by the policyholder in respect of the policy that may reasonably be considered to be in respect of the portion of the risk that is reinsured with a reinsurer exceeds the amount of the consideration payable by the insurer to the reinsurer in respect of the reinsurance of that portion of the risk;

"reported reserve" has the meaning assigned by section 840R1;

"Superintendent of Financial Institutions" has the meaning assigned by section 840R1.

s. 152R1; O.C. 1981-80, s. 152R1; O.C. 3926-80, s. 4; R.R.Q., 1981, c. I-3, r.1, s. 152R1; O.C. 91-94, s. 6; O.C. 1454-99, s. 21; O.C. 1463-2001, s. 45; O.C. 1155-2004, s. 17.

"**152R2.** For the purposes of this chapter, the following rules apply:

(*a*) a reference to a premium paid by the policyholder is, depending on the method regularly followed by the insurer in computing its income, to be read as a reference to a premium paid or payable by the policyholder;

(*b*) in determining the premium paid by a policyholder for a policy, the insurer may deduct the portion of the premium that

i. may reasonably be considered, at the time the policy is issued, to be a deposit that, pursuant to the terms of the policy or the by-laws of the insurer, will be returned to the policyholder, or credited to the account of the policyholder, by the insurer on the termination of the policy, and

ii. was not otherwise deducted under section 832 of the Act; and

(*c*) any rider that is attached to a policy and that provides for additional non-cancellable or guaranteed renewable accident or sickness insurance, as the case may be, is a separate non-cancellable or guaranteed renewable accident and sickness policy.

s. 152R1.2; O.C. 1463-2001, s. 47.

"**152R3.** For the purposes of the second paragraph of section 152 of the Act, the amount prescribed in respect of an insurer for a taxation year is

(*a*) the amount determined under section 152R5 in respect of the insurer for the year, where that amount is greater than nil; and

(*b*) nil, in any other case.

s. 152R2; O.C. 1981-80, s. 152R2; O.C. 3926-80, s. 4; R.R.Q., 1981, c. I-3, r.1, s. 152R2; O.C. 1463-2001, s. 48.

"**152R4.** Any amount determined under this chapter is determined on a net of reinsurance ceded basis.

In addition, any amount referred to or determined under this chapter may be equal to, or less than, nil.

s. 152R3; O.C. 3926-80, s. 4; R.R.Q., 1981, c. I-3, r.1, s. 152R3; O.C. 1463-2001, s. 48.

"**152R5.** For the purposes of paragraph *a* of sections 87R1 and 152R3, the amount to be determined under this section in respect of an insurer for a taxation year is the amount, greater or less than nil, determined by the formula

A + B + C + D + E + F + G + H + I + J + K + L.

In the formula in the first paragraph,

(*a*) A is the total of all amounts each of which is, in respect of a policy other than a policy that insures a risk in respect of one of the following items, the unearned portion at the end of the year of the premium paid by the policyholder in respect of the policy, determined by apportioning the net premium equally over the period to which that premium relates:

i. a financial loss of a lender on a loan made on the security of an immovable property,

ii. a home warranty,

iii. a lease guarantee, or

iv. an extended motor vehicle warranty;

(*b*) B is the total of all amounts each of which is an amount determined in respect of a policy that insures a risk in respect of any of the items referred to in subparagraphs i to iv of subparagraph *a* equal to the lesser of

i. the amount of the reported reserve of the insurer at the end of the year in respect of the unearned portion at the end of the year of the premium paid by the policyholder in respect of the policy, and

ii. a reasonable amount as a reserve determined at the end of the year in respect of the unearned portion at the end of the year of the premium paid by the policyholder in respect of the policy;

(*c*) C is the total of all amounts each of which is the amount in respect of a policy, where all or a portion of a risk under the policy was reinsured, equal to the unearned portion at the end of the year of a reinsurance commission in respect of the policy determined by apportioning the reinsurance commission equally over the period to which it relates;

(*d*) D is the amount, in respect of policies, other than policies in respect of which an amount can be determined under subparagraph *e*, under which a claim that was incurred before the end of the year has been made to the insurer before the end of the year and in respect of which the insurer is, or may be, required to make a payment or incur an expense after the year, or there may be a claim incurred before the end of the year that has not been made to the insurer before that time, equal to 95% of the lesser of

i. the total of the reported reserves of the insurer at the end of the year in respect of such claims or possible claims, and

ii. the total of the claim liabilities of the insurer at the end of the year in respect of such claims or possible claims;

(*e*) E is the amount in respect of policies under which a claim that was incurred before the end of the year has been made to the insurer before the end of the year and the claim is in respect of damages for personal injury or death and the insurer has agreed to a structured settlement of the claim, equal to the lesser of

i. the total of the reported reserves of the insurer at the end of the year in respect of such claims, and

ii. the total of the claim liabilities of the insurer at the end of the year in respect of such claims;

(*f*) F is an additional amount, in respect of policies that insure a nuclear risk, a fidelity risk, a surety risk or a risk related to a financial loss of a lender on a loan made on the security of an immovable property, equal to the lesser of

i. the total of the reported reserves of the insurer at the end of the year in respect of such risks, other than an amount included in computing any of the amounts determined under subparagraphs *a* to *e* and *g* to *l*, and

ii. a reasonable amount as a reserve determined at the end of the year in respect of such risks, other than an amount included in computing any of the amounts determined under subparagraphs *a* to *e* and *g* to *l*;

(*g*) G is the amount of a guarantee fund at the end of the year provided for under an agreement in writing between the insurer and Her Majesty in right of Canada under which Her Majesty has agreed to guarantee the obligations of the insurer under a policy that insures a risk related to a financial loss of a lender on a loan made on the security of an immovable property;

(*h*) H is the amount in respect of risks under pre-1996 non-cancellable or guaranteed renewable accident and sickness policies equal to

i. where the amounts determined under each of subparagraphs 1 and 2 are greater than nil, the lesser of

(1) the total of the reported reserves of the insurer at the end of the year in respect of such risks, other than an amount included in computing any of the amounts determined under subparagraphs *a* to *g* and *i* to *l*, and

(2) a reasonable amount as a reserve determined at the end of the year in respect of such risks, other than an amount included in computing any of the amounts determined under subparagraphs *a* to *g* and *i* to *l*, and

ii. in any other case, nil;

(*i*) I is the amount in respect of risks under post-1995 non-cancellable or guaranteed renewable accident and sickness policies equal to the lesser of

i. the total of the reported reserves of the insurer at the end of the year in respect of such risks, other than an amount included in computing any of the amounts determined under subparagraphs *a* to *h* and *j* to *l*, and

ii. the total of the policy liabilities of the insurer at the end of the year in respect of such risks, other than an amount included in computing any of the amounts determined under subparagraphs *a* to *h* and *j* to *l*;

(*j*) J is the total of all amounts each of which

i. is not an amount deductible under section 832 of the Act,

ii. is the amount, in respect of a dividend, refund of premiums or refund of premium deposits provided for under the terms of a group accident and sickness insurance policy that will be used by the insurer to reduce or eliminate a future adverse claims experience under the policy, paid or unconditionally credited to the policyholder by the insurer or applied in discharge, in whole or in part, of a liability of the policyholder to pay premiums to the insurer under the policy, and

iii. is equal to the least of

(1) a reasonable amount as a reserve determined at the end of the year in respect of the dividend, refund of premiums or refund of premium deposits,

(2) 25% of the amount of the premium payable under the terms of the policy for the 12-month period ending, if the policy is terminated in the year, on the date the policy is terminated, or in any other case, at the end of the year, and

(3) the reported reserve of the insurer at the end of the year in respect of the dividend, refund of premiums or refund of premium deposits;

(*k*) K is the total of all amounts each of which is the amount, in respect of a policy under which a portion of the particular amount paid or payable by the policyholder for the policy before the end of the year is deducted under paragraph *b* of section 152R2 or 840R6, equal to the portion of that particular amount that the insurer has determined will, after the end of the year, be returned to or credited to the account of the policyholder on the termination of the policy; and

(*l*) L is an amount in respect of policies that insure earthquake risks in Canada equal to the lesser of

i. the portion of the reported reserve of the insurer at the end of the year in respect of those risks that is attributable to accumulations from premiums in respect of those risks, other than an amount included in computing any of the amounts determined under subparagraphs *a* to *k*, and

ii. a reasonable amount as a reserve determined at the end of the year in respect of those risks, other than an amount included in computing any of the amounts determined under subparagraphs *a* to *k*.

s. 152R12; O.C. 1463-2001, s. 50; O.C. 1155-2004, s. 18.

"**152R6.** Where an insurer, other than an insurer that is required by law to report to the Superintendent of Financial Institutions of Canada, is not required by the Superintendent of Financial Institutions to determine its liabilities in respect of claims referred to in subparagraphs *d* and *e* of the second paragraph of section 152R5, in accordance with actuarial principles, the following rules apply:

(*a*) the amount determined under that subparagraph *d* is deemed to be equal to 95% of the total determined under subparagraph i of that subparagraph *d*; and

(*b*) the amount determined under that subparagraph *e* is deemed to be equal to the total determined under subparagraph i of that subparagraph *e*.

s. 152R13; O.C. 1463-2001, s. 50.

"**CHAPTER V**

"QUADRENNIAL SURVEY AND REPRESENTATION EXPENSES

chap. V; O.C. 1981-80, title X, chap. V; R.R.Q., 1981, c. I-3, r.1, title X, chap. V.

"**154R1.** A taxpayer may deduct, as an allowance for the expenses that the taxpayer must incur in the survey of a vessel, one-quarter of the estimate of the expenses of the survey for the third taxation year preceding the taxation year during which a survey is scheduled to occur and one-half of such estimate for the second taxation year preceding the survey and 3/4 for the taxation year preceding the survey.

s. 154R1; O.C. 1981-80, s. 154R1; R.R.Q., 1981, c. I-3, r.1, s. 154R1.

"**154R2.** Where the quadrennial or special survey of a vessel has not, at the end of the year in which a survey is scheduled to occur, been completed to the extent that the vessel is permitted to proceed on a voyage, the taxpayer referred to in section 154R1 may deduct the amount remaining after deducting from the estimate of the expenses the amount of the expenses actually incurred in the year for the survey.

s. 154R2; O.C. 1981-80, s. 154R2; R.R.Q., 1981, c. I-3, r.1, s. 154R2.

"**154R3.** The estimate of the survey expenses referred to in sections 154R1 and 154R2 must be made in a reasonable manner by the taxpayer at the time of filing the taxpayer's fiscal return for the third taxation year preceding the taxation year in which a quadrennial survey is scheduled to occur, taking into account the costs, charges and expenses that are necessarily to be incurred by reason of that survey but the taxpayer may not, in such estimate, take into account the costs, charges, and expenses for which the taxpayer may reasonably obtain directly or indirectly, and from any source whatever, reimbursement, recoupment, recovery or indemnification.

s. 154R3; O.C. 1981-80, s. 154R3; R.R.Q., 1981, c. I-3, r.1, s. 154R3.

"**154R4.** In this chapter, a survey means the dry-docking of a vessel, the examination and inspection of its hull, boilers, machinery, engines and equipment by an inspector or a surveyor.

A survey also includes any operation on those components of the vessel pursuant to an order, requirement or recommendation from the inspector or surveyor as the result of the examination or inspection, where such operation is necessary for obtaining a safety and inspection certificate in respect of the vessel pursuant to the Canada Shipping Act, 2001 (Statutes of Canada, 2001, chapter 26) or for retaining the character assigned to it in the registry book of a classification society.

s. 154R4; O.C. 1981-80, s. 154R4; R.R.Q., 1981, c. I-3, r.1, s. 154R4; O.C. 35-96, s. 86.

"**154R5.** In this chapter, a quadrennial survey means a periodical survey, not being an annual survey nor a survey coinciding as to time with the construction of a vessel, made in accordance with the rules of a classification society or pursuant to the Canada Shipping Act, 2001 (Statutes of Canada, 2001, chapter 26).

s. 154R5; O.C. 1981-80, s. 154R5; R.R.Q., 1981, c. I-3, r.1, s. 154R5; O.C. 35-96, s. 86.

"**154R6.** In sections 154R4 and 154R5,

"classification society" means a society or association for the classification and registry of vessels approved pursuant to the Canada Shipping Act, 2001 (Statutes of Canada, 2001, chapter 26);

"inspector" means an inspector of vessels appointed under the Canada Shipping Act, 2001;

"surveyor" means a surveyor to a classification society.

s. 154R6; O.C. 1981-80, s. 154R6; R.R.Q., 1981, c. I-3, r.1, s. 154R6; O.C. 35-96, s. 86.

"**156R1.** A taxpayer makes the election under section 156 of the Act, in respect of the deduction of representation expenses, by filing with the Minister by registered mail and in duplicate a letter specifying the amount established in accordance with section 155 of the Act in respect of which the election is being made, and in the case of a corporation, a certified copy of the resolution of the directors authorizing the election to be made.

s. 156R1; O.C. 1981-80, s. 156R1; R.R.Q., 1981, c. I-3, r.1, s. 156R1; O.C. 1707-97, s. 98; O.C. 1451-2000, s. 66.

"**CHAPTER VI**

"PROPERTY GIVING ENTITLEMENT TO THE ADDITIONAL DEDUCTION IN RESPECT OF CERTAIN INVESTMENTS

chap. V.0.1; O.C. 1697-92, s. 53.

"**156.2R1.** Depreciable property referred to in subparagraph *a* of the second paragraph of section 156.2 of the Act in respect of an individual is property of that individual included in Class 12 in Schedule B because of

subparagraph *t* of the first paragraph or the second or fourth paragraph of that class, other than property leased to another person by the individual and in respect of which that person and the individual made the joint election provided for in section 125.1 of the Act.

s. 156.2R1; O.C. 1697-92, s. 53; O.C. 1463-2001, s. 51.

"**156.3R1.** Depreciable property referred to in subparagraph *a* of the second paragraph of section 156.3 of the Act in respect of a corporation is property of that corporation included in Class 12 in Schedule B because of subparagraph *t* of the first paragraph or the second or fourth paragraph of that class, other than property leased to another person by the corporation and in respect of which that person and the corporation made the joint election provided for in section 125.1 of the Act.

s. 156.3R1; O.C. 1697-92, s. 53; O.C. 1707-97, s. 98; O.C. 1463-2001, s. 52.

"**CHAPTER VII**

"DISABILITY-RELATED MODIFICATIONS AND EQUIPMENT, INTEREST REPAYMENT AND ANNUITY CONTRACTS

chap. V.1; O.C. 2962-82, s. 25; O.C. 500-83, s. 25; O.C. 421-88, s. 2; O.C. 67-96, s. 21.

"**157R1.** For the purposes of paragraph *h*.1 of section 157 of the Act, the following are prescribed renovations and alterations:

(*a*) the installation of an interior or exterior ramp or of a hand-activated electric door opener; and

(*b*) a modification to a bathroom, elevator or doorway to facilitate its use by a person in a wheelchair.

s. 157R0.1; O.C. 67-96, s. 22.

"**157R2.** For the purposes of paragraph *h*.2 of section 157 of the Act, the following are prescribed devices and equipment:

(*a*) an elevator car position indicator, such as a braille panel or an audio signal, for individuals having a sight impairment;

(*b*) a visual fire alarm indicator, a listening device for group meetings or a telephone device, for individuals having a hearing impairment; and

(*c*) a disability-specific computer software or hardware attachment.

s. 157R0.2; O.C. 67-96, s. 22; O.C. 1466-98, s. 30.

"**157R3.** For the purposes of paragraph *l*.1 of section 157 of the Act, a provision of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and any provision of an Act of a province, other than Québec, that imposes a tax similar to the tax imposed under the Income Tax Act are deemed to be prescribed provisions.

s. 157R1; O.C. 421-88, s. 3; O.C. 1076-88, s. 6; O.C. 35-96, s. 10; O.C. 1466-98, s. 31.

"**157.3R1.** The amount that a taxpayer may deduct, for a taxation year, under section 157.3 of the Act in respect of an annuity contract that was acquired after 19 December 1980 and for which annuity payments commenced before 1 January 1982, is the proportion of the amounts included in computing the taxpayer's income for a previous taxation year under section 92 of the Act in respect of the contract that the annuity payments received during the year under the contract is of the payments determined under section 336R3 in respect of the taxpayer's interest in the contract.

s. 157.3R1; O.C. 2962-82, s. 25; O.C. 500-83, s. 25; O.C. 1116-2007, s. 21.

"**157.3R2.** Where in a taxation year, the rights of a holder under an annuity contract cease upon termination or cancellation of the contract, the holder may, under section 157.3 of the Act, deduct in computing the holder's income for the year, the amount by which the aggregate of the amounts in respect of the contract that the holder has included in computing the holder's income for the year or a previous taxation year under section 92 of the Act, exceeds the aggregate of

(*a*) the proportion of the aggregate of those amounts that the annuity payments made before the rights of the holder have ceased is of the payments expected to be made under the contract; and

(*b*) the aggregate of the amounts in respect of the contract that were deductible in computing the income of the holder for the year or a previous taxation year under section 157.3R1.

s. 157.3R2; O.C. 2962-82, s. 25; O.C. 500-83, s. 25; O.C. 7-87, s. 4.

"**CHAPTER VIII**

"UNPAID CLAIMS RESERVE ADJUSTMENT

chap. V.3; O.C. 1454-99, s. 25.

"**157.12R1.** For the purposes of section 157.12 of the Act, an insurer's unpaid claims reserve adjustment for its taxation year that includes 23 February 1994 is the amount by which the aggregate of all amounts each of which is the maximum amount that, because of section 152R6 of the preceding Regulation, was deductible under section 152 of the Act in respect of an insurance policy in computing the insurer's income for its last taxation year that ended before 23 February 1994 exceeds

(*a*) where the insurer elects, by notifying the Minister in writing, to have this paragraph apply, the aggregate of all amounts each of which is the maximum amount that would, because of that section 152R6, have been deductible under section 152 of the Act in respect of an insurance policy in

computing the insurer's income for its last taxation year that ended before 23 February 1994 if the figure "3" in the formula in subparagraph *b* of the first paragraph of that section 152R6, as it read for that year, were replaced by the figure "1"; and

(*b*) in any other case, the aggregate of all amounts each of which is the maximum amount that would, because of section 152R6 or 152R6.1 of that preceding Regulation, have been deductible under section 152 of the Act in respect of an insurance policy in computing the insurer's income for its last taxation year that ended before 23 February 1994 if that section 152R6.1 had applied to that year and those sections 152R6 and 152R6.1 were read in their application to that year as they read in their application to the insurer's taxation year that includes 23 February 1994.

s. 157.12R5; O.C. 1454-99, s. 25.

"**CHAPTER IX**

"INTEREST AND LOANS

chap. VII; O.C. 1981-80, title X, chap. VII; R.R.Q., 1981, c. I-3, r.1, title X, chap. VII.

"**160R1.** A taxpayer may deduct, under paragraph *c* of section 160 of the Act, the interest paid by the taxpayer to the extent that it relates to an amount paid to the taxpayer under

(*a*) an appropriation Act of the Parliament of Canada and on terms and conditions approved by the Treasury Board of Canada for the purpose of advancing or sustaining the technological capabilities of a Canadian industry; or

(*b*) the Northern Mineral Exploration Assistance Regulations made under an appropriation Act of the Parliament of Canada that provides for payments in respect of the Northern Mineral Grants Program.

s. 160R1; O.C. 1981-80, s. 160R1; R.R.Q., 1981, c. I-3, r.1, s. 160R1; O.C. 1149-2006, s. 16.

"**163.1R1.** For the purposes of section 163.1 of the Act, the verification of the amount of interest in respect of a policy loan must be made by the insurer in prescribed form on or before the filing-due date of the taxpayer referred to in that section for the taxation year in respect of which the interest is paid.

s. 163.1R1; O.C. 2962-82, s. 26; O.C. 500-83, s. 26; O.C. 421-88, s. 4; O.C. 1466-98, s. 32; O.C. 1470-2002, s. 30; O.C. 1249-2005, s. 12.

"**165.2R1.** For the purposes of section 165.2 of the Act, the rate of interest prescribed during a particular period is that which is equal to the rate of interest determined during the same period in accordance with subparagraph i of paragraph *a* of section 4301 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 165.2R1; O.C. 67-96, s. 25; O.C. 1707-97, s. 98.

"**175.1.7R1.** For the purposes of section 175.1.7 of the Act, the rate of interest prescribed at a particular time is the rate determined, for the period including the particular time, in accordance with subparagraph i of paragraph *a* of section 4301 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 175.1.7R1; O.C. 1707-97, s. 25.

"**176.6R1.** For the purposes of paragraph *b* of section 176.6 of the Act, the net cost of pure insurance for a taxation year in respect of a taxpayer's interest in a life insurance policy is the amount determined in respect of that interest for that year in accordance with section 976.1R1.

s. 176.6R1; O.C. 67-96, s. 26.

"**TITLE XVII**

"SPECIAL CASES

title XI; O.C. 1981-80, title XI; O.C. 3926-80, s. 5; R.R.Q., 1981, c. I-3, r.1, title XI.

"**192R1.** For the purposes of the first paragraph of section 192 of the Act, section 985 of the Act applies to every State body or federal Crown body, except

(*a*) Royal Canadian Mint;

(*b*) Freshwater Fish Marketing Corporation;

(*c*) Canada Mortgage and Housing Corporation;

(*d*) Canada Post Corporation;

(*e*) Canada Deposit Insurance Corporation;

(*f*) Cape Breton Development Corporation;

(*g*) Canada Hibernia Holding Corporation;

(*h*) Canada Lands Company Limited;

(*i*) Canadian Broadcasting Corporation; and

(*j*) VIA Rail Canada Inc.

s. 192R1; O.C. 1981-80, s. 192R1; O.C. 3926-80, s. 5; R.R.Q., 1981, c. I-3, r.1, s. 192R1; O.C. 2583-85, s. 8; O.C. 1076-88, s. 7; O.C. 1471-91, s. 19; O.C. 366-94, s. 19; O.C. 1631-96, s. 29; O.C. 1707-97, s. 26; O.C. 1466-98, s. 33; O.C. 1454-99, s. 27; O.C. 1155-2004, s. 22.

"**192R2.** For the purposes of the second paragraph of section 192 of the Act, a prescribed body is a body mentioned in any of paragraphs *a* to *j* of section 192R1.

s. 192R2; O.C. 3926-80, s. 5; R.R.Q., 1981, c. I-3, r.1, s. 192R2; O.C. 1707-97, s. 27; O.C. 1282-2003, s. 33.

"**209.4R1.** For the purposes of the first paragraph of section 209.4 of the Act, sections 336R1 to 336R11 apply with the necessary modifications to determine the part of a payment that represents a return of capital of an annuity.

s. 209.4R1; O.C. 2962-82, s. 28; O.C. 500-83, s. 28; O.C. 1633-96, s. 44.

"**221R1.** The prescribed class for the purposes of section 221 of the Act is the class prescribed by section 130R147.

s. 221R1; O.C. 1981-80, s. 221R1; R.R.Q., 1981, c. I-3, r.1, s. 221R1.

"**TITLE XVIII**

"SCIENTIFIC RESEARCH AND EXPERIMENTAL DEVELOPMENT

title XI.1; O.C. 1549-88, s. 4.

"**225R1.** The amount prescribed in paragraph *a* of section 225 of the Act in respect of a taxpayer for a taxation year is the aggregate of the following amounts:

(*a*) the amount computed for the year in respect of the taxpayer under paragraph *e* of subsection 1 of section 37 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), other than the part of that amount that may reasonably be considered to be related to an amount that is a qualified expenditure, within the meaning of subsection 9 of section 127 of that Act, and that constitutes, for the purposes of the definition of that expression, an expenditure made after 30 April 1987 and before 10 May 1996, or a proxy amount computed by reference to an expenditure incurred as salary or wages before 10 May 1996;

(*b*) the amount computed for the year in respect of the taxpayer under paragraph *g* of subsection 1 of section 37 of the Income Tax Act; and

(*c*) where the taxpayer is a trust or partnership, any particular amount that, under subsection 12.1 of section 127 of the Income Tax Act, is required to reduce, at the end of its fiscal period ending in the year or in a previous taxation year, the total expenditures that it may deduct under section 37 of that Act, other than the part of that particular amount that may reasonably be considered to be related to an amount that is a qualified expenditure, within the meaning of subsection 9 of that section 127, and that constitutes, for the purposes of the definition of that expression, an expenditure made after 30 April 1987 and before 10 May 1996.

s. 225R1; O.C. 1983-80, s. 14; R.R.Q., 1981, c. I-3, r.1, s. 225R1; O.C. 2583-85, s. 9; O.C. 544-86, s. 6; O.C. 140-90, s. 4; O.C. 35-96, s. 86; O.C. 1707-97, s. 30.

"**230R1.** For the purposes of subparagraph ii of subparagraphs *a* and *b* of the first paragraph of section 230 of the Act, the following expenditures are directly attributable to the prosecution of scientific research and experimental development:

(*a*) the cost of materials consumed or processed in such prosecution of scientific research and experimental development;

(*b*) where an employee directly undertakes, supervises or supports such prosecution of scientific research and experimental development, the part of the expenditure incurred for the employee's salary or wages that may reasonably be considered to be related to that prosecution of scientific research and experimental development; and

(*c*) other expenditures or any part thereof that is directly related to such prosecution of scientific research and experimental development and that would not have been incurred if that prosecution of scientific research and experimental development had not occurred.

s. 230R1; O.C. 1549-88, s. 7; O.C. 1707-97, s. 31; O.C. 1466-98, s. 126; O.C. 1470-2002, s. 31.

"**230R2.** For the purposes of subparagraph ii of subparagraph *b* of the first paragraph of section 230 of the Act, the following expenditures are directly attributable to the provision of premises, facilities or equipment for the prosecution of scientific research and experimental development:

(*a*) the cost of the maintenance and upkeep of those premises, facilities or equipment; and

(*b*) other expenditures or any part thereof that is directly related to such provision of premises, facilities or equipment and that would not have been incurred if those premises, facilities or equipment had not existed.

s. 230R2; O.C. 1549-88, s. 7; O.C. 1707-97, s. 32; O.C. 1466-98, s. 126.

"**230.0.0.2R1.** For the purposes of subparagraphs *a* and *b* of the first paragraph of section 230.0.0.2 of the Act, a special-purpose building is a building the working areas of which are designed and constructed to have a displacement in any direction of not more than 0.02 micrometres and to have, per 0.028 cubic metres of interior airspace,

(*a*) not more than 350 airborne particles of a size equal to or less than 0.1 micrometres in diameter and no airbone particle of a size greater than 0.1 micrometres in diameter;

(*b*) not more than 75 airborne particles of a size equal to or less than 0.2 micrometres in diameter and no airbone particle of a size greater than 0.2 micrometres in diameter;

(*c*) not more than 30 airborne particles of a size equal to or less than 0.3 micrometres in diameter and no airbone particle of a size greater than 0.3 micrometres in diameter; and

(*d*) not more than 10 airborne particles of a size equal to or less than 0.5 micrometres in diameter and no airbone particle of a size greater than 0.5 micrometres in diameter.

s. 230.0.0.2R0.1; O.C. 366-94, s. 20.

"**230.0.0.2R2.** For the purposes of subparagraph *d* of the first paragraph of section 230.0.0.2 of the Act, a laboratory animal is any animal acquired or leased in order to be used as the subject of an experiment, other than such an animal in respect of which it may reasonably be expected that a more than symbolic amount will be received or that the pelt, flesh or any other body part, including the sperm or any other substance, may be sold for such an amount.

s. 230.0.0.2R1; O.C 1232-91, s. 5.

"**TITLE XIX**

"CAPITAL GAINS AND CAPITAL LOSSES

title XII; O.C. 1981-80, title XII; R.R.Q., 1981, c. I-3, r.1, title XII; O.C. 615-88, s. 10.

"**CHAPTER I**

"GENERALITIES

chap. I; O.C. 1981-80, title XII, chap. I; R.R.Q., 1981, c. I-3, r.1, title XII, chap. I.

"**241.0.1R1.** A corporation referred to in section 241.0.1 of the Act is a corporation that was at any time

(*a*) a corporation registered under the Act respecting corporations for the development of Québec business firms (R.S.Q., c. S-28), as it read before it was repealed;

(*b*) a corporation referred to in section 21.19R1;

(*c*) a corporation that had an employee share ownership plan registered under Part 1 of the Employee Investment Act of British Columbia (R.S.B.C., 1996, c. 112); or

(*d*) a corporation registered under the provisions of Part II of the Community Small Business Investment Funds Act (S.O., 1992, c. 18).

s. 241.0.1R1; O.C. 615-88, s. 11; O.C. 1660-94, s. 4; O.C. 67-96, s. 28; O.C. 1707-97, s. 98; O.C. 1454-99, s. 28; O.C. 1463-2001, s. 53; O.C. 1470-2002, s. 32.

"**241.0.1R2.** For the purposes of paragraph *b* of section 241.0.1 of the Act, prescribed assistance means

(*a*) the amount of any assistance granted by Québec or another province in respect of, or for the acquisition of, a share of the capital stock of a corporation referred to in paragraph *a* or *b* of section 241.0.1R1;

(*b*) the amount of any assistance provided under the provisions of the Employee Investment Act of British Columbia (R.S.B.C., 1996, c. 112) in respect of, or for the acquisition of, a share of the capital stock of a corporation referred to in paragraph *c* of section 241.0.1R1;

(*c*) the amount of any assistance granted under the provisions of the Community Small Business Investment Funds Act (S.O., 1992, c. 18) in respect of, or for the acquisition of, a share of the capital stock of a corporation referred to in paragraph *d* of section 241.0.1R1;

(*d*) the amount of any tax credit provided in respect of, or for the acquisition of, a share of a corporation referred to in any of subparagraphs *g* to *k* of the first paragraph of section 21.19R1 or in any of subparagraphs *a* and *c* to *f* of the second paragraph of that section; or

(*e*) the amount of any tax credit provided by Québec or another province in respect of, or for the acquisition of, a share of the capital stock of a taxable Canadian corporation, other than a share described in the second paragraph, held in a prescribed stock savings plan referred to in section 241.0.1R3.

The share to which subparagraph *e* of the first paragraph refers is a share of the capital stock of a corporation in respect of which an amount has been renounced by the corporation under any of sections 359.2, 359.2.1, 359.4 and 359.6 of the Act.

s. 241.0.1R2; O.C. 615-88, s. 11; O.C. 1114-92, s. 17; O.C. 1660-94, s. 5; O.C. 67-96, s. 29; O.C. 1707-97, s. 98; O.C. 1466-98, s. 34; O.C. 1454-99, s. 29; O.C. 1463-2001, s. 54; O.C. 1470-2002, s. 33; O.C. 1282-2003, s. 34.

"**241.0.1R3.** For the purposes of section 241.0.1 of the Act, a prescribed stock savings plan means a stock savings plan governed by any of the following statutes:

(*a*) the Alberta Stock Savings Plan Act of Alberta (S.A., 1986, c. A-37.7);

(*b*) The Stock Savings Tax Credit Act of Saskatchewan (S.S., 1986, c. S-59.1);

(*c*) the Stock Savings Plan Act of Nova Scotia (R.S.N.S., 1989, c. 445);

(*d*) The Stock Savings Tax Credit Act of Newfoundland (R.S.N.L., 1990, c. S-28); and

(*e*) section 11.6 of the Income Tax Act of Manitoba (Continuing Consolidation of the Statutes of Manitoba, c. I10).

s. 241.0.1R3; O.C. 1114-92, s. 18; O.C. 1454-99, s. 30; O.C. 1470-2002, s. 34.

"**CHAPTER II**

"SECURITIES DEEMED NOT TO BE A CANADIAN SECURITY

chap. II; O.C. 1981-80, title XII, chap. II; R.R.Q., 1981, c. I-3, r.1, title XII, chap. II.

"**250.2R1.** For the purposes of section 250.2 of the Act, a prescribed security, for a taxpayer referred to in section 250.1 of the Act, is

(*a*) a share of the capital stock of a corporation, other than a public corporation, whose value at the time of its disposition by the taxpayer is mainly attributable to a property belonging to the corporation, another person or a partnership, and that is

i. immovable property, an interest or option in respect of that property,

ii. a Canadian mining property or a property that would be such if it had been acquired after 1971,

iii. a foreign mining property or a property that would be such if it had been acquired after 1971, or

iv. a combination of the properties referred to in subparagraphs i to iii;

(*b*) a bond, debenture, bill, note, hypothecary claim, mortgage or other similar obligation, issued by a corporation other than a public corporation, where at any time before the disposition of the obligation, the taxpayer was not dealing at arm's length with the corporation;

(*c*) a share or a bond, bill, note, hypothecary claim, mortgage or similar obligation that was acquired by the taxpayer from a person with whom the taxpayer does not deal at arm's length, other than from a person in respect of whom section 250.1 of the Act may apply for the person's taxation year that includes the time of the acquisition;

(*d*) a security described in paragraph *c* that was acquired by the taxpayer from a person, other than from a person in respect of whom section 250.1 of the Act may apply for the person's taxation year that includes the time of the acquisition, in circumstances in which section 518 or 529 of the Act applied;

(*e*) a share acquired by the taxpayer in the cases described in section 419 of the Act; or

(*f*) a security described in paragraph *c* that was acquired by the taxpayer as proceeds of disposition for a security of the taxpayer to which any of paragraphs *a* to *c* and *e* applied in respect of the taxpayer, or as a result of one or more transactions that may reasonably be considered to have been an exchange or substitution of a security of the taxpayer to which any of paragraphs *a* to *c* and *e* applied.

s. 250.2R1; O.C. 1981-80, s. 250.2R1; R.R.Q., 1981, c. I-3, r.1, s. 250.2R1; O.C. 2962-82, s. 30; O.C. 500-83, s. 30; O.C. 1707-97, s. 98; O.C. 1466-98, s. 36; O.C. 1454-99, s. 31; O.C. 1451-2000, s. 1.

"**CHAPTER III**

"PROCEEDS OF DISPOSITION

chap. III; O.C. 1981-80, title XII, chap. III; R.R.Q., 1981, c. I-3, r.1, title XII, chap. III.

"**251R1.** For the purposes of section 251 of the Act, proceeds of disposition of a property do not include an amount deemed to be a dividend paid under subsection 1 of section 212.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 251R1; O.C. 1981-80, s. 251R1; R.R.Q., 1981, c. I-3, r.1, s. 251R1; O.C. 35-96, s. 86.

"**CHAPTER IV**

"ADJUSTED COST BASE AND PRINCIPAL RESIDENCE

chap. IV; O.C. 1981-80, title XII, chap. IV; R.R.Q., 1981, c. I-3, r.1, title XII, chap. IV.

"**255R1.** The amount referred to in subparagraph ii of paragraph *h*.1 of section 255 of the Act is the aggregate of each amount that the controlled foreign affiliate has included, in respect of the property referred to in that paragraph *h*.1, for a taxation year beginning before the particular time set out in that section 255, in computing its foreign accrual property income, within the meaning of section 579R1, by reason of item C in the formula in the definition of "foreign accrual property income" in subsection 1 of section 95 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 255R1; O.C. 615-88, s. 12; O.C. 35-96, s. 11.

"**257R1.** Assistance referred to in subparagraph i of paragraph *d* of section 257 of the Act does not include assistance that would be described in section 101R2 if that section applied to any capital property and also covered a deduction allowed under any of sections 773, 774 and 965.33 of the Act, section 208 and 209 of the Act respecting the sociétés d'entraide économique (R.S.Q., c. S-25.1), as they read before their repeal, and sections 125 or 127 of the Act respecting certain caisses d'entraide économique (R.S.Q., c. C-3.1) and section 130 of that Act, as it read before its repeal, or assistance that a taxpayer has received or is entitled to receive and that is prescribed assistance under section 241.0.1R2, or that would be prescribed assistance under that section if that section applied in respect of, or for the acquisition of, a share of the capital stock of a corporation

that is registered under the Act respecting Québec business investment companies (R.S.Q., c. S-29.1).

s. 257R1; O.C. 1981-80, s. 257R1; R.R.Q., 1981, c. I-3, r.1, s. 257R1; O.C. 1544-82, s. 4; O.C. 2727-84, s. 8; O.C. 544-86, s. 7; O.C. 615-88, s. 13; O.C. 1114-92, s. 19; O.C. 1707-97, s. 36; O.C. 1466-98, s. 37.

"**257R2.** For the purposes of subparagraph ii of paragraph *d* of section 257 of the Act, an amount described in paragraph *c* of section 87R5 is a prescribed amount.

s. 257R0.1; O.C. 1539-93, s. 12; O.C. 1707-97, s. 35.

"**257R3.** For the purposes of subparagraph vi of paragraph *l* of section 257 of the Act, a prescribed amount is any particular amount deducted by a taxpayer under subsection 5 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in computing tax payable under that Act for a taxation year subsequent to the 1981 taxation year, that may reasonably be attributed to an amount added under subsection 8 of that section 127 in computing the taxpayer's investment tax credit within the meaning of subsection 9 of that section 127, other than the part of that particular amount that may reasonably be considered to be related to an amount that is a qualified expenditure within the meaning of that subsection 9, and that constitutes, for the purposes of the definition of that expression, an expenditure made after 30 April 1987 and before 10 May 1996.

s. 257R2; O.C. 2583-85, s. 11; O.C. 1232-91, s. 7; O.C. 35-96, s. 86; O.C. 1707-97, s. 37.

"**257R4.** For the purposes of subparagraph ii of paragraph *n* of section 257 of the Act, a prescribed amount is any particular amount deducted by a taxpayer under subsection 5 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in computing tax payable under that Act for a taxation year subsequent to the 1981 taxation year, that may reasonably be attributed to an amount added under subsection 7 of that section 127 in computing the taxpayer's investment tax credit within the meaning of subsection 9 of that section 127, other than the part of that particular amount that may reasonably be considered to be related to an amount that is a qualified expenditure within the meaning of that subsection 9, and that constitutes, for the purposes of the definition of that expression, an expenditure made after 30 April 1987 and before 10 May 1996.

s. 257R3; O.C. 2583-85, s. 11; O.C. 1232-91, s. 7; O.C. 35-96, s. 86; O.C. 1707-97, s. 37.

"**273R1.** An individual makes the election under paragraph *b* of section 273 of the Act by filing, with the individual's fiscal return for the taxation year during which the individual disposed of land referred to in that section that included a property that was the individual's principal residence, a letter stating that the individual so elects, describing the property with sufficient details to allow proper identification of the property designated as the individual's principal residence and stating the number of taxation years ending after the time referred to in the first paragraph of section 271 of the Act during which the property was the individual's principal residence while the individual was resident in Canada.

s. 273R1; O.C. 1981-80, s. 273R1; O.C. 3926-80, s. 7; R.R.Q., 1981, c. I-3, r.1, s. 273R1; O.C. 1451-2000, s. 8; O.C. 1149-2006, s. 17.

"**CHAPTER V**

"MISCELLANEOUS CASES

chap. V; O.C. 2962-82, s. 31; O.C. 500-83, s. 31.

"**306.1R1.** For the purposes of section 306.1 of the Act, a prescribed transaction is a transaction to which paragraph *l* of subsection 1 of section 219 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applies.

s. 306.1R1; O.C. 2962-82, s. 31; O.C. 500-83, s. 31; O.C. 35-96, s. 12; O.C. 1116-2007, s. 22.

"**CHAPTER VI**

"ANTI-AVOIDANCE RULE

chap. VI; O.C. 2962-82, s. 31; O.C. 500-83, s. 31.

"**308.1R1.** For the purposes of section 308.1 of the Act, the prescribed part of a dividend referred to in section 308.2 of the Act is the part of that dividend that is subject to Canadian income tax under Part IV of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) that is not refunded under that Act as a consequence of the payment of a dividend to a corporation where the payment is part of a series of transactions or events in respect of which section 308.1 of the Act applies.

s. 308.1R1; O.C. 2962-82, s. 31; O.C. 500-83, s. 31; O.C. 2583-85, s. 12; O.C. 35-96, a. 86; O.C. 1707-97, s. 98; O.C. 1282-2003, s. 35.

"**TITLE XX**

"OTHER SOURCES OF INCOME

title XIII; O.C. 1981-80, title XIII; R.R.Q., 1981, c. I-3, r.1, title XIII.

"**311R1.** For the purposes of paragraph *e* of section 311 of the Act, the following are prescribed benefits:

(*a*) a benefit provided for by the Labour Adjustment Benefits Act (Revised Statutes of Canada, 1985, chapter L-1);

(*b*) a benefit provided for by a program offering income assistance payments, established pursuant to an agreement entered into under section 5 of the Department of Labour Act (Revised Statutes of Canada, 1985, chapter L-3); and

(*c*) a benefit provided for by a program offering income assistance payments, administered pursuant to an agreement entered into under section 5 of the Department of Fisheries and Oceans Act (Revised Statutes of Canada, 1985, chapter F-15).

s. 311R2; O.C. 1707-97, s. 40.

"**311.1R1.** A social assistance payment related to medical expenses incurred by or on behalf of the taxpayer is a prescribed amount for the purposes of section 311.1 of the Act.

s. 311.1R1; O.C. 1633-96, s. 5; O.C. 1454-99, s. 32.

"**313.1R1.** For the purposes of section 313.1 of the Act, a prescribed program is a program referred to in section 87R3.

s. 313.1R1; O.C. 1981-80, s. 313.1R1; R.R.Q., 1981, c. I-3, r.1, s. 313.1R1; O.C. 2962-82, s. 32; O.C. 500-83, s. 32.

"**314R1.** For the purposes of section 314 of the Act, a prescribed provincial pension plan is a plan mentioned in section 752.0.10R1.

s. 314R1; O.C. 1114-92, s. 21.

"**316.2R1.** For the purposes of subparagraph i of paragraph *a* of section 316.2 of the Act, the rate of interest prescribed, during a particular period, is that equal to the rate determined, during the same period, in accordance with subparagraph i of paragraph *a* of section 4301 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 316.2R1; O.C. 473-95, s. 3; O.C. 1707-97, s. 98.

"**317R1.** For the purposes of section 317 of the Act, a prescribed provincial pension plan is a plan mentioned in section 752.0.10R1.

s. 317R2; O.C. 1114-92, s. 22.

"**333R1.** For the purposes of section 333 of the Act,

"additional depletion" has the meaning assigned by sections 360R84 to 360R88;

"bituminous sands equipment" has the meaning assigned by section 360R2;

"Canadian oil and gas exploration expense" has the meaning assigned by section 360R2;

"earned depletion" has the meaning assigned by sections 360R42 to 360R60;

"enhanced recovery equipment" has the meaning assigned by section 360R2;

"exploration base" has the meaning assigned by sections 360R66 to 360R73;

"non-conventional lands" has the meaning assigned by section 360R2;

"oil and gas exploration base" has the meaning assigned to "depletion for oil and gas exploration" by sections 360R37 to 360R41;

"qualified tertiary oil recovery project" has the meaning assigned by section 360R2;

"resource exploration base" has the meaning assigned to "mining exploration depletion" by sections 360R31 to 360R35.

s. 333R1; O.C. 2962-82, s. 33; O.C. 500-83, s. 33; O.C. 421-88, s. 6; O.C. 615-88, s. 15; O.C. 1746-88, s. 1; O.C. 35-96, s. 13.

"**TITLE XXI**

"RULES RESPECTING THE COMPUTATION OF INCOME

title XIV; O.C. 1981-80, title XIV; R.R.Q., 1981, c. I-3, r.1, title XIV.

"**CHAPTER I**

"CAPITAL RETURN

chap. I; O.C. 1981-80, title XIV, chap. I; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. I; O.C. 2962-82, s. 34; O.C. 500-83, s. 34.

"**DIVISION I**

"INTERPRETATION

div. I; O.C. 1981-80, title XIV, chap. I, div. I; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. I, div. I; O.C. 2962-82, s. 34; O.C. 500-83, s. 34.

"**336R1.** For the purposes of this chapter,

"anniversary of taxation" in respect of an annuity contract means the day of the second anniversary of the contract occurring after 22 October 1968;

"life annuity contract" has the meaning assigned by sections 966R2 to 966R4.

s. 336R1; O.C. 1981-80, s. 336R1; R.R.Q., 1981, c. I-3, r.1, s. 336R1; O.C. 2962-82, s. 34; O.C. 500-83, s. 34; O.C. 7-87, s. 7.

"**336R2.** For the purposes of sections 336R3 to 336R7, an annuity payment does not include the part of a payment made under a contract the amount of which cannot be fixed immediately before payments under the contract commence.

This section does not apply where that amount cannot be fixed owing to the fact that the continuance of the annuity

payments under the contract depends, in whole or in part, upon the survival of an individual.

s. 336R5; O.C. 1981-80, s. 336R5; R.R.Q., 1981, c. I-3, r.1, s. 336R5; O.C. 2962-82, s. 34; O.C. 500-83, s. 34; O.C. 7-87, s. 9.

"**DIVISION II**

"GENERAL RULE

div. II; O.C. 1981-80, title XIV, chap. I, div. II; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. I, div. II; O.C. 2962-82, s. 34; O.C. 500-83, s. 34.

"**336R3.** For the purposes of paragraph *f* of section 336 of the Act, where an annuity is paid under a contract, other than an income-averaging annuity contract, an income-averaging annuity respecting income from artistic activities or an annuity contract purchased under a deferred profit sharing plan or a plan designated in subsection 15 of section 147 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as a revoked plan, the part of an annuity payment representing a capital return is that proportion of the taxpayer's interest in the annuity payment that the adjusted purchase price of the taxpayer's interest in the contract at the time of payment is of the taxpayer's interest, immediately before the payments to which paragraph *c* of section 312 of the Act applies commence under the contract, in the aggregate of the payments to be made under the contract in the case of a contract made for a fixed number of years, or expected to be made under the contract in the case of a contract under which the continuance of the payments depends, in whole or in part, on the survival of an individual.

s. 336R6; O.C. 1981-80, s. 336R6; R.R.Q., 1981, c. I-3, r.1, s. 336R6; O.C. 2962-82, s. 34; O.C. 500-83, s. 34; O.C. 7-87, s. 10; O.C. 1114-93, s. 18; O.C. 35-96, s. 86; O.C. 1454-99, s. 62; O.C. 1149-2006, s. 20.

"**336R4.** For the purposes of sections 336R2 to 336R11, where the continuance of annuity payments under a contract depends, in whole or in part, on the survival of an individual, the aggregate of the payments expected to be made under the contract is,

(*a*) in the case of a contract that provides for equal payments and does not provide for a guaranteed period of payment, equal to the product of the multiplication of the aggregate of the annuity payments deemed to be received in a year under the contract by the life expectancies predicted in the table entitled "1971 Individual Annuity Mortality Table", and published in Volume XXIII of "Transactions of the Society of Actuaries"; or

(*b*) in any other case, computed in accordance with paragraph *a*, with the necessary modifications.

s. 336R7; O.C. 1981-80, s. 336R7; R.R.Q., 1981, c. I-3, r.1, s. 336R7; O.C. 2962-82, s. 34; O.C. 500-83, s. 34; O.C. 1633-96, s. 6.

"**336R5.** For the purposes of section 336R4, the age of a person is computed by subtracting the calendar year of birth from the calendar year for which the computation is made.

s. 336R8; O.C. 1981-80, s. 336R8; R.R.Q., 1981, c. I-3, r.1, s. 336R8; O.C. 2962-82, s. 34; O.C. 500-83, s. 34.

"**336R6.** Where the individual referred to in section 336R4 dies before the total of the annual payments reaches a stated amount and the contract provides for the payment of the balance, the contract is deemed to continue the payments for a fixed duration equal to the nearest integral number of years required to complete the payment of the stated amount.

s. 336R9; O.C. 1981-80, s. 336R9; R.R.Q., 1981, c. I-3, r.1, s. 336R9; O.C. 2962-82, s. 34; O.C. 500-83, s. 34.

"**DIVISION III**

"COMPUTATION OF THE PURCHASE PRICE

div. III; O.C. 2962-82, s. 34; O.C. 500-83, s. 34.

"**336R7.** For the purposes of sections 336R2 to 336R11, but subject to sections 336R8 to 336R11, the adjusted purchase price of a taxpayer's interest in an annuity contract at a particular time designates the amount that would be determined at that time in respect of that interest under sections 976 and 976.1 of the Act, if paragraph *c* of section 976.1 is disregarded.

s. 336R10; O.C. 2962-82, s. 34; O.C. 500-83, s. 34; O.C. 7-87, s. 11.

"**336R8.** The rules prescribed by sections 336R9 and 336R10 apply to the computation of the adjusted purchase price of a taxpayer's interest in a life annuity contract signed before 17 November 1978 and under which annuity payments commence on the death of an individual.

The rules referred to in the first paragraph also apply in the case of an annuity contract, other than an annuity contract referred to in the first paragraph, that is a life annuity contract referred to in the first paragraph, that is a life annuity contract signed before 23 October 1968 or another annuity contract signed before 4 January 1968, under which the annuity payments commence at the end of a fixed number of years, and before the later of 1 January 1970 and the tax anniversary date of the contract.

s. 336R12; O.C. 2962-82, s. 34; O.C. 500-83, s. 34; O.C. 7-87, s. 12.

"**336R9.** Where an annuity contract referred to in section 336R8 provides that the annuitant may accept a lump sum payment instead of annuity payments on the date when those payments commence, that amount constitutes the adjusted purchase price of the contract.

If the contract does not provide for any lump sum, the adjusted purchase price of the contract is then equal to the amount that may be determined according to the contract as

being the actual value of the annuity on the date when the annuity payments commence.

s. 336R13; O.C. 2962-82, s. 34; O.C. 500-83, s. 34.

"**336R10.** Where an annuity contract referred to in section 336R8 does not provide a lump sum and does not provide for the computation of the actual value of the annuity, the adjusted purchase price of the contract is equal to the premiums paid and accumulated with interest at the rate of 4% per annum to the date on which the annuity payments commence, if it is a contract made under the Government Annuities Act (Revised Statutes of Canada, 1970, chapter G-6).

If the contract is not made under that Act, the adjusted purchase price of the contract is equal to the actual value of the annuity payments computed, at the date when those payments commence, in terms of interest at the rate of 4% per annum where the annuity payments commence before 1972 and 5 1/2% per annum where they commence after 1971 and, in the case of a contract referred to in section 336R4, by applying sections 336R4 to 336R7.

s. 336R14; O.C. 2962-82, s. 34; O.C. 500-83, s. 34.

"**336R11.** Where the second paragraph of section 336R8 would apply to an annuity contract if the words "on or after the later of 1 January 1970 and the tax anniversary date" were substituted for the words "before the later of 1 January 1970 and the tax anniversary date", the adjusted purchase price of a taxpayer's interest in an annuity contract is the greater of

(*a*) the aggregate of

i. the amount that would be determined in respect of that interest under section 336R9 or 336R10, if the date referred to in either of those sections were the tax anniversary date of the contract, and

ii. the adjusted purchase price that would be determined in respect of that interest if, in each of paragraphs *a* to *c*, *f* and *g* of section 976 of the Act and in paragraph *a* of section 976.1 of the Act, the words "and after the tax anniversary date" were added immediately after the words "before the particular time"; and

(*b*) the amount determined under section 336R7 in respect of that interest.

s. 336R15; O.C. 2962-82, s. 34; O.C. 500-83, s. 34; O.C. 7-87, s. 13.

"**CHAPTER II**

"PRESCRIBED ASSISTANCE PROGRAM

chap. I.0.1; O.C. 1539-93, s. 13.

"**336R12.** For the purposes of paragraph *k* of section 336 of the Act, the Subsidy and Loan Program for Workers, administered by the Ministère de l'Emploi et de Solidarité sociale is a prescribed assistance program.

s. 336R16; O.C. 1539-93, s. 13; O.C. 1454-99, s. 62.

"**CHAPTER III**

"PRESCRIBED LEGISLATIVE PROVISIONS

chap. II.0.2; O.C. 1631-96, s. 30.

"**339R1.** For the purposes of paragraphs *d*.0.2 to *d*.0.4 of section 339 of the Act, subsection 7 of section 39 and subsection 8 of section 42 of the Public Service Superannuation Act (Revised Statutes of Canada, 1985, chapter P-36) and subsection 6 of section 24 of the Royal Canadian Mounted Police Superannuation Act (Revised Statutes of Canada, 1985, chapter R-11) are prescribed legislative provisions.

s. 339R4; O.C. 1631-96, s. 30.

"**CHAPTER IV**

"INDIVIDUALS RESIDING IN REMOTE AREAS

chap. II.0.3; O.C. 1155-2004, s. 25.

"**350.1R1.** For the purposes of section 350.1 of the Act,

(*a*) an area is a prescribed northern zone for a taxation year if it is an area included for that year in subsection 1 of section 7303.1 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); and

(*b*) an area is a prescribed intermediate zone for a taxation year if it is an area included for that year in subsection 2 of section 7303.1 of the Income Tax Regulations made under the Income Tax Act.

s. 350.1R1; O.C. 1155-2004, s. 25.

"**350.2R1.** For the purposes of sections 350.2R2 to 350.2R4,

"designated city" means St. John's, Halifax, Moncton, Québec, Montréal, Ottawa, Toronto, North Bay, Winnipeg, Saskatoon, Calgary, Edmonton and Vancouver; and

"member of the individual's household" includes that individual.

s. 350.2R1; O.C. 1155-2004, s. 25.

"**350.2R2.** For the purposes of subparagraph i of subparagraph *a* of the first paragraph of section 350.2 of the Act, the amount that an individual receives or the value of a benefit that the individual receives or enjoys for a period in a taxation year may not exceed the lesser of

(*a*) the aggregate of

i. the value of the assistance provided during the period by the individual's employer in respect of the travelling expenses for the trips each of which is a trip that may reasonably be considered to relate to that period and was made by a person who was a member of the individual's household at the time the trip was made, and

ii. the amount received during the period by the individual from the individual's employer in respect of the travelling expenses for the trips each of which is a trip that may reasonably be considered to relate to that period and was made by a person who was a member of the individual's household at the time the trip was made; and

(*b*) the aggregate of the individual's travel expenses for that period, in respect of a person who was a member of the individual's household at any time in the period.

s. 350.2R4; O.C. 1155-2004, s. 25.

"**350.2R3.** For the purposes of section 350.2R2, the travel expenses of an individual, for a period in a taxation year, in respect of a person who was a member of the individual's household at any time during the period, are the total of the individual's travel expenses of all the trips each of which is a trip that may reasonably be considered to relate to that period and was made by the person at a time when the person was a member of the individual's household.

s. 350.2R3; O.C. 1155-2004, s. 25.

"**350.2R4.** For the purposes of section 350.2R3, the travel expenses of an individual, in respect of a trip made by a person who was a member of the individual's household at the time the trip was made, are the least of

(*a*) the aggregate of

i. the value of the assistance provided by the individual's employer in respect of the travelling expenses for the trip, and

ii. the amount received by the individual from that employer in respect of the travelling expenses for the trip;

(*b*) the aggregate of

i. the value of the assistance provided by the individual's employer in respect of the travelling expenses for the trip, and

ii. the travelling expenses incurred by the individual for the trip; and

(*c*) the lowest return airfare ordinarily available to the person at the time the trip was made for a flight between the place in which the person resided immediately before the trip, or the airport closest to that place, and the designated city closest to that place.

s. 350.2R2; O.C. 1155-2004, s. 25.

"**CHAPTER V**

"FLOW-THROUGH SHARES

chap. II.3; O.C. 91–94, s. 11.

"**359.1R1.** In this chapter,

"excluded obligation", in relation to a share issued by a corporation, means

(*a*) an obligation of the corporation with respect to

i. eligibility for, or the amount of, any assistance under the Canadian Exploration and Development Incentive Program Act (Revised Statutes of Canada, 1985, chapter 15, 3rd Supplement), the Canadian Exploration Incentive Program Act (Revised Statutes of Canada, 1985, chapter 27, 4th Supplement), the Ontario Mineral Exploration Program Act, 1989 (S.O., 1989, c. 40) or the Mineral Exploration Incentive Program Act (Manitoba) (S.M., 1990-1991, c. 45), or

ii. the making of an election respecting the assistance referred to in subparagraph i and the transfer of such assistance to the holder of the share in accordance with any of the Acts referred to in subparagraph i;

(*b*) an obligation of the corporation, in respect of the share, to distribute an amount representing a payment out of assistance to which the corporation is entitled under section 25.1 of the Income Tax Act of British Columbia (R.S.B.C., 1996, c. 215) as a consequence of the corporation making expenditures funded by consideration received for shares issued by the corporation in respect of which the corporation purports to renounce an amount under section 359.2 of the Act; and

(*c*) an obligation of any person or partnership to effect an undertaking to indemnify the holder of the share or, where the holder is a partnership, a member thereof, for an amount not exceeding the amount of the tax payable by the holder or the member of the partnership, as the case may be, under the Act, the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or the laws of a province other than Québec, as a consequence of

i. the failure of the corporation to renounce an amount to the holder in respect of the share, or

ii. a reduction, pursuant to section 359.15 of the Act or subsection 12.73 of section 66 of the Income Tax Act, of an amount purported to be renounced by the corporation to the holder in respect of the share;

"new share" means a share of the capital stock of a corporation issued after 17 June 1987, other than a share issued at a particular time before 1 January 1989,

(*a*) pursuant to an agreement in writing entered into before 18 June 1987;

(*b*) as part of a distribution of shares to the public made in accordance with the terms of a final prospectus, preliminary prospectus, registration statement, offering memorandum or notice, required by law to be filed before distribution of the shares begins, filed before 18 June 1987 with a public authority in Canada in accordance with the securities legislation of the province in which the shares were distributed; or

(*c*) to a partnership in which interests were issued as part of a distribution to the public made in accordance with the terms of a final prospectus, preliminary prospectus, registration statement, offering memorandum or notice, required by law to be filed before distribution of the interests begins, filed before 18 June 1987 with a public authority in Canada in accordance with the securities legislation of the province in which the interests were distributed, where all interests in the partnership issued not later than the particular time were issued as part of the distribution or prior to the beginning of the distribution;

"specified person", in relation to any particular person, means another person with whom the particular person does not deal at arm's length or any partnership or trust of which the particular person or the other person is a member or beneficiary, respectively.

s. 359.1R1; O.C. 91-94, s. 11; O.C. 1660-94, s. 7; O.C. 35-96, s. 86; O.C. 1631-96, s. 31; O.C. 1707-97, s. 98; O.C. 1466-98, s. 40; O.C. 1463-2001, s. 57; O.C. 1470-2002, s. 35.

"**359.1R2.** For the purposes of the first paragraph of section 359.1 of the Act, a share referred to in sections 395R1 to 395R3 is a prescribed share, unless it is a share of the capital stock of a corporation that is a new share.

s. 359.1R2; O.C. 91-94, s. 11; O.C. 1707-97, s. 98.

"**359.1R3.** For the purposes of the first paragraph of section 359.1 of the Act, a new share of the capital stock of a corporation is a prescribed share if, at the time it is issued, any of the following conditions is fulfilled:

(*a*) under the terms or conditions of the share or any agreement in respect of the share or its issue,

i. the amount of a dividend, determined by way of a formula or otherwise, that may be declared or paid on the share, referred to in this chapter as the "dividend entitlement", may reasonably be considered to be

(1) fixed,

(2) limited to a maximum, or

(3) established to be not less than a minimum, including any amount determined on a cumulative basis, where with respect to the dividend that may be declared or paid on the share there is a preference over any other dividends that may be declared or paid on any other share of the capital stock of the corporation,

ii. the amount, determined by way of a formula or otherwise, that the holder of the share is entitled to receive in respect of the share on the dissolution, liquidation or winding-up of the corporation, on a reduction of the paid-up capital of the share or on the redemption, acquisition or cancellation of the share by the corporation or by the specified person in relation to the corporation, referred to in this chapter as the "liquidation entitlement", may reasonably be considered to be fixed, limited to a maximum or established to be not less than a minimum,

iii. the share is convertible or exchangeable into another security issued by the corporation, unless the following conditions are fulfilled:

(1) it is convertible or exchangeable only into a property that is another share of the corporation, referred to in this subparagraph and in subparagraph 2 as a "particular share", that, if issued, would not be a prescribed share, a right, including a right conferred by a warrant that, if exercised, would allow the person exercising it to acquire only a share of the corporation that, if issued, would not be a prescribed share, or both a particular share and such right, and

(2) all the consideration receivable by the holder of the share on the conversion or exchange of the share is the particular share, the right described in subparagraph 1, or both the particular share and such right, or

iv. the corporation has, either absolutely or contingently, an obligation to reduce the paid-up capital in respect of the share, or any person or partnership has, either absolutely or contingently, an obligation to cause the corporation to reduce the paid-up capital in respect of the share, otherwise than pursuant to a conversion or an exchange of the share, where the right to so convert or exchange does not cause the share to be a prescribed share under subparagraph iii;

(*b*) any person or partnership has, either absolutely or contingently, an obligation, either immediately or in the future, other than an excluded obligation in relation to the share, to provide assistance, to make a loan or payment, to transfer property or otherwise to confer a benefit by any means whatever, including the payment of a dividend, and that obligation may reasonably be considered to be, directly or indirectly, a repayment or return by the corporation or a specified person in relation to the corporation of all or part of the consideration for which the share was issued or for which an interest in the partnership that acquires the share was issued;

(*c*) any person or partnership has, either absolutely or contingently, an obligation, other than an excluded obligation in relation to the share, to effect any undertaking, either immediately or in the future, with respect to the share or the agreement under which the share is issued, including any guarantee, security, indemnity, covenant or agreement and including the lending of funds to, or on behalf of, the holder of the share or, where the holder is a partnership, to a member thereof or to a specified person in relation to the holder or the member of the partnership, as the case may

be, or the placing of amounts on deposit with, or on behalf of, such holder, member or person, that may reasonably be considered to have been given to ensure, directly or indirectly, that

i. any loss that the holder of the share and, where the holder is a partnership, a member thereof or a specified person in relation to the holder or a member of the partnership, as the case may be, may sustain by reason of the holding, ownership or disposition of the share or any other property is limited in any respect, or

ii. the holder of the share and, where the holder is a partnership, a member thereof or a specified person in relation to the holder or a member of the partnership, as the case may be, will derive earnings by reason of the holding, ownership or disposition of the share or any other property;

(*d*) the corporation or a specified person in relation to the corporation, within five years after the date the share is issued, may reasonably be expected

i. to acquire or cancel the share in whole or in part otherwise than on a conversion or exchange of the share that meets the conditions set out in subparagraphs 1 and 2 of subparagraph iii of paragraph *a* or otherwise than as a consequence of an amalgamation of a subsidiary wholly-owned corporation, a winding-up of a subsidiary wholly-owned corporation to which section 556 of the Act applies, or the payment of a dividend by a subsidiary wholly-owned corporation to its parent,

ii. to reduce the paid-up capital of the corporation in respect of the share otherwise than on a conversion or exchange of the share that meets the conditions set out in subparagraphs 1 and 2 of subparagraph iii of paragraph *a* or otherwise than as a consequence of an amalgamation, a winding-up, or the payment of a dividend referred to in subparagraph i, or

iii. to make a payment, transfer or other transaction, directly or indirectly, otherwise than pursuant to an excluded obligation in relation to the share or otherwise than as a consequence of an amalgamation, a winding-up or the payment of a dividend referred to in subparagraph i, by way of a dividend, loan, purchase of shares, financial assistance to any purchaser of the share or, where the purchaser is a partnership, a member thereof, or in any other manner whatever, that may reasonably be considered to be a repayment or return of all or part of the consideration for which the share was issued or for which an interest in the partnership that acquires the share was issued;

(*e*) any person or partnership may reasonably be expected to respect, within five years after the date the share is issued, any undertaking which, if it were in force at the time the share was issued, would cause the share to be a prescribed share by reason of paragraph *c*; or

(*f*) it may reasonably be expected that, within five years after the date the share is issued,

i. any of the terms or conditions of the share or any existing agreement relating to the share or its issue will be modified in such a manner that the share would be a prescribed share if it had been issued at the time of the modification, or

ii. any new agreement relating to the share or its issue will be entered into in such a manner that the share would be a prescribed share if it had been issued at the time when the new agreement is entered into.

s. 359.1R3; O.C. 91-94, s. 11; O.C. 1707-97, s. 98; O.C. 1466-98, s. 126.

"**359.1R4.** For the purposes of the first paragraph of section 359.1 of the Act, a new share of the capital stock of a corporation is a prescribed share if it fulfils any of the following conditions:

(*a*) the consideration for which the share is to be issued is to be determined more than 60 days after entering into the agreement pursuant to which the share is to be issued;

(*b*) the corporation or a specified person in relation to the corporation, directly or indirectly, for the purpose of assisting any person or partnership in acquiring the share or an interest in a partnership acquiring the share, otherwise than by reason of an excluded obligation in relation to the share,

i. provided assistance,

ii. made or arranged for a loan or payment,

iii. transferred property, or

iv. otherwise conferred a benefit by any means whatever, including the payment of a dividend; or

(*c*) the holder of the share or, where the holder is a partnership, a member thereof, is entitled under any agreement or arrangement entered into under circumstances where it is reasonable to consider that the agreement or arrangement was contemplated at or before the time when the agreement to issue the share was entered into

i. to dispose of the share, and

ii. through a transaction or event or a series of transactions or events contemplated by the agreement or arrangement, to acquire a share, referred to in this subparagraph as the "acquired share", of the capital stock of another corporation that would be a prescribed share under section 359.1R3 if the acquired share had been issued at the time the share was issued, other than a share that would not be a prescribed share if that section were read without reference to subparagraph iv of paragraph *a* and subparagraphs i and ii of paragraph *d* where the acquired share is a share

(1) of a mutual fund corporation, or

(2) of a corporation that becomes a mutual fund corporation within 90 days after the acquisition of the acquired share.

s. 359.1R4; O.C. 91-94, s. 11; O.C. 1707-97, s. 41.

"**359.1R5.** For the purposes of section 359.1R3, the following rules apply:

(*a*) the dividend entitlement of a share of the capital stock of a corporation is deemed not to be fixed, limited to a maximum or established to be not less than a minimum where all dividends on the share are determined solely by reference to a multiple or fraction of the dividend entitlement of another share of the capital stock of the corporation, or of another corporation that controls the corporation, where the dividend entitlement of that other share is not described in subparagraph i of paragraph *a* of section 359.1R3; and

(*b*) the liquidation entitlement of a share of the capital stock of a corporation is deemed not to be fixed, limited to a maximum or established to be not less than a minimum where all the liquidation entitlement is determinable solely by reference to the liquidation entitlement of another share of the capital stock of the corporation, or of another corporation that controls the corporation, where the liquidation entitlement of that other share is not described in subparagraph ii of paragraph *a* of section 359.1R3.

s. 359.1R5; O.C. 91-94, s. 11; O.C. 1707-97, s. 98.

"**359.1R6.** For the purposes of paragraphs *c* and *e* of section 359.1R3, an agreement entered into between the first holder of a share and another person or partnership for the sale of the share to that other person or partnership for its fair market value at the time the share is acquired by the other person or partnership, determined without reference to the agreement, is deemed not to be an undertaking with respect to the share.

s. 359.1R6; O.C. 91-94, s. 11; O.C. 1707-97, s. 98.

"**359.1R7.** For the purposes of the first paragraph of section 359.1 of the Act, a share that may be the subject of a stock savings plan described in section 965.2 of the Act or an SME growth stock plan described in section 965.56 of the Act is a prescribed share.

s. 359.1R7; O.C. 91-94, s. 11; O.C. 1149-2006, s. 21.

"**359.2R1.** For the purposes of paragraph *b* of the first paragraph of section 359.2 of the Act, a Canadian exploration and development overhead expense of a corporation is

(*a*) a Canadian exploration and development overhead expense of the corporation, within the meaning assigned to that expression by section 360R2;

(*b*) an expense that would be a Canadian exploration and development overhead expense of the corporation, within the meaning assigned to that expression by section 360R2, if the references to "person who was connected with the taxpayer", "provided for the benefit of the taxpayer", "from that person" and "by that person" in paragraph *d* of the definition of that expression in section 360R2 were replaced by "particular person who was connected with the person to whom the expense is renounced under section 359.2 of the Act", "that the particular person provided for the benefit of the taxpayer", "from that particular person" and "by that particular person", respectively; and

(*c*) an expense that would be a Canadian exploration and development overhead expense of the corporation, within the meaning assigned to that expression by section 360R2, if the reference to "who was connected with the taxpayer" in paragraph *d* of the definition of that expression in section 360R2 were replaced by "to whom the expense is renounced under section 359.2 of the Act".

For the purposes of the first paragraph, a partnership is deemed to be a person and its taxation year is deemed to be its fiscal period.

s. 359.2R1; O.C. 91-94, s. 11; O.C. 35-96, s. 14; O.C. 1707-97, s. 98.

"**359.2.1R1.** For the purposes of paragraph *b* of section 359.2.1 of the Act, a Canadian exploration and development overhead expense of a corporation is

(*a*) a Canadian exploration and development overhead expense of the corporation, within the meaning assigned to that expression by section 360R2;

(*b*) an expense that would be a Canadian exploration and development overhead expense of the corporation, within the meaning assigned to that expression by section 360R2, if the references to "connected with the taxpayer" in paragraph *d* of the definition of that expression in section 360R2 were replaced by "connected with the person to whom the expense is renounced under section 359.2.1 of the Act"; and

(*c*) an expense that would be a Canadian exploration and development overhead expense of the corporation, within the meaning assigned to that expression by section 360R2, if the references to "person who was connected with the taxpayer" in paragraph *d* of the definition of that expression in section 360R2 were replaced by "person to whom the expense is renounced under section 359.2.1 of the Act".

For the purposes of the first paragraph, a partnership is deemed to be a person and its taxation year is deemed to be its fiscal period.

s. 359.2.1R1; O.C. 1466-98, s. 41.

"**359.4R1.** For the purposes of paragraph *b* of the first paragraph of section 359.4 of the Act, a Canadian exploration and development overhead expense of a corporation is

(*a*) a Canadian exploration and development overhead expense of the corporation, within the meaning assigned to that expression by section 360R2;

(*b*) an expense that would be a Canadian exploration and development overhead expense of the corporation, within the meaning assigned to that expression by section 360R2, if the references to "person who was connected with the taxpayer", "provided for the benefit of the taxpayer", "from that person" and "by that person" in paragraph *d* of the definition of that expression in section 360R2 were replaced by "particular person who was connected with the person to whom the expense is renounced under section 359.4 of the Act", "that the particular person provided for the benefit of the taxpayer", "from that particular person" and "by that particular person", respectively; and

(*c*) an expense that would be a Canadian exploration and development overhead expense of the corporation, within the meaning assigned to that expression by section 360R2, if the reference to "person who was connected with the taxpayer" in paragraph *d* of the definition of that expression in section 360R2 were replaced by "person to whom the expense is renounced under section 359.4 of the Act".

For the purposes of the first paragraph, a partnership is deemed to be a person and its taxation year is deemed to be its fiscal period.

s. 359.4R1; O.C. 91-94, s. 11; O.C. 35-96, s. 15; O.C. 1707-97, s. 98.

" **CHAPTER VI**

" ALLOWANCE FOR DEPLETION

chap. III; O.C. 1981-80, title XIV, chap. III; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. III.

" **DIVISION I**

" GENERALITIES

div. I; O.C. 1981-80, title XIV, chap. III, div. I; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. III, div. I.

" **360R1.** For the purposes of section 360 of the Act, a taxpayer may deduct as allowance for depletion, in computing the taxpayer's income for a taxation year, the amounts determined in this chapter.

s. 360R1; O.C. 1981-80, s. 360R1; R.R.Q., 1981, c. I-3, r. 1, s. 360R1.

" **360R2.** In this chapter,

"bituminous sands equipment" means property of a taxpayer that is included in Class 28 in Schedule B, or in Class 41 of that schedule under subparagraph *a* of the first paragraph of that class, and that the taxpayer acquired after 10 April 1978 mainly for the purpose of earning or producing income from one or more mines located in a deposit of bituminous sands, oil sands or oil shale from which materials are extracted, but does not include a property included in one of those classes by reason of the reference in that Class 28 to subparagraph *m* of the second paragraph of Class 10 in Schedule B, or where it is a property acquired before 17 November 1978 by reason of the reference, in subparagraph i of subparagraph *e* of the first paragraph of that Class 28, to subparagraph *f* of the second paragraph of that Class 10;

"Canadian exploration and development overhead expense" of a taxpayer means a taxpayer's Canadian exploration expense or Canadian development expense that is not a Canadian renewable and conservation expense, within the meaning assigned by section 399.7R1, or a taxpayer's share of such an expense incurred by a partnership, and that the taxpayer made or incurred after 31 December 1980

(*a*) for the administration, management or financing of the taxpayer;

(*b*) in respect of the remuneration and related benefits paid in respect of a person employed by the taxpayer whose duties were not all or substantially all related to exploration or development activities;

(*c*) for taxes, insurance or rents in respect of, or for the maintenance of, property all or substantially all of the use of which by the taxpayer was not for the purposes of exploration or development activities; and

(*d*) for the use of or the right to use any property in which any person who was connected with the taxpayer had an interest, for compensation for the performance of a service for the benefit of the taxpayer by any person who was connected with the taxpayer, or for the acquisition of any materials, parts or supplies from any person who was connected with the taxpayer, to the extent that the expense exceeds the least of amounts, each of which was the aggregate of the costs incurred by a person who was connected with the taxpayer in respect of the property, the performance of the service, or the materials, parts or supplies;

"Canadian oil and gas exploration expense" of a taxpayer means an expenditure incurred after 31 December 1980 and that would constitute a Canadian exploration expense of the taxpayer within the meaning of section 395 of the Act if that section were read without reference to paragraphs *c* and *c*.1 and with "expenses described in paragraphs *a* to *b*.1, *c* to *c*.2" in paragraph *d* and "an expense described in paragraphs *a* to *c*.1" in paragraph *e* replaced by "expenses described in paragraphs *a* to *b*.2", except an expenditure that constitutes, under paragraph *b* of that section 395 where it is interpreted without taking into account the expenses incurred during the year or under subparagraph ii of paragraph *b*.1 of that section, a Canadian exploration expense in respect of a qualified tertiary oil recovery project;

"coal mine operator" means a person who undertakes all or substantially all of the activities related to coal production from a resource;

"conventional lands" means lands located in Canada other than non-conventional lands;

"development corporation" has the meaning assigned by section 363 of the Act;

"disposition of property" has the meaning assigned by subparagraph *a* of the first paragraph of section 93 of the Act;

"enhanced recovery material" means property of a taxpayer that is included in Class 10 in Schedule B under subparagraph *d* of the second paragraph of that class and that the taxpayer acquired after 10 April 1978 and before 1 January 1981 in order to use it in the production of a volume of oil from a reservoir or a deposit of bituminous sands, oil sands or oil shale that the taxpayer operates in Canada, that is greater than the volume that could be recovered using primary recovery techniques alone, but does not include property

(*a*) that the taxpayer has already used in a primary recovery process;

(*b*) that a person with whom the taxpayer was not dealing at arm's length used before the taxpayer acquired it; and

(*c*) that a person used before 11 April 1978 in the production of a volume of oil obtained from a reservoir in Canada that is greater than the volume that could be recovered using primary recovery techniques alone;

"exempt partnership" in respect of a taxpayer at a particular time means a partnership of which the taxpayer was a member throughout the period beginning on 20 December 1991 and ending at the particular time, where all or substantially all of the fair market value of the property of the partnership at the particular time is attributable to property held in connection with one or more working interests that were held by the partnership on 20 December 1991 for the production of minerals, petroleum, natural gas or related hydrocarbons, unless

(*a*) any of the depreciable property acquired after 20 December 1991 and before the particular time by the partnership in connection with one of the working interests had, before the time of the acquisition, been owned by the taxpayer, or any other person with whom the taxpayer did not deal at arm's length, and been used by the taxpayer, or that other person, in connection with that working interest; or

(*b*) it is reasonable to consider that, before the particular time, amounts were charged to the partnership that would not have been so charged if Chapter III of Title XVI were read without reference to 145R4;

"exporting resource", in respect of a property of a taxpayer used for processing, means a resource from which all or part of the ore produced during the year immediately preceding the acquisition of the property by the taxpayer was ordinarily processed outside Canada to any stage that is not beyond the prime metal stage or its equivalent;

"joint exploration corporation" has the meaning assigned by section 382 of the Act;

"mine" means any location where material is extracted from a mineral resource in Canada, excluding a well for the extraction of material from a deposit of bituminous or oil sands or oil shale;

"mining business" has the meaning assigned by section 359 of the Act;

"non-conventional lands" means lands that belong to Her Majesty in right of Canada, or in respect of which Her Majesty in right of Canada has the right to dispose of or exploit the natural resources, situated in the Yukon Territory, the Northwest Territories, or Sable Island or in those submarine areas not within a province, adjacent to the coast of Canada and extending throughout the natural prolongation of the land territory of Canada to the outer edge of the continental margin or to 200 nautical miles from the baselines from which the breadth of the territorial sea of Canada is measured, whichever is the greater;

"oil business" has the meaning assigned by section 359 of the Act;

"ore" includes ore from a mineral resource that has been processed to any stage that is prior to the prime metal stage or its equivalent;

"original owner" of a property means a person

(*a*) who owned the property and disposed of it to a corporation that acquired it in circumstances in which section 360R18 applies, or would apply if the corporation had continued to own the property, to the corporation in respect of the property; and

(*b*) who would, but for section 360R59, as it read in its application to a taxation year ending before 18 February 1987, or paragraph a of section 360R59, as the case may be, be entitled in computing the person's income for a taxation year ending after the person disposed of the property, to a deduction under section 360R17 in respect of expenditures that were incurred by the person before the person disposed of the property;

"predecessor owner" of a property means a corporation that

(*a*) acquired the property in circumstances where, in respect of that property, section 360R18 applies to the corporation or would apply to it if it had continued to own the property;

(*b*) disposed of the property to another corporation that acquired it in circumstances where, in respect of that property, section 360R18 applies to that other corporation or would apply to it if it had continued to own the property; and

(*c*) would be entitled, but for section 360R19, in respect of expenditures incurred by an original owner of the property, to a deduction under section 360R18 in computing its income for a taxation year ending after the time when it disposed of the property;

"primary recovery" means the recovery of oil from a reservoir following use of the natural energy of the reservoir to bring the oil to a producing well;

"proceeds of disposition" of a property has the meaning assigned by subparagraph *f* of the first paragraph of section 93 of the Act;

"production" from a Canadian resource property has the meaning assigned by the second paragraph of section 418.15 of the Act;

"production royalty" means an amount, in respect of a particular Canadian resource property, included in computing the income of a taxpayer as a rental or royalty computed by reference to the amount or value of petroleum, natural gas or related hydrocarbons either produced after 31 December 1981 from a natural accumulation of petroleum or natural gas in Canada, other than a resource, or from an oil or gas well in Canada, or produced after 30 June 1988 from a resource that is a deposit of bituminous sands, oil sands or oil shale, if

(*a*) the taxpayer has a Crown royalty in respect of such production or in respect of the ownership of property to which such production relates where, in the latter case, Crown royalty is computed by reference to an amount of production from the accumulation, oil or gas well or resource, and it is reasonable in all cases to consider that the taxpayer would have had the Crown royalty if the taxpayer's only source of income had been the rental or royalty in respect of the particular Canadian resource property; or

(*b*) the taxpayer would, but for an exemption or allowance, other than a rate of nil, that is provided, pursuant to a statute, by a person referred to in section 90 of the Act, have a Crown royalty in respect of which paragraph *a* is applicable;

"property used for processing" means property that, before it was acquired by the taxpayer, has not been used by a person with whom the taxpayer was not dealing at arm's length and that is property included in Class 10 in Schedule B because of subparagraph *a* of the second paragraph of that class or that would be so included were it not for subparagraph ii of that subparagraph *a* and Class 41 in Schedule B, or property included in that class because of subparagraph *e* of that second paragraph or that would be so included were it not for subparagraph iii of that subparagraph *e* and Class 41 in Schedule B;

"qualified resource", in respect of a property of a taxpayer used for processing, means a resource which, within a reasonable time after the taxpayer acquired the property, began producing in reasonable commercial quantities or was the subject of a major expansion by virtue of which the projected greatest capacity, measured according to the weight of input of ore, of the mill that processed the ore from the resource was, in the year immediately following the expansion, not less than 25% greater than it was in the year immediately preceding the expansion;

"qualified tertiary oil recovery project" in respect of an expense incurred in a taxation year means a project that uses a method, including a method that uses carbon dioxide miscible, hydrocarbon miscible, thermal or chemical processes but not including a secondary recovery method, that is designed to recover oil from an oil well in Canada that is incremental to oil that would be recovered therefrom by primary recovery and a secondary recovery method, if

(*a*) a specified royalty provision applies in the year or in the immediately following taxation year in respect of the production or any portion thereof from the production or any portion thereof from the project or in respect of the ownership of property to which such production relates;

(*b*) the project is on a reserve within the meaning of the Indian Act (Revised Statutes of Canada, 1985, chapter I-5); or

(*c*) the project is located in the Province of Ontario;

"reserve amount" has the meaning assigned by subparagraph *a* of the first paragraph of section 418.15 of the Act;

"resource" means a mineral resource in Canada;

"secondary recovery method" means a method to recover from a reservoir oil that is incremental to oil that would be recovered therefrom by primary recovery, by supplying energy, through the use of technically proven methods, including waterflooding, to supplement or replace the natural energy of the reservoir;

"shareholder corporation" has the meaning assigned by subsection 1 of section 383 of the Act, as it read before its revocation;

"specified percentage" for a calendar year in respect of a Canadian oil and gas exploration expense of a taxpayer for that year means

(*a*) in respect of such an expense incurred in respect of conventional lands, 100% for the 1981 calendar year, 60% for the 1982 calendar year and 30% for the 1983 calendar year; and

(*b*) in respect of such an expense incurred in respect of non-conventional lands, 100% for the 1981 and 1982 calendar years, 60% for the 1983 calendar year and 30% for the 1984 calendar year;

"specified property" of a person means all or substantially all of the property used by the person in carrying on in Canada a business described in paragraphs *a* to *g* of section 363 of the Act;

"specified royalty" means a royalty created after 5 December 1996, otherwise than in accordance with an agreement in writing entered into on or before that date, where

(*a*) its cost is a Canadian development expense; and

(*b*) it was created in connection with an operation or an event, or a series of operations or events, further to which a depreciable property was acquired at a capital cost of less than its fair market value, determined without taking into account the royalty;

"stated percentage" means

(*a*) where the taxpayer is an individual other than a trust, in respect of sections 360R31, 360R35, 360R37 and 360R41,

i. 100% in respect of an expenditure incurred before 1 January 1989 or of an amount of assistance related to such expenditure,

ii. 50% in respect of an expenditure incurred after 31 December 1988 and before 1 January 1990 or of an amount of assistance related to such expenditure, or

iii. 0% in respect of an expenditure incurred after 31 December 1989 or of an amount of assistance related to such expenditure;

(*b*) in respect of sections 360R42 and 360R43 and, where the taxpayer is not an individual referred to in paragraph *a*, sections 360R31, 360R35, 360R37 and 360R41,

i. 100% in respect of an expenditure incurred before 1 July 1988, of an amount of assistance or benefit related to such expenditure or of a cost incurred in borrowing capital before that date,

ii. 50% in respect of an expenditure incurred after 30 June 1988 and before 1 January 1990, of an amount of assistance or benefit related to such expenditure or of a cost incurred in borrowing capital after 30 June 1988 and before 1 January 1990, or

iii. 0% in respect of an expenditure incurred after 31 December 1989, of an amount of assistance or benefit related to such expenditure or of a cost incurred in borrowing capital after that date;

"tar sands ore" means ore extracted, other than through a well, from a mineral resource that is a deposit of bituminous sand, oil sand or bituminous shale;

"tertiary recovery equipment" means property of a taxpayer that is included, or would be included if it were not for Class 41 in Schedule B, in Class 10 in that schedule under subparagraph *d* of the second paragraph of that Class 10 and that the taxpayer acquired after 31 December 1980 in order to use it in a qualified tertiary oil recovery project, but does not include property that the taxpayer has already used for other purposes or that a person with whom the taxpayer does not deal at arm's length used before the taxpayer acquired it.

s. 360R2; O.C. 1981-80, s. 360R2; O.C. 1983-80, s. 16; O.C. 3926-80, s. 9; R.R.Q., 1981, c. I-3, r.1, s. 360R2; O.C. 2962-82, s. 35; O.C. 500-83, s. 35; O.C. 2509-85, s. 5; O.C. 1076-88, s. 10; O.C. 91-94, s. 12; O.C. 35-96, s. 16; O.C. 1707-97, s. 42; O.C. 1466-98, s. 42; O.C. 1451-2000, s. 66; O.C. 1470-2002, s. 36; O.C. 1282-2003, s. 37; O.C. 1155-2004, s. 26; O.C. 1116-2007, s. 23.

"**360R3.** In this chapter, "resource activity" of a taxpayer means

(*a*) the production by the taxpayer of petroleum, natural gas or related hydrocarbons, or sulphur, from a natural accumulation, other than a mineral resource, of petroleum or natural gas in Canada, or from an oil or gas well in Canada;

(*b*) the production and processing in Canada by the taxpayer or the processing in Canada by the taxpayer of ore, other than iron ore or tar sands ore, from a mineral resource in Canada to any stage that is not beyond the prime metal stage or its equivalent, iron ore from a mineral resource in Canada to any stage that is not beyond the pellet stage or its equivalent, or tar sands ore from a mineral resource in Canada to any stage that is not beyond the crude oil stage or its equivalent;

(*c*) the processing in Canada by the taxpayer of heavy crude oil recovered from an oil or gas well in Canada to any stage that is not beyond the crude oil stage or its equivalent;

(*d*) Canadian field processing, within the meaning assigned by section 130R3, by the taxpayer;

(*e*) the processing in Canada by the taxpayer of ore, other than iron ore or tar sands ore, from a mineral resource outside Canada to any stage that is not beyond the prime metal stage or its equivalent, iron ore from a mineral resource outside Canada to any stage that is not beyond the pellet stage or its equivalent, or tar sands ore from a mineral resource outside Canada to any stage that is not beyond the crude oil stage or its equivalent; or

(*f*) the ownership by the taxpayer of a right to a rental or royalty computed by reference to the amount or value of production from a natural accumulation of petroleum or natural gas in Canada, an oil or gas well in Canada or a mineral resource in Canada.

For the purposes of this section, the following rules apply:

(*a*) the production of a substance by a taxpayer includes exploration and development activities of the taxpayer with respect to the substance, whether or not extraction of the substance has begun or will ever begin;

(*b*) the production or the processing, or the production and processing, of a substance by a taxpayer includes activities performed by the taxpayer that are ancillary to, or in support

of, the production or the processing, or the production and processing, of that substance by the taxpayer;

(*c*) the production or processing of a substance by a taxpayer includes an activity, including the ownership of property, that is undertaken before the extraction of the substance and that is undertaken for the purpose of extracting or processing the substance;

(*d*) the production or the processing, or the production and processing, of a substance by a taxpayer includes activities that the taxpayer undertakes as a consequence of the production or the processing or the production and processing, of that substance, whether or not the production, the processing or the production and processing of the substance has ceased; and

(*e*) despite subparagraphs *a* to *d* and subparagraphs *a* to *f* of the first paragraph, the production, the processing or the production and processing of a substance does not include any activity of a taxpayer that is part of a source described in paragraph *b* of section 360R21 or 360R25 where

i. the activity is the transporting, transmitting or processing of petroleum, natural gas or related hydrocarbons, or sulphur, other than the processing of tar sands ore described in subparagraph *b* or *e* of the first paragraph and processing described in subparagraph *c* or *d* of that first paragraph, or may reasonably be attributed to a service rendered by the taxpayer, and

ii. revenues derived from the activity are not taken into account in computing the taxpayer's gross resource profits from a mining business or oil business.

s. 360R2.1; O.C. 1466-98, s. 43; O.C. 1470-2002, s. 37.

"**360R4.** For the purposes of this chapter, where at the end of a fiscal period of a partnership a taxpayer was a member thereof, the resource profits in respect of a mining business or an oil business, as the case may be, of the partnership for the fiscal period, to the extent of the taxpayer's share thereof, must be included in computing the taxpayer's resource profits in respect of a mining business or an oil business, as the case may be, for the taxpayer's taxation year in which the fiscal period ended.

The taxpayer is deemed, to the extent of the taxpayer's share in the property, to have acquired or disposed of, as the case may be, on the day of the acquisition or the disposition by the partnership, any property acquired or disposed of by the partnership.

In addition, the taxpayer is deemed, to the extent of the taxpayer's share in the amount, to have become receivable, on the day the partnership became receivable therefor, for any amount that has become receivable by the partnership and in respect of which the consideration given by the partnership was property other than property referred to in any of paragraphs *a*, *c* and *d* of section 328 of the Act or a share or interest therein or right thereto, or services, all or part of the original cost of which to the partnership may be regarded primarily as an exploration or development expense of the taxpayer and the taxpayer is also deemed, to the extent of the taxpayer's share in the consideration, to have given the consideration for that amount thus deemed to have become receivable.

The taxpayer is also is deemed, to the extent of the taxpayer's share in the expenditure, to have incurred, at the time the partnership incurred or is deemed to have incurred that expenditure, any expenditure the partnership has incurred or is deemed to have incurred.

s. 360R3; O.C. 1981-80, s. 360R3; O.C. 1983-80, s. 17; O.C. 3926-80, s. 10; R.R.Q., 1981, c. I-3, r.1, s. 360R3; O.C. 2509-85, s. 6; O.C. 91-94, s. 13; O.C. 1707-97, s. 98.

"**360R5.** For the purposes of Divisions II and IV to VI, a taxpayer who was a member of a partnership at the end of a fiscal period of the partnership, is deemed to receive or to become entitled to receive the amount, to the extent of the taxpayer's share thereof, where the partnership, in the fiscal period, receives or becomes entitled to receive the amount, or to what would have been the taxpayer's share thereof if the partnership had in the fiscal period, received or become entitled to receive the amount, where the partnership after the fiscal period becomes entitled to receive the amount, the amount of any assistance or benefit that the partnership receives or becomes entitled to receive in respect of expenses incurred in the fiscal period, whether such assistance or benefit is by way of a subsidy, bonus, rebate, forgivable loan, rebate of royalty or tax, deduction from royalty or tax, investment allowance or any other form.

s. 360R3.1; O.C. 2509-85, s. 7; O.C. 35-96, s. 17; O.C. 1707-97, s. 98.

"**360R6.** Where an expense incurred after 7 November 1969 that was a Canadian exploration and development expense or that would have been such an expense if it had been incurred after 31 December 1971, a Canadian exploration expense or a Canadian development expense, has been renounced in favour of the taxpayer and is deemed to be an expense of the taxpayer for the purposes of any of sections 383, 407 and 418 of the Act or subsection 7 of section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement) the following rules apply:

(*a*) for the purposes of sections 360R30 to 360R57, the expense is deemed to be such an expense incurred by the taxpayer at the time the expense was incurred by the joint exploration corporation; and

(*b*) for the purposes of sections 145R1 to 145R3 and 360R21 to 360R29, the expense is deemed to be such an expense incurred by the taxpayer at the time it was deemed to have been incurred for the purposes of any of sections 383, 407

and 418 of the Act or subsection 7 of section 29 of the Income Tax Application Rules.

s. 360R4; O.C. 1981-80, s. 360R4; R.R.Q., 1981, c. I-3, r.1, s. 360R4; O.C. 2509-85, s. 7; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**360R7.** For the purposes of section 360R6, the following rules must apply:

(*a*) the expense referred to therein does not include an amount included therein that is in respect of financing;

(*b*) the Canadian exploration and development expense referred to therein or an expense that would have been a Canadian exploration and development expense if it had been incurred after 31 December 1971 does not include the cost of any Canadian resource property acquired by a joint exploration corporation or any property acquired by such a corporation that would have been a Canadian resource property if it had been acquired by the corporation after 31 December 1971; and

(*c*) the Canadian development expense referred to therein does not include an amount referred to in paragraph *c* of section 408 of the Act.

s. 360R5; O.C. 1981-80, s. 360R5; R.R.Q., 1981, c. I-3, r.1, s. 360R5; O.C. 2509-85, s. 7; O.C. 1707-97, s. 98.

"**360R8.** For the purposes of section 360R10 and paragraph *d* of the definition of "Canadian exploration and development overhead expense" in section 360R2,

(*a*) a person and a corporation are connected

i. where the person and the corporation are not dealing at arm's length,

ii. where the person has an equity percentage of at least 10% in the corporation, or

iii. where another person has an equity percentage of at least 10% in the corporation and in the person, if the latter is a corporation;

(*b*) a person and another person that is not a corporation are connected with each other if they are not dealing at arm's length; and

(*c*) the costs that a person has incurred comprise only

i. an expense or an outlay that has been incurred or made and that is attributable to an operation described in that paragraph *d*, except an expense or an outlay described in paragraphs *a* to *c* of that definition, and

ii. the part of its capital cost allowance for a property that may be depreciated for the taxation year that may be considered as related to the use that the taxpayer referred to in that subparagraph *d* made of that property, or to the use of the property in the performance of a service for the taxpayer.

For the purposes of the first paragraph, a partnership is deemed to be a person and its taxation year is deemed to be its fiscal period.

s. 360R5.1; O.C. 2962-82, s. 36; O.C. 500-83, s. 36; O.C. 2509-85, s. 8; O.C. 91-94, s. 14; O.C. 1707-97, s. 43; O.C. 1466-98, s. 126.

"**360R9.** In subparagraphs ii and iii of subparagraph *a* of the first paragraph of section 360R8, "equity percentage" has the meaning assigned by section 573 of the Act.

s. 360R5.2; O.C. 2962-82, s. 36; O.C. 500-83, s. 36.

"**360R10.** For the purposes of subparagraph ii of subparagraph *c* of the first paragraph of section 360R8, the capital cost allowance of the person for the person's taxation year in respect of a property the person owns means the product obtained by multiplying, by the proportion that the number of days in the taxation year during which the person owned the property is of 365, an amount not exceeding 20% of

(*a*) in the case of a property owned by the person on 31 December 1980, the lesser of

i. the capital cost of the property, computed without including therein the cost of borrowing capital, including costs incurred before the start of operations of a business, and

ii. the fair market value of the property on 31 December 1980;

(*b*) in the case of a property previously owned by a person connected with the person and that the connected person acquired after 31 December 1980, the lesser of

i. the capital cost of the property, computed without including therein the cost of borrowing capital, including costs incurred before the start of operations of a business, for the person who, being connected, was the first to acquire the property from a person who was not connected with the present owner of the property, and

ii. the fair market value of the property at the time it was acquired by the person; and

(*c*) in the case of another property, the capital cost of that property, computed without including therein the cost of borrowing capital, including costs incurred before the start of operations of a business.

s. 360R5.3; O.C. 2962-82, s. 36; O.C. 500-83, s. 36.

"**360R11.** An expense that is a Canadian exploration and development overhead expense of the joint exploration corporation referred to in sections 360R6 and 360R7, or would be if the words "connected with the taxpayer",

in paragraph *d* of the definition of that expression in section 360R2 were replaced by "connected with the shareholder corporation in favour of whom the expense was renounced for the purposes of section 407 or 418 of the Act", that may be considered to be part of a Canadian exploration expense or Canadian development expense that is deemed to be such an expense of the shareholder corporation for the purposes of sections 360R6 and 360R7, is deemed to be a Canadian exploration and development overhead expense of the shareholder corporation incurred by it at the time the expense was deemed by sections 360R6 and 360R7 to have been incurred by it and is not to be at and after that time, a Canadian exploration and development overhead expense incurred by the joint exploration corporation.

a. 360R5.4; O.C. 2509-85, s. 9; O.C. 1707-97, s. 98.

"**360R12.** In paragraph *a* of the definition of "qualified tertiary oil recovery project" in section 360R2, a specified royalty provision means

(*a*) the Experimental Project Petroleum Royalty Regulation of Alberta (Alta. Reg. 36/79);

(*b*) the Experimental Oil Sands Royalty Regulations of Alberta (Alta. Reg. 287/77);

(*c*) section 4.2 of the Petroleum Royalty Regulations of Alberta (Alta. Reg. 93/74);

(*d*) section 58A of the Petroleum and Natural Gas Regulations, 1969 of Saskatchewan (Saskatchewan Regulation 8/69);

(*e*) section 204 of the Freehold Oil and Gas Production Tax Regulations, 1983 of Saskatchewan (Saskatchewan Regulation 11/83);

(*f*) item 9 of section 2 of the Petroleum and Natural Gas Royalty Regulations of British Columbia (B.C. Reg. 549/78);

(*g*) the Freehold Mineral Taxation Act of Alberta;

(*h*) the Freehold Mineral Rights Tax Act of Alberta;

(*i*) Order in Council 427/84 pursuant to section 9(*a*) of the Mines and Minerals Act of Alberta;

(*j*) Order in Council 966/84 pursuant to section 9 of the Mines and Minerals Act of Alberta; or

(*k*) Order in Council 870/84 pursuant to section 9 of the Mines and Minerals Act of Alberta.

s. 360R5.5; O.C. 2509-85, s. 9; O.C. 91-94, s. 15; O.C. 35-96, s. 18.

"**360R13.** For the purposes of paragraph *a* of the definition of "qualified tertiary oil recovery project" in section 360R2, where, at a particular time, unconditional approval is given by a person referred to in section 90 of the Act for a specified royalty provision to apply at a time after the particular time, that provision is deemed to apply from the particular time.

s. 360R5.5.1; O.C. 35-96, s. 19.

"**360R14.** In the definition of "production royalty" in section 360R2, the expression "Crown royalty" of a taxpayer in respect of the production of petroleum, natural gas or related hydrocarbons from a natural accumulation of petroleum or natural gas in Canada, other than a resource, from an oil or gas well in Canada or from a resource that is a deposit of bituminous sands, oil sands or oil shale, or in respect of the ownership of a natural reservoir of gas or petroleum in Canada means an amount

(*a*) that would be included in computing the taxpayer's income for a taxation year under section 89 of the Act in respect of such production or ownership if section 91 of the Act were read without reference to the words "or to a prescribed amount";

(*b*) that would not be deductible in computing the taxpayer's income for a taxation year under section 144 of the Act in respect of such production or ownership if subsection 2 of section 144 were read without reference to "to a prescribed amount for the purposes of section 91 or";

(*c*) by which the proceeds of disposition of such production for the taxpayer are increased under section 425 of the Act; or

(*d*) by which the cost of acquisition of such production for the taxpayer is reduced under section 425 of the Act.

An amount described in subparagraph *a* or *b* of the first paragraph must be reduced by the amount of any reimbursement, contribution or allowance referred to in section 486 of the Act received or receivable by the taxpayer in respect of that amount.

s. 360R5.6; O.C. 2509-85, s. 9; O.C. 91-94, s. 16; O.C. 35-96, s. 20; O.C. 1466-98, s. 44.

"**360R15.** Sections 360R18, 360R34, 360R40, 360R73 and 360R87 do not apply

(*a*) in respect of a property acquired by way of an amalgamation or a winding-up to which Division XII applies;

(*b*) in respect of the acquisition of a property by a corporation before 18 February 1987 in order to permit that corporation to deduct an amount that it would not have been entitled to deduct under this chapter if this chapter, as it read in its application to the taxation years ending before 18 February 1987, had applied to the taxation years ending after 17 February 1987; or

(*c*) in respect of a property acquired in any manner whatever from a person who is exempt from tax under Part I of the Act on that person's taxable income.

s. 360R5.7; O.C. 35-96, s. 21; O.C. 1707-97, s. 98; O.C. 1451-2000, s. 9.

"**360R16.** Sections 360R18, 360R34, 360R40, 360R73 and 360R87 apply only to a corporation that has acquired a particular property from a particular person

(*a*) where it acquired the particular property during a taxation year beginning before 1 January 1985 and it acquired the specified property of the particular person at the same time;

(*b*) where it acquired the particular property during a taxation year beginning after 31 December 1984 and it acquired at the same time

i. all or substantially all of the Canadian resource properties of the particular person, or

ii. where subparagraph i does not apply, the specified property of the particular person;

(*c*) where it acquired, other than in circumstances giving rise to the application of subparagraph ii of paragraph *b*, the particular property after 16 November 1978 and during a taxation year ending before 18 February 1987, in any manner whatsoever, except by way of an amalgamation or a winding-up and it and the particular person have filed with the Minister a joint election in accordance with any of sections 378.1, where that section refers to any of sections 376, 404.1, 415.3 and 418.11 of the Act, by applying those sections as they read for that taxation year;

(*d*) where it acquired the particular property after 5 June 1987 as a result of an amalgamation or winding-up, other than in circumstances in which subparagraph ii of paragraph *b* applies and it has filed an election in the form prescribed for the purposes of paragraph *c* of section 418.23 of the Act with the Minister on or before its filing-due date for its taxation year in which it acquired the particular property;

(*e*) where it acquired the particular property, other than as a result of an amalgamation or winding-up or in circumstances in which subparagraph ii of paragraph *b* applies, in a taxation year ending after 17 February 1987 and it and the particular person have filed a joint election in the form prescribed for the purposes of paragraph *e* of section 418.23 of the Act with the Minister on or before the earlier of corporation's filing-due date and the particular person's filing-due date for their respective taxation years that include the time of acquisition of the particular property; and

(*f*) where it acquired the particular property, other than by way of an amalgamation or a winding-up, in circumstances giving rise to the application of subparagraph ii of paragraph *b* and it and the particular person have agreed to avail themselves of the rules provided for in any of sections 360R18, 360R34, 360R40, 360R73 and 360R87 and each of them has so notified the Minister in writing in their fiscal returns that they were required to file under Part I of the Act for the taxation year during which the corporation acquired the particular property.

s. 360R5.8; O.C. 35-96, s. 21; O.C. 1707-97, s. 98; O.C. 1466-98, s. 45.

"**DIVISION II**

"COMPUTATION OF ALLOWANCE FOR DEPLETION

div. II; O.C. 1981-80, title XIV, chap. III, div. II; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. III, div. II.

"**360R17.** A taxpayer may, in computing the taxpayer's income for a taxation year, deduct an amount not exceeding the lesser of

(*a*) the aggregate of

i. 25% of the amount by which resource profits in respect of an oil business for the year exceed 4 times the aggregate of the amounts deducted in respect of that business in computing the taxpayer's income for the year under section 360R18,

ii. 33 1/3% of the amount by which resource profits in respect of a mining business for the year exceed 3 times the aggregate of the amounts deducted in respect of that business in computing the taxpayer's income for the year under section 360R18, and

iii. the amount by which the aggregate of the amounts included in computing the taxpayer's income for the year under paragraph *a* and *b* of section 332.1 of the Act exceeds the aggregate of the amounts that may reasonably be considered to have been deducted in that computation by reason of subparagraph ii of subparagraph *a* of the second paragraph of section 360R18; and

(*b*) the aggregate of

i. the taxpayer's earned depletion base at the end of the year, and

ii. the amount by which the aggregate determined under paragraph *a* of section 360R60 in respect of the taxpayer for the year exceeds the amount by which the aggregate that would be determined under subparagraph *b* of the second paragraph of section 360R42 exceeds the aggregate that would be determined under subparagraph *a* of the second paragraph of section 360R42 in computing the earned depletion base of the taxpayer at the end of the year.

s. 360R6; O.C. 1981-80, s. 360R6; R.R.Q., 1981, c. I-3, r.1, s. 360R6; O.C. 2962-82, s. 37; O.C. 500-83, s. 37; O.C. 35-96, s. 22; O.C. 1470-2002, s. 38.

"**360R18.** Subject to sections 360R15 and 360R16, a corporation that, after 7 November 1969, acquires in any manner whatsoever a particular property may deduct, in

computing its income for a taxation year, an amount not exceeding the aggregate of the amounts each of which is an amount, determined in respect of an original owner of the particular property, equal to the lesser of

(*a*) the earned depletion base of the original owner, immediately after the time when that owner disposed of the particular property, determined by assuming for that purpose, where the disposition resulted after 28 April 1978 from an amalgamation referred to in section 544 of the Act, that the original owner continued to exist after the time of the disposition and no property was acquired or disposed of in the course of the amalgamation, to the extent that the earned depletion base was not otherwise deducted in computing the income of the corporation for the year nor was deducted in computing the income of the corporation for a previous taxation year or in computing the income of the original owner or a predecessor owner of the particular property for any taxation year; and

(*b*) the amount determined under the second paragraph.

The amount to which subparagraph *b* of the first paragraph refers is equal to 25% of the part attributable to an oil business and 33 1/3% of the part attributable to a mining business of the amount by which the part of the income of the corporation, determined before any deduction under section 88.4 of the Act respecting the application of the Taxation Act (R.S.Q., c. I-4) or Chapter X of Title VI of Book III of Part I of the Act, exceeds the amount determined under the third paragraph and as if that income included no amount designated under subparagraph 1 of subparagraph ii of subparagraph *a* of the third paragraph of section 418.17 of the Act, that may reasonably be attributed to

(*a*) the amount included in computing its income for the year under paragraph *e* of section 330 of the Act, that may reasonably be attributed to the disposition by the corporation, in the year or in a previous taxation year, of any interest in or right to the particular property, to the extent that the proceeds of the disposition were not included in computing an amount for any previous taxation year under this subparagraph, section 360R62, subparagraph i of subparagraph *a* of the third paragraph of section 418.16 or 418.18 of the Act, subparagraph iii of subparagraph *c* of the first paragraph of section 418.20 of the Act, section 418.28 of the Act or section 88.4 of the Act respecting the application of the Taxation Act, to the extent that that section refers to Division A of subparagraph i of paragraph *d* of subsection 25 of section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement);

(*b*) its reserve amount for the year in respect of the original owner and each predecessor owner of the particular property;

(*c*) the production obtained from the particular property; or

(*d*) the processing, referred to in subparagraph ii or iii of paragraph *b* of section 360R21 or in paragraph *b* of section 360R25, using the particular property.

The amount to which the second paragraph refers is equal to the aggregate of the following amounts:

(*a*) four times the part attributable to an oil business and three times the part attributable to a mining business of the aggregate of the other amounts deducted for the year under this section that may reasonably be attributed to the part of the income of the corporation for the year referred to in the second paragraph; and

(*b*) the aggregate of the amounts each of which is an amount deducted for the year under any of sections 418.16, 418.18, 418.19 and 418.21 of the Act or under section 88.4 of the Act respecting the application of the Taxation Act, to the extent that that section refers to subsection 25 of section 29 of the Income Tax Application Rules, that may reasonably be attributed to the part of the income of the corporation for the year referred to in the second paragraph.

s. 360R7; O.C. 1981-80, s. 360R7; O.C. 3926-80, s. 11; R.R.Q., 1981, c. I-3, r.1, s. 360R7; O.C. 2962-82, s. 38; Erratum, 1983 G.O. 2, 829; O.C. 500-83, s. 38; O.C. 2509-85, s. 10; O.C. 421-88, s. 7; O.C. 1076-88, s. 11; O.C. 91-94, s. 17; O.C. 35-96, s. 22; O.C. 1707-97, s. 98; O.C. 1454-99, s. 62; O.C. 1451-2000, s. 10; O.C. 1470-2002, s. 39.

"**360R19.** Where, in a particular taxation year, a predecessor owner of a property disposes of it to a corporation in circumstances where section 360R18 applies, for the purposes of applying that section to the predecessor owner for a taxation year ending after 17 February 1987 in respect of the acquisition of that property by the predecessor owner, that owner is deemed, after the disposition, to have never acquired the property, except for the purpose of making a deduction under section 360R18 for the particular year.

s. 360R7.1; O.C. 35-96, s. 23; O.C. 1707-97, s. 98.

"**360R20.** Where a particular person acquires a property at any time in circumstances where section 360R18 does not apply, any person who was an original owner or a predecessor owner of the property by reason of a disposition of the property before that time is, for the purposes of applying this chapter in respect of the particular person or another person acquiring the property after that time, deemed, after that time, not to be an original owner or a predecessor owner, as the case may be, of the property by reason of a disposition of that property before that time.

s. 360R7.2; O.C. 35-96, s. 23.

"**DIVISION III**

"COMPUTATION OF RESOURCE PROFITS

div. III; O.C. 1981-80, title XIV, chap. III, div. III; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. III, div. III.

"**360R21.** For the purposes of this chapter, "gross resource profits" of a taxpayer for a taxation year in respect of a mining business means the amount by which the aggregate

of the following amounts exceeds the aggregate described in section 360R23:

(*a*) where the taxpayer has a production from a mineral resource in Canada that is operated by the taxpayer, the amount by which the aggregate of the amount included in computing the taxpayer's income for the year under paragraph *b* of section 330 of the Act, to the extent that that paragraph refers to an amount deducted under section 358 of the Act, as it read before its repeal, the amounts included in the computation under paragraph *d* of that section 330 and subsection 1 of section 333.2 of the Act, and the excess amount described in section 360R22, exceeds the aggregate of the amounts deducted under section 333.1 of the Act and section 358 of the Act, as it read before its repeal, in computing the taxpayer's income for the year;

(*b*) the aggregate of the taxpayer's incomes for the year computed in the manner described in section 360R23 from

i. the production and processing in Canada of ore, other than iron ore or tar sands ore, from a mineral resource in Canada operated by the taxpayer, to any stage that is not beyond the prime metal stage or its equivalent, or iron ore from such mineral resource to any stage that is not beyond the pellet stage or its equivalent, or tar sands ore from such mineral resource, to any stage or its equivalent,

ii. the processing in Canada of ore, other than iron ore or tar sands ore, from a mineral resource in Canada not operated by the taxpayer, to any stage that is not beyond the prime metal stage or its equivalent, or iron ore from such mineral resource, to any stage that is not beyond the pellet stage or its equivalent, or tar sands ore from such mineral resource, to any stage that is not beyond the crude oil stage or its equivalent, and

iii. the processing in Canada of ore, other than iron ore or tar sands ore, from a mineral resource outside Canada, to any stage that is not beyond the prime metal stage or its equivalent, or iron ore from such mineral resource, to any stage that is not beyond the pellet stage or its equivalent, or tar sands ore from such mineral resource, to any stage that is not beyond the crude oil stage or its equivalent;

(*c*) the aggregate of all amounts, other than an amount included because of paragraph *b* in computing the taxpayer's gross resource profits for the year, each of which is an amount included in computing the taxpayer's income for the year as a rental or royalty computed by reference to the amount or value of production from a mineral resource in Canada; and

(*d*) where the taxpayer throughout the year owns the aggregate of the issued and outstanding shares of the capital stock of a railway company, the amount that may reasonably be considered to be that company's income for its taxation year ending in the year derived from the transportation of the taxpayer's ore described in subparagraph i of paragraph *b*.

s. 360R12; O.C. 1981-80, s. 360R12; O.C. 1535-81, s. 5; R.R.Q., 1981, c. I-3, r.1, s. 360R12; O.C. 2962-82, s. 42; O.C. 500-83, s. 42; O.C. 2509-85, s. 12; O.C. 35-96, s. 25; O.C. 1707-97, s. 98; O.C. 1466-98, s. 46; O.C. 1454-99, s. 62.

"**360R22.** The excess amount mentioned in paragraph *a* of sections 360R21 and 360R25 is the amount by which the amount included in computing the income of the taxpayer for the year under paragraph *e* of section 330 of the Act exceeds the proceeds of disposition that became receivable in the year or a preceding taxation year and after 31 December 1982, in respect of the disposition of property described in paragraph *b* of section 370 of the Act that is any right, licence or privilege to store underground petroleum, natural gas or related hydrocarbons in Canada, to the extent that the proceeds were not deducted in computing such excess amount for a preceding taxation year.

s. 360R12.1; O.C. 2509-85, s. 13; O.C. 35-96, s. 86.

"**360R23.** The amount to be deducted from the aggregate determined in section 360R21 for a taxation year is the aggregate of the taxpayer's losses for the year from a source described in paragraph *b* of section 360R21, as computed in accordance with the Act and assuming that the taxpayer had no other incomes or losses for the year than those from such source and that no deduction was granted in computing the taxpayer's income for the year, other than

(*a*) the amounts deductible under sections 362 to 394 of the Act, other than amounts that are foreign exploration and development expenses, or under section 88.4 of the Act respecting the application of the Taxation Act (R.S.Q., c. I-4), where the taxpayer has no gross resource profits from a natural accumulation, other than a mineral resource, of petroleum or natural gas in Canada, or an oil or gas well in Canada that is operated by the taxpayer and, in any other case, the part of those amounts that may reasonably be considered to be wholly attributable to a mineral resource in Canada;

(*b*) the amount by which the aggregate referred to in section 360R26 exceeds the incomes referred to in section 360R25;

(*c*) the amounts deductible or deducted, as the case may be, under any of sections 395 to 418.16, 418.18 to 418.36 and 419.5 of the Act for the year, other than amounts that are Canadian development expenses related to property described in paragraph *b* of section 370 of the Act that is a right, licence or privilege to store underground petroleum, natural gas or related hydrocarbons in Canada, where no amount is deducted under paragraph *c* of section 360R26 in computing the taxpayer's gross resource profits for the year in respect of an oil business; and

(*d*) any other deduction attributable to a source of income described in paragraph *b* or *c* of section 360R21, other than a deduction under paragraph *r* or *s* of section 157 of the Act

or under any of sections 360R17, 360R18, 360R30, 360R36, 360R82, 360R83 and 360R89.

s. 360R13; O.C. 1981-80, s. 360R13; O.C. 1983-80, s. 18; O.C. 2456-80, s. 6; R.R.Q., 1981, c. I-3, r.1, s. 360R13; O.C. 2962-82, s. 43; O.C. 500-83, s. 43; O.C. 2509-85, s. 14; O.C. 91-94, s. 20; O.C. 35-96, s. 26; O.C. 1466-98, s. 47.

"**360R24.** For the purposes of this chapter, "resource profits" of a taxpayer for a taxation year in respect of a mining business means the amount by which the taxpayer's gross resource profits for the year in respect of a mining business exceeds the aggregate of

(*a*) all amounts deducted in computing the taxpayer's income for the year, other than

i. an amount deducted in computing the taxpayer's gross resource profits for the year in respect of a mining business or an oil business,

ii. an amount deducted under Chapter III of Title II of Book III of Part I of the Act, under paragraph *r* or *s* of section 157, paragraph *a* or *b* of section 657 or any of sections 334 to 358.0.1, 371 and 418.17 of the Act or under any of sections 360R17, 360R18, 360R30, 360R36, 360R65, 360R82, 360R83 and 360R89, in computing the taxpayer's income for the year,

iii. an amount deducted under Division IV of Chapter X of Title VI of Book III of Part I of the Act in computing the taxpayer's income for the year, to the extent that it is attributable to any right, licence or privilege to store underground petroleum, natural gas or related hydrocarbons in Canada,

iv. an amount deducted in computing the taxpayer's income for the year from a business, or other source, that does not include any resource activity of the taxpayer,

v. an amount deducted in computing the taxpayer's income for the year, to the extent that the amount

(1) relates to an activity that is not a resource activity of the taxpayer, and that is the rendering of a service by the taxpayer to another person for the purpose of earning income of the taxpayer, or the production, processing, manufacturing, distribution, marketing, transportation or sale of any property, or carried out for the purpose of earning income from property, and

(2) does not relate to a resource activity of the taxpayer, and

vi. the amount that has reduced the taxpayer's resource profits for the year, in accordance with paragraph *a* of section 360R27, in respect of an oil business;

(*b*) all amounts each of which is the amount by which any particular amount that would have been charged to the taxpayer by a person or partnership with whom the taxpayer was not dealing at arm's length if the taxpayer and that person or partnership had been dealing at arm's length for the use after 6 March 1996 and in the year of a property, other than money, owned by that person or partnership, or for the provision after 6 March 1996 and in the year by that person or partnership of a service to the taxpayer, exceeds the aggregate of

i. the amount charged to the taxpayer for the use of that property or the provision of that service in that period,

ii. the portion of the particular amount that, if it had been charged, would not have been deductible in computing the taxpayer's resource profits in respect of a mining business or oil business, and

iii. the amount that has reduced the taxpayer's resource profits for the year, in accordance with paragraph *b* of section 360R27, in respect of an oil business; and

(*c*) where the taxation year ends after 21 February 1994, all amounts added under section 485.13 of the Act in computing the taxpayer's gross resource profits for the year in respect of a mining business.

s. 360R13.1; O.C. 1466-98, s. 48.

"**360R25.** For the purposes of this chapter, "gross resource profits" of a taxpayer for a taxation year in respect of an oil business means the amount by which the aggregate of the following amounts exceeds the aggregate described in section 360R26:

(*a*) where no amount is included in computing the taxpayer's gross resource profits in respect of a mining business under paragraph *a* of section 360R21 and the taxpayer has production from a natural accumulation, other than a resource, of petroleum or natural gas in Canada, or an oil or gas well in Canada, that is operated by the taxpayer, the amount by which the aggregate of the amount included in computing the taxpayer's income for the year under paragraph *b* of section 330 of the Act, to the extent that that paragraph refers to an amount deducted under section 358 of the Act, as it read before its repeal, the amounts included in the computation under paragraph *d* of that section 330 and subsection 1 of section 333.2 of the Act, and the excess amount described in section 360R22, exceeds the aggregate of the amounts deducted under section 333.1 of the Act and section 358 of the Act, as it read before its repeal, in computing the taxpayer's income for the year;

(*b*) the aggregate of the taxpayer's income for the year, computed in the manner described in section 360R26, from

i. the production of petroleum, natural gas or related hydrocarbons, or sulphur, from a natural accumulation, other than a mineral resource, of petroleum or natural gas in Canada, or an oil or gas well in Canada, that is operated by the taxpayer,

ii. the processing in Canada of heavy crude oil extracted from an oil or gas well in Canada, to a stage that is not beyond the crude oil stage or its equivalent, or

iii. the Canadian field processing, within the meaning assigned to that expression by section 130R3; and

(*c*) the aggregate of all amounts, other than an amount included because of paragraph *b* in computing the taxpayer's gross resource profits for the year, each of which is an amount included in computing the taxpayer's income for the year as a rental or royalty computed by reference to the amount or value of production from a natural accumulation, other than a resource, of petroleum or natural gas in Canada, or an oil or gas well in Canada.

s. 360R14; O.C. 1981-80, s. 360R14; O.C. 1535-81, s. 6; R.R.Q., 1981, c. I-3, r.1, s. 360R14; O.C. 2962-82, s. 44; O.C. 500-83, s. 44; O.C. 2509-85, s. 15; O.C. 91-94, s. 21; O.C. 35-96, s. 27; O.C. 1466-98, s. 49; O.C. 1454-99, s. 62; O.C. 1470-2002, s. 40.

"**360R26.** The amount to be deducted from the aggregate determined in section 360R25 for a taxation year is the aggregate of the taxpayer's losses for the year from a source described in paragraph *b* of section 360R25, as computed in accordance with the Act and assuming that the taxpayer had no other incomes or losses for the year than those from such source and that no deduction was granted in computing the taxpayer's income for the year, other than

(*a*) the amounts deductible under sections 362 to 394 of the Act, other than amounts that are foreign exploration and development expenses, or under section 88.4 of the Act respecting the application of the Taxation Act (R.S.Q., c. I-4), to the extent that those amounts are not deductible under paragraph *a* of section 360R23;

(*b*) the amount by which the aggregate referred to in section 360R23 exceeds the incomes referred to in section 360R21;

(*c*) the amounts deductible or deducted, as the case may be, under any of sections 395 to 418.16, 418.18 to 418.36 and 419.5 of the Act for the year, other than amounts that are Canadian development expenses related to property described in paragraph *b* of section 370 of the Act that is a right, licence or privilege to store underground petroleum, natural gas or related hydrocarbons in Canada, where the taxpayer has a production from a natural accumulation, other than a mineral resource, of petroleum or natural gas in Canada or an oil or gas well in Canada, that is operated by the taxpayer, or an income from the processing in Canada of heavy crude oil recovered from an oil or gas well in Canada to any stage that is not beyond the crude oil stage or its equivalent; and

(*d*) any other deduction attributable to a source of income described in paragraph *b* or *c* of section 360R25, other than a deduction under paragraph *r* or *s* of section 157 of the Act or under any of sections 360R17, 360R18, 360R30, 360R36, 360R65, 360R82, 360R83 and 360R89.

s. 360R15; O.C. 1981-80, s. 360R15; O.C. 1983-80, s. 19; O.C. 2456-80, s. 7; R.R.Q., 1981, c. I-3, r.1, s. 360R15; O.C. 2962-82, s. 45; O.C. 500-83, s. 45; O.C. 2509-85, s. 16; O.C. 91-94, s. 22; O.C. 35-96, s. 28; O.C. 1466-98, s. 50.

"**360R27.** For the purposes of this chapter, "resource profits" of a taxpayer for a taxation year in respect of an oil business means the amount by which the taxpayer's gross resource profits for the year in respect of an oil business exceeds the aggregate of

(*a*) all amounts deducted in computing the taxpayer's income for the year, other than

i. an amount deducted in computing the taxpayer's gross resource profits for the year in respect of a mining business or an oil business,

ii. an amount deducted under Chapter III of Title II of Book III of Part I of the Act, under paragraph *r* or *s* of section 157, paragraph *a* or *b* of section 657 or any of sections 334 to 358.0.1, 371 and 418.17 of the Act or under any of sections 360R17, 360R18, 360R30, 360R36, 360R65, 360R82, 360R83 and 360R89, in computing the taxpayer's income for the year,

iii. an amount deducted under Division IV of Chapter X of Title VI of Book III of Part I of the Act in computing the taxpayer's income for the year, to the extent that it is attributable to any right, licence or privilege to store underground petroleum, natural gas or related hydrocarbons in Canada,

iv. an amount deducted in computing the taxpayer's income for the year from a business, or other source, that does not include any resource activity of the taxpayer, and

v. an amount deducted in computing the taxpayer's income for the year, to the extent that the amount

(1) relates to an activity that is not a resource activity of the taxpayer, and that is the rendering of a service by the taxpayer to another person for the purpose of earning income of the taxpayer, or the production, processing, manufacturing, distribution, marketing, transportation or sale of any property, or carried out for the purpose of earning income from property, and

(2) does not relate to a resource activity of the taxpayer;

(*b*) all amounts each of which is the amount by which any particular amount that would have been charged to the taxpayer by a person or partnership with whom the taxpayer was not dealing at arm's length if the taxpayer and that person or partnership had been dealing at arm's length for the use after 6 March 1996 and in the year of a property, other than money, owned by that person or partnership, or for the provision after 6 March 1996 and in the year by that

person or partnership of a service to the taxpayer, exceeds the aggregate of

i. the amount charged to the taxpayer for the use of that property or the provision of that service in that period, and

ii. the portion of the particular amount that, if it had been charged, would not have been deductible in computing the taxpayer's resource profits in respect of an oil business or a mining business; and

(*c*) where the taxation year ends after 21 February 1994, all amounts added under section 485.13 of the Act in computing the taxpayer's gross resource profits for the year in respect of an oil business.

s. 360R15.1; O.C. 1466-98, s. 51.

"**360R28.** For the purposes of this section and paragraph *b* of sections 360R24 and 360R27, the following rules apply:

(*a*) a taxpayer is deemed not to deal at arm's length with a partnership where the taxpayer does not deal at arm's length with any member of the partnership;

(*b*) a partnership is deemed not to deal at arm's length with another partnership where any member of the first partnership does not deal at arm's length with any member of the second partnership;

(*c*) where a taxpayer is a member, or is deemed by this paragraph to be a member, of a partnership that is a member of another partnership, the taxpayer is deemed to be a member of the other partnership; and

(*d*) the provision of a service to a taxpayer does not include the provision of a service by an individual in the individual's capacity as an employee of the taxpayer.

s. 360R15.2; O.C. 1466-98, s. 51.

"**360R29.** For the purposes of this division,

(*a*) a trust may not deduct any amount under paragraphs *a* and *b* of section 657 and section 657.1 of the Act in computing the income or loss, for a taxation year, from a source described in paragraph *b* or c of sections 360R21 and 360R25; and

(*b*) a taxpayer's income or loss from a source described in paragraph *b* of sections 360R21 and 360R25 does not include

i. any income or loss derived from the processing, other than the processing of tar sands ore described in any of subparagraphs i to iii of paragraph *b* of section 360R21 and the processing described in subparagraph ii or iii of paragraph *b* of section 360R25, transmitting or transporting of petroleum, natural gas or related hydrocarbons, or sulphur, from a natural accumulation of petroleum or natural gas,

ii. any income or loss arising because of the application of paragraph *z*, z.1 or z.4 of section 87 or any of sections 692.1 to 692.4 of the Act, or

iii. any income or loss that may reasonably be attributed to a service rendered by the taxpayer other than processing described in subparagraph ii or iii of paragraph *b* of section 360R21 or in subparagraph ii or iii of paragraph *b* of section 360R25 and the activities that the taxpayer carries on as a coal mine operator.

s. 360R16; O.C. 1981-80, s. 360R16; O.C. 1535-81, s. 7; R.R.Q., 1981, c. I-3, r.1, s. 360R16; O.C. 2962-82, s. 46; O.C. 500-83, s. 46; O.C. 2509-85, s. 17; O.C. 35-96, s. 86; O.C. 1466-98, s. 52; O.C. 1470-2002, s. 41.

"**DIVISION IV**

"MINING EXPLORATION DEPLETION ALLOWANCE

div. III.1; O.C. 2509-85, s. 18.

"**360R30.** A taxpayer may, in computing the taxpayer's income for a taxation year, deduct an amount that does not exceed the lesser of

(*a*) the taxpayer's mining exploration depletion as of the end of the year, before any deduction under this section for the year; and

(*b*) the amount by which the aggregate of the following amounts exceeds the aggregate of the amounts deducted under sections 360R17, 360R18, 360R65 to 360R73 and 360R82 to 360R88 in computing the taxpayer's income for the year:

i. 33 1/3% of the taxpayer's income for the year, computed in accordance with Part I of the Act without reference to paragraph *f* of section 332.1 of the Act and assuming that no deduction is granted under section 360 of the Act, and

ii. any amount included in computing the taxpayer's income for the year under paragraph *f* of section 332.1 of the Act.

s. 360R16.1; O.C. 2509-85, s. 18; Erratum, 1988, G.O. 2, 2689; O.C. 421-88, s. 10; O.C. 1076-88, s. 13; O.C. 35-96, s. 29.

"**360R31.** In this division, the mining exploration depletion of a taxpayer at any time means the amount by which the aggregate of the following amounts exceeds the amounts computed under section 360R32:

(*a*) the amount determined by the formula

33 1/3% × (A − B);

(*b*) any amount that the taxpayer is required to add before that time, under paragraph *a* of section 360R34, in computing its mining exploration depletion, where the taxpayer is a corporation that has acquired property from another person according to section 360R34.

In the formula in subparagraph *a* of the first paragraph,

(*a*) A is the aggregate of the amounts each of which is the stated percentage of an expenditure, other than an expenditure described in section 360R33, that the taxpayer incurred after 19 April 1983 and before that time and that are, or would be if section 359.3 of the Act were read without reference to its paragraph *b*, Canadian exploration expenses described in paragraph *c* of section 395 of the Act or that would be described either in paragraph *d* of that section 395 if that paragraph were read with "expenses described in paragraphs *a* to *b*.1, *c* to *c*.2" replaced by "expenses described in paragraph *c*", or in paragraph *e* of that section 395 if that paragraph were read with "an expense described in paragraphs *a* to *c*.1" replaced by "expenses described in paragraph *c*"; and

(*b*) B is the aggregate of the amounts each of which is the stated percentage of an amount of assistance, within the meaning of paragraph *c*.0.1 of section 359 of the Act, that a person has received, is entitled to receive or, at any time, becomes entitled to receive in respect of expenses that would be covered by subparagraph *a* if section 360R33 were read without reference to its paragraph *a*, other than an amount related to expenses renounced by a corporation in favour of the taxpayer under section 359.2 or 406 of the Act, where that amount of assistance is excluded from the aggregate of the expenses in respect of which a renunciation is made, or renounced by the taxpayer under that section 359.2 or 406, where that amount of assistance is not excluded from the aggregate of the expenses in respect of which a renunciation is made.

s. 360R16.2; O.C. 2509-85, s. 18; Erratum, 1988, G.O. 2, 2689; O.C. 421-88, s. 11; O.C. 91-94, s. 23; O.C. 35-96, s. 30; O.C. 1707-97, s. 98; O.C. 1451-2000, s. 66.

"**360R32.** The amount required to be deducted from the aggregate determined under section 360R31 at the time referred to therein is equal to the aggregate of

(*a*) each amount deducted by the taxpayer under section 360R30 in computing the taxpayer's income for a taxation year that ends before that time; and

(*b*) each amount that the taxpayer is required to deduct before that time, under paragraph *b* of section 360R34, in computing the taxpayer's mining exploration depletion, where the taxpayer is a person from whom property was acquired according to section 360R34.

s. 360R16.3; O.C. 2509-85, s. 18; O.C. 421-88, s. 12; O.C. 35-96, s. 31.

"**360R33.** The expenses referred to in subparagraph *a* of the second paragraph of section 360R31 do not include

(*a*) expenses renounced by the taxpayer under section 359.2 or 406 of the Act;

(*b*) an amount included in the Canadian exploration and development overhead expenses of the taxpayer;

(*c*) an amount related to financing, including the expenses incurred before the commencement of carrying on a business;

(*d*) the eligible expenses, within the meaning of the Canadian Exploration Incentive Program Act (Revised Statutes of Canada, 1985, chapter 27, 4th Supplement), in respect of which the taxpayer, a partnership of which the taxpayer is a member or a development corporation of which the taxpayer is a shareholder has received, is deemed to have received, is entitled to receive or may reasonable expect to receive, at any time, an incentive under that Act; or

(*e*) where the taxpayer is an individual, the expenses referred to in section 360R90 and any expenditure that the taxpayer has included in computing the taxpayer's exploration base relating to certain Québec exploration expenses under subparagraph i of paragraph *a* of section 726.4.10 of the Act.

s. 360R16.4; O.C. 2509-85, s. 18; O.C. 1746-88, s. 2; O.C. 91-94, s. 24; O.C. 35-96, s. 32; O.C. 1707-97, s. 98.

"**360R34.** Subject to sections 360R15 and 360R16, where, at any time during a taxation year and after April 19, 1983, a corporation acquires property from another person, the following rules apply:

(*a*) the corporation must, for the purpose of computing its mining exploration depletion at any time after that acquisition, add the excess amount computed under paragraph *b* in respect of the other person; and

(*b*) the other person must, for the purpose of computing the person's mining exploration depletion at any time after the person's taxation year during which that acquisition occurs, deduct the amount by which the person's mining exploration depletion immediately after that acquisition, assuming for that purpose, where that acquisition results from an amalgamation referred to in section 544 of the Act, that it continued to exist after that acquisition and that no property was acquired or disposed of in the course of the amalgamation, exceeds the amount deducted under section 360R30 in computing the person's income for that taxation year.

s. 360R16.5; O.C. 2509-85, s. 18; O.C. 421-88, s. 13; O.C. 91-94, s. 25; O.C. 35-96, s. 33; O.C. 1707-97, s. 98.

"**360R35.** Where an expenditure incurred before any time is included in computing the aggregate referred to in subparagraph *a* of the second paragraph of section 360R31 in respect of a taxpayer and where, after that time, a person becomes entitled to receive an amount of assistance, within the meaning of paragraph *c*.0.1 of section 359 of the Act, that is included in computing the aggregate referred to in subparagraph *b* of the second paragraph of section 360R31, the stated percentage of that amount of assistance must be included in the aggregate referred to in subparagraph *b* of

that paragraph in respect of the taxpayer at the time when that expenditure was incurred.

s. 360R16.8; O.C. 2509-85, s. 18; O.C. 91-94, s. 27; O.C. 35-96, s. 35.

"**DIVISION V**

"DEPLETION ALLOWANCE FOR OIL AND GAS EXPLORATION

div. III.2; O.C. 1746-88, s. 3.

"**360R36.** A taxpayer may, in computing the taxpayer's income for a taxation year, deduct an amount that does not exceed the lesser of

(*a*) the taxpayer's depletion for oil and gas exploration at the end of the year, before any deduction under this section for the year; and

(*b*) the amount by which the aggregate of the following amounts exceeds the aggregate of the amounts deducted under sections 360R17, 360R18, 360R30 to 360R35, 360R65 to 360R73 and 360R82 to 360R88 in computing the taxpayer's income for the year:

i. 33 1/3% of the taxpayer's income for the year, computed in accordance with Part I of the Act without reference to paragraph *g* of section 332.1 of the Act and assuming that no deduction is granted under section 360 of the Act, and

ii. any amount included in computing the taxpayer's income for the year under paragraph *g* of section 332.1 of the Act.

s. 360R16.9; O.C. 1746-88, s. 3; O.C. 35-96, s. 36.

"**360R37.** In this division, the depletion for oil and gas exploration of a taxpayer at any time means the amount by which the aggregate of the following amounts exceeds the amount computed under section 360R38:

(*a*) the amount determined by the formula

33 1/3% × (A − B);

(*b*) any amount that the taxpayer is required to add before that time, under paragraph *a* of section 360R40, in computing its depletion for oil and gas exploration, where the taxpayer is a corporation that has acquired property from another person according to section 360R40.

In the formula in subparagraph *a* of the first paragraph,

(*a*) A is the aggregate of the amounts each of which is the stated percentage of an expenditure, other than an expenditure described in section 360R39, that the taxpayer incurred in Québec after 31 December 1986 and before that time, but not later than 31 December 1989, and that are Canadian exploration expenses that would be described

i. in paragraph *a* of section 395 of the Act if that paragraph were read with the word "Canada" replaced by the word "Québec",

ii. in paragraph *d* of section 395 of the Act if that paragraph were read with "expenses described in paragraphs *a* to *b*.1 and *c* to *c*.2" replaced by "expenses that would be described in paragraph *a* if that paragraph were read with the word "Canada" replaced by the word "Québec"", or

iii. in paragraph *e* of section 395 of the Act if that paragraph were read with "an expense described in paragraphs *a* to *c*.1" replaced by "an expense that would be described in paragraph *a* if that paragraph were read with the word "Canada" replaced by the word "Québec""; and

(*b*) B is the aggregate of the amounts each of which is the stated percentage of an amount of assistance, within the meaning of paragraph *c*.0.1 of section 359 of the Act, that a person has received, is entitled to receive or, at any time becomes entitled to receive in respect of expenses that would be described subparagraph i if section 360R39 were read without reference to its paragraph *a*, other than an amount related to expenses renounced by a corporation in favour of the taxpayer under section 359.2 or 406 of the Act, where that amount of assistance is excluded from the aggregate of the expenses in respect of which a renunciation is made, or renounced by the taxpayer under that section 359.2 or 406, where that amount of assistance is not excluded from the aggregate of the expenses in respect of which a renunciation is made.

s. 360R16.10; O.C. 1746-88, s. 3; O.C. 91-94, s. 28; O.C. 35-96, s. 37; O.C. 1707-97, s. 98; O.C. 1451-2000, s. 66.

"**360R38.** The amount that is required to be deducted from the aggregate determined under section 360R37 at the time referred to therein is equal to the aggregate of

(*a*) all amounts deducted by the taxpayer under section 360R36 in computing the taxpayer's income for a taxation year that ends before that time; and

(*b*) all amounts that the taxpayer is required to deduct before that time under paragraph *b* of section 360R40 in computing the taxpayer's depletion for oil and gas exploration, where the taxpayer is a person from whom property was acquired according to section 360R40.

s. 360R16.11; O.C. 1746-88, s. 3; O.C. 35-96, s. 38.

"**360R39.** The expenses referred to in subparagraph *a* of the second paragraph of section 360R37 do not include

(*a*) expenses renounced by the taxpayer under section 359.2 or 406 of the Act;

(*b*) an amount included in the Canadian exploration and development overhead expenses of the taxpayer;

(*c*) an amount related to financing, including the expenses incurred before the beginning of the operation of a business;

(*d*) the eligible expenses, within the meaning of the Canadian Exploration and Development Incentive Program Act (Revised Statutes of Canada, 1985, chapter 15, 3rd Supplement), in respect of which the taxpayer, a partnership of which the taxpayer is a member, a development corporation of which the taxpayer is a shareholder or a joint exploration corporation of which it is a shareholder corporation has received, is deemed to have received, is entitled to receive or may reasonably expect to receive, at any time, a payment under that Act; or

(*e*) where the taxpayer is an individual, the expenses referred to in section 360R90 and any expenditure that the taxpayer has included in computing the taxpayer's exploration base relating to certain Québec exploration expenses under subparagraph i of paragraph *a* of section 726.4.10 of the Act.

s. 360R16.12; O.C. 1746-88, s. 3; O.C. 35-96, s. 39; O.C. 1707-97, s. 98.

"**360R40.** Subject to sections 360R15 and 360R16, where, at any time during a taxation year and after 31 December 1986, a corporation acquires property from another person, the following rules apply:

(*a*) the corporation must, for the purpose of computing its depletion for oil and gas exploration at any time after that acquisition, add the excess amount computed under paragraph *b* in respect of the other person; and

(*b*) the other person must, for the purpose of computing the person's depletion for oil and gas exploration at any time after the person's taxation year during which that acquisition occurred, deduct the amount by which the person's depletion for oil and gas exploration immediately after that acquisition, assuming for that purpose, where that acquisition results from an amalgamation referred to in section 544 of the Act, that it continued to exist after that acquisition and that no property was acquired or disposed of in the course of the amalgamation, exceeds the amount deducted under section 360R36 in computing the person's income for that taxation year.

s. 360R16.13; O.C. 1746-88, s. 3; O.C. 91-94, s. 29; O.C. 35-96, s. 40; O.C. 1707-97, s. 98.

"**360R41.** Where an expenditure incurred before any time is included in computing the aggregate referred to in subparagraph *a* of the second paragraph of section 360R37 in respect of a taxpayer and where, after that time, a person becomes entitled to receive an amount of assistance, within the meaning of paragraph *c*.0.1 of section 359 of the Act that is included in computing the aggregate referred to in subparagraph *b* of the second paragraph of section 360R37, the stated percentage of that amount of assistance must be included in the aggregate referred to in subparagraph *b* of that paragraph in respect of the taxpayer at the time when that expenditure was incurred.

s. 360R16.16; O.C. 1746-88, s. 3; O.C. 35-96, s. 42.

"**DIVISION VI**

"COMPUTATION OF EARNED DEPLETION BASE

div. IV; O.C. 1981-80, title XIV, chap. III, div. IV; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. III, div. IV.

"**360R42.** For the purposes of this chapter, earned depletion base of a taxpayer at a particular time means the amount determined by the formula

A − B.

In the formula in the first paragraph,

(*a*) A is the aggregate of

i. 33 1/3% of the amount of the expenditures incurred by the taxpayer and described in sections 360R48 to 360R57, other than

(1) those described in section 360R47, and

(2) in the case of an individual, those referred to in section 360R90, and

ii. 50% of the amount of the expenditures described in section 360R47; and

(*b*) B is the aggregate of

i. the amounts deducted under section 360R17 in computing the taxpayer's income for any taxation year ending before that time and after 6 May 1974,

ii. 33 1/3% of the aggregate of the amounts each of which is the stated percentage of the cost of borrowing capital, including costs incurred before the beginning of operations of a business, that is included in the capital cost to the taxpayer of a depreciable property described in paragraph *d* of section 360R48, in paragraph *e* or *f* of section 360R49 or in paragraph *a* or *b* of section 360R55 or that is an expenditure described in paragraph *c* of that section 360R55,

iii. 33 1/3% of the aggregate of the amounts each of which is an amount that becomes receivable by the taxpayer after 28 April 1978 and before that time but not after 11 December 1979, and in respect of which the consideration given by the taxpayer is a property, other than a share or a property that would have been for the taxpayer a Canadian resource property if the taxpayer had acquired it at the time the taxpayer gave the consideration, or services the cost of which may reasonably be considered to be an expenditure originally included

(1) in computing the taxpayer's earned depletion base by reason of any of paragraphs *a* to *c* of section 360R48 or paragraph *c* of section 360R55, or

(2) where the taxpayer acquired a property in circumstances where section 360R18 applies, in computing the earned depletion base of an original owner of the property by reason of any of paragraphs *a* to *c* of section 360R48 or paragraph *c* of section 360R55, as they applied to the original owner,

iv. 33 1/3% of the aggregate of the amounts each of which is an amount, established according to section 360R44, related to the disposition, after 28 April 1978 and before that time but not after 11 December 1979, of a property of the taxpayer, other than a property already used by the taxpayer and disposed of the taxpayer in favour of a person with whom the taxpayer did not deal at arm's length, the capital cost of which was included

(1) in computing the earned depletion base of the taxpayer by reason of paragraph *d* of section 360R48 or paragraph *a* or *b* of section 360R55, or

(2) where the taxpayer acquired a property in circumstances where section 360R18 applies, in computing the earned depletion base of an original owner of the property by reason of paragraph *d* of section 360R48 or paragraph *a* or *b* of section 360R55, as they applied to the original owner,

v. any amount that is required to be deducted not later than that time in computing the taxpayer's earned depletion base, as the case may be, under paragraph *a* of section 360R59 or under section 360R59 as it read in its application to a taxation year ending before 18 February 1987,

vi. 33 1/3% of the aggregate of the amounts each of which is related to an amount of assistance or benefit described in the first paragraph of section 360R45 and is equal

(1) in the case provided for in subparagraph *a* of the second paragraph of section 360R45, to the stated percentage of the amount of assistance or benefit, or

(2) in the case provided for subparagraph *b* of the second paragraph of section 360R45, to the amount obtained by applying to the amount of assistance or benefit the stated percentage, in respect of the expenses referred to in that subparagraph *b*, for the calendar year during which the taxpayer or the original owner referred to in subparagraph *b* of the first paragraph of that section 360R45, as the case may be, incurred those expenses, and

vii. the amount by which the aggregate of the amounts that would be determined under paragraphs *a* to *f* of section 360R85 exceeds the aggregate of the amounts that would be determined under paragraphs *a* to *c* of section 360R84 in computing the taxpayer's supplementary depletion base at the particular time.

s. 360R17; O.C. 1981-80, s. 360R17; O.C. 1983-80, s. 20; O.C. 2456-80, s. 8; O.C. 3926-80, s. 15; R.R.Q., 1981, c. I-3, r.1, s. 360R17; O.C. 2962-82, s. 47; O.C. 500-83, s. 47; O.C. 2509-85, s. 19; O.C. 421-88, s. 14; Erratum, 1988 G.O. 2, 2537; O.C. 35-96, s. 43.

"**360R43.** For the purposes of subparagraph *a* of the second paragraph of section 360R42, a reference, in the portion of subparagraph i of that subparagraph *a* before subparagraph 1 and in subparagraph ii of that subparagraph *a*, to the amount of a particular expenditure is to be interpreted, if it is an expenditure referred to in any of paragraphs *b* and *d* of section 360R48, *c* to *f* of section 360R49 and *a* and *b* of section 360R55, as a reference to the stated percentage of the amount of that expenditure.

s. 360R17.0.1; O.C. 35-96, s. 44; O.C. 1466-98, s. 126.

"**360R44.** For the purposes of subparagraph iv of subparagraph *b* of the second paragraph of section 360R42, the amount related to the disposition of a property is equal to the lesser of

(*a*) the proceeds of the disposition of the property; and

(*b*) the capital cost of the property to the taxpayer, where subparagraph 1 of that subparagraph iv applies, or to the original owner, where subparagraph 2 of that subparagraph iv applies, computed without including therein the cost of borrowing capital, including a cost incurred before the start of operations of a business.

s. 360R17.1; O.C. 1983-80, s. 21; R.R.Q., 1981, c. I-3, r.1, s. 360R17.1; O.C. 2962-82, s. 48; O.C. 500-83, s. 48; O.C. 421-88, s. 15; Erratum, 1988 G.O. 2, 2537; O.C. 35-96, s. 45; O.C. 1466-98, s. 126.

"**360R45.** The amount of assistance or benefit referred to in subparagraph vi of subparagraph *b* of the second paragraph of section 360R42 in respect of a taxpayer at the particular time referred to in that section is an amount of assistance or benefit that is related to Canadian exploration expenses or Canadian development expenses or that may reasonably be related to Canadian exploration activities or Canadian development activities, whether that amount is in the form of a subsidy, bonus, rebate, forgivable loan, deduction from royalty or tax, rebate on royalty or tax, investment allowance or any other form

(*a*) that the taxpayer received or was entitled to receive before the particular time or becomes entitled to receive at that time or thereafter; or

(*b*) that an original owner or a predecessor owner of a property received or was entitled to receive before the particular time or becomes entitled to receive at that time or thereafter, where the original owner or the predecessor owner received, became entitled to receive or becomes entitled to receive that amount

i. at the time or after the time when the property was acquired by the taxpayer in circumstances where section 360R18 applies, or

ii. before the time when the taxpayer becomes the predecessor owner of the property.

For the purposes of subparagraph vi of subparagraph *b* of the second paragraph of section 360R42,

(*a*) the case referred to in subparagraph 1 of that subparagraph vi is a case where the assistance or the benefit is related to an amount included, by reason of paragraph *b* of section 360R48 or paragraph *c* or *d* of section 360R49, in computing the earned depletion base of the taxpayer or the part of the earned depletion base of the original owner referred to in subparagraph *b* of the first paragraph that is included in computing an amount described in subparagraph *a* of the first paragraph of section 360R18 before the particular time referred to in section 360R42; and

(*b*) the case referred to in subparagraph 2 of that subparagraph vi is a case where the assistance or the benefit is related to Canadian oil and gas exploration expenses included, by reason of paragraph *a* or *b* of section 360R49, in computing the earned depletion base of the taxpayer or the part of the earned depletion base of the original owner referred to in paragraph *b* of the first paragraph that is included in computing an amount described in subparagraph *a* of the first paragraph of section 360R18 before the particular time referred to in section 360R42.

In the second paragraph, the earned depletion base of the taxpayer does not include the part of the taxpayer's earned depletion base that is included in computing an amount described in subparagraph *a* of the first paragraph of section 360R18 before the particular time referred to in section 360R42.

s. 360R17.2; O.C. 2962-82, s. 48; O.C. 500-83, s. 48; O.C. 2509-85, s. 20; O.C. 421-88, s. 15; Erratum, 1988 G.O. 2, 2537; O.C. 35-96, s. 45; O.C. 1466-98, s. 126.

"**360R46.** Where an expense is incurred before the particular time referred to in section 360R42 and a person, at the particular time or after the particular time, becomes entitled to receive an amount of assistance or benefit in respect of the expense, the amount of the assistance or benefit must be included in the "amount of the assistance or benefit" referred to in subparagraph vi of subparagraph *b* of the second paragraph of that section as of the particular time.

s. 360R17.3; O.C. 2509-85, s. 21.

"**360R47.** The expenditures referred to in subparagraph 1 of subparagraph i of subparagraph *a* of the second paragraph of section 360R42 and in subparagraph ii of that subparagraph *a* are expenditures that were incurred in Québec after 31 December 1974 in respect of an oil business by the taxpayer referred to in that section, other than expenditures referred to in section 360R90 in respect of such business, and that would be described in sections 360R48 to 360R57

(*a*) if sections 395 and 408 of the Act were read with the word "Canada" replaced by the word "Québec" wherever it occurs; and

(*b*) if paragraph *c* of section 408 of the Act applied only to a property acquired in respect of an oil business and that would be described in section 370 of the Act if the word "Canada" therein were replaced, it occurs wherever, by the word "Québec".

s. 360R18; O.C. 1981-80, s. 360R18; O.C. 2456-80, s. 9; R.R.Q., 1981, c. I-3, r.1, s. 360R18; O.C. 35-96, s. 46.

"**360R48.** The expenditures used in computing the aggregate referred to in subparagraph *a* of the second paragraph of section 360R42 are the expenditures incurred by a taxpayer after 7 November 1969 and before the particular time referred to in this section and each of which

(*a*) was a Canadian exploration and development expense or would have been such an expense if it had been incurred after 1971, and was actually incurred before 7 May 1974 in the case of an oil business and before 1 April 1975 in the case of a mining business, other than an expense referred to in section 360R50;

(*b*) was a Canadian exploration expense, other than an expense referred to in section 360R51;

(*c*) was a Canadian development expense incurred before 1981, other than an expense referred to in section 360R52; or

(*d*) was the capital cost of a property used for processing, other than a property referred to in section 360R53.

s. 360R19; O.C. 1981-80, s. 360R19; O.C. 3926-80, s. 16; R.R.Q., 1981, c. I-3, r.1, s. 360R19; O.C. 2962-82, s. 49; O.C. 500-83, s. 49.

"**360R49.** Where the taxpayer is a corporation, the expenditures used in computing the aggregate referred to in subparagraph *a* of the second paragraph of section 360R42 include the expenditures incurred after 1980 and before the particular time referred to in that section, other than those referred to in section 360R54, and that are

(*a*) the specified percentage in respect of such expenditures and for the calendar year in which the taxpayer incurred them, of Canadian oil and gas exploration expenses incurred in a calendar year after 31 December 1980 and before 1 January 1984 in respect of conventional lands;

(*b*) the specified percentage, in respect of such expenditures and for the calendar year in which the taxpayer incurred them, of Canadian oil and gas exploration expenses incurred in a calendar year after 31 December 1980 and before 1 January 1985 in respect of non-conventional lands;

(*c*) Canadian exploration expenses incurred after 31 December 1981 in respect of a qualified tertiary oil recovery project of the taxpayer that would be described in paragraph *b* or *b*.1 of section 395 of the Act if that paragraph *b* were read without reference to the words "or in any previous year, and included by him in computing his Canadian development expenses for a previous taxation

year", or in paragraph *d* or *e* of that section 395 if the Act were read without reference to paragraphs *a*, *a*.1, *b*.2 and *c* to *c*.2 of that section 395 and if paragraph *b* of that section were read without reference to the words "or in any previous year, and included by him in computing his Canadian development expenses for a previous taxation year";

(*d*) Canadian development expenses incurred in respect of a qualified tertiary oil recovery project of the taxpayer;

(*e*) the capital cost to the taxpayer of tertiary recovery equipment; or

(*f*) the capital cost to the taxpayer of property that is included in Class 10 in Schedule B under subparagraph *o* of the second paragraph of that class or that would be so included therein but for Class 41 in that schedule.

s. 360R19.1; O.C. 2962-82, s. 50; O.C. 500-83, s. 50; O.C. 2509-85, s. 22; O.C. 91-94, s. 31; O.C. 35-96, s. 47; O.C. 1707-97, s. 98; O.C. 1451-2000, s. 11.

"**360R50.** The expense referred to in paragraph *a* of section 360R48 does not include

(*a*) the cost of borrowing capital, including a cost incurred before the start of operations of a business, that constitutes an exploration, prospecting or development expense or a Canadian exploration and development expense;

(*b*) the cost to a taxpayer of any Canadian resource property acquired by the taxpayer;

(*c*) a Canadian exploration and development expense that was incurred after a mine had come into production in reasonable commercial quantities and may reasonably be considered to be related to the mine or to a potential or actual extension thereof;

(*d*) an expense that would have been described in paragraph *c* if it had been incurred after 1971;

(*e*) an expense renounced by the taxpayer under subsection 7 of section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement) or under section 381 of the Act;

(*f*) an amount that, under paragraph *d* of section 364 of the Act, was for a taxpayer a Canadian exploration and development expense or would have been such an expense if it had been incurred after 1971, if such amount was an expense referred to in any of paragraphs *a* to *e* that was incurred by an association, partnership or syndicate referred to in paragraph *d* of section 364 of the Act; and

(*g*) an amount that, under paragraph *e* of section 364 of the Act, was for a taxpayer a Canadian exploration and development expense or would have been such an expense if it had been incurred after 1971, if such amount was an expense referred to in any of paragraphs *a* to *e* that the taxpayer incurred pursuant to an agreement referred to in paragraph *e* of section 364 of the Act.

s. 360R20; O.C. 1981-80, s. 360R20; R.R.Q., 1981, c. I-3, r.1, s. 360R20; O.C. 2962-82, s. 51; O.C. 500-83, s. 51; O.C. 91-94, s. 32; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**360R51.** The expense referred to in paragraph *b* of section 360R48 does not include

(*a*) the cost of borrowing capital, including a cost incurred before the start of operations of a business that constitutes a Canadian exploration expense;

(*b*) an expense renounced by the taxpayer under section 406 of the Act;

(*c*) an amount that, under paragraph *d* of section 395 of the Act, was for a taxpayer a Canadian exploration expense, if such amount was an expense referred to in any of paragraphs *a*, *b* and *e* to *h* that was incurred by a partnership referred to in such paragraph *d*;

(*d*) an amount that, under paragraph *e* of section 395 of the Act, was for a taxpayer a Canadian exploration expense, if such amount was an expense referred to in any of paragraphs *a*, *b* and *e* to *h* that the taxpayer incurred pursuant to an agreement referred to in paragraph *e* of section 395 of the Act;

(*e*) the expenses described in paragraph *b* or *b*.1 of section 395 of the Act that the taxpayer has incurred in a previous year and has included in computing Canadian development expenses for a previous taxation year;

(*f*) a Canadian exploration and development overhead expense;

(*g*) a Canadian oil and gas exploration expense; and

(*h*) the Canadian exploration expenses described in paragraph *c* of section 395 of the Act and incurred after 19 April 1983.

s. 360R21; O.C. 1981-80, s. 360R21; O.C. 3926-80, s. 17; R.R.Q., 1981, c. I-3, r.1, s. 360R21; O.C. 2962-82, s. 52; O.C. 500-83, s. 52; O.C. 2509-85, s. 23; O.C. 1707-97, s. 98.

"**360R52.** The expense referred to in paragraph *c* of section 360R48 does not include

(*a*) the cost of borrowing capital, including a cost incurred before the start of operations of a business that constitutes a Canadian development expense;

(*b*) an expense renounced by the taxpayer under section 417 of the Act;

(*c*) an amount referred to in paragraph *c* of section 408 of the Act;

(*d*) an amount that, under paragraph *d* of section 408 of the Act, was for a taxpayer a Canadian development expense if such amount was an expense referred to in paragraph *a* or *c* that was incurred by a partnership referred to in that paragraph *d*; and

(*e*) an amount that, by virtue of paragraph *e* of section 408 of the Act, was for a taxpayer a Canadian development expense if such amount was an expense referred to in paragraph *a* or *c* that the taxpayer incurred pursuant to an agreement referred to in paragraph *e* of section 408 of the Act.

s. 360R22; O.C. 1981-80, s. 360R22; O.C. 3926-80, s. 18; R.R.Q., 1981, c. I-3, r.1, s. 360R22; O.C. 2962-82, s. 53; O.C. 500-83, s. 53; O.C. 1707-97, s. 98.

"**360R53.** A property mentioned in paragraph *d* of section 360R48 does not include a property that the taxpayer did not acquire mainly for the purpose of processing in Canada:

(*a*) ore, other than iron ore or tar sands ore, from a resource referred to in the second paragraph, to a stage that is not beyond the prime metal stage or its equivalent;

(*b*) iron ore from a resource referred to in the second paragraph, to a stage that is not beyond the pellet stage or its equivalent; or

(*c*) tar sands ore from a resource referred to in the second paragraph, to a stage that is not beyond the crude oil stage or its equivalent.

A resource referred to in any of subparagraphs *a* to *c* of the first paragraph is

(*a*) a qualified resource; or

(*b*) an exporting resource, if the processing described in those paragraphs is beyond the furthest stage to which such ore or similar ore from that resource was ordinarily processed in Canada before the acquisition of the property referred to in the first paragraph.

s. 360R23; O.C. 1981-80, s. 360R23; R.R.Q., 1981, c. I-3, r.1, s. 360R23; O.C. 2962-82, s. 54; O.C. 500-83, s. 54; O.C. 2509-85, s. 24; O.C. 1707-97, s. 98.

"**360R54.** The expenditures described in section 360R49 do not include,

(*a*) in respect of Canadian oil and gas exploration expenses, an amount described in any of paragraphs *a*, *b* and *f* of section 360R51 or that would be described in paragraph *c* or *d* of that section if the reference in those paragraphs to "paragraphs *a*, *b* and *e* to *h*" were replaced by a reference to "paragraphs *a*, *b* and *f*";

(*b*) in respect of Canadian development expenses, the following amounts:

i. an amount described in section 360R52,

ii. an amount that is a Canadian exploration and development overhead expense, and

iii. the eligible expenses, within the meaning of the Canadian Exploration and Development Incentive Program Act (Revised Statutes of Canada, 1985, chapter 15, 3rd Supplement), in respect of which the taxpayer, a partnership of which the taxpayer is a member, a development corporation of which the taxpayer is a shareholder or a joint exploration corporation of which it is a shareholder corporation has received, is entitled to receive or may reasonably expect to receive, at any time, a payment under that Act;

(*c*) in respect of Canadian exploration expenses, the part of those expenses that is, as the case may be,

i. described in any of paragraphs *a* to *d* and *f* of section 360R51,

ii. included in the amount determined under paragraph *a* or *b* of section 360R49,

iii. expenses described in subparagraph iii of paragraph *b*, or

iv. the eligible expenses, within the meaning of the Canadian Exploration Incentive Program Act (Revised Statutes of Canada, 1985, chapter 27, 4th Supplement), in respect of which the taxpayer, a partnership of which the taxpayer is a member or a development corporation of which it is a shareholder corporation has received, is entitled to receive or may reasonably expect to receive, at any time, an incentive under that Act; and

(*d*) in respect of a property that is included in Class 10 in Schedule B under subparagraph *o* of the second paragraph of that class or that would be so included therein but for Class 41 in that schedule, the capital cost of a property that, before its acquisition by the taxpayer, was used by a person with whom the taxpayer did not deal at arm's length.

s. 360R23.1; O.C. 2962-82, s. 55; O.C. 500-83, s. 55; O.C. 2509-85, s. 25; O.C. 35-96, s. 48; O.C. 1707-97, s. 98.

"**360R55.** The expenditures used in computing the aggregate referred to in subparagraph *a* of the second paragraph of section 360R42 also include

(*a*) all expenditures, other than expenditures described in section 360R48 or 360R49, incurred by a taxpayer after 8 May 1972 and before the particular time referred to in section 360R42, each of which was the capital cost to the taxpayer of property that is or, but for Class 41 in Schedule B, would be included in Class 10 in Schedule B because of subparagraph *e* of the second paragraph of that class if the property had, before it was acquired by the taxpayer, not been used by any person with whom the taxpayer was not dealing at arm's length and if the property has been acquired

for the purpose of processing in Canada, after its extraction from a mineral resource,

i. ore, other than iron ore or tar sands ore, to any stage that is not beyond the prime metal stage or its equivalent,

ii. iron ore, to any stage that is not beyond the pellet stage or its equivalent, or

iii. tar sands ore, to any stage that is not beyond the crude oil stage or its equivalent;

(*b*) all expenditures, other than those described in paragraph *a* or in section 360R48 or 360R49, that were incurred by a taxpayer before the particular time referred to in section 360R42 and each of which is the capital cost to the taxpayer of property included in Class 28 in Schedule B or in Class 41 in that schedule under subparagraph *a* of the first paragraph of that Class 41, other than property, as the case may be,

i. included in that class by reason of the reference, in Class 28 in Schedule B, to subparagraph *m* of the second paragraph of Class 10 in that schedule,

ii. acquired before 17 November 1978 and included in that class by reason of the reference, in subparagraph i of subparagraph *e* of the first paragraph of Class 28 in Schedule B, to subparagraph *f* of the second paragraph of Class 10 in that schedule,

iii. that is bituminous sands equipment acquired by an individual, or

iv. that is bituminous sands equipment acquired by a corporation before 1981;

(*c*) all expenditures, other than those described in paragraph *a* or *b* or in section 360R48 or 360R49, incurred by a taxpayer before 8 November 1969 relating to a mine that came into production in reasonable commercial quantities before that date, for the purpose of exploring bituminous sands deposit or an oil sands deposit or an oil shale deposit, or of the development of the mine for the purpose of earning or producing income from the extraction of material from such a deposit;

(*d*) three times the aggregate of all amounts each of which is an amount equal to the lesser of the amount that would be determined under the first paragraph of section 145R1 in computing the taxpayer's income for a taxation year that ends before the particular time referred to in section 360R42, if the amount determined under subparagraph *c* of the second paragraph of that section were equal to zero, and the amount determined under that subparagraph *c* in computing the taxpayer's income for that taxation year; and

(*e*) three times the aggregate of the amounts each of which is the amount determined under section 360R60 in respect of the taxpayer for a taxation year ending after 17 February 1987 and before the particular time referred to in section 360R42.

s. 360R24; O.C. 1981-80, s. 360R24; O.C. 1983-80, s. 22; O.C. 3926-80, s. 19; R.R.Q., 1981, c. I-3, r.1, s. 360R24; O.C. 2962-82, s. 56; O.C. 500-83, s. 56; O.C. 2509-85, s. 26; O.C. 35-96, s. 49; O.C. 1707-97, s. 98; O.C. 1466-98, s. 53.

"**360R56.** The expenses used in computing the aggregate referred to in subparagraph *a* of the second paragraph of section 360R42 also include the expenses incurred by a taxpayer after 31 March 1975 and before 17 November 1978 and each of which is the capital cost to the taxpayer of property in Québec included in Class 28 in Schedule B that, if it were not included in that class, would be included in Class 10 in Schedule B under subparagraph *f* of the second paragraph of such Class 10.

s. 360R25; O.C. 1981-80, s. 360R25; O.C. 1983-80, s. 23; O.C. 3926-80, s. 20; R.R.Q., 1981, c. I-3, r.1, s. 360R25.

"**360R57.** The expenditures described in sections 360R48, 360R49, 360R55 and 360R56 do not include expenditures incurred to acquire a property in circumstances that permit a taxpayer to claim a deduction under section 360R18, or that would permit the taxpayer to do so if the amounts described in subparagraphs *a* and *b* of the first paragraph of that section 360R18 were sufficient.

s. 360R26; O.C. 1981-80, s. 360R26; R.R.Q., 1981, c. I-3, r.1, s. 360R26; O.C. 2962-82, s. 57; O.C. 500-83, s. 57; O.C. 91-94, s. 33; O.C. 35-96, s. 50.

"**360R58.** For purposes of computing the earned depletion base of a corporation whose control is acquired in the circumstances described in section 384 of the Act, the amount by which the earned depletion base of the corporation at the time referred to in that section exceeds the aggregate of the amounts that it has otherwise deducted under section 360R17 in computing its income for the taxation years ending after that time and before control was so acquired, is deemed to have been deducted under section 360R17 in computing the income of the corporation for the taxation years ending before control was so acquired.

s. 360R27; O.C. 1981-80, s. 360R27; R.R.Q., 1981, c. I-3, r.1, s. 360R27; O.C. 2509-85, s. 27; O.C. 1707-97, s. 98.

"**360R59.** The following rules apply where, during a taxation year ending after 17 February 1987, an original owner of a particular property disposes of it in circumstances where section 360R18 applies:

(*a*) in computing the earned depletion base of the original owner at any time after the time that is immediately after the disposition, the amount of the earned depletion base of that owner determined immediately after the time of the disposition must be deducted;

(*b*) for the purposes of subparagraph *a* of the first paragraph of section 360R18, the earned depletion base of the original owner, determined immediately after the time of the disposition, that was deducted in computing the income of that owner for the year is deemed to be equal to the lesser of

i. the amount deducted in respect of the disposition under paragraph *a*, and

ii. the amount by which the amount determined under section 360R60 in respect of the original owner for the year exceeds the aggregate of the amounts each of which is an amount determined under this paragraph in respect of a disposition made by the original owner during the year and before the disposition of the particular property; and

(*c*) an amount, other than the amount determined under paragraph *b*, that the original owner deducts under section 360R17 for the year or for a subsequent taxation year is deemed, for the purposes of subparagraph *a* of the first paragraph of section 360R18, not to be related to the earned depletion base of that owner determined immediately after the owner disposed of the particular property.

s. 360R28; O.C. 1981-80, s. 360R28; O.C. 1983-80, s. 24; R.R.Q., 1981, c. I-3, r.1, s. 360R28; O.C. 421-88, s. 16; O.C. 35-96, s. 51.

"**360R60.** Where, during a taxation year ending after 17 February 1987, an original owner of a property disposes of it in circumstances where section 360R18 applies, the amount determined in respect of the original owner for the year is, for the purposes of paragraph *e* of section 360R55 and of paragraph *b* of section 360R59, equal to the lesser of

(*a*) the aggregate of the amounts each of which is equal to the amount by which the amount deducted under paragraph *a* of section 360R59 in respect of such disposition during the year by the original owner exceeds the amount that the original owner designates, in prescribed form filed with the Minister within six months following the end of the year, in respect of the amount so deducted; and

(*b*) the amount deducted by the original owner under section 360R17 in computing the original owner's income for the year.

s. 360R28.0.1; O.C. 35-96, s. 52.

"**360R61.** Where at any time after 12 November 1981 control of a corporation is considered, for the purposes of section 418.26 of the Act, to have been acquired by a person or group of persons or where a corporation ceases, on or before 26 April 1995, to be exempt from tax under Part I of the Act on its taxable income, the following rules must be taken into account for the purposes of sections 360R15 to 360R20 and 360R42 to 360R64:

(*a*) a joint election is deemed to have been filed in respect of the acquisition in accordance with section 360R16;

(*b*) the corporation is deemed, after that time, to be a corporation that, at that time, acquired from an original owner all of the property that was owned by it immediately before that time;

(*c*) the earned depletion base of the corporation immediately before that time is deemed not to be that of the corporation immediately after that time but that of the original owner immediately after that time;

(*d*) where the corporation, referred to in this paragraph as the "transferee", is, at that time and immediately before that time, a particular person referred to in subsection 5 of section 544 of the Act, or a subsidiary wholly-owned corporation, within the meaning of that subsection, of another corporation, referred to in this paragraph and in section 360R62 as the "transferor",

i. the transferor may designate in favour of the transferee, for a taxation year of the transferor ending after that time, if throughout that year the transferee is such particular person or such subsidiary wholly-owned corporation of the transferor, an amount not exceeding the amount referred to in section 360R62, for the purpose of making a deduction under section 360R18 in respect of the expenditures incurred before that time by the transferee and when it was such particular person or such subsidiary wholly-owned corporation of the transferor, to the extent that the amount so designated was not designated in favour of another taxpayer under this paragraph or in favour of any taxpayer under paragraph *f* of section 418.26 of the Act and only if both corporations agree to avail themselves of this paragraph for that year and so notify the Minister in writing in the fiscal return of the transferor under Part I of the Act for that year; and

ii. the amount so designated is deemed, for the purposes of computing the amount under section 360R18, an income of the transferee from the sources described in any of paragraphs *a* to *c*, as the case may be, of section 360R62 for its taxation year during which that taxation year of the transferor ends and not an income of the transferor from those sources for that year;

(*e*) where, at that time and immediately before that time, the corporation, referred to in this paragraph as the "transferee", and another corporation, referred to in this paragraph as the "transferor", are both subsidiary wholly-owned corporations, within the meaning of subsection 5 of section 544 of the Act, of the same particular person referred to in that subsection 5, and where the transferee and the transferor agree to avail themselves of this paragraph for a taxation year of the transferor ending after that time and so notify the Minister thereof in writing in the fiscal return of the transferor under Part I of the Act for that year, paragraph *d* applies for that year to the transferee and the transferor as if one of them were, in relation to the other, the particular person referred to in subsection 5 of section 544 of the Act;

(*f*) where that time is subsequent to 15 January 1987 and where, at that time, the corporation is a member of a partnership that is, at that time, the owner of a property,

i. for the purposes of paragraph *b*, the corporation is deemed to have been the owner, immediately before that time, of the part of that property owned by the partnership at that time, corresponding to the percentage of its share in the aggregate of the amounts that would be paid to all the members of the partnership if it were dissolved at that time,

ii. for the purposes of subparagraph 3 and 4 of subparagraph i of subparagraph *a* of the second paragraph of section 360R18 for a taxation year ending after that time, the lesser of the following amounts is deemed to be the income of the corporation for the year that may reasonably be attributed to the production from the property or to the processing referred to in subparagraph ii or iii of paragraph *b* of section 360R21 or in paragraph *b* of section 360R25 using the property:

(1) its share of the part of the income of the partnership for the fiscal period of the partnership ending in the year that may reasonably be attributed to the production from the property or to the processing referred to in subparagraph ii or iii of paragraph *b* of section 360R21 or in paragraph *b* of section 360R25 using the property, and

(2) the amount that would be determined for the year under subparagraph 1, if its share of the income of the partnership for the fiscal year of the partnership ending in the year were determined on the basis of the percentage of its share referred to in subparagraph i.

s. 360R28.2; O.C. 2509-85, s. 28; O.C. 421-88, s. 17; Erratum, 1988 G.O. 2, 2537; O.C. 91-94, s. 34; O.C. 35-96, s. 54; O.C. 1707-97, s. 98; O.C. 1451-2000, s. 12.

"**360R62.** The amount to which paragraph *d* of section 360R61 refers that may not be exceeded is the amount equal to the part of the income of the transferor for the year referred to in that paragraph, before any deduction under section 88.4 of the Act respecting the application of the Taxation Act (R.S.Q., c. I-4) or under Chapter X of Title VI of Book III of Part I of the Act, that may reasonably be attributed, as the case may be, to

(*a*) the production from Canadian resource properties owned by the transferor immediately before the time referred to in section 360R61;

(*b*) the disposition, during the year referred to in that paragraph *d*, of Canadian resource properties owned by the transferor immediately before the time referred to in section 360R61; and

(*c*) such processing as is described in subparagraph ii or iii of paragraph *b* of section 360R21 or in subparagraph ii of paragraph *b* of section 360R25 with property owned by the transferor immediately before the time referred to in section 360R61.

s. 360R28.2.1; O.C. 91-94, s. 35; O.C. 35-96, s. 55; O.C. 1454-99, s. 62; O.C. 1451-2000, s. 13.

"**360R63.** Where, at any time, control of a taxpayer that is a corporation is acquired by a person or group of persons or where a taxpayer disposes of specified property or all or substantially all of Canadian resource properties and where, before that time, the taxpayer or a partnership of which the taxpayer was a member acquired a property and it is reasonable to consider that one of the principal purposes of such acquisition was to avoid a restriction provided for in section 360R18 related to the deduction in respect of the earned depletion base of the taxpayer or a corporation referred to in paragraph *d* or *e* of section 360R61 as the "transferee", the taxpayer or the partnership, as the case may be, is deemed, for the purposes of applying section 360R18 to or in respect of the taxpayer, not to have acquired the property.

s. 360R28.2.2; O.C. 35-96, s. 56; O.C. 1707-97, s. 98.

"**360R64.** For the purposes of sections 360R58 and 360R61, where a corporation acquired the control of another corporation between 12 November 1981 and 1 January 1983 as a result of the acquisition of shares of the other corporation pursuant to an agreement in writing entered not later than 12 November 1981, the corporation is deemed to have acquired control of it not later than on that latter date.

s. 360R28.6; O.C. 2509-85, s. 28; O.C. 35-96, s. 58; O.C. 1707-97, s. 98.

"**DIVISION VII**

"ADDITIONAL ALLOWANCE IN RESPECT OF CERTAIN EXPLORATION EXPENSES

div. V; O.C. 1981-80, title XIV, chap. III, div. V; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. III, div. V.

"**360R65.** A taxpayer may, in computing the taxpayer's income for a taxation year, deduct an amount not exceeding the lesser of

(*a*) the taxpayer's income for the year, computed in accordance with the Act, before any deduction under this section and section 360R89; and

(*b*) the taxpayer's exploration account at the end of the year, computed before any deduction for the year under this section.

s. 360R29; O.C. 1981-80, s. 360R29; O.C. 2456-80, s. 10; R.R.Q., 1981, c. I-3, r.1, s. 360R29.

"**360R66.** In this division, the exploration account of a taxpayer at a particular time means an amount equal to the amount by which the aggregate of the following amounts

exceeds the amounts computed under section 360R67 at that time:

(*a*) the amounts each of which is, in respect of an oil or gas well in Canada, equal to the amount determined by the formula

66 2/3% × (A − B);

(*b*) where the taxpayer is a corporation referred to in section 360R73, any amount required by paragraph *a* of that section to be added in computing the taxpayer's exploration account before the particular time.

In the formula in subparagraph *a* of the first paragraph,

(*a*) A is the expenses incurred after 31 March 1977 but before 1 April 1980 and before the particular time in respect of the well, other than the expenses and amounts described in any of paragraphs *a* to *d* of section 360R51 and the expenses that may be considered as having been incurred as consideration for services rendered to the taxpayer after 31 March 1980, that would be expenses included in the Canadian exploration expenses of the taxpayer under sections 395 to 397 of the Act if that section 395 were read

i. without reference to paragraphs *c* and *c*.1 and without the words "the drilling of the well is completed within six months after the end of the year and" in paragraph *b*, and

ii. with "*a* to *b*.1, and *c*.1" in paragraph *d* and "*a* to *c*.1" in paragraph *e* replaced by "*a* or *b*"; and

(*b*) B is the base amount of the taxpayer in respect of the well, as determined under section 360R68, less the amount that would be determined under subparagraph *a* in respect of the taxpayer for the well if "after 31 March 1977 but before 1 April 1980" were replaced by "after 30 June 1976 but before 1 April 1977".

s. 360R30; O.C. 1981-80, s. 360R30; O.C. 1983-80, s. 25; O.C. 3926-80, s. 22; O.C. 1535-81, s. 8; R.R.Q., 1981, c. I-3, r.1, s. 360R30; O.C. 35-96, s. 59; O.C. 1707-97, s. 98.

"**360R67.** The amount referred to in section 360R66 at the particular time referred to therein is equal to the aggregate

(*a*) of the amounts deducted by the taxpayer under section 360R65 in computing the taxpayer's income for the taxation years ending before that time;

(*b*) of 66 2/3% of the amounts that become receivable by the taxpayer after 28 March 1979 and before that time but not after 11 December 1979 and in respect of which the consideration given by the taxpayer is a property, other than a share or a property that would have been for the taxpayer a Canadian resource property if the taxpayer had acquired it at the time of giving the consideration, or services the cost of which may reasonably be considered as representing primarily an expenditure related to an oil or gas well in respect of which an amount was included, under subparagraph *a* of the first paragraph of section 360R66, in computing the taxpayer's exploration account or, where the taxpayer is a corporation referred to in section 360R73, in computing the exploration account of the person from whom the taxpayer acquired a property; and

(*c*) where the taxpayer is a person from whom a property was acquired in accordance with section 360R73, of any amount required by paragraph *b* of that section to be deducted in computing the taxpayer's exploration account before that time.

s. 360R30.1; O.C. 1983-80, s. 25; R.R.Q., 1981, c. I-3, r.1, s. 360R30.1; O.C. 2962-82, s. 59; O.C. 500-83, s. 59; O.C. 421-88, s. 19; Erratum, 1988 G.O. 2, 2537; O.C. 35-96, s. 60; O.C. 1707-97, s. 98.

"**360R68.** For the purposes of section 360R66, the earned depletion base of a taxpayer in respect of an oil or gas well is

(*a*) where an agreement described in section 360R69 has been filed with the Minister in respect of the well by the taxpayer and one or more other persons, the amount allocated to the taxpayer under the agreement;

(*b*) where no amount has been allocated to the taxpayer in the agreement referred to in paragraph *a* or where an agreement described in section 360R69 has been filed with the Minister in respect of the well by one or more persons other than the taxpayer, nil; or

(*c*) where no agreement referred to in paragraph *a* or *b* has been filed with the Minister in respect of the well, $5,000,000.

s. 360R31; O.C. 1981-80, s. 360R31; R.R.Q., 1981, c. I-3, r.1, s. 360R31.

"**360R69.** The agreement referred to in section 360R68 in respect of a well is an agreement in the prescribed form, whereby the aggregate of the amounts allocated in respect of the well is $5,000,000 and according to which the amount allocated to each of the persons referred to in the agreement does not exceed the amount that would be determined in respect of that person for the well under subparagraph *a* of the second paragraph of section 360R66 at the time the agreement is filed with the Minister, if that subparagraph *a* were read with "31 March 1977" replaced by "30 June 1976".

s. 360R32; O.C. 1981-80, s. 360R32; O.C. 1983-80, s. 26; R.R.Q., 1981, c. I-3, r.1, s. 360R32; O.C. 1451-2000, s. 66.

"**360R70.** Where, as a result of mechanical or geological difficulties, the drilling of a particular oil or gas well does not achieve its stated geological objectives under the drilling authority issued by the relevant government body and a further well, including a relief well, is drilled on the same geological formation and may reasonably be regarded as a continuation of or a substitution for the particular oil or gas well, the expenses in respect of the drilling of the further well are, for the purposes of this division, deemed to be

expenses in respect of the drilling of the particular oil or gas well.

s. 360R33; O.C. 1981-80, s. 360R33; R.R.Q., 1981, c. I-3, r.1, s. 360R33; O.C. 1633-96, s. 7.

"**360R71.** For the purposes of this division, the following rules apply:

(*a*) where a shareholder corporation is deemed to have incurred Canadian exploration expenses under an election made by a joint exploration corporation pursuant to section 406 of the Act, those expenses are deemed to have been incurred by the shareholder corporation at the time they were incurred by the joint exploration corporation; and

(*b*) where a member of a partnership is deemed to have incurred Canadian exploration expenses pursuant to paragraph *d* of section 395 of the Act, those expenses are deemed to have been incurred by the member at the time when they were incurred by the partnership.

s. 360R34; O.C. 1981-80, s. 360R34; O.C. 3926-80, s. 23; R.R.Q., 1981, c. I-3, r.1, s. 360R34; O.C. 1707-97, s. 98.

"**360R72.** In this division and despite the definition of "oil or gas well" in section 1 of the Act, an oil or gas well means a well drilled for the purpose of producing petroleum or natural gas or determining the existence of an accumulation of petroleum or natural gas, other than a mineral resource, locating such accumulation or determining its extent or quality.

s. 360R35; O.C. 1981-80, s. 360R35; R.R.Q., 1981, c. I-3, r.1, s. 360R35; O.C. 2509-85, s. 29; O.C. 91-94, s. 37; O.C. 35-96, s. 61.

"**360R73.** Subject to sections 360R15 and 360R16, where, at any time during a taxation year and after 19 April 1983, a corporation acquires a property from another person, the following rules apply:

(*a*) the corporation must, for the purpose of computing its exploration account at a particular time after that acquisition, add the excess amount computed under paragraph *b* in respect of that other person; and

(*b*) the other person must, for the purpose of computing the person's exploration account at a particular time after that person's taxation year during which that acquisition occurs, deduct the amount by which the person's exploration account immediately after that acquisition, assuming for that purpose, where that acquisition results from an amalgamation referred to in section 544 of the Act, that the person continued to exist after that acquisition and that no property was acquired or disposed of in the course of the amalgamation, exceeds the amount deducted under section 360R65 in computing the person's income for that taxation year.

s. 360R36; O.C. 1981-80, s. 360R36; O.C. 1983-80, s. 27; R.R.Q., 1981, c. I-3, r.1, s. 360R36; O.C. 421-88, s. 20; O.C. 91-94, s. 37; O.C. 35-96, s. 61; O.C. 1707-97, s. 98.

"**DIVISION VIII**

"ADDITIONAL ALLOWANCES IN RESPECT OF CERTAIN OIL OR GAS WELLS

div. VI; O.C. 1981-80, title XIV, chap. III, div. VI; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. III, div. VI.

"**360R74.** Subject to sections 360R77 and 360R78, a taxpayer who has income for a taxation year derived from an oil or gas well situated outside Canada, or an individual who has income for a taxation year derived from an oil or gas well situated in Canada, may in computing the taxpayer's income for the year, deduct the lesser of that part of the taxpayer's income for the year that may reasonably be regarded as income derived from the well and the aggregate of drilling costs incurred by the taxpayer in that year and previous taxation years in respect of the well, minus the aggregate of all amounts deductible in respect thereof in computing the taxpayer's income for previous years for the purpose of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 360R38; O.C. 1981-80, s. 360R38; R.R.Q., 1981, c. I-3, r.1, s. 360R38; O.C. 35-96, s. 86.

"**360R75.** For the purposes of section 360R74, drilling costs do not include the cost of land, leases or other rights or indirect expenses such as general exploration or geological or geophysical expenses.

s. 360R39; O.C. 1981-80, s. 360R39; R.R.Q., 1981, c. I-3, r.1, s. 360R39.

"**360R76.** Where a taxpayer has more than one well referred to in section 360R74, the deduction allowed in respect of that section must be computed separately for each well to which that section applies.

s. 360R40; O.C. 1981-80, s. 360R40; R.R.Q., 1981, c. I-3, r.1, s. 360R40.

"**360R77.** An individual who has income for a taxation year derived from an oil or gas well situated in Canada may not make any deduction under this division in computing such income in respect of drilling costs of that well incurred after 10 April 1962.

s. 360R41; O.C. 1981-80, s. 360R41; R.R.Q., 1981, c. I-3, r.1, s. 360R41.

"**360R78.** A taxpayer who has income for a taxation year derived from an oil or gas well situated outside Canada may not make any deduction under this division in computing

such income in respect of drilling costs of that well incurred after 1971.

s. 360R42; O.C. 1981-80, s. 360R42; R.R.Q., 1981, c. I-3, r.1, s. 360R42.

"**DIVISION IX**

"ADDITIONAL ALLOWANCES IN RESPECT OF CERTAIN MINES

div. VII; O.C. 1981-80, title XIV, chap. III, div. VII; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. III, div. VII.

"**360R79.** A taxpayer who operates in Canada a mine for the production of materials from a mineral resource in Canada may deduct, in computing the taxpayer's income for a taxation year, an amount not exceeding 25% of the aggregate of all expenditures made or incurred by the taxpayer before 1972 that may reasonably be regarded as being attributable to the prospecting and exploration for and the development of the mine prior to the mine coming into production in reasonable commercial quantities.

s. 360R43; O.C. 1981-80, s. 360R43; R.R.Q., 1981, c. I-3, r.1, s. 360R43.

"**360R80.** The aggregate mentioned in section 360R79 may not include the expenditures described therein to the extent that the expenditures were

(*a*) expenditures in respect of which a deduction of income tax or excess profits tax or a deduction in the computation of such taxes was allowed by section 8 of the Income War Tax Act (S.C., 1917, chapter 28);

(*b*) expenditures in respect of which an amount was deducted in computing a taxpayer's income under section 16 of Chapter 63 of the Statutes of Canada of 1947, section 16 of Chapter 53 of the Statutes of Canada of 1947-48 or, if the expenditure was incurred prior to 1953, under section 53 of Chapter 25 of the Statutes of Canada of 1949, 2nd Session;

(*c*) expenditures incurred after 1952 in respect of which a deduction was or is provided by section 53 of Chapter 25 of the Statutes of Canada of 1949, 2nd Session, section 83A of the Income Tax Act (Revised Statutes of Canada, 1952, chapter 148) as it applied to the 1971 taxation year or section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement);

(*d*) expenditures that the taxpayer has deducted in computing the taxpayer's income for the year in which such expenditures were incurred;

(*e*) the cost to the taxpayer of property in respect of which the taxpayer is entitled to a deduction under paragraph *a* of section 130 of the Act; or

(*f*) the cost to the taxpayer of a leasehold interest.

s. 360R44; O.C. 1981-80, s. 360R44; R.R.Q., 1981, c. I-3, r.1, s. 360R44; O.C. 35-96, s. 86.

"**360R81.** The amount deductible under section 360R79 may not exceed the aggregate referred to therein minus the aggregate of amounts deducted under that section in computing the income of the taxpayer for previous taxation years, and similar amounts deducted in computing the income of the taxpayer for the purpose of the Income War Tax Act (S.C., 1917, chapter 28) and the 1948 Income Tax Act (S.C., 1948, chapter 52).

s. 360R45; O.C. 1981-80, s. 360R45; R.R.Q., 1981, c. I-3, r.1, s. 360R45.

"**DIVISION X**

"ADDITIONAL ALLOWANCE IN RESPECT OF CERTAIN PROPERTY

div. VIII; O.C. 1983-80, s. 28; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. III, div. VIII.

"**360R82.** A taxpayer that is not a corporation may deduct in computing the taxpayer's income for a taxation year an amount not exceeding the lesser of

(*a*) the aggregate of

i. 25% of the amount by which the taxpayer's resource profits for the year in respect of an oil business exceed four times the amount deducted under section 360R17 in respect of that business in computing the taxpayer's income for the year,

ii. 25% of the amount by which the taxpayer's resource profits for the year in respect of a mining business exceed three times the amount deducted under section 360R17 in respect of that business in computing the taxpayer's income for the year, and

iii. the amount included in computing the taxpayer's income for the year under paragraphs *c* and *d* of section 332.1 of the Act; and

(*b*) the taxpayer's additional depletion at the end of the year, computed before any deduction for the year under this section.

s. 360R46; O.C. 1983-80, s. 28; R.R.Q., 1981, c. I-3, r.1, s. 360R46; O.C. 2962-82, s. 60; O.C. 500-83, s. 60; O.C. 1707-97, s. 98.

"**360R83.** A taxpayer that is a corporation may deduct in computing its income for a taxation year an amount not exceeding the lesser of

(*a*) the aggregate of

i. 50% of its income for the year as computed under Part I of the Act, but without considering the amount referred to in subparagraph ii and before any deduction under this section and section 360R65, and

ii. the amount included in its income for the year under paragraphs *c* and *d* of section 332.1 of the Act; and

(*b*) its additional depletion at the end of the year, computed before any deduction for the year under this section.

s. 360R47; O.C. 1983-80, s. 28; R.R.Q., 1981, c. I-3, r.1, s. 360R47; O.C. 2962-82, s. 61; O.C. 500-83, s. 61; O.C. 1707-97, s. 98.

"**360R84.** In this division, the additional depletion of a taxpayer at a particular time means an amount equal to the amount by which the aggregate of the following amounts exceeds the amount computed under section 360R85 at that time:

(*a*) 50% of the expenses incurred by the taxpayer before that time, each of which was the capital cost to the taxpayer of a property that is primary recovery equipment;

(*b*) 33 1/3% of the expenses incurred by the taxpayer before that time, each of which was the capital cost to the taxpayer of a property that is bituminous sands equipment acquired before 1 January 1981 and which, before it was acquired by the taxpayer, had not been used by any person with whom the taxpayer was not dealing at arm's length; and

(*c*) where the taxpayer is a corporation referred to in section 360R87, any amount required by paragraph *a* of that section to be added before that time in computing its additional depletion.

s. 360R48; O.C. 1983-80, s. 28; O.C. 3926-80, s. 25; R.R.Q., 1981, c. I-3, r.1, s. 360R48; O.C. 2962-82, s. 62; O.C. 500-83, s. 62; O.C. 2509-85, s. 30; O.C. 35-96, s. 63; O.C. 1707-97, s. 98.

"**360R85.** The amount referred to in section 360R84 at the particular time referred to therein is equal to the aggregate of

(*a*) the amounts deducted by the taxpayer under section 360R82 or 360R83, as the case may be, in computing the taxpayer's income for the taxation years ending before that time;

(*b*) 50% of the amounts representing the cost of borrowing capital, including a cost incurred before the start of operations of a business, included in the capital cost to the taxpayer of a depreciable property described in paragraph *a* of section 360R84;

(*c*) 50% of the amounts related to the disposition, before the particular time but not later than 11 December 1979, of property of the taxpayer, other than property that the taxpayer has already used and has disposed of to a person not dealing at arm's length with the taxpayer, the capital cost of which was included, pursuant to paragraph *a* of section 360R84, in computing the taxpayer's additional depletion or, where the taxpayer is a corporation referred to in section 360R87, in computing the additional depletion of the person from whom the taxpayer has acquired property;

(*d*) 33 1/3% of the amounts representing the cost of borrowing capital, including a cost incurred before the start of operations of a business, included in the capital cost to the taxpayer of depreciable property described in paragraph *b* of section 360R84;

(*e*) 33 1/3% of the amounts related to the disposition, before the particular time but not later than 11 December 1979, of property of the taxpayer, other than property that the taxpayer has already used and has disposed of to a person not dealing at arm's length with the taxpayer, the capital cost of which was included, pursuant to paragraph *b* of section 360R84, in computing the taxpayer's additional depletion or, where the taxpayer is a corporation referred to in section 360R87, in computing the additional depletion of the person from whom the taxpayer has acquired property; and

(*f*) where the taxpayer is a person from whom property was acquired under section 360R87, any amount required by paragraph *b* of that section to be deducted before that time in computing the taxpayer's additional depletion.

s. 360R49; O.C. 1983-80, s. 28; O.C. 3926-80, s. 26; R.R.Q., 1981, c. I-3, r.1, s. 360R49; O.C. 2962-82, s. 63; O.C. 500-83, s. 63; O.C. 421-88, s. 21; O.C. 35-96, s. 64; O.C. 1707-97, s. 98.

"**360R86.** For the purposes of paragraphs *c* and *e* of section 360R85, each amount is equal to the lesser of the proceeds of disposition of the property and its capital cost to the taxpayer or the person from whom property was acquired in accordance with section 360R87, computed without including therein the cost of borrowing capital, including a cost incurred before the start of operations of a business.

s. 360R50; O.C. 1983-80, s. 28; R.R.Q., 1981, c. I-3, r.1, s. 360R50; O.C. 2962-82, s. 64; O.C. 500-83, s. 64; O.C. 421-88, s. 22; Erratum, 1988 G.O. 2, 3685; O.C. 35-96, s. 65.

"**360R87.** Subject to sections 360R15 and 360R16, where, at any time in a taxation year and after 19 April 1983, a corporation acquires property from another person, the following rules apply:

(*a*) the corporation must, for the purpose of computing its additional depletion at a particular time after that acquisition, add the excess amount computed under paragraph *b* in respect of the other person; and

(*b*) the other person must, for the purpose of computing the person's additional depletion at a particular time after the person's taxation year during which that acquisition occurs, deduct the amount by which the person's additional depletion immediately after that acquisition, assuming for that purpose, where that acquisition results from an amalgamation referred to in section 544 of be Act, that it continued to exist after that acquisition and that no property was acquired or disposed of in the course of the amalgamation, exceeds the amount deducted under section 360R83 in computing the person's income for that taxation year.

s. 360R51; O.C. 1983-80, s. 28; R.R.Q., 1981, c. I-3, r.1, s. 360R51; O.C. 421-88, s. 22; O.C. 91-94, s. 39; O.C. 35-96, s. 65; O.C. 1707-97, s. 98.

"**360R88.** For the purposes of computing the additional depletion of a corporation the control of which is deemed, for the purposes of section 384 of the Act, to have been acquired, after the corporation last ceased to carry on active business, by one or more persons who did not control it at the time of that ceasing, the amount by which the additional depletion of the corporation at that time exceeds the aggregate of amounts otherwise deducted under section 360R83 in computing its income for the taxation years ending after that time but before acquiring control, is deemed to have been deducted under that section 360R83 in computing the income of the corporation for the taxation years ending before that control acquisition.

s. 360R53; O.C. 1983-80, s. 28; R.R.Q., 1981, c. I-3, r.1, s. 360R53; O.C. 1707-97, s. 98.

"**DIVISION XI**

"ADDITIONAL ALLOWANCE WITH RESPECT TO CERTAIN EXPLORATION EXPENSES INCURRED IN QUÉBEC

div. IX; O.C. 2456-80, s. 11; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. III, div. IX.

"**360R89.** An individual may, in computing the individual's income for a taxation year preceding the 1988 taxation year, deduct an amount not exceeding the lesser of

(*a*) the individual's income for the year, computed in accordance with the Act, before any deduction under this section; and

(*b*) the individual's Québec exploration account at the end of the year, computed before any deduction for the year under this section.

s. 360R54; O.C. 2456-80, s. 11; R.R.Q., 1981, c. I-3, r.1, s. 360R54; O.C. 1666-90, s. 8.

"**360R90.** In this division, the Québec exploration account of an individual at a particular time means an amount equal to the amount, in excess of the amount computed under section 360R95, of the aggregate of all amounts each of which is, in respect of a mineral resource in Québec, a natural accumulation of petroleum or natural gas in Québec or an oil or gas well in Québec, equal to 66 2/3% of the expenditures that have been included in the individual's Canadian exploration expenses and have been incurred in Québec in respect of the mineral resource, accumulation or well after 31 March 1980 and before that particular time, but not later than 10 December 1986 or, where such expenditures are incurred out of the amounts described in section 360R91, 31 December 1987.

The Québec exploration account referred to in the first paragraph does not include expenditures or amounts described in paragraph *a* of section 360R51 or in paragraph *c* or *d* of the said section to the extent that they refer to expenditures mentioned in paragraph *a* or *b* of that section.

It also does not include expenditures that have been included in the Canadian exploration expenses of the individual pursuant to

(*a*) paragraph *b* or *b*.1 of section 395 of the Act to the extent that they refer to expenditures that have been included in computing the Canadian development expenses of the individual for a previous taxation year;

(*b*) paragraph *c*.1 section 395 of the Act;

(*c*) paragraph *d* or *e* of section 395 of the Act to the extent that they refer to expenditures described in

i. paragraph *b* or *b*.1 of that section 395 to the extent that they refer to expenditures that have been included in computing the Canadian development expenses of the individual for a previous taxation year, or

ii. paragraph *c*.1 of the said section 395; or

(*d*) paragraph *d* or *e* of section 395 of the Act, to the extent that they refer respectively to

i. expenditures incurred after 31 December 1985 and before the particular time referred to in the first paragraph, but not later than 10 December 1986 or, where such expenditures are incurred out of the amounts described in section 360R91, 31 December 1987, by a partnership that is eligible pursuant to an agreement described in that paragraph *e* with a corporation that is not an eligible corporation, or

ii. expenditures incurred in the period described in subparagraph i by the individual referred to in the first paragraph pursuant to an agreement described in that paragraph *e* with a corporation that is not an eligible corporation.

It also does not include an amount related to Canadian exploration expenses that a corporation that is not an eligible corporation renounced, effective not later than 31 December 1987, under section 359.2 of the Act in respect of a share.

s. 360R55; O.C. 2456-80, s. 11; R.R.Q., 1981, c. I-3, r.1, s. 360R55; O.C. 1544-82, s. 5; O.C. 2962-82, s. 65; O.C. 500-83, s. 65; O.C. 1239-86, s. 1; O.C. 1746-88, s. 4; O.C. 91-94, s. 41; O.C. 1707-97, s. 98.

"**360R91.** Subject to section 360R92, the amounts to which the first paragraph of section 360R90 and subparagraph i of subparagraph *d* of the third paragraph of that section refer to last are the amounts collected by reason of

(*a*) a distribution made in accordance with a final prospectus for which the receipt was issued not later than 10 December 1986;

(*b*) a distribution made in accordance with a final prospectus for which the receipt was issued after 10 December 1986, but not later than 31 December 1986, where the receipt for the

preliminary prospectus that preceded it was issued not later than 10 December 1986;

(*c*) a distribution made before 11 December 1986 under a prospectus exemption under section 48 or 51 of the Securities Act (R.S.Q., c. V-1.1); or

(*d*) a distribution made after 10 December 1986 under a prospectus exemption under section 48 of the Securities Act, but not later than 31 December 1986, pursuant to an offering notice or offering memorandum received by the Commission des valeurs mobilières not later than 10 December 1986.

s. 360R55.1; O.C. 1746-88, s. 5; O.C. 1466-98, s. 126.

"**360R92.** The amounts collected by reason of a distribution made in accordance with paragraphs *b* and *d* of section 360R91 constitute such amounts up to the amount determined under the preliminary prospectus or under the offering notice or offering memorandum, as the case may be, equal to the part of the expected proceeds of the distribution provided for in the preliminary prospectus or in the offering notice or offering memorandum, as the case may be, that was intended to constitute Canadian exploration expenses incurred in Québec.

s. 360R55.2; O.C. 1746-88, s. 5.

"**360R93.** For the purposes of section 360R90, the expenditures described therein do not include the expenditures incurred out of the amounts collected by reason of the exercise, after 10 December 1986, of a right related to the acquisition of a particular share or any share substituted for such a particular share.

s. 360R55.3; O.C. 1746-88, s. 5.

"**360R94.** For the purposes of section 360R93, where an individual has acquired a share in substitution for a particular share that the individual has disposed of and where subsequently, by one or more transactions, the individual has acquired another share in substitution for that share or for a share previously acquired in substitution, any share so acquired is deemed to be a share that was substituted for the particular share.

s. 360R55.4; O.C. 1746-88. s. 5.

"**360R95.** The amount described in section 360R90 at the particular time therein referred to is equal to the aggregate of

(*a*) the amounts deducted by the individual pursuant to section 360R89 in computing the individual's income for the taxation years ending before that time; and

(*b*) 66 2/3% of the amounts that become receivable by the individual before that time and after 31 March 1980 and in respect of which the consideration given by the individual is property, other than a share or property that would have been for the individual a Canadian resource property had it been acquired at the time the consideration was given, or services the cost of which may be regarded as having been primarily an expenditure in respect of which an amount has been included, pursuant to section 360R90, in computing the individual's Québec exploration account.

s. 360R56; O.C. 2456-80, s. 11; R.R.Q., 1981, c. I-3, r.1, s. 360R56.

"**360R96.** In this division, an eligible partnership is a partnership all of whose activities consist mainly in mining, oil or gas exploration or the development of a mineral resource, a natural accumulation of petroleum or natural gas or an oil or gas well and which, at the time the expenses referred to in paragraph *d* of section 395 of the Act are incurred and throughout the 12-month period prior to that time, fulfils the following conditions:

(*a*) neither it nor one of its members operates a mineral resource, a natural accumulation of petroleum or natural gas or an oil or gas well; and

(*b*) none of its members is a corporation controlled by a corporation that operates a mineral resource, a natural accumulation of petroleum or natural gas or an oil or gas well.

s. 360R56.1; O.C. 1239-86, s. 2; O.C. 91-94, s. 42; O.C. 1707-97, s. 98; O.C. 1466-98, s. 54.

"**360R97.** In this division, an eligible corporation is a corporation all of whose activities consist mainly in mining, oil or gas exploration or the development of a mineral resource, a natural accumulation of petroleum or natural gas or an oil or gas well and which, at the time the expenses referred to in paragraph *e* of section 395 of the Act are incurred or at the time the expenses in respect of which an amount is renounced under section 359.2 of the Act are incurred, as the case may be, and throughout the 12-month period prior to that time, fulfils the following conditions:

(*a*) it does not operate a mineral resource, a natural accumulation of petroleum or natural gas or an oil or gas well; and

(*b*) it is not controlled by another corporation that operates a mineral resource, a natural accumulation of petroleum or natural gas or an oil or gas well.

s. 360R56.2; O.C. 1239-86, s. 2; O.C. 1746-88, s. 6; O.C. 91-94, s. 42; O.C. 1707-97, s. 98; O.C. 1466-98, s. 55.

"**360R98.** For the purposes of this division and for greater precision, the operation of a mineral resource, a natural accumulation of petroleum or natural gas or an oil or gas well is understood to mean such an operation in a reasonable commercial quantity.

s. 360R56.3; O.C. 1239-86, s. 2; O.C. 91-94, s. 42.

"**360R99.** Paragraph *b* of section 360R71 applies to this division.

s. 360R57; O.C. 2456-80, s. 11; R.R.Q., 1981, c. I-3, r.1, s. 360R57.

"**DIVISION XII**

"AMALGAMATIONS AND WINDING-UP

div. X; O.C. 2962-82, s. 66; O.C. 500-83, s. 66; O.C. 35-96, s. 67.

"**360R100.** Where there is an amalgamation of a particular corporation with another corporation and subsection 4 of section 544 of the Act applies to the new corporation or where the property of a subsidiary is attributed to its parent during the winding-up of the subsidiary and section 565.1 of the Act applies to the parent, the new corporation or the parent, as the case may be, is deemed to be the same corporation as the particular corporation or the subsidiary, as the case may be, and to continue its corporate existence for the purposes of

(*a*) computing the mining exploration depletion, within the meaning of sections 360R31 to 360R33, the depletion for oil and gas exploration, within the meaning of sections 360R37 to 360R39, the earned depletion base, the exploration account, within the meaning of sections 360R66 and 360R67, and the additional depletion, within the meaning of sections 360R84 to 360R86, of the new corporation or the parent, as the case may be; and

(*b*) determining the amounts that may be deducted under section 360R18 in computing the income of the new corporation or the parent, as the case may be, for a particular taxation year.

s. 360R58; O.C. 2962-82, s. 66; O.C. 500-83, s. 66; O.C. 2509-85, s. 31; O.C. 91-94, s. 43; O.C. 35-96, s. 68; O.C. 1707-97, s. 98.

"**360R101.** Where there is an amalgamation within the meaning of subsection 1 of section 544 of the Act, of two or more particular corporations to form a single corporate entity, that entity is deemed, for the purposes of section 360R63, to be the same corporation as each of the particular corporations and to continue their corporate existence.

s. 360R58.1; O.C. 35-96, s. 69; O.C. 1707-97, s. 98.

"**360R102.** Where there is a winding-up of a taxable Canadian corporation in circumstances where sections 556 to 564.1 and 565 of the Act apply to that corporation and to another taxable Canadian corporation, the latter corporation is deemed, for the purposes of section 360R63, to be the same corporation as the wound-up corporation and to continue its corporate existence.

s. 360R58.2; O.C. 35-96, s. 69; O.C. 1707-97, s. 98.

"**CHAPTER VII**

"SUBSIDY, ASSISTANCE, PRESCRIBED SHARE AND OTHER DEDUCTIONS

chap. IV; O.C. 1981-80, title XIV, chap. IV; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. IV; O.C. 2962-82, s. 67; O.C. 500-83, s. 67; O.C. 2509-85, s. 32; O.C. 91-94, s. 44.

"**385R1.** In computing a taxpayer's Canadian exploration and development expenses, a taxpayer must deduct an amount provided for in the first paragraph of section 385 of the Act to the extent that the amount is paid to the taxpayer

(*a*) after 31 December 1971 under the Northern Mineral Exploration Assistance Regulations made under an appropriation Act of the Parliament of Canada that provides for payments in respect of the Northern Mineral Grants Program; or

(*b*) pursuant to any agreement entered into between the taxpayer and Her Majesty in right of Canada under the Northern Mineral Grants Program or the Development Program of the Department of Indian Affairs and Northern Development of Canada, to the extent that the amount has been expended by the taxpayer as or on account of Canadian exploration and development expenses incurred by the taxpayer.

s. 385R1; O.C. 1981-80, s. 385R1; R.R.Q., 1981, c. I-3, r.1, s. 385R1; O.C. 1149-2006, s. 22.

"**395R1.** For the purposes of paragraph *e* of section 395 of the Act, a share of a class of the capital stock of a corporation is a prescribed share if that corporation issued it after 31 December 1982, if it is not referred to in section 395R2 and if

(*a*) the corporation, any person related to it or of which it has effective management or control, or any partnership or trust of which the corporation or a person related to it is a member or beneficiary, is or may be required to redeem, acquire or cancel, in whole or in part, the share or to reduce its paid up capital at any time within five years from the date of its issue;

(*b*) a person or partnership referred to in paragraph *a* provides or may be required to provide, in relation to the share, any form of guarantee, security or similar undertaking that could take effect within five years from the date of its issue, other than a guarantee, security or similar undertaking in respect of any amount of assistance or benefit from a government, municipality or other public authority in Canada or in respect of eligibility for such assistance or benefit;

(*c*) the share, referred to in this section and sections 395R2 and 395R3 as the "convertible share", is, under its terms or conditions, convertible, directly or indirectly, at any time within five years from the date of its issue, into debt or into a share, referred to in this section and sections 395R2 and 395R3 as the "acquired share", that is or would be, if issued, a prescribed share;

(*d*) immediately after the share was issued, the person to whom the share was issued or a person related to the latter, controls directly or indirectly or has an absolute or contingent right to control directly or indirectly or to acquire direct or indirect control of the corporation, either alone or together with a related person, a related group of persons of which the person is a member or a partnership or trust of which the person is a member or beneficiary, and the corporation has the right, under the terms or conditions in respect of which the share was issued, to redeem, purchase or otherwise acquire the share within five years from the date of its issue;

(*e*) at the time the share was issued, the existence of the corporation was limited or could be limited, by reason of an arrangement that is not an amalgamation within the meaning of section 544 of the Act, to a period that ends within five years from the date of its issue; or

(*f*) the terms or conditions of the share, referred to in this paragraph as the "first share", or of an agreement in existence at the time of its issue provide that another share, referred to in this section and sections 395R2 and 395R3 as the "substituted share" that is, or would be, if it was issued, a prescribed share, may be substituted or exchanged for the first share within five years from the date of issue of the first share.

s. 395R2; O.C. 2509-85, s. 33; O.C. 91-94, s. 46; O.C. 1707-97, s. 98.

"**395R2.** For the purposes of section 395R1, a prescribed share does not include a share of the capital stock of a corporation

(*a*) that is issued after 31 December 1982, pursuant to an offering or agreement in writing made on or before 31 December 1982, or in accordance with a prospectus, registration statement or similar document that was filed on or before that date with a public authority in Canada in conformity with the laws of Canada or of any province and where required by law, accepted for filing by that authority;

(*b*) that would be a prescribed share solely under one or more terms or conditions of an agreement, where those are not effective or exercisable until the disability, death or bankruptcy of the person to whom the share is issued;

(*c*) that

i. is convertible under its terms or conditions into one or more shares of a class of the capital stock of the corporation for no consideration other than the share or shares,

ii. is described in paragraph *a* of section 395R1 solely because it is to be cancelled on the conversion within five years from the date of its issue, because its paid-up capital is to be reduced on the conversion within that term or because those two conditions apply, and

iii. is not described in paragraph *c* of section 395R1; or

(*d*) that

i. may have a share substituted or exchanged for it pursuant to its terms or conditions or those of an agreement in existence at the time of its issue, if no consideration is received or to be received for the share in relation to the substitution or exchange other than the share substituted or exchanged for it,

ii. is described in paragraph *a* of section 395R1 solely because it is to be redeemed, acquired or cancelled on the substitution or exchange within five years from the date of its issue, and

iii. is not a share in respect of which paragraph *f* of section 395R1 applies.

s. 395R3; O.C. 2509-85, s. 33; O.C. 1707-97, s. 98.

"**395R3.** For the purposes of this section and sections 395R1 and 395R2, the following rules apply:

(*a*) where a person has an interest in a trust, directly or indirectly, through an interest in another trust or otherwise, the person is deemed to be a beneficiary of the trust;

(*b*) in order to determine whether an acquired share described in paragraph *c* of section 395R1 would be a prescribed share if issued,

i. the words "date of its issue" in paragraphs *a*, *b*, *d* and *e* of section 395R1, are to be replaced by the words "date of issue of the convertible share",

ii. the words "issue of the first share" in paragraph *f* of section 395R1, are to be replaced by the words "issue of the convertible share", and

iii. this section and sections 395R1 and 395R2 are to be read without reference to paragraph *a* of section 395R2 and "after 31 December 1982";

(*c*) in order to determine whether a substituted share described in paragraph *f* of section 395R1 would be a prescribed share if issued,

i. the words "date of its issue" in paragraphs *a* to *e* of section 395R1, are to be replaced by the words "date of issue of the first share", and

ii. this section and sections 395R1 and 395R2 are to be read without reference to paragraph *a* of section 395R2 and "after 31 December 1982";

(*d*) for the purposes of paragraph *b* of section 395R1, an excluded obligation, within the meaning of section 359.1R1, in relation to a share of a class of the capital stock of a corporation and an obligation that would be such an obligation in relation to the share if the share had been issued after 17 June 1987 are deemed not to be any form of

guarantee, security or similar undertaking in respect of the share;

(*e*) a guarantee, security or similar undertaking referred to in paragraph *b* of section 395R1 is not considered to take effect within five years from the date of issue of a share if the effect of the guarantee, security or undertaking is to provide that a person or partnership referred to in paragraph *a* of section 395R1 will be able to redeem, acquire or cancel the share at a time that is not within five years from the date of issue of the share; and

(*f*) where an expense is incurred partly in consideration for shares, referred to in this section and in sections 395R1 and 395R2 as "first corporation shares", of the capital stock of a corporation and partly in consideration for an interest or right to shares, referred to in this paragraph as "second corporation shares", of the capital stock of another corporation, in order to determine whether the shares of the second corporation are prescribed shares, the words "date of its issue", in paragraphs *a*, *d* and *e* of section 395R1 must be replaced by the words "date of issue of the first corporation shares".

s. 395R4; O.C. 2509-85, s. 33; O.C. 91-94, s. 47; O.C. 1707-97, s. 98.

"**398R1.** For the purposes of paragraph *c* of section 398 of the Act, the subsidy, grant or assistance referred to in that paragraph is that received under the Northern Mineral Exploration Assistance Regulations made under an appropriation Act of the Parliament of Canada that provides for payments in respect of the Northern Mineral Grants Program.

s. 398R1; O.C. 1981-80, s. 398R1; R.R.Q., 1981, c. I-3, r.1, s. 398R1; O.C. 1149-2006, s. 23.

"**399R1.** For the purposes of paragraph *c* of section 399 of the Act, in computing a taxpayer's cumulative Canadian exploration expenses, a taxpayer is required to deduct an amount provided for in that paragraph, to the extent that the amount has been expended by the taxpayer as or on account of Canadian exploration and development expenses or Canadian exploration expenses incurred by the taxpayer and paid to the taxpayer

(*a*) under the Northern Mineral Exploration Assistance Regulations made under an appropriation Act of the Parliament of Canada that provides for payments in respect of the Northern Mineral Grants Program; or

(*b*) pursuant to any agreement entered into between the taxpayer and Her Majesty in right of Canada under the Northern Mineral Grants Program or the Development Program of the Department of Indian Affairs and Northern Development of Canada.

s. 399R1; O.C. 1981-80, s. 399R1; R.R.Q., 1981, c. I-3, r.1, s. 399R1; O.C. 1149-2006, s. 23.

"**399.7R1.** Subject to section 399.7R2 and for the purposes of section 399.7 of the Act, Canadian renewable and conservation expense means an expense incurred by a taxpayer, and payable to a person or to a partnership with whom the taxpayer is dealing at arm's length, in respect of the development of a project for which it is reasonable to expect that at least 50% of the capital cost of the depreciable property to be used in the project would be the capital cost of any property that is described in Class 43.1 or 43.2 in Schedule B or that would be such property but for this section, and includes such an expense incurred by the taxpayer

(*a*) for the purpose of making a service connection to the project for the transmission of electricity to a purchaser of the electricity, to the extent that the expense so incurred was not incurred to acquire property of the taxpayer;

(*b*) for the construction of a temporary access road to the project site;

(*c*) for a right of access to the project site before the earliest time at which a property described in Class 43.1 or 43.2 in Schedule B is used in the project for the purpose of earning income;

(*d*) for clearing land to the extent necessary to complete the project;

(*e*) for process engineering for the project, including collection and analysis of site data, calculation of energy, mass, water, or air balances, simulation and analysis of the performance and cost of process design options, and selection of the optimum process design;

(*f*) for the drilling or completion of a well for the project; or

(*g*) for a test wind turbine that is part of a wind farm project of the taxpayer.

For the purposes of subparagraph *g* of the first paragraph, a test wind turbine means a fixed location device that is a wind energy conversion system and that is a test wind turbine within the meaning of paragraph 3 of section 1219 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

For the purposes of the first paragraph, a Canadian renewable and conservation expense includes an expense incurred by a taxpayer to acquire a fixed location device that is a wind energy conversion system only if the device is described in subparagraph *g* of the first paragraph.

s. 399.7R1; O.C. 1470-2002, s. 42; O.C. 1149-2006, s. 24; O.C. 1116-2007, s. 24.

"**399.7R2.** A Canadian renewable and conservation expense does not include any expense that

(*a*) is described in any of sections 147, 160, 163, 176 and 176.4 of the Act; or

(*b*) is incurred directly or indirectly by a taxpayer and is

i. for the use of or the acquisition of, or the right to use, land, except as provided in any of subparagraphs *b* to *d* of the first paragraph of section 399.7R1,

ii. for grading or levelling land or for landscaping, except as provided in subparagraph *b* of the first paragraph of section 399.7R1,

iii. payable to a person who does not reside in Canada or a partnership that is not a Canadian partnership, except an expense referred to in subparagraph *g* of the first paragraph of section 399.7R1,

iv. included in the capital cost of property that, but for this section and section 399.7R1, would be a depreciable property, except as provided in any of subparagraphs *b* and *d* to *g* of the first paragraph of section 399.7R1,

v. an expenditure that, but for this section and section 399.7R1, would be an incorporeal capital property amount, except as provided in any of subparagraphs *a* to *e* of the first paragraph of section 399.7R1,

vi. included in the cost of inventory of the taxpayer,

vii. an expenditure on or in respect of scientific research and experimental development,

viii. a Canadian development expense or a Canadian oil and gas property expense,

ix. incurred, for a project, in respect of any time at or after the earliest time at which a property described in Class 43.1 or 43.2 in Schedule B was used in the project for the purpose of earning income,

x. incurred in respect of the administration or management of a business of the taxpayer, or

xi. a cost attributable to the period of the construction, renovation or alteration of depreciable property, other than property described in Class 43.1 or 43.2 in Schedule B, that relates to the construction, renovation or alteration of the property, except as provided in any of subparagraphs *b*, *f* and *g* of the first paragraph of section 399.7R1, or the ownership of land during the period, except as provided for in any of subparagraphs *b* to *d* of the first paragraph.

s. 399.7R2; O.C. 1470-2002, s. 42; O.C. 1249-2005, s. 14; O.C. 1116-2007, s. 25.

"**400R1.** For the purposes of paragraph *b* of section 400 of the Act, a prescribed deduction in respect of a corporation for a taxation year means an amount deducted by the corporation under section 360R18 in computing its income for the year.

s. 400R1; O.C. 2962-82, s. 68; O.C. 500-83, s. 68; O.C. 35-96, s. 70; O.C. 1707-97, s. 98.

"**408R1.** For the purposes of paragraph *e* of section 408 of the Act, a prescribed share has the meaning assigned by sections 395R1 to 395R3.

s. 408R1; O.C. 2509-85, s. 34.

"**412R1.** For the purposes of paragraph *e* of section 412 of the Act, section 399R1 applies by replacing therein the expression "cumulative Canadian exploration expenses" and "Canadian exploration and development expenses or Canadian exploration expenses" by the expressions "cumulative Canadian development expenses" and "Canadian development expenses" respectively.

s. 412R1; O.C. 1981-80, s. 412R1; R.R.Q., 1981, c. I-3, r.1, s. 412R1.

"**418.2R1.** For the purposes of paragraph *c* of section 418.2 of the Act, a prescribed share has the meaning assigned to it in sections 395R1 to 395R3.

s. 418.2R1; O.C. 2509-85, s. 35.

"**CHAPTER VIII**

"DEDUCTION OF CERTAIN EXPENSES

chap. IV.0.0.1; O.C. 1697-92, s. 54.

"**421.5R1.** For the purposes of subparagraph *a* of the second paragraph of section 421.5 of the Act, the amount prescribed in respect of a passenger vehicle acquired after 31 August 1989 and before 1 January 1997 or after 31 December 2000 is $300.

s. 421.5R1; O.C. 1697-92, s. 54; O.C. 1463-2001, s. 58; O.C. 1470-2002, s. 43.

"**421.6R1.** For the purposes of subparagraph *a* of the second paragraph of section 421.6 of the Act, the amount prescribed for a taxation year of a lessee is

(*a*) with respect to a passenger vehicle leased under a lease entered into between 31 August 1989 and 1 January 1991, $650; and

(*b*) with respect to a passenger vehicle leased under a lease entered into after 31 December 1990, the amount determined by the formula

A + B.

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

(*a*) A is

i. where the passenger vehicle was leased under a lease entered into before 1 January 1997, $650,

ii. where the passenger vehicle was leased under a lease entered into after 31 December 1996 and before 1 January 1998, $550,

iii. where the passenger vehicle was leased under a lease entered into after 31 December 1997 and before 1 January 2000, $650,

iv. where the passenger vehicle was leased under a lease entered into after 31 December 1999 and before 1 January 2001, $700; and

v. where the passenger vehicle was leased under a lease entered into after 31 December 2000, $800; and

(*b*) B is the sum of the federal and provincial sales taxes that would have been payable on a monthly payment under the lease in the taxation year of the lessee if, before those taxes, the lease had required monthly payments equal to the amount determined in subparagraph *a*.

s. 421.6R1; O.C. 1697-92, s. 54; O.C. 1463-2001, s. 59; O.C. 1249-2005, s. 15.

"**421.6R2.** For the purposes of subparagraph i of subparagraphs *d* and *i* of the second paragraph of section 421.6 of the Act, the rate of interest that is prescribed, during any particular period, is the rate that corresponds to the rate determined, during that period, under subparagraph i of paragraph *a* of section 4301 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 421.6R1.1; O.C. 1114-93, s. 20; O.C. 35-96, s. 86; O.C. 1707-97, s. 98; O.C. 1466-98, s. 126.

"**421.6R3.** For the purposes of subparagraph *g* of the second paragraph of section 421.6 of the Act, the amount prescribed is

(*a*) with respect to a passenger vehicle leased under a lease entered into between 31 August 1989 and 1 January 1991, $24,000; and

(*b*) with respect to a passenger vehicle leased under a lease entered into after 31 December 1990, the amount determined by the formula

A + B.

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

(*a*) A is

i. where the passenger vehicle was leased under a lease entered into before 1 January 1997, $24,000,

ii. where the passenger vehicle was leased under a lease entered into after 31 December 1996 and before 1 January 1998, $25,000,

iii. where the passenger vehicle was leased under a lease entered into after 31 December 1997 and before 1 January 2000, $26,000,

iv. where the passenger vehicle was leased under a lease entered into after 31 December 1999 and before 1 January 2001, $27,000, and

v. where the passenger vehicle was leased under a lease entered into after 31 December 2000, $30,000; and

(*b*) B is the sum of the federal and provincial sales taxes that would have been payable on the acquisition of the passenger vehicle if it has been acquired at the time the lease was entered into at a cost, before those taxes, equal to the amount determined in subparagraph *a*.

s. 421.6R2; O.C. 1697-92, s. 54; O.C. 1463-2001, s. 60; O.C. 1470-2002, s. 44.

"**421.6R4.** For the purposes of subparagraph i of subparagraph *h* of the second paragraph of section 421.6 of the Act, the amount prescribed in respect of a passenger vehicle leased under a lease entered into after 31 August 1989 is an amount equal to 100/85 of the amount determined under section 421.6R3 in respect of that vehicle.

s. 421.6R3; O.C. 1697-92, s. 54; O.C. 1466-98, s. 126; O.C. 1463-2001, s. 61.

"**CHAPTER IX**

"PRESCRIBED FOREST MANAGEMENT PLAN

chap. IV.0.1.1; chap. IV.1.1; O.C. 1116-2007, s. 26.

"**444R1.** For the purposes of section 444 of the Act, a prescribed forest management plan in respect of a woodlot of a taxpayer is a written plan for the management and development of the woodlot that

(*a*) describes the composition of the woodlot, provides for the attention necessary for the growth, health and quality of the trees on the woodlot and is approved in accordance with the requirements of a provincial program established for the sustainable management and conservation of forests; or

(*b*) has been certified in writing by a recognized forestry professional to be a plan that describes the composition of the woodlot, provides for the attention necessary for the growth, health and quality of the trees on the woodlot and includes

i. a description of, or a map indicating, the location of the woodlot,

ii. a description of the characteristics of the woodlot, including a map of the woodlot site that shows those characteristics,

iii. a description of the development of the woodlot, including the activities carried out on the woodlot, since the taxpayer acquired it,

iv. information acceptable to the recognized forestry professional estimating

(1) the ages and heights of the trees on the woodlot, and their species,

(2) the quantity of wood on the woodlot,

(3) the quality and composition of the soil underlying the woodlot, and

(4) the quantity of wood that the woodlot could yield as a result of the implementation of the plan,

v. a description of, and the timing for, the activities proposed to be carried out on the woodlot under the plan, including any of those activities that deal with

(1) harvesting,

(2) renewal and regeneration,

(3) the application of silviculture techniques, and

(4) responsible stewardship and the protection of the environment, and

vi. a description of the objectives and strategies for the management and development of the woodlot over a period of at least five years.

A recognized forestry professional to which subparagraph *b* of the first paragraph refers is a forestry professional who has a degree, diploma or certificate recognized by the Canadian Forestry Accreditation Board, the Canadian Institute of Forestry or the Canadian Council of Technicians and Technologists.

A recognized forestry professional to which subparagraph *b* of the first paragraph refers is not required to express an opinion as to the completeness or correctness of a description of past activities referred to in subparagraph iii of subparagraph *b* of the first paragraph or of information referred to in subparagraph iv of subparagraph *b* of that paragraph if the information was not prepared by that recognized forestry professional.

s. 444R1; O.C. 1116-2007, s. 26.

"**451R1.** For the purposes of subparagraphs *a* and *f* of the first paragraph of section 451 of the Act, a prescribed forest management plan in respect of a woodlot of a taxpayer is a plan referred to in section 444R1.

s. 451R9; O.C. 1116-2007, s. 27.

"**CHAPTER X**

"INTER VIVOS TRANSFER

chap. IV.2; O.C. 3926-80, s. 29; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. IV.2.

"**459R1.** For the purposes of section 459 of the Act, a prescribed forest management plan in respect of a woodlot of a taxpayer is a plan referred to in section 444R1.

s. 459R1; O.C. 1116-2007, s. 28.

"**462.1R1.** For the purposes of section 462.1 of the Act, a prescribed provincial pension plan is a plan mentioned in section 752.0.10R1.

s. 462.1R1; O.C. 1114-92, s. 25.

"**462.13R1.** For the purposes of section 462.13 of the Act, the rate of interest that is prescribed, during any particular period, is the rate that corresponds to the rate determined, during that period, under subparagraph i of paragraph *a* of section 4301 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 462.13R1; O.C. 1666-90, s. 9; O.C. 1114-92, s. 26; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**462.15R1.** For the purposes of subparagraph i of paragraph *b* of section 462.15 of the Act, the rate of interest that is prescribed, during any particular period, is the rate that corresponds to the rate determined, during that period, under subparagraph i of paragraph *a* of section 4301 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 462.15R1; O.C. 1666-90, s. 9; O.C. 1114-92, s. 26; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**CHAPTER XI**

"ELECTION RELATIVE TO AN INDEMNITY RECEIVED IN RESPECT OF EXPROPRIATED PROPERTY

chap. V; O.C. 1981-80, title XIV, chap. V; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. V.

"**470R1.** A taxpayer who makes an election under section 470 of the Act is required to do so on or before the taxpayer's filing-due date for the taxation year in which the property giving rise to the election was acquired by the taxpayer.

s. 470R1; O.C. 1981-80, s. 470R1; R.R.Q., 1981, c. I-3, r.1, s. 470R1; O.C. 1466-98, s. 56.

"**471R1.** Section 470R1 applies with the necessary modifications to an election provided for in section 471 of the Act.

s. 471R1; O.C. 1981-80, s. 471R1; R.R.Q., 1981, c. I-3, r.1, s. 471R1; O.C. 1633-96, s. 44.

"**475R1.** Section 470R1 applies with the necessary modifications to an election provided for in section 475 of the Act.

s. 475R1; O.C. 1981-80, s. 475R1; R.R.Q., 1981, c. I-3, r.1, s. 475R1; O.C. 1633-96, s. 44.

"**477R1.** Section 470R1 applies with the necessary modifications to an election provided for in section 477 of the Act.

s. 477R1; O.C. 1981-80, s. 477R1; R.R.Q., 1981, c. I-3, r.1, s. 477R1; O.C. 1633-96, s. 44.

"**478R1.** Section 470R1 applies with the necessary modifications to an election provided for in section 478 of the Act.

s. 478R1; O.C. 1981-80, s. 478R1; R.R.Q., 1981, c. I-3, r.1, s. 478R1; O.C. 1633-96, s. 44.

"**479R1.** Section 470R1 applies with the necessary modifications to an election provided for in section 479 of the Act.

S. 479R1; O.C. 1981-80, s. 479R1; R.R.Q., 1981, c. I-3, r.1, s. 479R1; O.C. 1633-96, s. 44.

"**CHAPTER XII**

"DROUGHT REGIONS

chap. VI.1; O.C. 366-94, s. 21.

"**487.0.2R1.** In the first paragraph of section 487.0.2 of the Act, a drought region means

(*a*) for the calendar year 1995,

i. in the Province of Manitoba, the Local Government Districts of Alonsa, Fisher, Grahamdale, Grand Rapids and Mountain (South), the areas designated under The Northern Affairs Act of Manitoba (c. N100) as the communities of Camperville, Crane River, Duck Bay, Homebrook, Mallard, Meadow Portage, Rock Ridge, Spence Lake and Waterhen, the Rural Municipalities of Eriksdale, Lawrence, Mossey River, Ste. Rose and Siglunes, and Skownan,

ii. in the Province of Saskatchewan, the Rural Municipalities of Antelope Park, Battle River, Beaver River, Biggar, Blaine Lake, Britannia, Buffalo, Cut Knife, Douglas, Eagle Creek, Eldon, Eye Hill, Frenchman Butte, Glenside, Grandview, Grass Lake, Great Bend, Heart's Hill, Hillsdale, Kindersley, Loon Lake, Manitou Lake, Mariposa, Mayfield, Meadow Lake, Medstead, Meeting Lake, Meota, Mervin, Milton, Mountain View, North Battleford, Oakdale, Paynton, Parkdale, Perdue, Pleasant Valley, Prairie, Prairiedale, Progress, Redberry, Reford, Round Hill, Round Valley, Rosemont, Senlac, Spiritwood, Tramping Lake, Turtle River, Wilton and Winslow, and

iii. in the Province of Alberta, the Counties of Beaver, Camrose, Flagstaff, Lamont, Minburn, Paintearth, Smoky Lake, St. Paul, Strathcona, Thorhild, Two Hills and Vermilion River, the Municipal Districts of Bonnyville, MacKenzie, Northern Lights, Provost and Wainwright, and Special Areas 2, 3 and 4;

(*b*) for the calendar year 1997,

i. in the Province of Ontario, the Counties of Hastings and Renfrew,

ii. the Province of Nova Scotia,

iii. in the Province of Manitoba, the Rural Municipalities of Albert, Alonsa, Archie, Arthur, Birtle, Boulton, Brenda, Cameron, Clanwilliam, Dauphin, Edward, Ellice, Glenella, Grahamdale, Harrison, Lakeview, Langford, Lansdowne, Lawrence, McCreary, Miniota, Minto, Morton, Ochre River, Park (South), Pipestone, Rosedale, Rossburn, Russell, Ste. Rose, Shellmouth, Shoal Lake, Sifton, Siglunes, Silver Creek, Strathclair, Turtle Mountain, Wallace, Westbourne, Whitewater and Winchester,

iv. in the Province of Saskatchewan, the Rural Municipalities of Abernethy, Antelope Park, Antler, Argyle, Baildon, Bengough, Benson, Big Stick, Biggar, Bratt's Lake, Brock, Brokenshell, Browning, Buchanan, Calder, Caledonia, Cambria, Cana, Chester, Chesterfield, Churchbridge, Clinworth, Coalfields, Cote, Cymri, Deer Forks, Elcapo, Elmsthorpe, Emerald, Enniskillen, Enterprise, Estevan, Excel, Eye Hill, Fertile Belt, Fillmore, Foam Lake, Francis, Fox Valley, Garry, Glenside, Golden West, Good Lake, Grandview, Grass Lake, Grayson, Griffin, Happyland, Happy Valley, Hart Butte, Hazelwood, Heart's Hill, Indian Head, Insinger, Ituna Bon Accord, Invermay, Kellross, Key West, Keys, Kingsley, Lajord, Lake Alma, Lake Johnston, Lake of The Rivers, Langenburg, Laurier, Lipton, Livingston, Lomond, Maple Creek, Mariposa, Martin, Maryfield, McLeod, Milton, Montmartre, Moose Creek, Moose Jaw, Moose Mountain, Moosomin, Mountain View, Mount Pleasant, North Qu'Appelle, Norton, Oakdale, Orkney, Old Post, Poplar Valley, Prairie, Prairiedale, Progress, Reciprocity, Redburn, Reford, Rocanville, Rosemount, St. Philips, Saltcoats, Scott, Silverwood, Sliding Hills, Souris Valley, South Qu'Appelle, Spy Hill, Stanley, Stonehenge, Storthoaks, Surprise Valley, Tecumseh, Terrell, The Gap, Tramping Lake, Tullymet, Wallace, Walpole, Waverley, Wawken, Wellington, Weyburn, Willow Bunch, Willowdale, Winslow and Wolseley, and

v. in the Province of Alberta, the County of Forty Mile, the Municipal Districts of Acadia Valley, Cypress, Pincher Creek, Provost and Willow Creek, and Special Areas 2, 3 and 4;

(*c*) for the calendar year 1998,

i. in the Province of Ontario, the Counties of Bruce, Grey, Huron and Oxford, and the Districts of Nipissing, Parry Sound, Sudbury and Thunder Bay,

ii. in the Province of Nova Scotia, the Counties of Annapolis, Colchester, Cumberland, Digby, Hants and Kings,

iii. in the Province of Saskatchewan, the Rural Municipalities of Aberdeen, Antelope Park, Arlington, Auvergne, Battle River, Bayne, Beaver River, Biggar, Blaine Lake, Blucher, Bone Creek, Britannia, Buffalo, Canaan, Chaplin, Chesterfield, Clinworth, Corman Park, Coteau, Coulee, Cut Knife, Douglas, Dundurn, Eagle Creek, Eldon, Enfield, Excelsior, Eye Hill, Fertile Valley, Frenchman Butte, Frontier, Glen Bain, Glen McPherson, Glenside, Grandview, Grant, Grass Lake, Grassy Creek, Gravelbourg, Great Bend, Harris, Hart Butte, Heart's Hill, Hillsdale, Kindersley, King George, Lac Pelletier, Lacadena, Laird, Lake of The Rivers, Lawtonia, Lone Tree, Loon Lake, Loreburn, Mankota, Manitou Lake, Maple Bush, Mariposa, Marriott, Mayfield, Meadow Lake, Medstead, Meeting Lake, Meota, Mervin, Milden, Milton, Miry Creek, Monet, Montrose, Morse, Mountain View, Newcombe, North Battleford, Oakdale, Old Post, Parkdale, Paynton, Perdue, Pinto Creek, Pleasant Valley, Poplar Valley, Prairie, Prairiedale, Progress, Redberry, Reford, Reno, Riverside, Rosedale, Rosemount, Round Hill, Round Valley, Rosthern, Rudy, St. Andrews, Saskatchewan Landing, Senlac, Shamrock, Snipe Lake, Stonehenge, Swift Current, Tramping Lake, Turtle River, Val Marie, Vanscoy, Victory, Waverly, Webb, Whiska Creek, White Valley, Willow Bunch, Wilton, Winslow, Wise Creek, and Wood River, and

iv. in the Province of Alberta, the Counties of Beaver, Camrose, Flagstaff, Grande Prairie, Lamont, Minburn, Paintearth, St. Paul, Smoky Lake, Stettler, Two Hills and Vermilion River, the Municipal Districts of Acadia, Big Lakes, Birch Hills, Bonnyville, Clear Hills, East Peace, Fairview, Greenview, Northern Lights, Peace, Provost, Saddle Hills, Smoky River, Spirit River, Starland, Wainwright and Yellowhead, and Special Areas 2, 3 and 4;

(*d*) for the 1999 calendar year,

i. in the Province of Nova Scotia, the Counties of Annapolis, Colchester, Cumberland, Digby, Hants, Kings and Yarmouth,

ii. in the Province of British Columbia, the Regional District of Peace River,

iii. in the Province of Saskatchewan, the Rural Municipalities of Beaver River and Loon Lake, and

iv. in the Province of Alberta, the Counties of Athabaska, Barrhead, Birch Hills, Grande Prairie, Lac Ste. Anne, Lakeland, Lamont, Saddle Hills, Smoky Lake, St. Paul, Thorhild, Two Hills, Westlock and Woodlands and the Municipal Districts of Big Lakes, Bonnyville, Clear Hills, East Peace, Fairview, Greenview, Lesser Slave Lake, MacKenzie, Northern Lights, Peace, Smoky River and Spirit River;

(*e*) for the 2000 calendar year,

i. in the Province of British Columbia, the Regional District of East Kootenay,

ii. in the Province of Saskatchewan, the Rural Municipalities of Antelope Park, Battle River, Big Stick, Biggar, Blaine Lake, Buffalo, Chesterfield, Clinworth, Cut Knife, Deer Forks, Douglas, Duck Lake, Eagle Creek, Enterprise, Eye Hill, Fox Valley, Glenside, Grandview, Grass Lake, Great Bend, Happyland, Hearth's Hill, Kindersley, Laird, Leask, Maple Creek, Mariposa, Marriott, Mayfield, Meeting Lake, Milton, Mountain View, Newcombe, North Battleford, Oakdale, Paynton, Piapot, Pleasant Valley, Prairiedale, Progress, Redberry, Reford, Reno, Rosemount, Rosthern, Round Valley, Senlac, St. Louis, Tramping Lake and Winslow, and

iii. in the Province of Alberta, the Counties of Barrhead, Birch Hills, Cardston, Cypress, Flagstaff, Forty Mile, Grande Prairie, Kneehill, Lac Ste. Anne, Lethbridge, Newell, Paintearth, Saddle Hills, Starland, Stettler, Vulcan, Warner, Wheatland and Woodlands, the Improvement Districts of Kananaskis and Waterton, the Municipal Districts of Acadia, Fairview, Foothills, Greenview, Peace, Pincher Creek, Provost, Ranchland, Smoky River, Spirit River, Taber and Willow Creek, the Municipality of Crowsnest Pass and Special Areas 2, 3 and 4;

(*f*) for the 2001 calendar year,

i. in the Province of Ontario, the Counties of Elgin, Essex, Haldimand, Hastings, Huron, Lambton, Lanark, Lennox and Addington, Middlesex, Norfolk, Northumberland, Oxford and Renfrew, the United Counties of Leeds and Grenville, the Frontenac Management Board, the Regional Municipality of Niagara, the Cities of Brant County, Brantford, Hamilton, Ottawa and Prince Edward County and the Municipality of Chatham-Kent,

ii. in the Province of Québec, the Magdalen Islands,

iii. in the Province of Nova Scotia, the Counties of Annapolis, Antigonish, Cape Breton, Colchester, Cumberland, Digby, Hants, Inverness, Kings, Pictou, Richmond and Victoria,

iv. in the Province of New-Brunswick, the Counties of Albert, Kent and Westmorland,

v. in the Province of Manitoba, the Rural Municipality of Kelsey,

vi. in the Province of British Columbia, the Regional Districts of Central Kootenay, East Kootenay, Kootenay Boundary and Okanagan-Similkameen,

vii. the Province of Prince Edward Island,

viii. in the Province of Saskatchewan, the Rural Municipalities of Aberdeen, Abernethy, Antelope Park, Arborfield, Arlington, Arm River, Auvergne, Baildon, Barrier Valley, Battle River, Bayne, Beaver River, Bengough, Big Arm, Big Quill, Big River, Big Stick, Biggar, Birch Hills, Bjorkdale, Blaine Lake, Blucher, Bone Creek, Bratt's Lake, Britannia, Brokenshell, Buchanan, Buckland, Buffalo, Calder, Caledonia, Cana, Canaan, Canwood, Carmichael, Caron, Chaplin, Chester, Chesterfield, Churchbridge, Clayton, Clinworth, Colonsay, Connaught, Corman Park, Cote, Coteau, Coulee, Craik, Cupar, Cut Knife, Deer Forks, Douglas, Duck Lake, Dufferin, Dundurn, Eagle Creek, Edenwold, Elcapo, Eldon, Elfros, Elmsthorpe, Emerald, Enfield, Enterprise, Excel, Excelsior, Eye Hill, Eyebrow, Fertile Valley, Fish Creek, Flett's Springs, Foam Lake, Fox Valley, Francis, Frenchman Butte, Frontier, Garden River, Garry, Glen Bain, Glen McPherson, Glenside, Good Lake, Grandview, Grant, Grass Lake, Grassy Creek, Gravelbourg, Grayson, Great Bend, Gull Lake, Happy Valley, Happyland, Harris, Hart Butte, Hazel Dell, Heart's Hill, Hillsborough, Hillsdale, Hoodoo, Hudson Bay, Humboldt, Huron, Indian Head, Insinger, Invergordon, Invermay, Ituna Bon Accord, Kellross, Kelvington, Key West, Keys, Kindersley, King George, Kingsley, Kinistino, Kutawa, Lac Pelletier, Lacadena, Laird, Lajord, Lake Johnston, Lake Lenore, Lake of The Rivers, Lakeland, Lakeside, Lakeview, Last Mountain Valley, Lawtonia, Leask, Leroy, Lipton, Livingston, Lone Tree, Longlaketon, Loon Lake, Loreburn, Lost River, Lumsden, Manitou Lake, Mankota, Maple Bush, Maple Creek, Mariposa, Marquis, Marriott, Mayfield, McCraney, McKillop, McLeod, Meadow Lake, Medstead, Meeting Lake, Meota, Mervin, Milden, Milton, Miry Creek, Monet, Montmartre, Montrose, Moose Jaw, Moose Range, Morris, Morse, Mount Hope, Mountain View, Newcombe, Nipawin, North Battleford, North Qu'Appelle, Norton, Oakdale, Old Post, Orkney, Paddockwood, Parkdale, Paynton, Pense, Perdue, Piapot, Pinto Creek, Pittville, Pleasant Valley, Pleasantdale, Ponass Lake, Poplar Valley, Porcupine, Prairie Rose, Prairiedale, Preeceville, Prince Albert, Progress, Redberry, Redburn, Reford, Reno, Riverside, Rodgers, Rosedale, Rosemount, Rosthern, Round Hill, Round Valley, Rudy, Saltcoats, Sarnia, Saskatchewan Landing, Sasman, Scott, Senlac, Shamrock, Shellbrook, Sherwood, Sliding Hills, Snipe Lake, South Qu'Appelle, Spalding, Spiritwood, St. Andrews, St. Louis, St. Peter, St. Philips, Stanley, Star City, Stonehenge, Surprise Valley, Sutton, Swift Current, Terrell, The Gap, Three Lakes, Tisdale, Torch River, Touchwood, Tramping Lake, Tullymet, Turtle River, Usborne, Val Marie, Vanscoy, Victory, Viscount, Wallace, Waverley, Webb, Wheatlands, Whiska Creek, White Valley, Willner, Willow Bunch, Willow Creek, Wilton, Winslow, Wise Creek, Wolseley, Wolverine, Wood Creek, Wood River and Wreford,

ix. the Province of Alberta, and

x. in the Province of Newfoundland and Labrador, the island of Newfoundland;

(*g*) for the 2002 calendar year,

i. in the Province of Ontario, the Counties of Bruce, Elgin, Lambton and Middlesex, the Municipality of Chatham-Kent, the District of Cochrane and the Regional Municipalities of Halton and Peel,

ii. in the Province of Manitoba, the Rural Municipalities of Albert, Alonsa, Archie, Argyle, Arthur, Birtle, Blanshard, Brenda, Cameron, Clanwilliam, Coldwell, Cornwallis, Daly, Dauphin, Edward, Ellice, Elton, Eriksdale, Ethelbert, Gilbert Plains, Glenella, Glenwood, Grahamdale, Grandview, Hamiota, Harrison, Hillsburg, Kelsey, Langford, Lansdowne, Lawrence, McCreary, Miniota, Minitonas, Minto, Morton, Mossey River, Mountain, North Cypress, Oakland, Ochre River, Odanah, Park, Pipestone, Riverside, Roblin, Rosedale, Rossburn, Russell, Saskatchewan, Shell River, Shellmouth-Boulton, Shoal Lake, Sifton, Siglunes, Silver Creek, South Cypress, St. Laurent, Ste. Rose, Strathclair, Strathcona, Swan River, Turtle Mountain, Wallace, Whitehead, Whitewater, Winchester and Woodworth and the unorganized territory situated north of the Rural Municipality of Alonsa, between the Rural Municipality and the south shore of Lake Manitoba,

iii. in the Province of British Columbia, the Regional District of Peace River,

iv. in the Province of Saskatchewan, the Rural Municipalities of Aberdeen, Abernethy, Antelope Park, Antler, Arborfield, Argyle, Arlington, Arm River, Auvergne, Baildon, Barrier Valley, Battle River, Bayne, Beaver River, Big Arm, Big Quill, Big River, Big Stick, Biggar, Birch Hills, Bjorkdale, Blaine Lake, Blucher, Bone Creek, Britannia, Buchanan, Buckland, Buffalo, Calder, Cana, Canaan, Canwood, Carmichael, Caron, Chaplin, Chesterfield, Churchbridge, Clayton, Clinworth, Colonsay, Connaught, Corman Park, Cote, Coteau, Coulee, Craik, Cupar, Cut Knife, Deer Forks, Douglas, Duck Lake, Dufferin, Dundurn, Eagle Creek, Edenwold, Elcapo, Eldon, Elfros, Emerald, Enfield, Enniskillen, Enterprise, Excelsior, Eye Hill, Eyebrow, Fertile Belt, Fertile Valley, Fish Creek, Flett's Springs, Foam Lake, Fox Valley, Frenchman Butte, Frontier, Garden River, Garry, Glen Bain, Glen McPherson, Glenside, Good Lake, Grandview, Grant, Grass Lake, Grassy Creek, Gravelbourg, Grayson, Great Bend, Gull Lake, Happyland, Harris, Hazel Dell, Hazelwood, Heart's Hill, Hillsborough, Hillsdale, Hoodoo, Hudson Bay, Humboldt, Huron, Insinger, Invergordon, Invermay, Ituna Bon Accord, Kellross, Kelvington, Keys, Kindersley, King George, Kingsley, Kinistino, Kutawa, Lac Pelletier, Lacadena, Laird, Lake Johnston, Lake Lenore, Lakeland, Lakeside, Lakeview, Langenburg, Last Mountain Valley, Lawtonia, Leask, Leroy, Lipton, Livingston, Lone Tree, Longlaketon, Loon Lake, Loreburn, Lost River, Lumsden, Manitou Lake, Mankota, Maple Bush, Maple Creek, Mariposa, Marquis, Marriott, Martin, Maryfield, Mayfield, McCraney, McKillop, McLeod, Meadow Lake, Medstead, Meeting Lake, Meota, Mervin, Milden, Milton, Miry Creek, Monet, Montrose, Moose Creek, Moose Jaw, Moose Mountain, Moose Range, Moosomin, Morris, Morse, Mount Hope,

Mount Pleasant, Mountain View, Newcombe, Nipawin, North Battleford, North Qu'Appelle, Oakdale, Orkney, Paddockwood, Parkdale, Paynton, Pense, Perdue, Piapot, Pinto Creek, Pittville, Pleasant Valley, Pleasantdale, Ponass Lake, Porcupine, Prairie Rose, Prairiedale, Preeceville, Prince Albert, Progress, Reciprocity, Redberry, Redburn, Reford, Reno, Riverside, Rocanville, Rodgers, Rosedale, Rosemount, Rosthern, Round Hill, Round Valley, Rudy, Saltcoats, Sarnia, Saskatchewan Landing, Sasman, Senlac, Shamrock, Shellbrook, Sherwood, Silverwood, Sliding Hills, Snipe Lake, Spalding, Spiritwood, Spy Hill, St. Andrews, St. Louis, St. Peter, St. Philips, Stanley, Star City, Storthoaks, Sutton, Swift Current, Three Lakes, Tisdale, Torch River, Touchwood, Tramping Lake, Tullymet, Turtle River, Usborne, Val Marie, Vanscoy, Victory, Viscount, Wallace, Walpole, Waverley, Wawken, Webb, Wheatlands, Whiska Creek, White Valley, Willner, Willow Creek, Willowdale, Wilton, Winslow, Wise Creek, Wolverine, Wood Creek, Wood River and Wreford, and

v. the Province of Alberta;

(*h*) for the 2003 calendar year,

i. in the Province of Manitoba, the Rural Municipalities of Albert, Alonsa, Archie, Argyle, Armstrong, Arthur, Bifrost, Birtle, Blanshard, Brenda, Cameron, Clanwilliam, Coldwell, Cornwallis, Daly, Dauphin, Edward, Ellice, Elton, Eriksdale, Ethelbert, Fisher, Gilbert Plains, Gimli, Glenella, Glenwood, Grahamdale, Grandview, Hamiota, Harrison, Hillsburg, Kelsey, Lakeview, Langford, Lansdowne, Lawrence, Louise, McCreary, Miniota, Minitonas, Minto, Morton, Mossey River, Mountain, North Cypress, Oakland, Ochre River, Odanah, Park, Pipestone, Riverside, Roblin, Rockwood, Rosedale, Rossburn, Russell, Saskatchewan, Shellmouth-Boulton, Shell River, Shoal Lake, Sifton, Siglunes, Silver Creek, South Cypress, St. Laurent, Ste. Rose, Strathclair, Strathcona, Swan River, Turtle Mountain, Wallace, Westbourne, Whitehead, Whitewater, Winchester, Woodlands and Woodworth, the town of Grand Rapids and the census consolidated subdivision No. 19 (unorganized) as that subdivision was developed by Statistics Canada for the 2001 Census,

ii. in the Province of British Columbia, the Regional Districts of Bulkley-Nechako, Cariboo, Central Kootenay, Central Okanagan, Columbia-Shuswap, East Kootenay, Fort Nelson-Liard, Fraser-Fort George, Kootenay Boundary, North Okanagan, Okanagan-Similkameen, Peace River, Spallumcheen, Squamish-Lillooet and Thompson-Nicola,

iii. in the Province of Saskatchewan, the Rural Municipalities of Aberdeen, Abernethy, Antelope Park, Antler, Arborfield, Argyle, Barrier Valley, Battle River, Bayne, Beaver River, Benson, Big Quill, Big River, Biggar, Birch Hills, Bjorkdale, Blaine Lake, Blucher, Britannia, Brock, Brokenshell, Browning, Buchanan, Buckland, Buffalo, Calder, Cana, Canaan, Canwood, Chesterfield, Churchbridge, Clayton, Clinworth, Coalfields, Colonsay, Connaught, Corman Park, Cote, Coteau, Coulee, Cupar, Cut Knife, Cymri, Deer Forks, Douglas, Duck Lake, Dufferin, Dundurn, Eagle Creek, Edenwold, Elcapo, Eldon, Elfros, Emerald, Enniskillen, Excelsior, Fertile Belt, Fertile Valley, Fish Creek, Flett's Springs, Foam Lake, Frenchman Butte, Garden River, Garry, Glenside, Good Lake, Grandview, Grant, Grayson, Great Bend, Griffin, Happyland, Harris, Hazel Dell, Hazelwood, Hillsdale, Hoodoo, Hudson Bay, Humboldt, Insinger, Invergordon, Invermay, Ituna Bon Accord, Kellross, Kelvington, Keys, Kindersley, King George, Kingsley, Kinistino, Kutawa, Lacadena, Laird, Lake Lenore, Lakeland, Lakeside, Lakeview, Langenburg, Last Mountain Valley, Leask, Leroy, Lipton, Livingston, Longlaketon, Loon Lake, Lumsden, Marriott, Martin, Maryfield, Mayfield, McKillop, McLeod, Meadow Lake, Medstead, Meeting Lake, Meota, Mervin, Milden, Milton, Miry Creek, Monet, Montrose, Moose Creek, Moose Mountain, Moose Range, Moosomin, Morse, Mount Hope, Mount Pleasant, Mountain View, Newcombe, Nipawin, North Battleford, North Qu'appelle, Oakdale, Orkney, Paddockwood, Parkdale, Paynton, Pense, Perdue, Pittville, Pleasant Valley, Pleasantdale, Ponass Lake, Porcupine, Prairie Rose, Prairiedale, Preeceville, Prince Albert, Reciprocity, Redberry, Redburn, Reford, Riverside, Rocanville, Rosemount, Rosthern, Round Hill, Rudy, Saltcoats, Sarnia, Saskatchewan Landing, Sasman, Shellbrook, Sherwood, Silverwood, Sliding Hills, Snipe Lake, Spalding, Spiritwood, Spy Hill, St. Andrews, St. Louis, St. Peter, St. Philips, Stanley, Star City, Storthoaks, Swift Current, Tecumseh, Three Lakes, Tisdale, Torch River, Touchwood, Tullymet, Turtle River, Usborne, Vanscoy, Victory, Viscount, Wallace, Walpole, Wawken, Webb, Weyburn, Willow Creek, Willowdale, Winslow and Wolverine, and

iv. in the Province of Alberta, the Counties of Athabasca, Barrhead, Birch Hills, Brazeau, Cardston, Clearwater, Grande Prairie, Kneehill, Lac Ste. Anne, Lacombe, Lakeland, Leduc, Mountain View, Northern Sunrise, Parkland, Ponoka, Red Deer, Saddle Hills, Starland, Thorhild, Wetaskiwin, Woodlands and Yellowhead, the improvement districts of Banff, Jasper Park, Kananaskis, Waterton and Wilmore Wilderness, the municipal districts of Acadia, Big Lakes, Bighorn, Bonnyville, Clear Hills, Fairview, Greenview, MacKenzie, Northern Lights, Peace, Pincher Creek, Ranchland, Smoky River, Spirit River and Willow Creek, the municipalities of Crowsnest Pass and Jasper, and special areas 3 and 4;

(*i*) for the 2004 calendar year,

i. in the Province of British Columbia, the Regional District of Fort Nelson-Liard, and

ii. in the Province of Alberta, the Counties of Beaver, Camrose, Flagstaff, Paintearth, Starland and Stettler, the Municipal Districts of Acadia, Clear Hills, Fairview, Mackenzie and Northern Lights and Special Areas 2, 3 and 4;

(*j*) for the 2006 calendar year:

i. in the Province of Ontario, the Territorial Districts of Algoma, Kenora, Manitoulin, Rainy River and Thunder Bay,

ii. in the Province of British Columbia, the Regional Districts of Bulkley-Nechako, Cariboo, Fraser-Fort George, Kitimat-Stikine and Peace River,

iii. in the Province of Saskatchewan, the Rural Municipalities of Arlington, Auvergne, Bengough, Big Stick, Bone Creek, Carmichael, Clinworth, Frontier, Glen McPherson, Grassy Creek, Gull Lake, Happy Valley, Hart Butte, Lac Pelletier, Lake Alma, Laurier, Lone Tree, Mankota, Maple Creek, Miry Creek, Old Post, Piapot, Pittville, Poplar Valley, Reno, Surprise Valley, The Gap, Val Marie, Waverley, Webb, Whiska Creek, White Valley, Willow Bunch and Wise Creek, and

iv. in the Province of Alberta, the Counties of Clear Hills, Grande Prairie and Saddle Hills and the Municipal Districts of Greenview and Northern Lights.

s. 487.0.2R1; O.C. 366-94, s. 21; O.C. 1660-94, s. 8; O.C. 67-96, s. 35; O.C. 1463-2001, s. 62; O.C. 1470-2002, s. 45; O.C. 1282-2003, s. 39; O.C. 1155-2004, s. 27; O.C. 1249-2005, s. 16; O.C. 1149-2006, s. 25.

"**487.0.2R2.** For the purposes of section 487.0.2 of the Act, a drought region in respect of a year includes any particular area that is surrounded by one or several regions referred to in section 487.0.2R1 in respect of the year.

s. 487.0.2R2; O.C. 1470-2002, s. 46.

"**CHAPTER XIII**

"INTEREST RATES

chap. VII; O.C. 1981-80, title XIV, chap. VII; O.C. 1983-80, s. 30; O.C. 2456-80, s. 12; R.R.Q., 1981, c. I-3, r.1, title XIV, chap. VII.

"**487.2R1.** For the purposes of the first paragraph of section 487.2 of the Act, the debt bears interest, during any particular period, at a rate that corresponds to the rate determined, during that period, under subparagraph i of paragraph *a* of section 4301 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

Despite the foregoing, the debt bears interest at the annual rate of interest to be paid on the debt

(*a*) where the debt was contracted before 1 January 1974 and the rate is less than 8% and cannot be determined again after 31 December 1973; or

(*b*) for the period preceding the day on which the rate can be determined again for the first time after 30 April 1987, where the debt was contracted before 1 January 1974 and the rate is less than 8% and can be determined again after 31 December 1973 but cannot be determined again before 1 May 1987.

s. 487.2R1; O.C. 1981-80, s. 487.1R1; O.C. 1983-80, s. 31; O.C. 2456-80, s. 12; R.R.Q., 1981, c. I-3, r.1, s. 487.2R1; O.C. 2727-84, s. 14; O.C. 1666-90, s. 10; O.C. 1114-92, s. 27; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**487.2R2.** For the purposes of the second paragraph of section 487.2 of the Act, an annual rate of interest of 9.5% is prescribed in the case of a loan granted under Phases III, IV and V of the program entitled "Programme de relance de construction domiciliaire Corvée-Habitation", made under the Act to promote housing construction (R.S.Q., c. C-64.01), provided that the loan gives entitlement to the benefits provided by that program.

Similarly, for the purposes of the second paragraph of section 487.2 of the Act, an annual interest rate of 8.5% is prescribed in the case of a loan granted under the real estate housing construction assistance program entitled "Mon taux, mon toit" implemented by the Société d'habitation du Québec pursuant to Décret 303-91 (1991, G.O. 2, 1756) and the norms approved by the Conseil du trésor Decision 175894 dated 15 January 1991, provided that the loan gives entitlement to the benefits provided by that program.

s. 487.2R2; O.C. 2727-84, s. 14; O.C. 1539-93, s. 14.

"**487.4R1.** For the purposes of section 487.4 of the Act, the debt bears interest at the annual rate prescribed by section 487.2R1.

s. 487.4R1; O.C. 2727-84, s. 14.

"**487.5.1R1.** For the purposes of section 487.5.1 of the Act, the debt bears interest at the annual rate prescribed by section 487.2R1.

s. 487.5.1R1; O.C. 1666-90, s. 11.

"**487.5.2R1.** For the purposes of section 487.5.2 of the Act, a prescribed debt is

(*a*) a debt contracted before 1 January 1974 and that bears interest at an annual rate that is less than 8% and that cannot be determined again after 31 December 1973; or

(*b*) for the period preceding the day on which the rate of interest can be determined again for the first time after 30 April 1987, a debt contracted before 1 January 1974 and that bears interest at an annual rate that is less than 8%, that can be determined again after 31 December 1973 but cannot be determined again before 1 May 1987.

s. 487.5.2R1; O.C. 1666-90, s. 11.

"**TITLE XXII**

"AMOUNTS NOT INCLUDED IN COMPUTING INCOME

title XV; O.C. 1981-80, title XV; R.R.Q., 1981, c. I-3, r.1, title XV.

"**488R1.** The amounts that, under section 488 of the Act, may not be included in computing a taxpayer's income are the following:

(*a*) the income of every corporation that is a water company 90% of the shares of which are owned by a Canadian municipality and a foreign border municipality;

(*b*) the income of every mineral exploration partnership formed under the Act respecting mineral exploration partnerships (R.S.Q., c. S-26), as it read before it was repealed;

(*c*) the income of the Société de développement de Oujé-Bougoumou or the Ouje-Bougoumou Eenuch Association situated on a reserve within the meaning of section 725.0.1 of the Act;

(*d*) the income of every corporation that is a telephone company and whose paid-up capital, determined under Title I of Book III of Part IV of the Act, does not exceed $15,000;

(*e*) an amount, other than an amount received or receivable by an individual, that is exempt from income tax in Québec or in Canada by virtue of a provision of a tax agreement entered into with a country other than Canada;

(*f*) an amount that is specifically exempt from income tax by virtue of a law of Québec or of Canada, other than the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the Indian Act (Revised Statutes of Canada, 1985, chapter I-5), the Cree-Naskapi (of Québec) Act (Statutes of Canada, 1984, chapter 18), the Foreign Missions and International Organizations Act (Statutes of Canada, 1991, chapter 41) and the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001), and that is not an amount that is exempt by virtue of a provision of a tax agreement with a country other than Canada;

(*g*) an amount received under the Experimental program of job creation through group enterprise, established under Order in Council 3648-77 dated 2 November 1977;

(*h*) an amount received from the Ministère de l'Éducation, du Loisir et du Sport under the program entitled "Programme d'allocations pour les besoins particuliers des étudiants atteints d'une déficience fonctionnelle majeure", established under paragraph 2 of section 10 of the Act respecting the Ministère de l'Enseignement supérieur et de la Science (R.S.Q., c. M-15.1.1), as it read before it was repealed, and mentioned in Conseil du Trésor Decision 174394 dated 4 July 1990;

(*i*) the amount of financial assistance granted under the program entitled "Programme de revitalisation des vieux quartiers" implemented by the Société d'habitation du Québec pursuant to Décret 442-96 (1996, G.O. 2, 2829);

(*j*) the amount of financial assistance granted under the housing allowance program for the elderly and for the family implemented by the Société d'habitation du Québec pursuant to Décret 904-97 (1997, G.O. 2, 5289), Décret 1094-98 (1998, G.O. 2, 5066) or Décret 1187-99 (1999, G.O. 2, 5548);

(*k*) an amount described in paragraph *g*.4 or *g*.5 of subsection 1 of section 81 of the Income Tax Act; and

(*l*) an amount received as a working income tax benefit under the Income Tax Act.

s. 488R1; O.C. 1981-80, s. 488R1; O.C. 1983-80, s. 32; O.C. 2456-80, s. 13; O.C. 1535-81, s. 9; O.C. 2241-81, s. 1; O.C. 3438-81, s. 1; R.R.Q., 1981, c. I-3, r.1, s. 488R1; O.C. 491-85, s. 1; O.C. 2583-85, s. 14; O.C. 1819-88, s. 1; O.C. 140-90, s. 5; O.C. 1666-90, s. 12; O.C. 1232-91, s. 9; O.C. 1697-92, s. 55; O.C. 208-93, s. 1; O.C. 1539-93, s. 15; O.C. 91-94, s. 48; O.C. 473-95, s. 4; O.C. 35-96, s. 71; O.C. 523-96, s. 8; O.C. 1633-96, s. 8; O.C. 1707-97, s. 45; 1997, c. 63, s. 138; O.C. 1466-98, s. 57; O.C. 1454-99, s. 34; O.C. 1451-2000, s. 14; 2001, c. 44, s. 30; O.C. 1470-2002, s. 47; O.C. 1282-2003, s. 40; O.C. 1249-2005, s. 17; 2005, c. 28, s. 195; O.C. 1149-2006, s. 26.

"**TITLE XXIII**

"CORPORATIONS

title XVI; O.C. 1981-80, title XVI; R.R.Q., 1981, c. I-3, r.1, title XVI; O.C. 1707-97, s. 98.

"**CHAPTER I**

"ELECTION AND INTERPRETATION

chap. I; O.C. 1981-80, title XVI, chap. I; R.R.Q., 1981, c. I-3, r.1, title XVI, chap. I.

"**501.1R1.** For the purposes of section 501.1 of the Act, the following series of tax deferred preferred shares of a class of the capital-stock of a public corporation are prescribed:

(*a*) the Algoma Steel Corporation, Limited, 8% Tax deferred preferred shares, Series A;

(*b*) Aluminium Company of Canada, Limited, $2 Tax deferred retractable preferred shares;

(*c*) Brascan Limited 8 1/2% Tax deferred preferred shares, Series A;

(*d*) Canada Permanent Mortgage Corporation, 6 3/4% Tax deferred convertible preferred shares, Series A; and

(*e*) Cominco Ltd., $2 deferred exchangeable preferred shares, Series A.

s. 501.1R1; O.C. 1981-80, s. 501.1R1; R.R.Q., 1981, c. I-3, r.1, s. 501.1R1; O.C. 1707-97, s. 98.

"**503R1.** A corporation makes the election provided for in section 502 of the Act by forwarding to the Minister, in duplicate, the prescribed form and a declaration, with supporting evidence, attesting that it has made a similar election for the purposes of section 83 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the same dividend.

s. 503R1; O.C. 1981-80, s. 503R1; R.R.Q., 1981, c. I-3, r.1, s. 503R1; O.C. 2583-85, s. 15; O.C. 1549-88, s. 18; O.C. 473-95, s. 48; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**503.0.1R1.** For the purposes of section 503.0.1 of the Act,

(*a*) the prescribed election is that provided for by subsection 3 of section 184 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(*b*) the prescribed rules are those determined in subsection 3 of section 184 of the Income Tax Act; and

(*c*) the prescribed documents are evidence that the election provided for by subsection 3 of section 184 of the Income Tax Act was exercised and a true copy of the documents forwarded to the Minister of National Revenue in support of that election.

s. 503.0.1R1; O.C. 1666-90, s. 13; O.C. 35-96, s. 86; O.C. 1451-2000, s. 66.

"**503.1R1.** A corporation makes the election provided for by section 503.1 of the Act by forwarding to the Minister evidence that it has made the election provided for by subsection 3.1 of section 184 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the same dividend or the same part of the dividend.

s. 503.1R1; O.C. 2962-82, s. 70; O.C. 500-83, s. 70; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**503.2R1.** For the purposes of section 503.2 of the Act,

(*a*) the prescribed election is that provided for by subsection 3.2 of section 184 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(*b*) the prescribed terms and conditions are those determined in paragraph *c* of subsection 3.2 of section 184 of the Income Tax Act; and

(*c*) the prescribed documents are evidence that the election provided for by subsection 3.2 of section 184 of the Income Tax Act was made and a true copy of the documents forwarded to the Minister of National Revenue in support of that election.

s. 503.2R1; O.C. 1666-90, s. 14; O.C. 35-96, s. 86; O.C. 1451-2000, s. 66.

"**504.2R1.** For the purposes of section 504.2 of the Act, section 1R6 applies, with the necessary modifications, in determining whether a particular corporation is connected with another corporation at a particular time.

s. 504.2R1; O.C. 1249-2005, s. 18.

"**510.1R1.** The Class I Special Shares of Reed Stenhouse Companies Limited, issued before January 1, 1986, are prescribed shares for the purposes of section 510.1 of the Act.

s. 510.1R1; O.C. 1549-88, s. 19; O.C. 1454-99, s. 35.

"**517.1R1.** For the purposes of section 517.1 of the Act, section 1R6 applies, with the necessary modifications, where it is necessary to determine whether a particular corporation is connected with another corporation at a particular time.

s. 517.1R1; O.C. 1983-80, s. 33; R.R.Q., 1981, c. I-3, r.1, s. 517.1R1; O.C. 1549-88, s. 20; O.C. 1633-96, s. 44; O.C. 1707-97, s. 98.

"**550R1.** The capital dividend account and the capital gains dividend account of the new corporation referred to in section 550 of the Act, at a particular time, designate the amounts respectively determined as such in respect of the corporation, at the same time and for the same purposes, under section 570R2 and any of sections 567R1, 1106R1 and 1116R1, as the case may be.

s. 550R1; O.C. 1981-80, s. 550R1; R.R.Q., 1981, c. I-3, r.1, s. 550R1; O.C. 1472-87, s. 11; O.C. 1539-93, s. 16; O.C. 1707-97, s. 98.

"**559R1.** The prescribed tax referred to in subparagraph *b* of the second paragraph of section 559 of the Act is the tax provided for by Part VII of the Income Tax Act (Statutes of Canada, 1970-71-72, chapter 63), as it read on 31 March 1977.

s. 559R1; O.C. 2456-80, s. 14; R.R.Q., 1981, c. I-3, r.1, s. 559R1; O.C. 35-96, s. 86; O.C. 1282-2003, s. 41.

"**567R1.** The capital gains dividend account of a non-resident owned investment corporation at a particular time means an amount equal to the amount so computed under section 133 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 567R1; O.C. 1981-80, s. 567R1; R.R.Q., 1981, c. I-3, r.1, s. 567R1; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**567R2.** The capital gains dividend account of an investment corporation at a particular time means an amount equal to the amount so determined at the same time under the definition of "capital gains dividend account" provided for in subsection 6 of section 131 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 567R1.1; O.C. 67-96, s. 36; O.C. 1707-97, s. 98.

"**567R3.** The pre-1972 capital surplus on hand of a corporation, at a particular time, means an amount equal to the amount so determined in respect of the corporation at the same time and for the same purposes under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 567R2; O.C. 1981-80, s. 567R2; R.R.Q., 1981, c. I-3, r.1, s. 567R2; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**570R1.** The expression "paid-up capital" in respect of a share, a class of shares or all the shares of the capital-stock of a corporation, at a particular time, means an amount equal to the amount so determined in respect of that share, that class of shares or all of those shares, as the case may be, at the same time and for the same purposes under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 570R1; O.C. 1981-80, s. 570R1; R.R.Q., 1981, c. I-3, r.1, s. 570R1; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**570R2.** The expression "capital dividend account" of a corporation, at a particular time, means an amount equal to the amount so determined in respect of that corporation at the same time and for the same purposes under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 570R2; O.C. 1981-80, s. 570R2; R.R.Q., 1981, c. I-3, r.1, s. 570R2; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**570R3.** For the purposes of paragraph *n* of section 570 of the Act, a prescribed venture capital corporation means a corporation referred to in section 21.19R1.

s. 570R4; O.C. 1660-94, s. 9; O.C. 1707-97, s. 98; O.C. 1454-99, s. 36.

"**570R4.** For the purposes of paragraph *n* of section 570 of the Act, a prescribed State body or federal Crown body means a body referred to in section 192R1.

s. 570R5; O.C. 1155-2004, s. 28.

"**CHAPTER II**

"FOREIGN AFFILIATE

chap. II; O.C. 1981-80, title XVI, chap. II; R.R.Q., 1981, c. I-3, r.1, title XVI, chap. II.

"**574R1.** For the purposes of the first paragraph of section 574 of the Act, the participating percentage of a share referred to in that paragraph at the end of the taxation year referred to therein is equal to the percentage determined for the same purpose in respect of that share at the same time and for the same purposes under Part LIX of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 574R1; O.C. 1981-80, s. 574R1; R.R.Q., 1981, c. I-3, r.1, s. 574R1; O.C. 35-96, s. 86.

"**577.1R1.** The reorganization referred to in section 577.1 of the Act is that of the corporation mentioned in section 577.1R2 which took place on 1 January 1984 and in respect of which common shares of the capital stock of the regional holding companies mentioned in section 577.1R3 were distributed to the shareholders of the corporation on the basis of one share of the capital stock in each of those regional holding companies for every ten shares of the capital stock of the corporation held at that time.

s. 577.1R1; O.C. 1076-88, s. 14; O.C. 1707-97, s. 98.

"**577.1R2.** The corporation referred to in section 577.1 of the Act is the American Telephone and Telegraph Company, a corporation organized and existing under the laws of the State of New York.

s. 577.1R2; O.C. 1076-88, s. 14; O.C. 1707-97, s. 98.

"**577.1R3.** A regional holding company referred to in section 577.1 of the Act is any of the following corporations:

(*a*) American Information Technologies Corporation, a corporation organized and existing under the laws of the State of Delaware;

(*b*) Bell Atlantic Corporation, a corporation organized and existing under the laws of the State of Delaware;

(*c*) Bellsouth Corporation, a corporation organized and existing under the laws of the State of Georgia;

(*d*) NYNEX Corporation, a corporation organized and existing under the laws of the State of Delaware;

(*e*) Pacific Telesis Group, a corporation organized and existing under the laws of the State of Nevada;

(*f*) Southwestern Bell Corporation, a corporation organized and existing under the laws of the State of Delaware; and

(*g*) US West Inc., a corporation organized and existing under the laws of the State of Colorado.

s. 577.1R3; O.C. 1076-88, s. 14; O.C. 1707-97, s. 47.

"**578.1R1.** For the purposes of paragraphs *c* and *d* of section 578.1 of the Act, a prescribed distribution means a distribution referred to in section 578.2R1.

s. 578.1R1; O.C. 1249-2005, s. 19.

"**578.2R1.** For the purposes of subparagraph *d* of the first paragraph of section 578.2 of the Act, a prescribed distribution means one of the following distributions of shares:

(*a*) the distribution by Active Biotech AB on 10 May 1999 of shares of Wilhelm Sonesson AB; and

(b) the distribution by Orckit Communications Ltd. on 30 June 2000 of shares of Tioga Technologies Ltd.

s. 578.2R1; O.C. 1249-2005, s. 19.

"**578.3R1.** For the purposes of subparagraph *a* of the first paragraph of section 578.3 of the Act, a prescribed distribution means a distribution referred to in section 578.2R1.

s. 578.3R1; O.C. 1249-2005, s. 19.

"**579R1.** For the purposes of section 579 of the Act, the foreign accrual property income of a foreign affiliate of a taxpayer means an amount equal to the amount so determined in respect of the affiliate, at the same time and for the same purposes, under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and the Income Tax Regulations thereunder.

s. 579R1; O.C. 1981-80, s. 579R1; R.R.Q., 1981, c. I-3, r.1, s. 579R1; O.C. 35-96, s. 86; O.C. 1463-2001, s. 64.

"**583R1.** For the purposes of paragraph *a* of section 583 of the Act, the prescribed amount is an amount equal to that described in paragraph *b* of the definition of "foreign accrual tax" in subsection 1 of section 95 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), computed at the same time and for the same purposes, and the tax factor is equal to 2 in the case of an individual or, in the case of a corporation, to the amount obtained by dividing 1 by the percentage set out in section 123 of that Act for the taxation year.

s. 583R1; O.C. 1981-80, s. 583R1; R.R.Q., 1981, c. I-3, r.1, s. 583R1; O.C. 1472-87, s. 13; O.C. 35-96, s. 73; O.C. 1707-97, s. 98.

"**589R1.** A corporation makes the election or the new election, as the case may be, under section 589 of the Act by forwarding to the Minister, in duplicate, the prescribed form and a declaration, with supporting evidence, attesting that it has made a similar election or a similar new election, as the case may be, for the purposes of section 93 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the disposition referred to in that section 589.

s. 589R1; O.C. 1981-80, s. 589R1; O.C. 3926-80, s. 30; R.R.Q., 1981, c. I-3, r.1, s. 589R1; O.C. 615-88, s. 20; O.C. 35-96, s. 86; O.C. 1707-97, s. 98; O.C. 1451-2000, s. 66; O.C. 1282-2003, s. 42.

"**589R2.** The second paragraph of section 589 of the Act does not apply to a disposition to which any of paragraphs *c*, *d* and *e* of subsection 2 of section 95 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applies.

s. 589R3; O.C. 544-86, s. 11; O.C. 35-96, s. 86.

"**589R3.** The amount referred in the second paragraph of section 589 of the Act is equal to the amount that is deemed to have been designated, at the same time and for the same purposes, under subsection 1.1 of section 93 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and the Income Tax Regulations made thereunder.

s. 589R4; O.C. 1472-87, s. 14; O.C. 35-96, s. 86.

"**CHAPTER III**

"FOREIGN TRUSTS

chap. II.1; O.C. 1114-92, s. 29.

"**594R1.** For the purposes of the first paragraph of section 594 of the Act, a property is deemed to have been acquired in the prescribed circumstances where it is acquired by way of repayment of a loan.

s. 594R1; O.C. 1114-92, s. 29.

"**CHAPTER IV**

"OFFSHORE INVESTMENT FUNDS

chap. III; O.C. 615-88, s. 21.

"**597.3R1.** For the purposes of the second paragraph of section 597.3 of the Act, a prescribed offshore investment fund property of a taxpayer is an offshore investment fund property of a taxpayer, within the meaning of paragraph *a* of section 597.1 of the Act,

(*a*) that the taxpayer acquired by inheritance or will from a deceased person who did not reside in Canada at any time during the five-year period immediately preceding the person's death;

(*b*) that had not been acquired by the deceased person from a person who resided in Canada; and

(*c*) that is not a property substituted for a property that had been acquired by the deceased person from a person who resided in Canada.

s. 597.3R1; O.C. 615-88, s. 21.

"**TITLE XXIV**

"TRUSTS

title XVII; O.C. 1981-80, title XVII; R.R.Q., 1981, c. I-3, r.1, title XVII.

"**686R1.** For the purposes of the first paragraph of section 686 of the Act, the following are prescribed trusts:

(*a*) a trust maintained primarily for the benefit of employees of a corporation or of two or more corporations which do not deal at arm's length with each other, where one of the main purposes of the trust is to hold interests in shares of the capital stock of the corporation or corporations, as the case may be, or any corporation not dealing at arm's length therewith;

(*b*) a trust established exclusively for the benefit of one or more persons each of whom was, at the time the trust was created, either a person from whom the trust received property or a creditor of that person, where one of the main purposes of the trust is to secure the payments required to be made by or on behalf of that person to such creditor; and

(*c*) a trust all or substantially all of the properties of which consist of shares of the capital stock of a corporation, where the trust was established pursuant to an agreement between two or more shareholders of the corporation and one of the main purposes of the trust is to provide for the exercise of voting rights in respect of those shares pursuant to that agreement.

s. 683R1; O.C. 91-94, s. 49; O.C. 1707-97, s. 98.

"**688R1.** For the purposes of section 688 of the Act, a prescribed trust is a trust described in section 686R1.

s. 688R1; O.C. 91-94, s. 49.

"**691.1R1.** For the purposes of section 691.1 of the Act, a prescribed trust is a trust described in section 686R1.

s. 691.1R1; O.C. 91-94, s. 49.

"**TITLE XXV**

"COMPUTATION OF TAXABLE INCOME

title XVIII; O.C. 1981-80, title XVIII; R.R.Q., 1981, c. I-3, r.1, title XVIII.

"**CHAPTER I**

"GENERALITY

chap. I; O.C. 1981-80, title XVIII, chap. I; R.R.Q., 1981, c. I-3, r.1, title XVIII, chap. I.

"**694R1.** The Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) is a prescribed law for the purposes of section 694 of the Act.

s. 694R1; O.C. 1981-80, s. 694R1; R.R.Q., 1981, c. I-3, r.1, s. 694R1; O.C. 35-96, s. 86.

"**CHAPTER II**

"ORGANIZATIONS ENTITLED TO RECEIVE DONATIONS

chap. II; O.C. 1981-80, title XVIII, chap. II; R.R.Q., 1981, c. I-3, r.1, title XVIII, chap. II.

"**710R1.** For the purposes of subparagraph vii of paragraph *a* of section 710 of the Act, a foreign university listed in Schedule C the student body of which ordinarily includes students from Canada is a prescribed foreign university.

s. 710R5; O.C. 1981-80, s. 710R5; R.R.Q., 1981, c. I-3, r.1, s. 710R5; O.C. 473-95, s. 7; O.C. 1451-2000, s. 18.

"**CHAPTER III**

"CHARITABLE RECEIPTS

chap. III; O.C. 1981-80, title XVIII, chap. III; R.R.Q., 1981, c. I-3, r.1, title XVIII, chap. III; O.C. 2962-82, s. 72; O.C. 500-83, s. 72.

"**712R1.** In this chapter,

"donee" means a person or entity referred to in section 716R1, in any of subparagraphs iv to ix of paragraph *a* of section 710 of the Act, in subparagraph 2 of subparagraph i of paragraph *c* or in paragraph *d* or *e* of that section;

"donee form" means a printed form to be completed or one that was originally intended to be completed as an official receipt of the organization or the donee;

"organization" means a registered charity, a registered national arts service organization, a recognized arts organization, a recognized political education organization, a registered museum, a registered cultural or communications organization, a registered Canadian amateur athletic association or a registered Québec amateur athletic association;

"particular person" means a person or entity referred to in any of subparagraphs iii.1, iii.3, iv and v.1 to viii of paragraph *a* of section 710 of the Act, a registered charity, a registered Canadian amateur athletic association or a registered Québec amateur athletic association;

"receipt" means a receipt referred to in section 712 of the Act;

"registration number" means the number assigned to an organization by the Minister or, as the case may be, by the Minister of National Revenue for the purposes of section 110.1 or 118.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

"work of art" means a work of art referred to in section 714.1 of the Act;

s. 712R1; O.C. 1981-80, s. 712R1; R.R.Q., 1981, c. I-3, r.1, s. 712R1; O.C. 2962-82, s. 73; O.C. 500-83, s. 73; O.C. 1076-88, s. 15; O.C. 1666-90, s. 16; O.C. 473-95, s. 9; O.C. 35-96, s. 86; O.C. 523-96, s. 12; O.C. 1633-96, s. 9; O.C. 1707-97, s. 48; O.C. 1451-2000, s. 20; O.C. 1155-2004, s. 30; O.C. 1249-2005, s. 20; O.C. 1149-2006, s. 29; O.C. 1116-2007, s. 29.

"**712R2.** For the purposes of section 712 of the Act, a receipt, other than a receipt in respect of which section 712R3 applies, issued by an organization or a donee must contain a statement that it is a receipt in respect of income tax and the following information:

(*a*) the name and address of the organization or the donee;

(*b*) its serial number;

(*c*) the place where it was issued;

(*d*) where it concerns a donation of money, the year during which the donation was received;

(*e*) where it concerns a donation other than one of money, the day when the donation was received, a brief description of the property and, where it applies, the name and address of the appraiser of the property;

(*f*) the date on which it is issued;

(*g*) the name and address of the donor;

(*h*) the amount of the donation of money or the fair market value of the property at the time of the donation;

(*i*) where it is issued by an organization, the organization's registration number.

s. 712R2; O.C. 1981-80, s. 712R2; R.R.Q., 1981, c. I-3, r.1, s. 712R2; O.C. 2962-82, s. 74; O.C. 500-83, s. 74; O.C. 473-95, s. 10; O.C. 1633-96, s. 10.

"**712R3.** For the purposes of section 712 of the Act, where a corporation makes a gift of a work of art to a particular person, other than such a person who acquires the work of art in connection with its primary mission, the receipt issued by the particular person in respect of that gift must contain the statement referred to in section 712R2 and the information required by paragraphs *a* to *g* and *i* of that section and the following information:

(*a*) the date of the disposition of the work of art by the particular person;

(*b*) the amount that may reasonably be considered as the consideration for that disposition;

(*c*) the fair market value of that work of art at the time of that disposition.

s. 712R2.1; O.C. 1633-96, s. 11; O.C. 1707-97, s. 98.

"**712R4.** For the purposes of section 712 of the Act, a receipt must be signed by an individual authorized by the organization or the donee to acknowledge donations.

However, a receipt may bear a facsimile signature if all the receipt forms of the organization or the donee are imprinted with the serial number of the receipt, the name and address of the organization or the donee and, in the case of an organization, its registration number, and are kept in such place as the Minister may designate.

s. 712R3; O.C. 1981-80, s. 712R3; R.R.Q., 1981, c. I-3, r.1, s. 712R3; O.C. 2962-82, s. 75; O.C. 500-83, s. 75; O.C. 473-95, s. 11; O.C. 1149-2006, s. 30.

"**712R5.** For the purposes of section 712 of the Act, a receipt issued to replace a receipt previously issued must contain, in addition to the information required by section 712R2 or 712R3, a clear indication to that effect and the serial number of the original receipt.

s. 712R4; O.C. 1981-80, s. 712R4; R.R.Q., 1981, c. I-3, r.1, s. 712R4; O.C. 473-95, s. 11; O.C. 1633-96, s. 12.

"**712.0.0.1R1.** For the purposes of the first paragraph of section 712.0.0.1 of the Act, the requirements that must be met by an organization or a donee in respect of a spoiled receipt form are the following:

(*a*) that receipt form must be kept in the records of the organization or the donee together with the duplicate thereof; and

(*b*) the organization or the donee must inscribe the word "cancelled" on the receipt form.

For the purposes of the first paragraph, a receipt form on which the amount of the donation or the date on which it was received is written illegibly, incorrectly or in such a way as to be confusing is deemed to be spoiled.

s. 712.0.0.1R1; O.C. 473-95, s. 13.

"**716R1.** For the purposes of section 716 of the Act, the following are prescribed donees:

(*a*) Friends of The Nature Conservancy of Canada, Inc., a charity established in the United States;

(*b*) The Nature Conservancy, a charity established in the United States.

s. 716R1; O.C. 615-88, s. 22; O.C. 35-96, s. 86.

"**CHAPTER IV**

"ADDITIONAL DEDUCTION IN RESPECT OF CERTAIN EXPLORATION EXPENSES INCURRED IN QUÉBEC

chap. IV.0.0.1; O.C. 1232-91, s. 12.

"**726.4.10R1.** For the purposes of paragraph *b* of section 726.4.10 of the Act, "Québec exploration base" has the meaning assigned by sections 360R90 to 360R99.

s. 726.4.10R1; O.C. 1232-91, s. 12.

"**726.4.12R1.** For the purposes of paragraph *a* of section 726.4.12 of the Act, "Canadian exploration and development overhead expenses" has the meaning assigned by section 360R2.

s. 726.4.12R1; O.C. 1232-91, s. 12.

"**726.4.12R2.** An expenditure in respect of which an amount is added to the individual's mining exploration depletion, within the meaning of sections 360R31 to 360R33, or to the individual's depletion for oil and gas exploration, within the meaning of sections 360R37 to 360R39, is a prescribed expenditure referred to in paragraph *e* of section 726.4.12 of the Act.

s. 726.4.12R2; O.C. 1232-91, s. 12; O.C. 35-96, s. 74.

"**CHAPTER V**

"ADDITIONAL DEDUCTION IN RESPECT OF CERTAIN SURFACE MINING EXPLORATION EXPENSES OR OIL AND GAS EXPLORATION EXPENSES INCURRED IN QUÉBEC

chap. IV.0.0.2; O.C. 1454-99, s. 37.

"**726.4.17.4R1.** For the purposes of paragraph *a* of section 726.4.17.4 of the Act, "Canadian exploration and development overhead expenses" has the meaning assigned by section 360R2.

s. 726.4.17.4R1; O.C. 1697-92, s. 56.

"**CHAPTER VI**

"ADDITIONAL DEDUCTION IN RESPECT OF CERTAIN EXPLORATION EXPENSES INCURRED IN THE NEAR NORTH AND FAR NORTH OF QUÉBEC

chap. IV.0.0.3; O.C. 1451-2000, s. 21.

"**726.4.17.22R1.** In paragraph *a* of section 726.4.17.22 of the Act, "Canadian exploration and development overhead expenses" has the meaning assigned by section 360R2.

s. 726.4.17.22R1; O.C. 1451-2000, s. 21.

"**726.4.17.22R2.** An expenditure in respect of which an amount is added to the corporation's mining exploration depletion, within the meaning of sections 360R31 to 360R33, or to its depletion for oil and gas exploration, within the meaning of sections 360R37 to 360R39, is a prescribed expense referred to in paragraph *e* of section 726.4.17.22 of the Act.

s. 726.4.17.22R2; O.C. 1451-2000, s. 21.

"**CHAPTER VII**

"CAPITAL GAINS EXEMPTION

chap. IV.1; O.C. 1549-88, s. 23.

"**726.6.1R1.** For the purposes of subparagraph ii of paragraph *c* of the definition of "qualified small business corporation share" in the first paragraph of section 726.6.1 of the Act and of subparagraph i of subparagraph *a* of the second paragraph of that section, a corporation is connected with another corporation at a particular time where, at that time, the conditions mentioned in paragraph *a* or *b* of section 1R6 are met.

s. 726.6.1R1; O.C. 67-96, s. 37; O.C. 1707-97, s. 98; O.C. 1466-98, s. 126.

"**726.6.2R1.** For the purposes of section 726.6.2 of the Act, a corporation is connected with another corporation at a particular time where, at that time, the conditions mentioned in paragraph *a* or *b* of section 1R6 are met.

s. 726.6.2R1; O.C. 67-96, s. 37; O.C. 1707-97, s. 98.

"**726.14R1.** For the purposes of section 726.14 of the Act and subject to section 726.14R3, a prescribed share is a share of the capital stock of a corporation where

(*a*) under the terms and conditions of the share or any agreement in respect of the share or its issue and at the time the share is issued

i. the amount of the dividends, referred to in this chapter as "dividend entitlement", that the corporation may declare or pay on the share is not limited to a maximum amount or fixed at a minimum amount at that time or at any time thereafter by means of a formula or otherwise,

ii. the amount, referred to in this chapter as "liquidation entitlement", that the holder of the share is entitled to receive on the share on the dissolution, liquidation or winding-up of the corporation is not limited to a maximum amount or fixed at a minimum amount by means of a formula or otherwise,

iii. the share cannot be converted into any other security, other than another security of the corporation that is, or would be on the day of the conversion, a prescribed share,

iv. the holder of the share does not have, at that time or at any time thereafter, either the right or the obligation to cause the share to be redeemed, acquired or cancelled by the corporation or by any specified person in relation to the corporation, except where the redemption, acquisition or cancellation is required pursuant to a conversion that is not prohibited by subparagraph iii,

v. no person or partnership has the obligation, conditionally or otherwise, to reduce, or to cause the corporation to reduce, at that time or at any time thereafter, the paid-up capital in respect of the share, otherwise than by means of a redemption, acquisition or cancellation of the share that is not prohibited by this chapter,

vi. no person or partnership has the obligation, at that time or at any time thereafter, conditionally or otherwise, except in the case of an excluded obligation in relation to the share within the meaning of section 359.1R1, to provide assistance to acquire the share, to make a loan or payment, to transfer property or to otherwise confer a benefit by any means whatsoever, including the payment of a dividend that may reasonably be considered to be, directly or indirectly, a repayment or return by the corporation or by a specified person in relation to the corporation of all or part of the consideration for which the share was issued, and

vii. neither the corporation nor any specified person in relation to the corporation has the right or the obligation, conditionally or otherwise, to redeem, acquire or cancel, at that time or at any time thereafter, the share in whole or in part, except where the redemption, acquisition or cancellation is required pursuant to a conversion that is not prohibited by subparagraph iii;

(*b*) under the terms and conditions of the share or any agreement in respect of the share or its issue, no person or partnership has the obligation, conditionally or otherwise, except in the case of an excluded obligation in relation to the share within the meaning of section 359.1R1, to provide, at any time, any form of undertaking in respect of the share, including any guarantee, security, covenant or agreement and also including the lending of funds to or on behalf of the holder of the share or any specified person in relation to the holder of the share, or the deposit of amounts with or on behalf of the holder of the share or any specified person in relation to the holder of the share that may reasonably be considered to have been provided in order to ensure that

i. any loss that the holder of the share may sustain by virtue of the holding, ownership or disposition of the share is limited in all respects, or

ii. the holder of the share will derive benefits by virtue of the holding, ownership or disposition of the share; and

(*c*) at the time the share is issued, it cannot reasonably be expected, in view of all the circumstances, that the terms and conditions of the share or any agreement existing in respect of the share or its issue will thereafter be modified or amended, or that any new agreement in respect of the share or its issue will be entered into, in such a manner that the share would not be a prescribed share if it had been issued at the time of such modification or amendment or at the time the new agreement is entered into.

s. 726.14R1; O.C. 1549-88, s. 23; O.C. 1660-94, s. 11; O.C. 1707-97, s. 98.

"**726.14R2.** For the purposes of section 726.14 of the Act and subject to section 726.14R3, a prescribed share is also a share of the capital stock of a particular corporation, where the share is

(*a*) a particular share owned by a person and issued by the particular corporation to that person or a spouse or parent of that person as part of an arrangement or, where the person is a trust described in subparagraph *a* of the first paragraph of section 653 of the Act and in the second paragraph of that section, to the person who created the trust or by whose will the trust was created or, where the person is a corporation, to another person owning all of the issued and outstanding shares of the capital stock of the corporation or to a spouse or parent of that other person, and where all of the following conditions are met:

i. the main purpose of the arrangement was to allow any increase in the value of the property of the particular corporation to accrue to other shares that, at the time of their issue, would have been prescribed shares if this chapter had been read without reference to this section,

ii. at the time of the issue of the particular share or at the end of the arrangement, the other shares were owned by

(1) the person to whom the particular share was issued, referred to in this paragraph as the "original holder",

(2) a person with whom the original holder did not deal at arm's length,

(3) a trust none of the beneficiaries of which was a person other than the original holder or a person who did not deal at arm's length with the original holder,

(4) employees of the particular corporation or of a corporation controlled by the particular corporation,

(5) any combination of persons each of whom is described in any of subparagraphs 1 to 4;

(*b*) a share issued by a mutual fund corporation.

s. 726.14R2; O.C. 1549-88, s. 23; O.C. 91-94, s. 50; O.C. 1631-96, s. 32; O.C. 1707-97, s. 49; O.C. 1466-98, s. 126.

"**726.14R3.** For the purposes of section 726.14 of the Act, a prescribed share does not include a share of the capital stock issued by a mutual fund corporation other than an investment corporation, the value of which may reasonably be considered to be, directly or indirectly, derived primarily from investments made by the mutual fund corporation in one or more corporations connected with it within the meaning of section 1R6.

s. 726.14R3; O.C. 1549-88, s. 23; O.C. 1707-97, s. 50.

"**726.14R4.** For the purposes of this chapter,

(*a*) the dividend entitlement connected with a share of the capital stock of a corporation is deemed not to be limited to a maximum amount or fixed at a minimum amount where it may reasonably be considered that

i. all or substantially all of the dividend entitlement can be determined by reference to the dividend entitlement connected with another share of the capital stock of the corporation that meets the requirements of subparagraph i of paragraph *a* of section 726.14R1, or

ii. the dividend entitlement cannot be such as to impair the ability of the corporation to redeem another share of the capital stock of the corporation that meets the requirements of paragraph *a* of section 726.14R2;

(*b*) the liquidation entitlement connected with a share of the capital stock of a corporation is deemed not to be limited to a maximum amount or fixed at a minimum where it may reasonably be considered that all or substantially all of the liquidation entitlement can be determined by reference to the liquidation entitlement connected with another share of the capital stock of the corporation that meets the requirements of subparagraph ii of paragraph *a* of section 726.14R1;

(*c*) where two or more corporations, each of which is referred to in this paragraph as a "predecessor corporation", merge or amalgamate, the corporation formed as a result of the merger or amalgamation, referred to in this paragraph as the "new corporation", is deemed to be the same corporation as each of the predecessor corporations and to continue their corporate existence, and a share of the capital stock of the new corporation issued on the merger or amalgamation as consideration for a share of the capital stock of a predecessor corporation is deemed to be the same share as the share of the predecessor corporation for which it was issued, but this paragraph does not apply where the share issued on the merger or amalgamation is not a prescribed share at the time of its issue and

i. the terms and conditions of that share differ from those of the share of the predecessor corporation for which it was issued, or

ii. the fair market value of the share at the time of its issue differs from that of the share of the predecessor corporation for which it was issued;

(*d*) any reference in subparagraphs iv and vii of paragraph *a* of section 726.14R1 and in paragraph *b* of that section to a right or an obligation of a corporation, person or partnership does not include a right or an obligation provided in an agreement in writing among the shareholders of a private corporation owning more than 50% of the issued and outstanding shares of its capital stock having full voting rights under all circumstances, where the corporation, person or partnership is a party to the agreement, unless it may reasonably be considered, in view of all the circumstances, including the terms of the agreement, the number of shareholders and their relationship to one another, that one of the main reasons for the existence of the agreement is to avoid or limit the application of section 726.14 or 726.15 of the Act;

(*e*) where, at a particular time after 21 November 1985, the terms and conditions of a share are modified, any existing agreement in respect of the share is modified or a new agreement in respect of the share is entered into, the share is, for the purpose of determining whether it is a prescribed share, deemed to have been issued at that particular time; and

(*f*) the determination of whether a share of the capital stock of a corporation is a prescribed share for the purposes of section 726.14R1 is made without reference to a right or obligation to redeem, acquire or cancel the share or to cause the share to be redeemed, acquired or cancelled where

i. the share was issued pursuant to an employee share purchase agreement to an employee, referred to in this paragraph as the "holder", of the corporation or of a corporation with which it does not deal at arm's length,

ii. the holder was dealing at arm's length with each corporation referred to in subparagraph i at the time the share was issued, and

iii. having regard to all the circumstances, including the terms of the agreement, it may reasonably be considered that

(1) the amount payable on the redemption, acquisition or cancellation, referred to in this subparagraph and in subparagraph 2 as the "acquisition", of the share will not exceed the adjusted cost base of the share to the holder immediately before the acquisition, where the acquisition is provided for in the agreement primarily in order to protect the holder against any loss in respect of the share, or the fair market value of the share immediately before the acquisition, where the acquisition is provided for in the agreement primarily in order to provide the holder with a market for the share, and

(2) no portion of the amount payable on the acquisition of the share is directly determinable by reference to the profits of the corporation, or of another corporation with which it

does not deal at arm's length, for all or any part of the period during which the holder owned the share or had a right to acquire the share, unless the reference to the profits of the corporation or the other corporation is only for the purpose of determining the fair market value of the share pursuant to a formula set out in the agreement.

s. 726.14R4; O.C. 1549-88, s. 23; O.C. 91-94, s. 51; O.C. 1631-96, s. 33; O.C. 1707-97, s. 98; O.C. 1466-98, s. 126.

"**726.14R5.** In this chapter, "specified person in relation" to a corporation or a holder of a share, as the case may be, referred to in this section as the "taxpayer", means any person or partnership with whom the taxpayer does not deal at arm's length, or any partnership or trust of which the taxpayer, or a person or partnership with whom the taxpayer does not deal at arm's length, is a member or beneficiary, respectively.

s. 726.14R5; O.C. 1549-88, s. 23; O.C. 1660-94, s. 12; O.C. 1707-97, s. 98.

"**726.15R1.** For the purposes of section 726.15 of the Act, a prescribed share is a prescribed share under sections 726.14R1 to 726.14R5 for the purposes of section 726.14 of the Act.

s. 726.15R1; O.C. 1549-88, s. 23.

"**CHAPTER VIII**

"LOSSES AND OTHER DEDUCTIONS

chap. V; O.C. 1981-80, title XVIII, chap. V; R.R.Q., 1981, c. I-3, r.1, title XVIII, chap. V; O.C. 2962-82, s. 77; O.C. 500-83, s. 77.

"**736.1R1.** The prescribed amount referred to in the second paragraph of section 736.1 of the Act is an amount equal to the amount computed for the insurer at the same time and for the same purposes under paragraph *b* of subsection 7.1 of section 111 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 736.1R1; O.C. 1981-80, s. 736.1R1; R.R.Q., 1981, c. I-3, r.1, s. 736.1R1; O.C. 35-96, s. 86.

"**736.2R1.** The prescribed amount referred to in section 736.2 of the Act is an amount equal to the amount computed for the insurer at the same time and for the same purposes under paragraph *b* of subsection 7.2 of section 111 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 736.2R1; O.C. 1983-80, s. 35; R.R.Q., 1981, c. I-3, r.1, s. 736.2R1; O.C. 35-96, s. 86.

"**737.21R1.** For the purposes of subparagraph *b* of the second paragraph of section 737.21 of the Act, an eligible employer is required to certify, in the manner prescribed in section 1086R33, a foreign researcher's eligible income for a taxation year, in relation to the foreign researcher's employment with the eligible employer.

s. 737.21R1; O.C. 1666-90, s. 18; O.C. 1249-2005, s. 22.

"**737.22.0.0.3R1.** For the purposes of subparagraph *b* of the second paragraph of section 737.22.0.0.3 of the Act, an eligible employer is required to certify, in the manner prescribed in section 1086R35, the income of a foreign researcher on a post-doctoral internship for a taxation year, in relation to the post-doctoral internship employment of the foreign researcher with the eligible employer.

s. 737.22.0.0.3R1; O.C. 1451-2000, s. 24; O.C. 1249-2005, s. 22.

"**737.22.0.0.7R1.** For the purposes of subparagraph *b* of the second paragraph of section 737.22.0.0.7 of the Act, an eligible employer is required to certify, in the manner prescribed in section 1086R36, a foreign expert's eligible income for a taxation year, in relation to the foreign expert's employment with the eligible employer.

s. 737.22.0.0.7R1; O.C. 1463-2001, s. 65; O.C. 1249-2005, s. 22.

"**737.22.0.3R1.** For the purposes of subparagraph *b* of the second paragraph of section 737.22.0.3 of the Act, an eligible employer is required to certify, in the manner prescribed in section 1086R37, a foreign specialist's eligible income for a taxation year, in relation to the foreign specialist's employment with the eligible employer.

s. 737.22.0.3R1; O.C. 1466-98, s. 64; O.C. 1463-2001, s. 66; O.C. 1249-2005, s. 22.

"**737.22.0.7R1.** For the purposes of subparagraph *b* of the second paragraph of section 737.22.0.7 of the Act, an eligible employer is required to certify, in the manner prescribed in section 1086R38, a foreign professor's eligible income for a taxation year, in relation to the foreign professor's employment with the eligible employer.

s. 737.22.0.7R1; O.C. 1282-2003, s. 44; O.C. 1249-2005, s. 22.

"**737.25R1.** For the purposes of subparagraph *b* of the first paragraph of section 737.25 of the Act, a prescribed activity is

(*a*) an activity that consists in implementing a computer, telematic or office automation system, or a similar system, if such activity is the principal object of the contract referred to in that section;

(*b*) a scientific or technical services activity;

(*c*) a management or administration activity related to an activity referred to in paragraph *a* or *b*, or in subparagraph *b* for the first paragraph of section 737.25 of the Act.

s. 737.25R1; O.C. 523-96, s. 16.

"**739R1.** For the purposes of paragraph *a* of section 739 of the Act, the prescribed tax is the tax provided for in Part VII of the Income Tax Act (Statutes of Canada, 1970-71-72, chapter 63), as it read on 31 March 1977.

s. 739R1; O.C. 1463-2001, s. 67.

"**740.3R1.** For the purposes of paragraph *d* of section 740.3 of the Act, a prescribed share is a share that is a prescribed share under paragraph *b* of section 21.6R4.

s. 740.3R3; O.C. 1114-92, s. 33.

"**CHAPTER IX**

"DIVIDENDS OF A FOREIGN AFFILIATE

chap. VI; O.C. 1981-80, title XVIII, chap. VI; R.R.Q., 1981, c. I-3, r.1, title XVIII, chap. VI.

"**746R1.** For the purposes of section 746 of the Act, the portion of the dividend prescribed to be paid out of the exempt surplus, the prescribed foreign tax, the portion of the dividend prescribed to be paid out of the taxable surplus or the part of the dividend prescribed to be paid out of the pre-acquisition surplus, as the case may be, is an amount equal to the amount computed as such, at the same time and for the same purposes, under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and the Income Tax Regulations made thereunder.

s. 746R1; O.C. 1981-80, s. 746R1; R.R.Q., 1981, c. I-3, r.1, s. 746R1; O.C. 1472-87, s. 18; O.C. 35-96, s. 86; O.C. 1633-96, s. 14.

"**746R2.** An election under the second paragraph of section 746 of the Act is any election similar to that made by the corporation, at the same time and for the same purposes, under subsection 1 of section 113 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and the Income Tax Regulations made thereunder.

s. 746R2; O.C. 1472-87, s. 18; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**747R1.** For the purposes of section 747 of the Act,

(*a*) the expression "tax factor" has the meaning assigned by section 583R1;

(*b*) the expressions "exempt surplus", "taxable surplus" and "pre-acquisition surplus" of a foreign affiliate, at a particular time, mean an amount equal to the amount so determined for the affiliate at the same time and for the same purposes under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and the Income Tax Regulations made thereunder.

s. 747R1; O.C. 1981-80, s. 747R1; R.R.Q., 1981, c. I-3, r.1, s. 747R1; O.C. 35-96, s. 86.

"**TITLE XXVI**

"COMPUTATION OF THE TAX OF INDIVIDUALS

title XIX; O.C. 1981-80, title XIX; R.R.Q., 1981, c. I-3, r.1, title XIX; O.C. 1232-91, s. 16.

"**752.0.7.4R1.** The prescribed document that an individual or, as the case may be, the individual's legal representative is required to file with the Minister, pursuant to subparagraph 3 of subparagraph i of paragraph *a* of section 752.0.7.4 of the Act or, as the case may be, subparagraph 3 of subparagraph i of paragraph *b* of that section, for a taxation year in respect of a self-contained domestic establishment is

(*a*) one of the copies supplied for the year to the individual or, as the case may be, to the individual's eligible spouse for the year, in respect of the self-contained domestic establishment, in accordance with the second paragraph of section 1 of the Regulation respecting the application of the Act respecting property tax refund (R.R.Q., 1981, c. R-20.1, r.1); or

(*b*) a copy of the individual's property tax account for the year or, as the case may be, of the individual's eligible spouse for the year, in respect of the self-contained domestic establishment.

In the first paragraph, "eligible spouse" of an individual for a taxation year has the meaning assigned by section 752.0.7.1 of the Act.

s. 752.0.7.4R1; O.C. 1466-98, s. 66; O.C. 1282-2003, s. 46; O.C. 1155-2004, s. 32.

"**752.0.10R1.** For the purposes of paragraph *e* of section 752.0.10 of the Act, the Saskatchewan Pension Plan is a prescribed provincial pension plan.

s. 752.0.10R1; O.C. 1232-91, s. 17.

"**752.0.10.1R1.** For the purposes of paragraph *g* of the definition of "total charitable gifts" in the first paragraph of section 752.0.10.1 of the Act, a foreign university listed in Schedule C is a prescribed foreign university the student body of which ordinarily includes students from Canada.

s. 752.0.10.1R4; O.C. 473-95, s. 17; O.C. 35-96, s. 86; O.C. 1149-2006, s. 32.

"**752.0.10.3R1.** In this section and in sections 752.0.10.3R2 to 752.0.10.3.1R1,

"donee" means a person or an entity to which an individual has made a gift, and that is referred to in section 752.0.10.12R1, in the definition of "total Crown gifts", "total cultural gifts" or "total musical instrument gifts" in the first paragraph of section 752.0.10.1 of the Act, in paragraph *b* of the definition of "total gifts of qualified property" in the first paragraph of that section 752.0.10.1 or in any of paragraphs *d* to *h* of the

definition of "total charitable gifts" in the first paragraph of that section 752.0.10.1;

"employees charity trust" means a registered charity that is constituted for the purpose of remitting to other registered charities the donations collected by an employer from employees;

"organization" has the meaning assigned by section 712R1;

"particular person" means a person or entity referred to in any of paragraphs *c*.1, *c*.3, *d* and *e*.1 to *h* of the definition of "total charitable gifts" in the first paragraph of section 752.0.10.1 of the Act, a registered charity, a registered Canadian amateur athletic association or a registered Québec amateur athletic association;

"receipt" means a receipt referred to in section 752.0.10.3 of the Act;

"receipt form" has the meaning assigned by section 712R1;

"registration number" has the meaning assigned by section 712R1;

"work of art" means a work of art referred to in section 752.0.10.11.1 of the Act.

s. 752.0.10.3R1; O.C. 473-95, s. 17; O.C. 35-96, s. 86; O.C. 523-96, s. 19; O.C. 1633-96, s. 15; O.C. 1707-97, s. 52; O.C. 1249-2005, s. 23; O.C. 1149-2006, s. 33 ; O.C. 1116-2007, s. 30.

"**752.0.10.3R2.** For the purposes of section 752.0.10.3 of the Act, a receipt is required to be signed by an individual authorized by the organization or the donee to acknowledge donations.

However, a receipt may bear a facsimile signature if all the receipt forms of the organization or the donee are imprinted with the serial number of the receipt, the name and address of the organization or the donee and, in the case of an organization, its registration number, and are kept in such place as the Minister may designate.

s. 752.0.10.3R2; O.C. 473-95, s. 17; O.C. 1149-2006, s. 34.

"**752.0.10.3R3.** For the purposes of section 752.0.10.3 of the Act, a receipt, other than a receipt in respect of which section 752.0.10.3R4 applies, issued by an organization or a donee must contain the statement and the information referred to in section 712R2 and, if the receipt is issued to replace a receipt previously issued, contain a clear indication to that effect and the serial number of the original receipt.

s. 752.0.10.3R3; O.C. 473-95, s. 17; O.C. 1633-96, s. 16.

"**752.0.10.3R4.** For the purposes of section 752.0.10.3 of the Act, where an individual makes a gift of a work of art to a particular person, other than such a person who acquires the work of art in connection with its primary mission, the receipt issued by the particular person in respect of that gift must contain the statement referred to in section 712R2 and the information required by paragraphs *a* to *g* and *i* of that section and the following information:

(*a*) the date of the disposition of the work of art by the particular person;

(*b*) the amount that may reasonably be considered as the consideration for that disposition; and

(*c*) the fair market value of that work of art at the time of that disposition.

Where the receipt referred to in the first paragraph is issued to replace a receipt previously issued, it must also contain a clear indication to that effect and the serial number of the original receipt.

s. 752.0.10.3R3.1; O.C. 1633-96, s. 17.

"**752.0.10.3R5.** Where an organization is an employee's charity trust or has, in respect of donations collected by an employer from employees, appointed that employer as mandatary responsible for remitting to it those donations and where each copy of the information return required under section 1086R1 to be filed for a year by an employer of employees who have remitted in the year a donation to that organization shows, for each of those employees, the amount of that donation for the year collected by the employer and the organization's registration number, the following rules apply:

(*a*) sections 752.0.10.3R2, 752.0.10.3R3 and 752.0.10.3.1R1 do not apply; and

(*b*) the copy of the information return that is required to be given to the employee under section 1086R70 stands in lieu of the receipt referred to in section 752.0.10.3 of the Act.

s. 752.0.10.3R4; O.C. 473-95, s. 17; O.C. 35-96, s. 86.

"**752.0.10.3.1R1.** For the purposes of the first paragraph of section 752.0.10.3.1 of the Act, the requirements that must be met by an organization or a donee in respect of a spoiled receipt form are the following:

(*a*) that receipt form must be kept in the records of the organization or the donee together with the duplicate thereof; and

(*b*) the organization or the donee must inscribe the word "cancelled" on the receipt form.

For the purposes of the first paragraph, a receipt form on which the amount of the donation or the date on which it was received is written illegibly, incorrectly or in such a way as to be confusing is deemed to be spoiled.

s. 752.0.10.3.1R1; O.C. 473-95, s. 17.

"**752.0.10.12R1.** For the purposes of section 752.0.10.12 of the Act, the charities mentioned in section 716R1 are prescribed donees.

s. 752.0.10.12R1; O.C. 473-95, s. 17; O.C. 35-96, s. 86.

"**752.0.11.1R1.** For the purposes of paragraph *s* of section 752.0.11.1 of the Act, a device or equipment referred to therein is

(*a*) a wig for a person who has suffered abnormal hair loss owing to disease, medical treatment or accident;

(*b*) a needle or syringe used for giving injections;

(*c*) any device or equipment, including replacement parts, designed exclusively for use by a person suffering from a severe chronic respiratory ailment or a severe chronic immune system disregulation, but not including air conditioners, humidifiers, dehumidifiers, heat exchangers, air exchangers or heat pumps;

(*d*) an air or water filter or purifier for use by a person suffering from a severe chronic respiratory ailment or a severe chronic immune system disregulation, to help that person cope with or overcome the ailment or disregulation;

(*e*) an electric or sealed combustion furnace acquired to replace a furnace that is neither an electric furnace nor a sealed combustion furnace, where the replacement is necessary solely because of a person's severe chronic respiratory ailment or severe chronic immune system disregulation;

(*f*) an air conditioner acquired for use by an individual to cope with the individual's severe chronic ailment, disease or disorder, to the extent of the lesser of $1,000 and 50% of the amount paid for the air conditioner;

(*g*) any device or equipment designed to pace or monitor the heart of an individual suffering from heart disease;

(*h*) an orthopedic shoe or an insert for a shoe made to order in accordance with a prescription to assist a person in overcoming a physical disability;

(*i*) a chair mounted on a rail designed exclusively to enable a person to ascend or descend a stairway mechanically;

(*j*) any device or equipment designed to assist a person to get into or out of a bathtub or shower or to get on or off a toilet;

(*k*) a hospital bed, including accessories under a medical prescription;

(*l*) any device or equipment that is exclusively designed to assist a person in walking where the person has a mobility impairment;

(*m*) an external breast prosthesis that is required because of a mastectomy;

(*n*) a teletypewriter or any similar device, including telephone ringing indicators, that enables a deaf or mute person to make and receive telephone calls;

(*o*) a power-operated lift or transportation equipment designed exclusively to allow a handicapped person access to different areas of a building or to assist the person in gaining access to a vehicle or placing the person's wheelchair in or on a vehicle;

(*p*) an optical scanner, or similar device, designed to be used by a blind individual to enable the individual to read print;

(*q*) a device or software designed to be used by a blind individual, or an individual with a severe learning disability, to enable the individual to read print;

(*r*) any device designed exclusively to enable a person with mobility impairment to operate a vehicle;

(*s*) any device or equipment, including a synthetic speech system, braille printer and large print-on-screen device, designed exclusively to be used by a blind individual to enable the individual to operate a computer;

(*t*) an electronic speech synthesizer that enables a mute person to communicate by means of a portable keyboard;

(*u*) a device to decode special television signals to visually display the script of a program;

(*v*) a visual or vibratory signalling device, including a visual fire alarm indicator, for an individual with a hearing impairment;

(*w*) a device designed to be attached to infants diagnosed as being prone to sudden infant death syndrome in order to sound an alarm if the infant ceases to breathe;

(*x*) an infusion pump, including disposable peripherals, used in the treatment of diabetes, or a device designed to enable a person suffering from diabetes to measure blood sugar level;

(*y*) an electronic or computerized environmental control system designed exclusively for use by a person with a severe and prolonged mobility restriction;

(*z*) elastic support hose or an extremity pump designed exclusively to relieve swelling caused by chronic lymphedema;

(*z*.1) an inductive coupling osteogenesis stimulator used for treating non-union of fractures or aiding in bone fusion;

(*z*.2) a talking textbook for use by an individual with a perceptual disability in connection with the individual's enrolment at an educational institution in Canada or at an educational institution described in section 358.0.2 of the Act;

(*z*.3) a Bliss symbol board, or similar device, designed to be used to help an individual who has a speech impairment communicate by selecting the symbols or spelling out words;

(*z*.4) a Braille note-taker designed to be used by a blind individual to allow the individual to take notes that can be read back or printed, or displayed in Braille with the help of a keyboard; and

(*z*.5) a page turner, designed to be used by an individual who has a severe and prolonged impairment that markedly restricts the individual's ability to use arms or hands to turn the pages of a book or other bound document.

s. 752.0.11.1R1; O.C. 1232-91, s. 17; O.C. 91-94, s. 52; O.C. 67-96, s. 48; O.C. 1451-2000, s. 25; O.C. 1470-2002, s. 48; O.C. 1282-2003, s. 47.

"**TITLE XXVII**

"BUSINESSES CARRIED ON IN CANADA OR IN QUÉBEC AND ELSEWHERE

title XX; O.C. 1981-80, title XX; R.R.Q., 1981, c. I-3, r.1, title XX; O.C. 523-96, s. 44.

"**CHAPTER I**

"GENERAL RULE

chap. I; O.C. 1981-80, title XX, chap. I; R.R.Q., 1981, c. I-3, r.1, title XX, chap. I.

"**771R1.** The business of a corporation having an establishment in Québec is deemed to be totally carried on in Québec for a taxation year where such corporation has no establishment outside Québec during the year.

s. 771R1; O.C. 1981-80, s. 771R1; R.R.Q., 1981, c. I-3, r.1, s. 771R1; O.C. 1707-97, s. 98.

"**771R2.** The business of a corporation is deemed to be totally carried on outside Québec for a taxation year where such a corporation has no establishment in Québec during the year.

s. 771R2; O.C. 1981-80, s. 771R2; R.R.Q., 1981, c. I-3, r.1, s. 771R2; O.C. 1707-97, s. 98.

"**771R3.** For the purposes of this Title, "province" includes

(*a*) the Nova Scotia offshore area, within the meaning of the Canada — Nova Scotia Offshore Petroleum Resources Accord Implementation Act (Statutes of Canada, 1988, chapter 28);

(*b*) the Newfoundland offshore area, within the meaning of the Canada — Newfoundland Atlantic Accord Implementation Act (Statutes of Canada, 1987, chapter 3).

s. 771R2.1; O.C. 1232-91, s. 18; O.C. 1466-98, s. 67.

"**CHAPTER II**

"ESTABLISHMENTS IN SEVERAL JURISDICTIONS

chap. II; O.C. 1981-80, title XX, chap. II; R.R.Q., 1981, c. I-3, r.1, title XX, chap. II.

"**DIVISION I**

"GENERALITIES

div. I; O.C. 1981-80, title XX, chap. II, div. I; R.R.Q., 1981, c. I-3, r.1, title XX, chap. II, div. I.

"**771R4.** Subject to the special provisions in Chapters III and IV, where, in a taxation year, a corporation has an establishment in Québec and an establishment in another jurisdiction, the proportion that the business carried on in Québec is of the aggregate of the business carried on in Québec and elsewhere, is one-half of the aggregate of

(*a*) the proportion that its gross revenue for the year reasonably attributable to the establishment in Québec is of its total gross revenue for the year; and

(*b*) the proportion that the salaries and wages paid by the corporation in the year to the employees of the establishment in Québec is of the total salaries and wages paid in the year by the corporation.

s. 771R3; O.C. 1981-80, s. 771R3; R.R.Q., 1981, c. I-3, r.1, s. 771R3; O.C. 1707-97, s. 98.

"**771R5.** Despite section 771R4 and subject to the special provisions of Chapters III and IV, where a corporation having an establishment in Québec and an establishment outside Québec does not pay any salaries or wages to its employees during the year or has no gross revenue for that year, the proportion that the business carried on in Québec is of the aggregate of the business carried on in Québec and elsewhere, is the proportion referred to in paragraph *a* of section 771R4, and, in the latter case, that referred to in paragraph *b* of this section.

s. 771R3.1; O.C. 1983-80, s. 36; O.C. 1535-81, s. 10; R.R.Q., 1981, c. I-3, r.1, s. 771R3.1; O.C. 1707-97, s. 98.

"**771R6.** For the purposes of this Title, an employee of a corporation is, in a taxation year, an employee of an establishment of the corporation situated in Québec where, in that year, in reference to the location where the employee mainly reports for work, the location where the employee principaly performs the employee's duties, the employee's principal place of residence, the location from which the employee is paid, the establishment where the employee is supervised, the nature of the duties performed by the employee or any other similar criterion, it may reasonably be considered that the employee is an employee of an establishment of the corporation situated in Québec.

s. 771R3.2; O.C. 1707-97, s. 53; O.C. 1463-2001, s. 70.

"**771R7.** For the purposes of paragraph *a* of section 771R4, "gross revenue" does not include interest on a bond, debenture hypothecary claim or mortgage, dividends, or rentals or royalties from property that is not used in connection with the principal activity of the corporation.

s. 771R4; O.C. 1981-80, s. 771R4; R.R.Q., 1981, c. I-3, r.1, s. 771R4; O.C. 1707-97, s. 54; O.C. 1466-98, s. 68.

"**771R8.** Except where a commission is paid to a person who is not an employee of the corporation, where a remuneration is paid under an agreement by the corporation to a person for services that would normally be performed by the employees of the corporation, such remuneration is deemed to be a salary paid to such employee of the establishment of the corporation to which such services are reasonably attributable and to the extent that they are so attributable.

s. 771R5; O.C. 1981-80, s. 771R5; R.R.Q., 1981, c. I-3, r.1, s. 771R5; O.C. 1707-97, s. 98.

"**771R9.** For the purposes of this Title, where an employee renders a service in Québec to or for a corporation or partnership that is not the employer of the employee, an amount that may reasonably be considered to be the salary or wages earned by the employee for rendering the service is deemed, for the taxation year or the fiscal period, as the case may be, during which the salary or wages are paid to the employee, to be wages paid by the corporation or partnership, as the case may be, to an employee of an establishment of the corporation or partnership situated in Québec where

(*a*) at the time the service is rendered, the corporation or partnership, as the case may be, has an establishment situated in Québec;

(*b*) the service rendered by the employee is

i. performed by the employee in the normal course of duties for the employer,

ii. rendered to or for the corporation or partnership as part of the regular, ongoing activities of carrying on a business by the corporation or partnership, as the case may be, and

iii. of the same type as services rendered by employees of entities carrying on the same type of business as the business referred to in subparagraph ii; and

(*c*) the amount is not otherwise included in the aggregate of the salaries and wages paid by the corporation or partnership that are determined for the purposes of this Title.

s. 771R5.0.1; O.C. 1707-97, s. 55.

"**771R10.** Section 771R9 does not apply in respect of a taxation year or fiscal period, as the case may be, of a corporation or partnership referred to therein if the Minister is of the opinion that a reduction in the total taxes payable under the Act by the employer referred to in that section and by the corporation or by each member of the partnership is not one of the anticipated goals or results of

(*a*) the entering into or the maintaining in force of the agreement under which the service is rendered by the employee referred to in that section 771R9 to or for the corporation or partnership;

(*b*) the entering into or the maintaining in force of any other agreement affecting the amount, determined for the purposes of this Title, of the salaries and wages paid by the corporation in the taxation year or by the partnership in the fiscal period and that the Minister considers to be related to the agreement to provide services referred to in paragraph *a*; or

(*c*) any other transaction, arrangement or event affecting the amount, determined for the purposes of this Title, of the wages and salaries paid by the corporation in the taxation year or by the partnership in the fiscal period.

s. 771R5.0.2; O.C. 1707-97, s. 55; O.C. 1466-98, s. 69.

"**771R11.** Where, by reason of section 771R9, a corporation includes an amount in its salaries and wages, the Minister may, upon receipt of a joint application by the corporation and the employer referred to in that section, filed by the employer in prescribed form, permit the employer, for the purposes of determining the salaries or wages or the gross revenue for the employer's taxation year or fiscal period, to deduct an amount that the Minister considers reasonable and that does not exceed the lesser of

(*a*) the amount included by the corporation for the year, by reason of the application of section 771R9, in computing its salaries or wages in respect of the services rendered by the employees of the employer to or for the corporation or the partnership of which the corporation is a member; and

(*b*) the amount included by the employer for the year in computing its salaries or wages or its gross revenue in respect of the services rendered by the employees of the employer to or for the corporation or the partnership of which the corporation is a member.

s. 771R5.0.3; O.C. 1707-97, s. 55.

"**771R12.** Where a corporation, other than a bank, or a partnership of which the corporation is a member operates an international financial centre, the proportion that the business carried on in Québec is of the aggregate of the business carried on in Canada or in Québec and elsewhere by the corporation, otherwise determined under this Chapter and Chapters III and IV, is to be determined without taking into account 75% of the portion of the salaries and wages and the gross revenue that is referred to in subparagraph 4 or 6 of the second paragraph of section 49 of the Act respecting international financial centres (R.S.Q., c. C-8.3) relating to the operations of the international financial centre, or

of the net premiums attributable to the operations of the international financial centre.

s. 771R5.1; O.C. 1811-86, s. 3; O.C. 523-96, s. 44; O.C. 1707-97, s. 98; O.C. 1451-2000, s. 26; O.C. 1470-2002, s. 49; O.C. 1249-2005, s. 24; O.C. 1149-2006, s. 35.

"**DIVISION II**

"COMPUTATION OF GROSS REVENUE

div. II; O.C. 1981-80, title XX, chap. II, div. II; R.R.Q., 1981, c. I-3, r.1, title XX, chap. II, div. II.

"**771R13.** The rules in this division apply to the computation of gross revenue reasonably attributable to an establishment of a corporation for a taxation year.

s. 771R6; O.C. 1981-80, s. 771R6; R.R.Q., 1981, c. I-3, r.1, s. 771R6; O.C. 1707-97, s. 98.

"**771R14.** Where the merchandise sold is shipped into a jurisdiction where the corporation has an establishment, the gross revenue derived from the sale is attributable to that establishment, otherwise, it is attributable to the establishment to which the person negotiating the sale is attached.

Where the buyer instructs that the merchandise be shipped to another person, the gross revenue derived from the sale is attributable to the establishment situated in the jurisdiction where the establishment of the buyer is situated, if the corporation has an establishment in that jurisdiction, otherwise, it is attributable to the establishment to which the person who has negotiated the sale is attached.

s. 771R7; O.C. 1981-80, s. 771R7; R.R.Q., 1981, c. I-3, r.1, s. 771R7; O.C. 1707-97, s. 98.

"**771R15.** Despite section 771R14, where the merchandise sold is shipped to another country where the corporation has no establishment and if the merchandise was entirely produced or manufactured by the corporation in one jurisdiction in Canada, the gross revenue derived from the sale is attributable to the establishment situated in that jurisdiction.

However, if the merchandise sold was produced or manufactured by the corporation partly in Québec and partly in another jurisdiction, the gross revenue derived from the sale that is attributable to the establishment situated in Québec is equal to that proportion of the gross revenue that the salaries and wages paid in the year to employees of the establishment situated in Québec is of the aggregate of the salaries and wages paid in the year to employees of all the establishments where the merchandise sold was produced or manufactured.

The same rules apply where the establishment of the buyer is situated in a jurisdiction outside Canada in which the corporation has no establishment and the buyer instructs that the merchandise be shipped to another person.

s. 771R8; O.C. 1981-80, s. 771R8; R.R.Q., 1981, c. I-3, r.1, s. 771R8; O.C. 1707-97, s. 98.

"**771R16.** Despite section 771R14, where, in a taxation year, merchandise sold by a corporation is shipped to a country other than Canada in which the corporation has an establishment or is sold to a buyer whose establishment is situated in a country other than Canada in which the corporation has an establishment and who instructs the corporation to ship the merchandise to another person, and the corporation is not subject to taxation on its income under the laws of the other country, or its gross revenue derived from the sale of the merchandise is not included in computing the income or profit or other base for income or profits taxation by the other country, by reason of the provisions of any taxing statute of the other country or the operation of any tax treaty or convention between Canada and the other country, the following rules apply:

(*a*) for the purposes of determining the gross revenue derived from the sale, the first and third paragraphs of section 771R15 are to be read without reference to "where the corporation has no establishment" and "in which the corporation has no establishment", respectively; and

(*b*) for the purposes of paragraph *b* of section 771R4, section 771R5 and the second paragraph of section 771R15, the salaries and wages paid by the corporation in the year to the employees of an establishment situated in the other country are deemed to be nil.

s. 771R8.1; O.C. 1631-96, s. 34; O.C. 1707-97, s. 98.

"**771R17.** Despite sections 771R14 and 771R15, the gross revenue derived by a corporation from the wholesale of electricity produced by it is attributable to the establishment situated in the jurisdiction where such electricity is produced.

s. 771R9; O.C. 1981-80, s. 771R9; R.R.Q., 1981, c. I-3, r.1, s. 771R9; O.C. 1707-97, s. 98.

"**771R18.** The gross revenue derived from services rendered in a jurisdiction is attributable to the establishment situated in that jurisdiction and, if there is no such establishment, is attributable to the establishment to which the person who has negotiated the contract is attached.

s. 771R10; O.C. 1981-80, s. 771R10; R.R.Q., 1981, c. I-3, r.1, s. 771R10.

"**771R19.** Where standing timber or a cutting right is sold, the gross revenue derived from the sale is attributable to the establishment of the corporation situated in the jurisdiction where the timber limit that is related to the sale of the standing timber or of the cutting right is situated.

s. 771R11; O.C. 1981-80, s. 771R11; R.R.Q., 1981, c. I-3, r.1, s. 771R11.

"**771R20.** Where land is an establishment, the gross revenue derived therefrom is attributable to that establishment.

s. 771R12; O.C. 1981-80, s. 771R12; R.R.Q., 1981, c. I-3, r.1, s. 771R12.

"**771R21.** Where a part of the corporation's operations are conducted in partnership with another person, the corporation's gross revenue for a taxation year and the salaries and wages paid by it in the year include, in respect of those operations, only the proportion, for the fiscal period of the partnership coinciding with or ending in the year, of the gross revenue of the partnership or the salaries and wages paid by the partnership, as the case may be, that the corporation's share of the profit or loss from the partnership for that fiscal period is of the total profit or loss of the partnership for that fiscal period.

s. 771R13; O.C. 1981-80, s. 771R13; O.C. 1535-81, s. 11; R.R.Q., 1981, c. I-3, r.1, s. 771R13; O.C. 1707-97, s. 56.

"**CHAPTER III**

"SPECIAL CASES

chap. III; O.C. 1981-80, title XX, chap. III; R.R.Q., 1981, c. I-3, r.1, title XX, chap. III.

"**DIVISION I**

"INSURANCE CORPORATIONS

div. I; O.C. 1981-80, title XX, chap. III, div. I; R.R.Q., 1981, c. I-3, r.1, title XX, chap. III, div. I; O.C. 1707-97, s. 98.

"**771R22.** The proportion that the business carried on in Québec is of the aggregate of that carried on in Québec and elsewhere by an insurance corporation is equal to the proportion that the aggregate of its net premiums in respect of insurance on properties situated in Québec together with its net premiums in respect of insurance other than on properties and derived from contracts with persons residing in Québec is of the aggregate of net premiums included in the computation of its income under Part I of the Act.

s. 771R14; O.C. 1981-80, s. 771R14; R.R.Q., 1981, c. I-3, r.1, s. 771R14; O.C. 1707-97, s. 98.

"**771R23.** For the purposes of this division, net premiums are computed by subtracting from gross premiums, other than considerations received for annuities, premiums paid by the corporation for re-insurance, dividends or rebates paid or credited to policyholders by the corporation, and rebates or returned premiums paid by the corporation in respect of the cancellation of policies.

s. 771R15; O.C. 1981-80, s. 771R15; R.R.Q., 1981, c. I-3, r.1, s. 771R15; O.C. 1707-97, s. 98.

"**771R24.** For the purposes of section 771R22, where an insurance corporation had no establishment in a taxation year in a particular province, each net premium for that year in respect of insurance on property situated in the particular province and each net premium for that year in respect of insurance, other than on property, from a contract with a person resident in the particular province is deemed to be a net premium in respect of insurance on property situated in the province in which the establishment of the corporation to which the net premium is reasonably attributable is situated or, as the case may be, a net premium in respect of insurance, other than on property, from a contract with a person resident in the province in which such establishment is situated.

s. 771R16; O.C. 1981-80, s. 771R16; R.R.Q., 1981, c. I-3, r.1, s. 771R16; O.C. 1707-97, s. 98.

"**DIVISION II**

"BANKS

div. II; O.C. 1981-80, title XX, chap. III, div. II; R.R.Q., 1981, c. I-3, r.1, title XX, chap. III, div. II.

"**771R25.** The proportion that the business carried on in Québec is of the aggregate of that carried on in Québec and elsewhere by a bank is one-third of the aggregate of

(*a*) the proportion that the salaries and wages paid by the bank to employees of its establishment in Québec is of the aggregate of all salaries and wages paid by the bank; and

(*b*) twice the proportion that the loans and deposits attributable to its establishment in Québec is of the aggregate of all loans and deposits.

s. 771R17; O.C. 1981-80, s. 771R17; O.C. 1535-81, s. 12; R.R.Q., 1981, c. I-3, r.1, s. 771R17.

"**771R26.** For the purposes of this division, the amount of loans or deposits is one-twelfth of the aggregate of the amounts outstanding on the loans granted by the bank, or, as the case may be, of the aggregate of the amounts on deposit with the bank, at the close of business on the last day of each month in the year.

For the purposes of the first paragraph, loans and deposits do not include bonds, debentures, stocks, items in transit and deposits in favour of Her Majesty in right of Canada.

s. 771R18; O.C. 1981-80, s. 771R18; R.R.Q., 1981, c. I-3, r.1, s. 771R18; O.C. 1282-2003, s. 48; O.C. 1149-2006, s. 36.

"**DIVISION III**

"TRUST OR LOAN CORPORATIONS

div. III; O.C. 1981-80, title XX, chap. III, div. III; R.R.Q., 1981, c. I-3, r.1, title XX, chap. III, div. III; O.C. 1707-97, s. 98.

"**771R27.** The proportion that the business carried on in Québec is of the aggregate of that carried on in Québec and elsewhere by a trust or loan corporation is the proportion that

its gross revenue from its establishment in Québec is of its total gross revenue.

s. 771R19; O.C. 1981-80, s. 771R19; R.R.Q., 1981, c. I-3, r.1, s. 771R19; O.C. 1707-97, s. 98.

"**771R28.** The gross revenue from the establishment in Québec of a trust or loan corporation is equal to the aggregate of its gross revenue for the year derived from

(*a*) loans secured by land situated in Québec;

(*b*) loans not secured by land but granted to persons resident in Québec;

(*c*) loans to persons resident in a jurisdiction where the corporation has no establishment and administered by an establishment of the corporation in Québec, except for loans secured by land situated in Québec; and

(*d*) business conducted at the establishment in Québec, other than gross revenue in respect of loans.

s. 771R20; O.C. 1981-80, s. 771R20; R.R.Q., 1981, c. I-3, r.1, s. 771R20; O.C. 1707-97, s. 98.

"**DIVISION IV**

"RAILWAY CORPORATIONS

div. IV; O.C. 1981-80, title XX, chap. III, div. IV; R.R.Q., 1981, c. I-3, r.1, title XX, chap. III, div. IV; O.C. 1707-97, s. 98.

"**771R29.** Subject to section 771R30, the proportion that the business carried on in Québec is of the aggregate of that carried on in Canada by a railway corporation is one-half the aggregate of

(*a*) the proportion that the number of equated track-kilometres of the corporation in Québec is of the number of equated track-kilometres of the corporation in Canada; and

(*b*) the proportion that the gross ton kilometres of the corporation in Québec is of the number of gross ton kilometres of the corporation in Canada.

s. 771R21; O.C. 1981-80, s. 771R21; R.R.Q., 1981, c. I-3, r.1, s. 771R21; O.C. 523-96, s. 44; O.C. 1707-97, s. 98.

"**771R30.** For the purposes of section 771R29, the number of equated track-kilometres is computed by adding the number of kilometres of the first main track, 80% of the number of kilometres of other main tracks and 50% of the number of kilometres of yard tracks or sidings.

s. 771R22; O.C. 1981-80, s. 771R22; R.R.Q., 1981, c. I-3, r.1, s. 771R22.

"**771R31.** Where a corporation referred to in this division operates an airline service, ships, hotels or derives substantial revenues with respect to rights relating to natural gas or petroleum, the proportion that the business carried on in Québec is of the aggregate of that carried on in Canada or in Québec and elsewhere by the corporation is that as is respectively established in

(*a*) Division V in respect of that part of its tax for the year that may reasonably be attributable to the operation of its airline service;

(*b*) Division IX in respect of that part of its tax for the year that may reasonably be attributable to the operation of its ships;

(*c*) Chapters I and II in respect of that part of its tax for the year that may reasonably be attributable to the operation of its hotels, or, as the case may be, to the ownership of rights relating to petroleum or natural gas or to any interest in such rights; and

(*d*) section 771R29 in respect of the remainder of its tax.

s. 771R23; O.C. 1981-80, s. 771R23; R.R.Q., 1981, c. I-3, r.1, s. 771R23; O.C. 523-96, s. 44; O.C. 1707-97, s. 98.

"**771R32.** For the purposes of Division IX mentioned in paragraph *b* of section 771R31, "salaries and wages paid by the corporation to employees" in section 771R39 means such salaries and wages paid to the employees employed in the operation of establishments maintained for the shipping business, other than those employed on ships.

s. 771R24; O.C. 1981-80, s. 771R24; R.R.Q., 1981, c. I-3, r.1, s. 771R24; O.C. 1707-97, s. 98.

"**771R33.** For the purposes of Chapter II mentioned in paragraph *c* of section 771R31,

"gross revenue of the corporation for the year reasonably attributable to the establishment in Québec" means the gross revenue that the corporation derives from its hotel operations in Québec during the year or, as the case may be, from the ownership of rights relating to petroleum or natural gas or any interest in such rights and related to land situated in Québec;

"its total gross revenue for the year" means total gross revenue of the corporation derived from its hotel operations or, as the case may be, from the ownership of rights relating to petroleum or natural gas or any interest in such rights;

"salaries and wages paid by the corporation in the year to employees" means salaries and wages paid in the year to employees engaged in the operation of its hotels or, as the case may be, to its employees engaged in an operation related to the ownership of rights relating to petroleum or natural gas or any interest in such rights.

s. 771R25; O.C. 1981-80, s. 771R25; R.R.Q., 1981, c. I-3, r.1, s. 771R25; O.C. 1707-97, s. 98.

"**DIVISION V**

"AIRLINE CORPORATIONS

div. V; O.C. 1981-80, title XX, chap. III, div. V; R.R.Q., 1981, c. I-3, r.1, title XX, chap. III, div. V; O.C. 1707-97, s. 98.

"**771R34.** The proportion that the business carried on in Québec is of the aggregate of that carried on in Canada by an airline corporation is one-quarter of the aggregate of

(*a*) the proportion that the cost of its land and depreciable property, with the exception of aircraft, in Québec at the end of the year is of the cost of its land and depreciable property, with the exception of aircraft, in Canada at the same moment; and

(*b*) three times the proportion that the number of revenue plane kilometres flown by its aircraft in Québec is of the number of revenue plane kilometres flown by its aircraft in Canada, other than kilometres flown in a province in which it has no establishment.

s. 771R26; O.C. 1981-80, s. 771R26; R.R.Q., 1981, c. I-3, r.1, s. 771R26; O.C. 523-96, s. 44; O.C. 1631-96, s. 35; O.C. 1707-97, s. 98.

"**771R35.** For the purposes of section 771R34, the number of revenue plane kilometres flown by an aircraft is weighted according to the take-off weight of the aircraft.

For the purposes of this section, the "take-off weight" of an aircraft means the maximum authorized take-off weight, expressed in kilograms, as stated on the Certificate of Airworthiness issued by the Department of Transport, Infrastructure and Communities of Canada in respect of that aircraft and, where a certificate has not been issued, the equivalent maximum weight expressed in kilograms.

s. 771R27; O.C. 1981-80, s. 771R27; R.R.Q., 1981, c. I-3, r.1, s. 771R27.

"**DIVISION VI**

"GRAIN ELEVATOR CORPORATIONS

div. VI; O.C. 1981-80, title XX, chap. III, div. VI; R.R.Q., 1981, c. I-3, r.1, title XX, chap. III, div. VI; O.C. 1707-97, s. 98.

"**771R36.** The proportion that the business carried on in Québec is of the aggregate of that carried on in Québec and elsewhere during a taxation year by a grain elevator corporation is one-half of the aggregate of

(*a*) the proportion that the number of metric tons of grain received in the elevators operated by the corporation in Québec is of the total number of metric tons of grain received in all elevators operated by that corporation; and

(*b*) the proportion that the salaries and wages paid by the corporation to the employees of its establishment in Québec is of the aggregate of all salaries and wages paid by that corporation.

s. 771R28; O.C. 1981-80, s. 771R28; R.R.Q., 1981, c. I-3, r.1, s. 771R28; O.C. 1707-97, s. 98.

"**DIVISION VII**

"BUS AND TRUCK TRANSPORTATION CORPORATIONS

div. VII; O.C. 1981-80, title XX, chap. III, div. VII; R.R.Q., 1981, c. I-3, r.1, title XX, chap. III, div. VII; O.C. 1707-97, s. 98.

"**771R37.** The proportion that the business carried on in Québec is of the aggregate of that carried on in Québec and elsewhere by a bus and truck transportation corporation is one-half of the aggregate of

(*a*) the proportion that the number of kilometres travelled in Québec by vehicles it owns or has leased from another person is of the total number of kilometres travelled by those vehicles, excluding the kilometres travelled in a province or country where the corporation has no establishment; and

(*b*) the proportion that the salaries and wages paid by the corporation to employees of its establishment in Québec is of the aggregate of all salaries and wages paid by that corporation.

s. 771R29; O.C. 1981-80, s. 771R29; O.C. 1535-81, s. 13; R.R.Q., 1981, c. I-3, r.1, s. 771R29; O.C. 1076-88, s. 21; Erratum, 1988 G.O. 2, 3497; O.C. 1232-91, s. 19; O.C. 1707-97, s. 98; O.C. 1466-98, s. 70.

"**DIVISION VIII**

"CORPORATIONS OPERATING A PIPELINE

div. VIII; O.C. 1981-80, title XX, chap. III, div. VIII; R.R.Q., 1981, c. I-3, r.1, title XX, chap. III, div. VIII; O.C. 1707-97, s. 98.

"**771R38.** The proportion that the business carried on in Québec is of the aggregate of that carried on in Canada by a corporation operating a pipeline of water, gas or oil in Québec is one-half of the aggregate of

(*a*) the proportion that the number of kilometres of pipe of the corporation in Québec is of the number of kilometres of its pipe in all the provinces where it has an establishment; and

(*b*) the proportion that the salaries and wages paid by the corporation to employees of its establishment in Québec is of the aggregate of salaries and wages paid by that corporation in Canada.

s. 771R30; O.C. 1981-80, s. 771R30; O.C. 1535-81, s. 14; R.R.Q., 1981, c. I-3, r.1, s. 771R30; O.C. 523-96, s. 44; O.C. 1707-97, s. 98.

"**DIVISION IX

"NAVIGATION CORPORATIONS

div. IX; O.C. 1981-80, title XX, chap. III, div. IX; R.R.Q., 1981, c. I-3, r.1, title XX, chap. III, div. IX; O.C. 1707-97, s. 98.

"**771R39.** The proportion that the business carried on in Québec is of the aggregate of that carried on in Québec and elsewhere by a navigation corporation is the aggregate of

(*a*) the proportion resulting from the product obtained by multiplying

i. the proportion that its port-call-tonnage in Canada is of its total port-call-tonnage, by

ii. the proportion that its port-call-tonnage in Québec is of its total port-call-tonnage in all the provinces in which the corporation has an establishment; and

(*b*) where its port-call-tonnage in all countries exceeds its port-call-tonnage in Canada, the proportion resulting from the product obtained by multiplying

i. the proportion that that excess is of its port-call-tonnage in all countries, by

ii. the proportion that the salaries and wages paid by the corporation to the employees of its establishment in Québec, with the exception of those paid to employees working on ships, is of the salaries and wages paid by the corporation to employees of its establishments in Canada, with the exception of those paid to employees working on ships.

s. 771R31; O.C. 1981-80, s. 771R31; O.C. 1535-81, s. 15; R.R.Q., 1981, c. I-3, r.1, s. 771R31; O.C. 1707-97, s. 98.

"**771R40.** In this division, port-call-tonnage in a province or in a country is the aggregate of the products obtained by multiplying, for each ship operated by the corporation, the number of calls made in the year by that ship to ports in that province or that country, whichever applies, by the number of cubic metres of the registered net tonnage of that ship.

s. 771R32; O.C. 1981-80, s. 771R32; O.C. 1535-81, s. 16; R.R.Q., 1981, c. I-3, r.1, s. 771R32; O.C. 1707-97, s. 98.

"**DIVISION X

"DIVERSIFIED BUSINESS CORPORATIONS

div. X; O.C. 1981-80, title XX, chap. III, div. X; R.R.Q., 1981, c. I-3, r.1, title XX, chap. III, div. X; O.C. 1707-97, s. 98.

"**771R41.** Where a corporation is not referred to in Divisions I to IX and part of its business consists of operations normally carried out by a corporation referred to in those divisions, the corporation and the Minister may agree

(*a*) to apply the appropriate provisions of those divisions to that portion of its tax that may reasonably be attributable to operations normally carried out by a corporation referred to in one of those divisions; and

(*b*) to apply the provisions of Chapters I and II to the remainder of its tax.

s. 771R33; O.C. 1981-80, s. 771R33; R.R.Q., 1981, c. I-3, r.1, s. 771R33; O.C. 1707-97, s. 98.

"**CHAPTER IV

"FOREIGN CORPORATIONS

chap. IV; O.C. 1981-80, title XX, chap. IV; R.R.Q., 1981, c. I-3, r.1, title XX, chap. IV; O.C. 1707-97, s. 98.

"**771R42.** In this chapter, "foreign corporation" means a corporation legally incorporated outside Canada, whose head office is not situated in Canada and that carries on a business in Québec.

s. 771R34; O.C. 1981-80, s. 771R34; R.R.Q., 1981, c. I-3, r.1, s. 771R34; O.C. 1707-97, s. 57.

"**771R43.** The proportion that the business carried on in Québec is of the aggregate of that carried on in Canada by a foreign corporation is computed by taking into account only the business attributable to its establishments in Canada as though the business conducted by the corporation in Canada were a distinct business carried on by a distinct person.

s. 771R35; O.C. 1981-80, s. 771R35; R.R.Q., 1981, c. I-3, r.1, s. 771R35; O.C. 523-96, s. 44; O.C. 1707-97, s. 98.

"**771R44.** For the purposes of section 771R43, a foreign corporation must keep a branch or subdivision accounting system for the business attributable to its establishments in Canada, however, it may take into account in computing its income derived from that business, all expenses, wherever engaged by it, if those expenses may reasonably be attributable to an establishment in Canada.

s. 771R36; O.C. 1981-80, s. 771R36; R.R.Q., 1981, c. I-3, r.1, s. 771R36; O.C. 1707-97, s. 98.

"**771R45.** The Minister may rectify the accounts produced, correct errors and omissions therein or re-adjust to a reasonable value the remunerations and prices entered in the books of a foreign corporation.

The Minister may also determine the proportion of business carried on in Québec and that carried on in Canada by a foreign corporation, if

(*a*) the corporation does not keep any accounting system as prescribed under section 771R44;

(*b*) the accounting system referred to in that section is not adequate for that type of business; or

(*c*) the rectifications or corrections mentioned in this section cannot be effected.

s. 771R37; O.C. 1981-80, s. 771R37; R.R.Q., 1981, c. I-3, r.1, s. 771R37; O.C. 523-96, s. 44; O.C. 1707-97, s. 98.

"**771R46.** Subject to this chapter, Chapters I to III apply to establish the proportion that the business carried on in Québec is of the aggregate of that carried on in Canada by a foreign corporation.

s. 771R38; O.C. 1981-80, s. 771R38; R.R.Q., 1981, c. I-3, r.1, s. 771R38; O.C. 523-96, s. 44; O.C. 1707-97, s. 98.

"**TITLE XXVIII**

"PRESCRIBED VENTURE CAPITAL CORPORATIONS

title XX.1.2; O.C. 1149-2006, s. 37.

"**771.2.1.12R1.** For the purposes of section 771.2.1.12 of the Act, a prescribed venture capital corporation means a corporation referred to in section 21.19R1.

s. 771.2.1.12R1; O.C. 1149-2006, s. 37.

"**TITLE XXIX**

"SCIENTIFIC RESEARCH TAX CREDIT

title XXI.2; O.C. 421-88, s. 27.

"**776.7R1.** For the purposes of paragraph *a* of section 776.7 of the Act, a prescribed security is

(*a*) a share in respect of which a corporation has, not later than the last day of the month following the month in which it issued the share, designated an amount under subsection 4 of section 192 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(*b*) a security deemed, under subsection 5 of section 195 of the Income Tax Act, not to have been acquired for the purposes of section 127.3 of that Act;

(*c*) a security deemed, under subsection 6 of section 195 of the Income Tax Act, not to have been acquired, for the purposes of section 127.3 of that Act, before the end of the period mentioned in that subsection, but only during that period.

s. 776.7R1; O.C. 421-88, s. 27; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**776.10R1.** For the purposes of section 776.10 of the Act, the amount that a taxable Canadian corporation may designate in respect of a qualifying security issued by it is an amount equal to the amount designated by it in respect of the same security under subsection 4 of section 194 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 776.10R1; O.C. 421-88, s. 27; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**776.10R2.** A corporation must make the designation provided for in section 776.10 of the Act in respect of a qualifying security issued by it by forwarding to the Minister, in duplicate, a statement, with supporting documents, certifying that it has made a similar designation in respect of the same security under subsection 4 of section 194 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 776.10R2; O.C. 421-88, s. 27; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**776.12R1.** For the purposes of subparagraph *a* of the first paragraph of section 776.12 of the Act, the portion of an amount that a trust may attribute to an individual is the portion of that amount that it attributed to that individual under paragraph *a* of subsection 3 of section 127.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 776.12R1; O.C. 421-88, s. 27; O.C. 35-96, s. 86.

"**TITLE XXX**

"MINIMUM REPLACEMENT TAX

title XXI.3; O.C. 1114-92, s. 34.

"**776.50R1.** For the purposes of paragraph *b* of section 776.50 of the Act, a prescribed property is a property described in subparagraph *q* or *r* of the second paragraph of Class 10 in Schedule B.

s. 776.50R1; O.C. 1114-92, s. 34; O.C. 1539-93, s. 38.

"**TITLE XXXI**

"CHANGE OF RESIDENCE

title XXI.4; O.C. 1466-98, s. 71.

"**785.1R1.** For the purposes of subparagraph ii of paragraph *d* of section 785.1 of the Act, the amount prescribed to be included in the foreign accrual property income for a taxation year is an amount equal to the amount referred to in subparagraph ii of paragraph *d* of subsection 1 of section 128.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 785.1R1; O.C. 1466-98, s. 71.

"**TITLE XXXII**

"INSURANCE CORPORATION

title XXIII; O.C. 1981-80, title XXIII; R.R.Q., 1981, c. I-3, r.1, title XXIII; O.C. 1707-97, s. 98.

"**CHAPTER I**

"APPLICATION

chap. 0.1; O.C. 1463-2001, s. 73.

"**818R1.** Chapters IX and X apply from the taxation year 1999 and Chapters II to VIII apply to taxation years that are prior to the taxation year 1999.

s. 818R0.1; O.C. 1463-2001, s. 73.

"**CHAPTER II**

"INTERPRETATION

chap. I; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, title XXIII, chap. I.

"**818R2.** In Chapters II to XIV, XVI and XX,

"attributed surplus for the year" of a non-resident insurer, for a taxation year, means the aggregate of its property and casualty insurance surplus for the year and the amount obtained by multiplying the excess determined for the year pursuant to the second paragraph of section 818R18 in respect of the insurer by its life surplus factor for the year;

"Canadian equity property" means

(*a*) a share of the capital stock of a corporation resident in Canada, other than a designated corporation, or an income bond, a development bond or a small business bond issued by a person resident in Canada, other than a designated corporation, or by a partnership, as the case may be; or

(*b*) the proportion of shares of the capital stock of a designated corporation, an interest in a partnership or an interest in a trust, that the value for the year of all Canadian equity property owned by the designated corporation, partnership or trust, as the case may be, is of value for the year of all property owned by the designated corporation, partnership or trust, as the case may be;

"Canadian investment fund for the year", for a taxation year, in respect of a life insurer resident in Canada and a life insurer not resident in Canada, means the amount determined under Chapter III;

"Canadian reserve liabilities" of an insurer, at the end of a taxation year, means the aggregate of its liabilities and reserves in respect of its insurance policies in Canada, excluding its liabilities and reserves in respect of an amount payable out of a segregated fund, as determined at the end of the year for the purposes of the Superintendent of Financial Institutions, or that would be determined at that time if the Superintendent of Financial Institutions required such a determination;

"designated corporation", in respect of an insurer, at any time in a taxation year, means a corporation in respect of which the insurer or the insurer and a person or partnership that does not deal at arm's length with the insurer hold, at any time in the year, shares representing not less than 30% of the common shares of the corporation outstanding at that time;

"equity property" means

(*a*) a share of the capital stock of a corporation, other than a designated corporation, or an income bond, a development bond or a small business bond issued by a person, other than a designated corporation, or by a partnership, as the case may be; or

(*b*) the proportion of shares of the capital stock of a designated corporation, an interest in a partnership or an interest in a trust that the value for the year of all equity property owned by the designated corporation, partnership or trust, as the case may be, is of the value for the year of all property owned by the designated corporation, partnership or trust, as the case may be;

"foreign policy loan" means an amount advanced at a particular time by an insurer to a policyholder in accordance with the terms and conditions of a life insurance policy that is not a life insurance policy in Canada;

"gross Canadian life investment income" of a life insurer for a taxation year means the amount by which the aggregate of the following amounts exceeds the aggregate determined under section 818R3 for the year in respect of the insurer:

(*a*) the portion of its gross investment revenue for the year derived from its non-segregated property used or held by it in the year in the course of carrying on its life insurance business in Canada;

(*b*) the amounts included in computing its income for the year under paragraphs *b* and *c* of section 844 of the Act;

(*c*) the amount included in computing its income for the year under subparagraph *b* of the first paragraph of section 825 of the Act;

(*d*) the portion of the amount included in computing its income for the year under paragraph *d* of section 87 of the Act in respect of amounts deducted in computing its income for the preceding taxation year under section 140 of the Act in respect of a Canadian security, within the meaning of paragraph *c* of section 835 of the Act, as it read before being struck out, that it owns;

(*e*) the amount included in computing its gains for the year from the disposition of property, other than a Canadian security or capital property;

(*f*) the amount included in computing its taxable capital gains for the year from the disposition of property; and

(*g*) the amount deducted in computing its income for the preceding taxation year under paragraph *c* of section 840 of the Act, as that paragraph read for that year;

"gross investment revenue" of an insurer has the meaning assigned by section 825 of the Act;

"insurance policy in Canada" means

(*a*) in the case of a life insurance policy, a life insurance policy in Canada;

(*b*) in the case of a fire insurance policy, a policy issued or effected upon property situated in Canada; and

(*c*) in the case of any other insurance policy, a policy issued or effected to insure risks that were ordinarily covered within Canada at the time the policy was issued or effected;

"maximum tax actuarial reserve" of an insurer in respect of a particular class of life insurance policies for a taxation year means the maximum amount deductible, in computing its income, pursuant to paragraph *a* of section 840 of the Act as reserves for the year in respect of policies of that class;

"mean amount on deposit" with an insurer for a taxation year in respect of life insurance policies means one-half of the aggregate of the amounts on deposit with the insurer at the end of the year in respect of those policies and the amounts that were so on deposit at the end of the preceding taxation year in respect of those policies;

"mean Canadian reserve liabilities" of an insurer for a taxation year means one-half of the aggregate of its Canadian reserve liabilities at the end of the year and its Canadian reserve liabilities at the end of the preceding taxation year;

"mean maximum tax actuarial reserve" of an insurer in respect of a particular class of life insurance policies for a taxation year means one-half of the aggregate of its maximum tax actuarial reserve in respect of that class of policies for the year and its maximum tax actuarial reserve in respect of that class of policies for the preceding taxation year;

"mean policy loans and foreign policy loans" of an insurer, for a taxation year, means one-half of the aggregate of its policy loans and foreign policy loans at the end of the year and of its policy loans and foreign policy loans at the end of the preceding taxation year;

"mean policy loans" of an insurer, for a taxation year, means one-half of the aggregate of its policy loans at the end of the year and of its policy loans at the end of the preceding taxation year;

"mean total reserve liabilities" of an insurer for a taxation year means one-half of the aggregate of its total reserve liabilities at the end of the year and its total reserve liabilities at the end of the preceding taxation year;

"policy loan", "segregated fund", "amount payable", "segregated fund policy" and "participating life insurance policy" have the meaning assigned by section 835 of the Act;

"property and casualty insurance surplus" of an insurer, for a taxation year, means the aggregate of the following amounts obtained by using the amounts that the insurer has reported to the Superintendent of Financial Institutions as reserves and allowances in respect of its property and casualty insurance business:

(*a*) 15% of one-half of the aggregate of its allowance for unearned premiums at the end of the year and its allowance for unearned premiums at the end of the preceding taxation year;

(*b*) 15% of one-half of the aggregate of its allowance for unpaid settlement claims and settlement expenses at the end of the year and its allowance for unpaid settlement claims and settlement expenses at the end of the preceding taxation year; and

(*c*) one-half of the aggregate of its investment valuation reserve at the end of the year and its investment valuation reserve at the end of the preceding taxation year.

"Superintendent of Financial Institutions" has the meaning assigned by paragraph *a* of section 835 of the Act before being struck out;

"surplus funds derived from operations" has the meaning assigned by paragraph *l* of section 835 of the Act;

"total depreciation" has the meaning assigned by subparagraph *b* of the first paragraph of section 93 of the Act;

"total reserve liabilities" of an insurer, at the end of a taxation year, means the aggregate of its liabilities and reserves in respect of the aggregate of its insurance policies, excluding the liabilities and reserves in respect of an amount payable out of a segregated fund, as determined at the end of the year for the purposes of the Superintendent of Financial Institutions;

s. 818R1; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R1; O.C. 91-94, s. 53; O.C. 67-96, s. 49; O.C. 1707-97, s. 58; O.C. 1466-98, s. 126; O.C. 1463-2001, s. 74; O.C. 1470-2002, s. 50; O.C. 1282-2003, s. 49.

"**818R3.** The aggregate that is required to be determined for the purposes of the definition of "gross Canadian life investment income" in section 818R2 for a taxation year in respect of an insurer is the aggregate of

(*a*) the amounts that it deducts under paragraphs *d* and *e* of section 841 of the Act in computing its income for the year;

(*b*) the amount that it deducts under section 140 of the Act in computing its income for the year in respect of a Canadian security, within the meaning of paragraph *c* of section 835 of the Act, as it read before being struck out;

(*c*) the amount that it includes in computing its losses for the year resulting from the disposition of property other than a Canadian security or capital property; and

(*d*) the amount that it includes in computing its allowable capital losses for the year resulting from the disposition of property.

s. 818R1.1; O.C. 91-94, s. 54; O.C. 1463-2001, s. 75.

"**818R4.** For the purposes of the application of Chapters II to XIV and XVI and except as expressly otherwise provided therein, where the expression "preceding taxation year" refers to the 1977 taxation year of an insurer, the definitions included therein apply as if those chapters would apply to that taxation year of the insurer.

s. 818R2; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R2.

"**818R5.** Unless otherwise provided in Chapters II to XIV and XX, where the expression "preceding taxation year" is used in a provision of those chapters and refers to the 1987 taxation year of an insurer, that provision is to be read as if the definitions in those chapters applied to the insurer's 1987 taxation year.

s. 818R2.1; O.C. 91-94, s. 55.

"**818R6.** For the purposes of Chapters II to XIV, XVI and XX, any amount determined in foreign currency must be converted, as required for the purposes of the Superintendent of Financial Institutions, to Canadian currency using the rate of exchange in force on the date in respect of which the amount is determined.

s. 818R3; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R3; O.C. 91-94, s. 56.

"**CHAPTER III**

"CANADIAN INVESTMENT FUND OF AN INSURER

chap. II; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. II.

"**818R7.** For the purposes of Chapters II to XIV, XVI and XX, the Canadian investment fund, at the end of a taxation year, of a life insurer resident in Canada corresponds to the positive amount established according to the following formula:

[A / B (C − D)] − E.

In the formula in the first paragraph,

(*a*) A is the insurer's Canadian reserve liabilities at the end of the year;

(*b*) B is the insurer's total reserve liabilities at the end of the year;

(*c*) C is the total of the following amounts:

i. the aggregate of the insurer's policy loans and foreign policy loans at the end of the year, and

ii. the value, at the end of the year, of the aggregate of the insurer's investment property, its money and the amounts, other than its investment property and money, deposited to its credit with a corporation authorized to accept deposits or to offer services as a trustee;

(*d*) D is the total of the following amounts:

i. the aggregate of the amounts owing by the insurer at the end of the year, other than an amount described in subparagraph ii and the amount of a debt described in the second paragraph of section 818R27, in respect of money borrowed by it, other than money used by it in order to earn income from a source that is not an insurance business, and

ii. the aggregate of the amounts each of which represents the amount of a cheque outstanding at the end of the year drawn on an account of the insurer with a corporation authorized to accept deposits or to offer services as a trustee; and

(*e*) E is the aggregate of the insurer's policy loans at the end of the year.

s. 818R4; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R4; O.C. 91-94, s. 57; O.C. 1707-97, s. 98; O.C. 1466-98, s. 126; O.C. 1470-2002, s. 51.

"**818R8.** For the purposes of section 818R7 and despite the definitions of "Canadian reserve liabilities" and "total reserve liabilities" in section 818R2, the insurer referred to in that section 818R7 must determine its liabilities and reserves in respect of its insurance policies outside Canada using the same method as that used for the determination of its liabilities and reserves in respect of its insurance policies in Canada.

s. 818R6; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R6.

"**818R9.** In Chapters II to XIV, XVI and XX, the Canadian investment fund, at the end of a taxation year, of an insurer not resident in Canada means the amount by which the aggregate determined under section 818R10 exceeds the aggregate of

(*a*) the value, at the end of the year, of its property referred to in paragraph *e* of section 818R38 in respect of all its insurance businesses in Canada, excluding money or any amount on deposit to its credit with a corporation authorized to accept deposits or to offer services as a trustee; and

(*b*) its deferred acquisition expenses in respect of its property and casualty insurance business in Canada, as determined by the insurer either in its annual report filed with the Superintendent of Financial Institutions for the year or, where the insurer was subject to the supervision of the Superintendent of Financial Institutions throughout the year but was not required to file an annual report with the Superintendent for the year, in its financial statements for the year.

s. 818R7; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R7; O.C. 91-94, s. 59; O.C. 1707-97, s. 98; O.C. 1463-2001, s. 76.

"**818R10.** The aggregate referred to in section 818R9 in respect of an insurer referred to therein is an amount that is

(*a*) its maximum tax actuarial reserve for the year;

(*b*) the maximum amount that it may deduct under paragraph *a*.1 of section 840 of the Act for the year;

(*c*) the maximum amount that it is entitled to deduct under the second paragraph of section 152 of the Act in computing its income for the year, determined on the assumption that the only insurance business, other than a life insurance business, carried on by it in Canada is an accident and sickness insurance business;

(*d*) the amount of the policy dividends, to the extent that they are not included under paragraph *a* or *c*, that, according to the annual report filed by the insurer with the Superintendent of Financial Institutions for the year or, where the insurer was subject to the supervision of the Superintendent of Financial Institutions throughout the year but was not required to file an annual report with the Superintendent for the year, according to its financial statements for the year, will become payable by the insurer during the following year under its participating life insurance policies;

(*e*) liabilities incurred or reserves deducted in the course of carrying on its property and casualty insurance business in Canada, as determined by the insurer in its annual report for the year filed with the Superintendent of Financial Institutions or, where the insurer was subject to the supervision of the Superintendent of Financial Institutions throughout the year but was not required to file an annual report with the Superintendent for the year, in its financial statements for the year, except to the extent that those amounts are already included under paragraph *c*;

(*f*) a debt owing by it at the end of the year and incurred by it in the course of carrying on its insurance business in Canada, other than a property and casualty insurance business in Canada, except to the extent that it is already included under any of paragraphs *a*, *b* and *d*; and

(*g*) the amount that is the greater of its "attributed surplus for the year" for the taxation year or the amount by which the aggregate of its surplus fund derived from operations at the end of the preceding taxation year and the amounts in respect of which it made an election under subsection 4 or 5.2 of section 219 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), to the extent that those amounts are included in the aggregate determined in respect of the insurer at the end of its preceding taxation year under subparagraph *i*.1 of paragraph *a* of subsection 4 of section 219, exceeds the aggregate referred to in subparagraphs ii to v of paragraph *a* of subsection 4 of section 219 in respect of the insurer at the end of the year.

s. 818R8; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R8; O.C. 2962-82, s. 79; O.C. 500-83, s. 79; O.C. 91-94, s. 60; O.C. 35-96, s. 86; O.C. 1463-2001, s. 77.

"**818R11.** For the purposes of paragraphs *e* and *f* of section 818R10, a liability or a debt does not include a debt referred to in the second paragraph of section 818R27.

In addition, for the purposes of paragraph *e* of section 818R10, a reserve does not include the insurer's investment valuation reserve.

s. 818R9; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R9; O.C. 1463-2001, s. 78.

"**CHAPTER IV**

"CANADIAN INVESTMENT FUND FOR THE YEAR OF AN INSURER

chap. II.1; O.C. 91-94, s. 61.

"**818R12.** The Canadian investment fund for the year of an insurer, for a taxation year, is equal to the aggregate, for that taxation year, of the mean Canadian investment fund for the year of the insurer and the amount determined in its respect under section 818R14.

s. 818R9.1; O.C. 91-94, s. 61.

"**818R13.** In this chapter, "mean Canadian investment fund for the year" means, for a taxation year,

(*a*) in respect of a life insurer resident in Canada, one-half of the aggregate of its Canadian investment fund at the end of the year and that fund at the end of the preceding taxation year; and

(*b*) in respect of an insurer not resident in Canada, one-half of the aggregate of its Canadian investment fund at the end of the year and the amount that would constitute its Canadian investment fund at the end of the preceding taxation year if its attributed surplus for the year for that preceding year corresponded to its attributed surplus for the year for the taxation year.

s. 818R9.2; O.C. 91-94, s. 61.

"**818R14.** Subject to section 818R15, the amount that is required to be determined for the purposes of section 818R12 for a taxation year in respect of an insurer is established according to the following formula:

1/2 [A − ((B + 3C + 5D + 7E) / F)].

In the formula in the first paragraph,

(*a*) A is the total of the amounts determined in paragraphs *b* to *e*;

(*b*) B is the positive or negative amount, as the case may be, determined under section 818R16 in respect of the insurer for the first quarter of the year;

(*c*) C is the positive or negative amount, as the case may be, determined under section 818R16 in respect of the insurer for the second quarter of the year;

(*d*) D is the positive or negative amount, as the case may be, determined under section 818R16 in respect of the insurer for the third quarter of the year; and

(*e*) E is the positive or negative amount, as the case may be, determined under section 818R16 in respect of the insurer for the fourth quarter of the year;

(*f*) F is the quotient, rounded off to the next lower whole number where it is not a whole number, obtained by dividing the number of months in the taxation year by 3.

s. 818R9.3; O.C. 91-94, s. 61.

"**818R15.** Where the duration of an insurer's taxation year is less than one quarter, the amount determined under section 818R14 in respect of the insurer is deemed to be nil.

s. 818R9.4; O.C. 91-94, s. 61.

"**818R16.** For the purposes of section 818R14, the positive or negative amount that is required to be determined in respect of an insurer for a particular quarter of one of its taxation years is established according to the following formula:

A − B.

In the formula in the first paragraph,

(*a*) A is the aggregate of the following amounts:

i. a premium or consideration received by the insurer during the quarter in respect of an insurance contract or an annuity, including a settlement annuity, entered into in the course of carrying on its insurance businesses in Canada,

ii. an amount received by the insurer during the quarter as interest on or repayment in respect of a policy loan made under a life insurance policy in Canada, and

iii. an amount received by the insurer during the quarter in respect of reinsurance, other than reinsurance undertaken to effect the transfer of a business in respect of which any of sections 832.3, 832.7 and 832.9 of the Act applies, undertaken in the course of carrying on its insurance businesses in Canada and that is not otherwise described in subparagraph i or ii;

(*b*) B is the aggregate of

i. an indemnity or benefit, including payment of an annuity or a settlement annuity, payment of a policy dividend and an amount paid on lapsed or terminated policy, or a refund of premiums paid by the insurer during the quarter under an insurance contract or an annuity in the course of carrying on its insurance businesses in Canada,

ii. a policy loan made by the insurer during the quarter under a life insurance policy in Canada,

iii. a premium or a commission paid by the insurer during the quarter in respect of an insurance contract or an annuity in the course of carrying on its insurance businesses in Canada, and

iv. an amount paid by the insurer during the quarter in respect of reinsurance, other than reinsurance undertaken to effect the transfer of a business in respect of which any of sections 832.3, 832.7 and 832.9 of the Act applies, undertaken in the course of carrying on its insurance businesses in Canada and that is not otherwise described in any of subparagraphs i to iii.

s. 818R9.5; O.C. 91-94, s. 61; O.C. 1707-97, s. 59; O.C. 1466-98, s. 126; O.C. 1470-2002, s. 52.

"**CHAPTER V**

"LIFE INSURANCE SURPLUS FACTOR OF AN INSURER

chap. III; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, title XXIII, chap. III.

"**818R17.** In Chapters II to XIV, XVI and XX, the life insurance surplus factor, for a taxation year, of a life insurer not resident in Canada means,

(*a*) subject to section 818R20, where the insurer, pursuant to this paragraph, elects for the year in the manner provided for in section 818R19, the proportion, expressed as a percentage, that the excess amount determined under section 818R18 is of the excess amount referred to in the second paragraph of section 818R18;

(*b*) where the insurer does not make for the year the election provided for in paragraph *a* but has made such an election for one of the four preceding taxation years and, since the last taxation year in respect of which it has made that election, it has not selected, pursuant to this paragraph, the percentage referred to in paragraph *c* as life insurance surplus factor for one of those preceding years, the percentage selected by it for the year and being either the percentage determined in paragraph *c* or the percentage determined pursuant to paragraph *a* in respect of the last taxation year for which it has made the election provided for in the said paragraph *a*; and

(*c*) in the other cases, the percentage of 10%.

s. 818R10; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R10; O.C. 91-94, s. 62.

"**818R18.** The excess amount referred to in paragraph *a* of section 818R17 is the amount by which the amount that would have been for the insurer its Canadian investment fund for the year if it had been a life insurer resident in Canada registered under the Insurance Companies Act (Statutes of Canada, 1991, chapter 47) for the purposes of carrying on an insurance business in Canada and if the only insurance business, other than a life insurance business, carried on by it in Canada were an accident and sickness insurance business exceeds the amount determined under the second paragraph.

The amount to which the first paragraph refers is the amount by which one-half of the aggregate of the amounts described in paragraphs *a* to *d* and *f* of section 818R10 in respect of the insurer at the end of the year and those amounts at the end of the preceding taxation year exceeds the value for the year of the aggregate of its property referred to in paragraph *e* of section 818R38, excluding money and any amount on deposit to its credit with a corporation authorized to accept deposits or to offer services as a trustee, in respect of the aggregate of its insurance businesses in Canada, other than a property and casualty insurance business.

s. 818R11; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R11; O.C. 91-94, s. 63; O.C. 473-95, s. 19; O.C. 1707-97, s. 98; O.C. 1463-2001, s. 79.

"**818R19.** A non-resident life insurer makes the election under paragraph *a* of section 818R17 for a taxation year by enclosing with to its fiscal return, that it is required to file for the year pursuant to section 1000 of the Act, the following documents in duplicate:

(*a*) a letter stating that election; and

(*b*) a schedule mentioning the amount of the excess amount determined under section 818R18 in respect of the year, the amount of the value for the year of all the insurer's equity property, information adequate to enable the Minister to verify those amounts and, in the case of section 818R21, the position and jurisdiction of the person referred to therein to whom the insurer is required to report its reserves.

s. 818R12; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R12.

"**818R20.** Where an insurer has made the election referred to in section 818R19 and the information referred to in paragraph *b* of that section does not enable the Minister, on the advice of the Superintendent of Financial Institutions, to verify the amounts referred to in that paragraph, the insurer's life insurance surplus factor is that provided for in paragraph *c* of section 818R17.

s. 818R13; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R13; O.C. 91-94, s. 64.

"**818R21.** Despite the definition of "Superintendent of Financial Institutions" in section 818R2, an insurer that makes the election referred to in section 818R19 may, if it so provides in that election, compute the excess amount determined under section 818R18 by interpreting that expression as meaning the person of the country or political subdivision thereof to whom the insurer is required to report its reserves in respect of all the insurance businesses carried on by it.

s. 818R14; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R14; O.C. 91-94, s. 64; O.C. 1470-2002, s. 53.

"**CHAPTER VI**

"EQUITY LIMIT OF AN INSURER

chap. IV; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, title XXIII, chap. IV.

"**818R22.** For the purposes of Chapters II to XIV, XVI and XX, the life equity limit, for a taxation year, of a life insurer not resident in Canada means,

(*a*) where the insurer makes an election in respect of its life insurance surplus factor for the year in the manner provided for in section 818R19, the amount that would have been its equity limit for the year if it had been a life insurer resident in Canada registered under the Insurance Companies Act (Statutes of Canada, 1991, chapter 47) for the purposes of carrying on an insurance business in Canada and if the only insurance business, other than a life insurance business, carried on by it in Canada were an accident and sickness insurance business;

(*b*) where the insurer does not make the election referred to in paragraph *a* for the year but has made such an election for one of the four preceding taxation years and its life insurance surplus factor for the year is not determined pursuant to paragraph *c* of section 818R17, the amount that would be determined for the year pursuant to paragraph *a* if that latter paragraph applied and if the insurer used, as the amount determined under paragraph *a* of section 818R24, the amount determined under paragraph *a* of that section 818R24 in respect of the last taxation year for which such election was made by it; and

(*c*) in the other cases, the amount that is equal to 8% of its Canadian investment fund for the year.

s. 818R15; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R15; O.C. 91-94, s. 65; O.C. 473-95, s. 20; O.C. 1463-2001, s. 80.

"**818R23.** In Chapters II to XIV, XVI and XX, the equity limit for the year, in respect of a taxation year, means,

(*a*) in the case of a life insurer resident in Canada, the amount determined pursuant to section 818R24;

(*b*) in the case of a non-resident insurer, other than a life insurer, the amount determined pursuant to section 818R25; and

(*c*) in the case of a non-resident life insurer, the amount determined pursuant to section 818R26.

s. 818R16; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R16; O.C. 91-94, s. 66.

"**818R24.** The amount referred to in paragraph *a* of section 818R23 is equal to the greater of

(*a*) the proportion of the value for the year of the aggregate of the insurer's equity property that the amount by which its mean Canadian reserve liabilities for the year exceeds the aggregate of its mean policy loans for the year and one-half of the aggregate of its outstanding premiums in respect of its insurance businesses in Canada, as determined for the purposes of the Superintendent of Financial Institutions at the end of the year and of the preceding taxation year, is of the amount by which the insurer's mean total reserve liabilities exceeds the aggregate of its mean policy loans and foreign policy loans for the year and one-half of the aggregate of its outstanding premiums in respect of its insurance businesses in Canada, as determined for the purposes of the Superintendent of Financial Institutions at the end of the year and of the preceding taxation year; and

(*b*) 8% of the insurer's Canadian investment fund for the year.

s. 818R17; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R17; O.C. 91-94, s. 67; O.C. 1470-2002, s. 54.

"**818R25.** The amount referred to in paragraph *b* of section 818R23 is equal to one-quarter of the aggregate of

(*a*) the amount by which the insurer's mean Canadian reserve liabilities exceeds one-half of the aggregate of its deferred acquisition expenses and premiums receivable, at the end of the year and of the preceding taxation year, to the extent that those amounts were included in its Canadian reserve liabilities for those years, in respect of its business in Canada, as determined for the purposes of the Superintendent of Financial Institutions; and

(*b*) the insurer's property and casualty insurance surplus for the year.

s. 818R18; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R18; O.C. 91-94, s. 67; O.C. 1463-2001, s. 81.

"**818R26.** The amount referred to in paragraph *c* of section 818R23 is equal to the aggregate of

(*a*) the insurer's life equity limit for the year; and

(*b*) one-quarter of the aggregate of the insurer's property and casualty insurance surplus for the year and the amount equal to the amount by which its mean Canadian reserve liabilities for the year exceeds one-half of the aggregate of its deferred acquisition expenses and premiums receivable at the end of the year and of the preceding taxation year in respect of its business in Canada, as determined for the purposes of the Superintendent of Financial Institutions, to the extent that those amounts were included in its Canadian reserve liabilities for those years, determined on the assumption that the insurer's sole insurance business in Canada is a property and casualty insurance business.

s. 818R19; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R19; O.C. 91-94, s. 67; O.C. 1463-2001, s. 82.

"**CHAPTER VII**

"VALUATION AND VALUE FOR THE YEAR OF PROPERTY

chap. V; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, titre XXIII, chap. V.

"**818R27.** In Chapters II to XIV, XVI and XX, the value, at a particular time of a property of an insurer, designated corporation, trust or partnership, referred to in this chapter as the "owner", means, in respect of property referred to in section 818R28, the amount by which the amount provided for in that section in respect of such property exceeds the amount determined under the second paragraph.

The amount to which the first paragraph refers is the amount of any debt that the owner has incurred or assumed for the purpose of acquiring the property and that is outstanding at that time.

s. 818R20; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R20; O.C. 91-94, s. 68; O.C. 1707-97, s. 98.

"**818R28.** The amount referred to in the first paragraph of section 818R27 in respect of an owner's property means,

(*a*) where the property is property that is acquired and disposed of in the same taxation year, a land or a share of a corporation other than a designated corporation, its cost to the owner;

(*b*) where the property is a bond, a debenture, a hypothecary claim, a mortgage or an agreement of sale, other than a property that is acquired and disposed of in the same taxation year, its book value recorded in the books of the owner, as determined for the purposes of the Superintendent of Financial Institutions, or that would have been so determined if the owner had been a life insurer resident in Canada registered under the Insurance Companies Act (Statutes of Canada, 1991, chapter 47) for the purposes of carrying on an insurance business in Canada;

(*c*) where the property is an amount on deposit to the owner's credit with a corporation authorized to accept deposits or to offer services as a trustee, that amount;

(*d*) where the property is depreciable property of a prescribed class, other than property that is acquired and disposed of in the same taxation year, the proportion of the undepreciated capital cost to the owner, at the time referred to in section 818R27, of property of that class, that the capital cost of the property to the owner is of the capital cost for the owner of all property of that class;

(*e*) where the property is property that would have been depreciable property of a prescribed class if it had been situated in Canada and used or held in the year in the course of carrying on an insurance business in Canada, the amount by which its capital cost to the owner exceeds the amount of the total depreciation that would have been allowed to the owner, before the particular time referred to in section 818R27, in respect of the property if it had been the only depreciable property of that class and the owner had claimed the maximum amount allowable under paragraph *a* of section 130 of the Act in respect of property of that class for each year in which the owner owned the property; and

(*f*) in all other cases, the maximum value of the property determined for the purposes of the Superintendent of Financial Institutions, or that would have been so determined if the owner had been a life insurer resident in Canada registered under the Insurance Companies Act for the purposes of carrying on an insurance business in Canada.

s. 818R21; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R21; O.C. 91-94, s. 69; O.C. 473-95, s. 21; O.C. 1707-97, s. 98; O.C. 1466-98, s. 72.

" **818R29.** For the purposes of Chapters II to XIV, XVI and XX, the value for the year of a property of an owner for a taxation year means,

(*a*) where the property is a hypothecary claim, a mortgage, an agreement of sale or an investment property that is an amount on deposit to the credit of an insurer with a corporation authorized to accept deposits or to offer services as a trustee, the amount by which the quotient obtained when the gross investment income derived from the property for the year is divided by the average annual rate, expressed as a fraction, of the interest earned by the owner during the year on the amortized cost of the property exceeds the quotient obtained when the amount of the interest paid or payable for the year on a debt incurred for the purposes of acquiring the property is divided by the average annual rate of interest, expressed as a fraction, paid or payable by the owner on the debt for the year;

(*b*) in the case of a property, other than property referred to in paragraph *a*, that was not owned by the owner throughout the year, the proportion of either its valuation at the end of the preceding taxation year, where it was owned by the owner at that time, or its valuation, where it was acquired during the year, that the number of days during which the property may be considered to have been owned by the owner is of the number of days of the year; or

(*c*) in all other cases, one-half of the aggregate of the valuation of the property at the end of the year and its valuation at the end of the preceding taxation year.

s. 818R22; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R22; O.C. 91-94, s. 70; O.C. 1707-97, s. 98; O.C. 1466-98, s. 73.

" **CHAPTER VIII**

" PROPERTY USED OR HELD IN THE COURSE OF CARRYING ON AN INSURANCE BUSINESS IN CANADA

chap. VI; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. VI.

" **DIVISION I**

" GENERALITIES

div. I; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. VI, div. I.

" **818R30.** For the purposes of section 818 of the Act, the property used or held by an insurer in the year in the course of carrying on an insurance business in Canada referred to in Chapters II to XIV, XVI and XX as the "particular business", in respect of an insurer referred to in section 823 of the Act that carries on an insurance business in Canada and elsewhere, means the property of the insurer, each such property being referred to in those chapters as "insurance property" that it designates or is required to designate under section 818R38 for a taxation year.

s. 818R23; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R23; O.C. 91-94, s. 71.

" **818R31.** Despite any other provision of Chapters II to XIV, XVI and XX, an insurance property or an investment property of an insurer does not include a policy loan payable to the insurer.

s. 818R24; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R24; O.C. 91-94, s. 71; O.C. 1470-2002, s. 55.

" **DIVISION II**

" INVESTMENT PROPERTY OF AN INSURER

div. II; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. VI, div. II.

" **818R32.** For the purposes of Chapters II to XIV, XVI and XX, an investment property of an insurer for a taxation year means property that is not included in a segregated fund and is

(*a*) a property that the insurer has acquired for the purpose of earning gross investment revenue derived therefrom, excluding property described in section 818R33;

(*b*) the portion of property of the insurer that is property referred to in section 818R34, other than property that is a property a portion of which is an investment property pursuant to paragraph *c*, corresponding to the proportion of the property that the use made of the property in the year for the purpose of earning gross investment revenue derived therefrom is of the whole use of the property in the year;

(*c*) the portion of a property of the insurer that is property referred to in section 818R34, that is not used in the year for

the purpose of earning gross investment income, to the extent that it is held for resale or development or to the extent that, as may be expected, it will be used in a subsequent taxation year for the purpose of earning gross investment income; or

(*d*) subject to section 818R35, property of the insurer that is a share of a designated corporation the main business of which is not the making of loans and that does not carry on a business of insurance, banking or offering services as a trustee, a debt owing to the insurer by such a corporation, an interest in a trust or an interest in a partnership.

s. 818R25; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R25; O.C. 91-94, s. 72; O.C. 1707-97, s. 98.

"**818R33.** A property referred to in paragraph *a* of section 818R32 does not include

(*a*) a property a portion of which is an investment property of the insurer pursuant to paragraph *b* or *c* of section 818R32;

(*b*) a share of a designated corporation or a debt owing to the insurer by a designated corporation;

(*c*) an interest in a trust; or

(*d*) an interest in a partnership.

s. 818R26; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R26; O.C. 1707-97, s. 98.

"**818R34.** A property referred to in paragraph *b* or *c* of section 818R32 is a property that is a land, depreciable property or property that would be a depreciable property if it were situated in Canada and used or held in the year in the course of carrying on an insurance business in Canada.

s. 818R27; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R27.

"**818R35.** A property is a property referred to in paragraph *d* of section 818R32 only if the value for the year of the aggregate of investment property of the corporation, trust or partnership, as the case may be, referred to in that paragraph is not less than 75% of the value for the year of the aggregate of its property and its gross investment revenue for the year derived from that investment property, excluding the portion of that revenue arising from persons not dealing at arm's length with the corporation, trust or partnership, as the case may be, is not less than 90% of its gross revenue for the year.

s. 818R28; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R28; O.C. 1707-97, s. 98.

"**818R36.** For the purposes of section 818R35, the definitions of "gross investment revenue" of an insurer and "investment property" of an insurer apply with respect to a corporation, trust or partnership referred to in that section as though it were an insurer.

s. 818R29; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R29; O.C. 1707-97, s. 98.

"**DIVISION III**

"CANADIAN INVESTMENT PROPERTY OF AN INSURER

div. II.1; O.C. 91-94, s. 73.

"**818R37.** For the purposes of Chapters II to XIV, XVI and XX, Canadian investment property of an insurer for a taxation year means an investment property that, unless the insurer is not resident in Canada and it establishes that the investment property is not effectively connected with one of its insurance businesses in Canada, is one of the following properties:

(*a*) land or depreciable property situated in Canada and, for that purpose, depreciable property of an insurer leased by a person resident in Canada for use inside and outside Canada is deemed to be depreciable property situated in Canada;

(*b*) a Canadian equity property;

(*c*) a Canadian resource property;

(*d*) a hypothecary claim, mortgage, an agreement of sale or any other form of indebtedness in respect of property referred to in paragraph *a*;

(*e*) an amount in Canadian currency on deposit to the credit of the insurer with a corporation resident in Canada that is authorized to accept deposits or to offer services as a trustee;

(*f*) a bond, debenture or other form of indebtedness in Canadian currency, other than a property described in paragraph *d* or *e*, issued by

i. a person resident in Canada, a Canadian partnership or a partnership an interest in which is an investment property described in paragraph *g*,

ii. the Government of Canada,

iii. the government of a province, or

iv. by a political subdivision of Canada; or

(*g*) a property, to the extent that it is not a property described in paragraph *b*, that is a share of a designated corporation resident in Canada, an interest in a partnership or an interest in a trust resident in Canada, provided that not less than 75% of the value of the aggregate of the property of that corporation, partnership or trust, as the case may be, is constituted of property described in paragraphs *a* to *f*.

s. 818R29.1; O.C. 91-94, s. 73; O.C. 1707-97, s. 98; O.C. 1466-98, s. 74; O.C. 1463-2001, s. 83.

"**DIVISION IV**

"INSURANCE PROPERTY OF AN INSURER

div. III; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. VI, div. III.

"**818R38.** For the purposes of section 818R30, the following rules apply:

(*a*) the insurer must designate, in respect of the particular business for the year, the investment property owned by it at the beginning of the year that was insurance property of another insurance business in Canada for the preceding taxation year and that was, without reference to this section and section 818R30, used or held by it in the year in the course of carrying on the particular business;

(*b*) the insurer must designate, in respect of the particular business for the year, the investment property, other than the investment property that it is required to designate under paragraph *a* in respect of another insurance business in Canada of the insurer for the year, where that paragraph *a* applies in respect of that other business, that it owned at the beginning of the year, that constituted insurance property of the particular business for the preceding taxation year and whose value for the year is not less than the amount by which the mean Canadian reserve liabilities of the insurer for the year in respect of the particular business exceeds the aggregate of

i. the value for the year of the aggregate of the insurer's investment property that it is required to designate under paragraph *a* in respect of the particular business for the year,

ii. where the particular business is a life insurance business in Canada, the aggregate of the insurer's mean policy loans for the year and one-half of the aggregate of the insurer's outstanding premiums in respect of that insurance business in Canada, as determined at the end of the year and of the preceding taxation year for the purposes of the Superintendent of Financial Institutions,

iii. where the particular business is an accident and sickness insurance business in Canada, one-half of the aggregate of the insurer's outstanding premiums in respect of that insurance business in Canada, as determined at the end of the year and of the preceding taxation year for the purposes of the Superintendent of Financial Institutions, and

iv. where the particular business is an insurance business in Canada, other than a life insurance business in Canada or an accident and sickness insurance business in Canada, one-half of the aggregate of

(1) the aggregate of the insurer's deferred acquisition expenses and premiums receivable, to the extent that those amounts are included in its Canadian reserve liabilities, in respect of that insurance business in Canada, as determined at the end of the preceding taxation year for the purposes of the Superintendent of Financial Institutions, and

(2) the aggregate of the insurer's deferred acquisition expenses or premiums receivable, to the extent that those amounts are included in its Canadian reserve liabilities, in respect of that insurance business in Canada, as determined at the end of the year for the purposes of the Superintendent of Financial Institutions;

(*c*) the insurer must designate, in respect of the particular business for the year, the investment property, other than the investment property that it designated or that is required to be designated under paragraph *a* or *b* for the year, that it owns at any time in the year and whose value for the year is not less than the amount by which the amount of the excess amount determined under paragraph *b* in respect of the particular business for the year exceeds the value for the year of the aggregate of the insurance property in the preceding taxation year in respect of the particular business, that the insurer is required to designate for the year, under paragraph *b*, in respect of the particular business;

(*d*) the insurer must designate, in respect of the particular business for the year, the investment property, other than the investment property that it designated or is required to designate under any of paragraphs *a* to *c* for the year, that it owns at any time in the year and whose value for the year is not less than the amount by which the insurer's Canadian investment fund for the year exceeds the value for the year of the aggregate of the investment property that it designated or is required to designate under any of paragraphs *a* to *c* for the year in respect of all the insurance businesses in Canada;

(*e*) the insurer is deemed to have designated for the year the property or a portion thereof, used or held by it in the year in the course of carrying on an insurance business in Canada, determined without reference to this section and section 818R30, that is not included in a segregated fund and is owned by the insurer at any time in the year, excluding investment property; and

(*f*) where the insurer fails to designate property that was required to be designated for the year under paragraphs *a* to *d*, the Minister may, for the purposes of those paragraphs and despite section 818R41, designate on behalf of the insurer the property owned by it at any time in the year and, in such case, the property so designated by the Minister is deemed to have been designated by the insurer for the year, except that the value for the year of the aggregate of the designated property may not exceed the value that was required to be designated by the insurer under those paragraphs.

s. 818R30; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R30; O.C. 91-94, s. 74; O.C. 1463-2001, s. 84; O.C. 1470-2002, s. 56.

"**818R39.** For the purposes of sections 818R30 and 818R38, a property acquired by an insurer in a taxation year as consideration for or in exchange for a property of the insurer that was, for the year, insurance property in respect of a particular business for the preceding taxation year is deemed to be insurance property in respect of that particular business for that preceding taxation year where the acquisition results from an amalgamation within the

meaning of section 544 of the Act, a transaction in respect of which any of sections 301, 301.1, 301.3, 536, 540 and 541 of the Act applies, the winding-up of a corporation in respect of which section 556 of the Act applies or a transaction in respect of which an election under section 518 or 529 of the Act is made.

s. 818R36; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R36; O.C. 1471-91, s. 25; O.C. 91-94, s. 76; O.C. 1707-97, s. 60; O.C. 1466-98, s. 76; O.C. 1463-2001, s. 85.

"**818R40.** Despite sections 818R30, 818R38 and 818R42, the value for the year of Canadian equity property that may be designated in respect of all the insurance businesses in Canada of an insurer for a taxation year may not exceed the insurer's equity limit for the year.

s. 818R37; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R37; O.C. 91-94, s. 76.

"**818R41.** An insurer may not designate, under sections 818R30 and 818R38, for a taxation year, in respect of any of its insurance businesses in Canada, an investment property owned by it at any time in the year that was not, at the end of the preceding taxation year, insurance property in respect of any of its insurance businesses in Canada and that is used or held by it in the year in the course of carrying on an insurance business outside Canada.

s. 818R38; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R38; O.C. 91-94, s. 76.

"**818R42.** For the purposes of sections 818R30 and 818R38, the designation by an insurer, for a taxation year, of its investment property in respect of its insurance businesses in Canada must respect the following order:

(*a*) investment property that was owned by it at any time in the year and that constituted insurance property in respect of any of its insurance businesses in Canada at the end of the preceding taxation year;

(*b*) subject to section 818R41, investment property, other than investment property referred to in paragraph *a*, that is owned by it at any time in the year and constitutes Canadian investment property, which must be designated in the following order:

i. land and depreciable property situated in Canada,

ii. hypothecary claims, mortgages, agreements of sale or other forms of indebtedness in respect of property referred to in subparagraph i,

iii. other property; and

(*c*) subject to section 818R41, other investment property owned by it at any time in the year.

s. 818R38.1; O.C. 91-94, s. 77; O.C. 1466-98, s. 77.

"**818R43.** An insurer or the Minister may, for a taxation year, designate only a portion of a particular investment property under any of paragraphs *b* to *d* and *f* of section 818R38 where the designation of all the particular investment property would result in the value for the year of the aggregate of the investment property designated under section 818R38 for the year exceeding the value that is required to be designated by the insurer under that section.

s. 818R38.2; O.C. 91-94, s. 77.

"**818R44.** For the purposes of this chapter, where an insurer carries on in Canada, in a taxation year, a life insurance business and an insurance business other than a life insurance business, the following rules apply:

(*a*) paragraphs *a* to *c* of section 818R38 must be applied to designate the insurance property in respect of the insurer's insurance business other than a life insurance business before being applied to designate the insurance property in respect of its life insurance business;

(*b*) the property designated under section 818R38 in respect of any of the insurer's insurance businesses for a taxation year may not be designated, for the same year, in respect of another of its insurance businesses; and

(*c*) the investment property that is designated under paragraph *d* or *f* of section 818R38 in respect of any of the insurer's insurance businesses for a taxation year must be designated in respect of its insurance business in Canada

i. specified by the insurer for the year, where paragraph *d* of section 818R38 applies, or

ii. specified by the Minister for the year, where paragraph *f* of section 818R38 applies.

s. 818R42; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R42; O.C. 91-94, s. 79.

"**DIVISION V**

"TRANSITORY PROVISIONS

div. IV; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. VI, div. IV.

"**818R45.** This division governs the application of paragraph *c* of section 818R38 and sections 818R33 to 818R35 of the preceding Regulation, within the meaning of section 2000R1, for the 1978 taxation year of an insurer in respect of which was applied, for its 1977 taxation year, section 825 of the Act as it read for that latter year.

s. 818R43; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R43.

"**818R46.** Chapters II to XIV and XVI are to be read as if the definitions included therein applied to the 1977 taxation year of the insurer.

s. 818R44; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R44.

"**818R47.** The portion of the Canadian equity property owned by the insurer at the end of its 1977 taxation year and designated by it, in respect of a particular business, in its fiscal return that it is required to file for its 1978 taxation year pursuant to section 1000 of the Act, is deemed to be investment property of the particular business that, but for section 818R34 of the preceding Regulation, within the meaning of section 2000R1, would be property referred to in paragraph *c* of section 818R38.

s. 818R45; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R45.

"**818R48.** The aggregate valuation, at the end of the insurer's 1977 taxation year, of the Canadian equity property so designated pursuant to section 818R47 in respect of all its insurance businesses in Canada may not exceed the portion of its Canadian investment fund at the end of its 1977 taxation year, as determined in accordance with the provisions applicable to its 1978 taxation year, that is equal to,

(*a*) in the case of a life insurer resident in Canada, or a non-resident life insurer that has made, for its 1978 taxation year, the election referred to in section 818R19, the proportion of that Canadian investment fund that the aggregate valuation of its equity property is of the aggregate valuation of its investment property, at the end of the 1977 taxation year;

(*b*) in the case of a non-resident life insurer, other than an insurer referred to in paragraph *a*, 8% of that Canadian investment fund; and

(*c*) in all other cases, 25% of that Canadian investment fund.

s. 818R46; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R46.

"**818R49.** Where an insurer has made the election under section 825 of the Act for its 1977 taxation year, an investment property, other than a Canadian equity property, owned by the insurer at the end of that year and designated by it, in respect of a particular business, in its fiscal return for that year pursuant to the provisions of section 818 of the Act, is deemed to be an insurance property of the particular business for the 1977 taxation year.

For the purposes of this section, sections 818 and 825 of the Act are those that applied to the 1977 taxation year.

s. 818R47; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R47.

"**818R50.** Where an insurer has not made the election referred to in section 818R49 and has carried on only one insurance business in Canada in its 1977 taxation year, an investment property, other than a Canadian equity property, that is owned by the insurer at the end of that year and that is, for the insurer, a specified Canadian asset within the meaning of the regulatory provisions made under the second paragraph of section 838 of the Act as they applied to the 1977 taxation year, is deemed to be an insurance property of that insurance business for the 1977 taxation year.

s. 818R48; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R48.

"**818R51.** Where an insurer has not made the election referred to in section 818R49 and has carried on in Canada a life insurance business and an insurance business other than a life insurance business in its 1977 taxation year, the investment property, other than Canadian equity property, that was owned by the insurer at the end of that year, that is for the insurer, specified Canadian assets within the meaning of the regulations referred to in section 818R50, and the value of which for the year, in respect of the aggregate of such property, for the insurer's 1978 taxation year, is equal to the amount determined under section 818R52, is deemed to be insurance property of the insurance business in Canada other than a life insurance business for the 1977 taxation year.

In that case, any such other investment property that is a such specified Canadian asset is deemed to be an insurance property of the life insurance business for the 1977 taxation year.

s. 818R49; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R49.

"**818R52.** The amount referred to in section 818R51 is equal to the amount by which the insurer's mean Canadian reserve liabilities for its 1978 taxation year in respect of its insurance business in Canada other than a life insurance business exceeds the aggregate value for the year, in respect of the insurer's 1978 taxation year, of its insurance property of its insurance business in Canada other than a life insurance business that is referred to in paragraphs *a* and *b* of section 818R38.

s. 818R50; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, s. 818R50.

"**CHAPTER IX**

"INTERPRETATION AND GENERAL

chap. VI.0.0.1; O.C. 1463-2001, s. 86.

"**DIVISION I**

"DEFINITIONS

div. I; O.C. 1463-2001, s. 86.

"**818R53.** In Chapters IX to XIV, XVI and XX,

"attributed surplus" of an insurer not resident in Canada for a taxation year means the aggregate of the insurer's property and casualty insurance surplus for the year and

(*a*) where the insurer elects for the year in prescribed form, 50% of the aggregate of all amounts each of which would have been determined at the end of the taxation year or at the end of the preceding taxation year in respect of the insurer under section 818R56, if throughout the year or preceding taxation year, as the case may be, the insurer had been a

life insurer resident in Canada and had not carried on any insurance business other than a life insurance business or an accident and sickness insurance business; or

(*b*) where paragraph *a* does not apply, 120% of the aggregate of all amounts each of which is 50% of the amount determined in accordance with regulations and guidelines made under Part XIII of the Insurance Companies Act (Statutes of Canada, 1991, chapter 47) to be the margin of assets in Canada over liabilities in Canada required to be maintained by the insurer at the end of the year or at the end of the preceding taxation year in respect of an insurance business carried on in Canada, other than a property and casualty insurance business;

"Canadian business property" of an insurer for a taxation year in respect of an insurance business means

(*a*) if the insurer was resident in Canada throughout the year and did not carry on an insurance business outside Canada in the year, property used or held by it in the year in the course of carrying on the business in Canada; and

(*b*) in any other case, designated insurance property of the insurer for the year in respect of the business;

"Canadian equity property" of a person or partnership, in this definition referred to as the "taxpayer", at any time means property of the taxpayer that is

(*a*) a share of the capital stock of a corporation resident in Canada, other than a corporation affiliated with the taxpayer, or an income bond, income debenture, small business development bond or small business bond issued by a person resident in Canada, other than a corporation affiliated with the taxpayer, or a Canadian partnership; or

(*b*) that proportion of the shares of the capital stock of an entity that is a corporation affiliated with the taxpayer or an interest in an entity that is a partnership or trust that the total value for the taxation year or fiscal period of the entity that includes that time of Canadian equity property is of the total value for the taxation year or fiscal period of all property of the entity;

"Canadian investment fund" of an insurer at the end of a taxation year means the amount determined under Division II;

"Canadian investment property" of an insurer for a taxation year means an investment property of the insurer for the year, other than, if the insurer is not resident in Canada, property established by the insurer as not being effectively connected with its insurance business carried on in Canada in the year, that is, at any time in the year,

(*a*) immovable property situated in Canada;

(*b*) depreciable property situated in Canada or leased to a person resident in Canada for use inside or outside of Canada;

(*c*) an obligation secured by a hypothec or mortgage, an agreement of sale or any other form of indebtedness in respect of property described in paragraph *a* or *b*;

(*d*) a Canadian equity property;

(*e*) a Canadian resource property;

(*f*) a deposit balance of the insurer that is in Canadian currency;

(*g*) a bond, debenture or other form of indebtedness, in Canadian currency, issued by

i. a person resident in Canada or a Canadian partnership, or

ii. the Government of Canada or of a province, or any other political subdivision of Canada;

(*h*) a property that is a share of the capital stock of a corporation resident in Canada that is affiliated with the insurer or an interest in a Canadian partnership or a trust resident in Canada, if at least 75% of the value for the year of all property of the corporation, partnership or trust, as the case may be, is attributable to property that would be Canadian investment property if it were owned by an insurer; or

(*i*) an amount due or an amount accrued to the insurer on account of income that

i. is from designated insurance property for the year that is Canadian investment property of the insurer for the year because of any of paragraphs *a* to *h*, and

ii. was assumed in computing the insurer's Canadian reserve liabilities for the year;

"Canadian outstanding premiums" of an insurer at any time means the aggregate of all amounts each of which is the amount of an outstanding premium of the insurer in respect of an insurance policy at that time, to the extent that the amount of the premium has been assumed to have been paid in computing the insurer's Canadian reserve liabilities at that time;

"Canadian reserve liabilities" of an insurer at the end of a taxation year means the aggregate of the insurer's liabilities and reserves, other than liabilities and reserves in respect of a segregated fund, in respect of insurance policies each of which is

(*a*) a life insurance policy in Canada;

(*b*) a fire insurance policy issued or effected in respect of property situated in Canada; or

(*c*) an insurance policy of any other class covering risks ordinarily within Canada at the time the policy was issued or effected;

"carrying value" of a taxpayer's property for a taxation year, except as otherwise provided, means

(*a*) if the taxpayer is an insurer, the amounts reflected in the taxpayer's non-consolidated balance sheet at the end of the year that is accepted or, if that non-consolidated balance sheet had been prepared at the end of the year, that would have been accepted by

i. the Superintendent of Financial Institutions of Canada, where the insurer is required under the Insurance Companies Act to report to the Superintendent, or

ii. the Autorité des marchés financiers, the Superintendent of Insurance or other similar officer or authority of a province under the laws of which the insurer is incorporated and required by law to report to that officer or authority; and

(*b*) in any other case, the amounts that would have been reflected in the taxpayer's non-consolidated balance sheet at the end of the year if that non-consolidated balance sheet had been prepared in accordance with generally accepted accounting principles;

"deposit balance" of an insurer means an amount standing to the insurer's credit as or on account of amounts deposited with a corporation authorized to accept deposits or to carry on the business of offering to the public its services as a trustee;

"equity limit" of an insurer for a taxation year means the amount determined under Division III;

"equity property" of a person or partnership, in this definition referred to as the "taxpayer", at any time means property of the taxpayer that is

(*a*) a share of the capital stock of a corporation, other than a corporation affiliated with the taxpayer, or an income bond, income debenture, small business development bond or small business bond issued by a person, other than a corporation affiliated with the taxpayer, or partnership; or

(*b*) that proportion of the shares of the capital stock of an entity that is a corporation affiliated with the taxpayer or an interest in an entity that is a partnership or trust that the total value, for the taxation year or fiscal period of the entity that includes that time, of equity property of the entity is of the total value for the year or fiscal period of all property of the entity;

"financial institution" means a corporation that is

(*a*) a corporation described in any of paragraphs *a* to *e* of the definition of "restricted financial institution" in section 1 of the Act; or

(*b*) a particular corporation all or substantially all of the value of the assets of which is attributable to shares or indebtedness of one or more corporations referred to in paragraph *a* to which the particular corporation is affiliated;

"foreign policy loan" means an amount advanced by an insurer to a policyholder in accordance with the terms and conditions of a life insurance policy, other than a life insurance policy in Canada;

"gross Canadian life investment income" of a life insurer for a taxation year means the amount determined under Division IV;

"investment property" of an insurer for a taxation year means property described in section 818R64;

"mean Canadian investment fund" of an insurer for a taxation year means the amount determined under Division VII;

"mean Canadian outstanding premiums" of an insurer for a taxation year means 50% of the aggregate of its Canadian outstanding premiums at the end of the year and its Canadian outstanding premiums at the end of its preceding taxation year;

"mean Canadian reserve liabilities" of an insurer for a taxation year means 50% of the aggregate of its Canadian reserve liabilities at the end of the year and its Canadian reserve liabilities at the end of its preceding taxation year;

"mean maximum tax actuarial reserve" in respect of a particular class of life insurance policies of an insurer for a taxation year means 50% of the aggregate of its maximum tax actuarial reserve for that class of policies for the year and its maximum tax actuarial reserve for that class of policies for its preceding taxation year;

"mean policy loans" of an insurer for a taxation year means 50% of the aggregate of its policy loans at the end of the year and its policy loans at the end of its preceding taxation year;

"outstanding premiums" of an insurer with respect to an insurance policy at any time means premiums due to the insurer under the policy at that time but unpaid;

"property and casualty insurance surplus" of an insurer for a taxation year means the aggregate of the following amounts in respect of the insurer's property and casualty insurance business:

(*a*) 7.5% of the aggregate of its unearned premium reserve at the end of the year, its unearned premium reserve at the end of its preceding taxation year, its provision for unpaid claims and adjustment expenses at the end of the year and its provision for unpaid claims and adjustment expenses at the end of its preceding taxation year, each of those reserves and provisions being net of reinsurance recoverables; and

(*b*) 50% of the aggregate of its investment valuation reserve at the end of the year and its investment valuation reserve at the end of its preceding taxation year;

"reinsurance recoverable" means

(*a*) in respect of an insurance business, other than a life insurance business, of an insurer that is not resident in Canada, the aggregate of all amounts each of which is an item reported as an asset of the insurer at the end of a taxation year in respect of an amount recoverable from a reinsurer for unearned premiums or unpaid claims and adjustment expenses in respect of the reinsurance of a policy that was issued in the course of carrying on the insurance business to the extent that the amount is included in the insurer's Canadian reserve liabilities at that time and the amount is not an outstanding premium, policy loan or investment property; and

(*b*) in any other case, nil;

"value" for a taxation year of a property of a person or partnership means the amount determined under Division VI;

"weighted Canadian liabilities" of an insurer at the end of a taxation year means the aggregate of

(*a*) 300% of the amount by which the aggregate of all amounts each of which is an amount that is in respect of an insurance business carried on by the insurer in Canada and that is reported as a liability, other than a liability in respect of an amount payable out of a segregated fund, of the insurer in respect of a life insurance policy in Canada, other than an annuity, or an accident and sickness insurance policy at the end of the year exceeds the aggregate of the insurer's policy loans, other than policy loans in respect of annuities, at the end of the year; and

(*b*) the amount by which the aggregate of all amounts each of which is an amount in respect of an insurance business carried on by the insurer in Canada that is reported as a liability of the insurer at the end of the year exceeds the aggregate of the insurer's policy loans in respect of annuities at the end of the year, except to the extent that the amount is

i. in respect of an insurance policy described in paragraph *a*,

ii. a liability in respect of an amount payable out of a segregated fund, or

iii. a debt incurred or assumed by the insurer to acquire a property of the insurer;

"weighted total liabilities" of an insurer at the end of a taxation year means the aggregate of

(*a*) 300% of the amount by which the aggregate of all amounts each of which is an amount that is in respect of an insurance business carried on by the insurer and that is reported as a liability, other than a liability in respect of an amount payable out of a segregated fund, of the insurer in respect of a life insurance policy, other than an annuity, or an accident and sickness insurance policy exceeds the aggregate of the insurer's policy loans and foreign policy loans, other than policy loans and foreign policy loans in respect of annuities, at the end of the year; and

(*b*) the amount by which the aggregate of all amounts each of which is an amount in respect of an insurance business carried on by the insurer that is reported as a liability of the insurer at the end of the year exceeds the aggregate of the insurer's policy loans and foreign policy loans in respect of annuities at the end of the year, except to the extent that the amount is

i. in respect of an insurance policy described in paragraph *a*,

ii. a liability in respect of an amount payable out of a segregated fund, or

iii. a debt incurred or assumed by the insurer to acquire a property of the insurer.

s. 818R51; O.C. 1463-2001, s. 86; O.C. 1282-2003, s. 50; O.C. 1149-2006, s. 38.

" **DIVISION II**

" CANADIAN INVESTMENT FUND OF AN INSURER

div. II; O.C. 1463-2001, s. 86.

" **818R54.** The Canadian investment fund of an insurer at the end of a taxation year is

(*a*) in the case of a life insurer resident in Canada, the amount described in section 818R55; or

(*b*) in the case of a life insurer not resident in Canada, the amount described in section 818R57.

s. 818R52; O.C. 1463-2001, s. 86.

" **818R55.** The amount to which paragraph *a* of section 818R54 refers in respect of an insurer at the end of a taxation year is equal to the aggregate of the amount described in section 818R56 and the amount determined by the formula

A − B.

In the formula in the first paragraph,

(*a*) A is the amount of the insurer's Canadian reserve liabilities at the end of the year, to the extent that the amount exceeds the amount of surplus appropriations included in that amount; and

(*b*) B is the amount of the insurer's Canadian outstanding premiums and policy loans at the end of the year, to the extent that the Canadian outstanding premiums and the amount of policy loans are in respect of policies referred to in paragraphs *a* to *c* of the definition of "Canadian reserve liabilities" in section 818R53 and were not otherwise deducted in computing the amount of the insurer's Canadian reserve liabilities at the end of the year.

s. 818R53; O.C. 1463-2001, s. 86.

"**818R56.** The amount to which the first paragraph of section 818R55 refers in respect of an insurer at the end of a taxation year is equal to the greater of

(*a*) the amount determined by the formula

A + ((B − C + D) × (E / F)); and

(*b*) the amount determined by the formula

(G − H + I + B) × (E / F).

In the formulas in the first paragraph,

(*a*) A is 8% of the amount determined by the formula in the first paragraph of section 818R55;

(*b*) B is the aggregate of all amounts each of which is the amount of a deferred realized net gain or an amount expressed as a negative number of a deferred realized net loss of the insurer at the end of the year;

(*c*) C is the aggregate of all amounts each of which is the amount of an item reported as an asset that is owned by the insurer at the end of the year and is a share of the capital stock of, or a debt owing to the insurer by, a financial institution affiliated with the insurer;

(*d*) D is the aggregate of all amounts each of which is the amount at the end of the year of a debt incurred or assumed by the insurer in respect of the acquisition of an asset described in paragraph *c* or another property for which such an asset is a substituted property;

(*e*) E is the amount of the insurer's weighted Canadian liabilities at the end of the year;

(*f*) F is the amount of the insurer's weighted total liabilities at the end of the year;

(*g*) G is the aggregate of all amounts each of which is the amount of an item reported as an asset of the insurer at the end of the year, other than an item that at no time in the year was used or held by the insurer in the course of carrying on an insurance business;

(*h*) H is the aggregate of all amounts each of which is the amount of an item reported as a liability of the insurer at the end of the year in respect of an insurance business carried on by the insurer in the year, other than a liability that was at any time in the year connected with an asset that was not used or held by the insurer in the course of carrying on an insurance business at any time in the year; and

(*i*) I is the aggregate of all amounts each of which is an amount of an item reported by the insurer at the end of the year as a general provision or allowance for impairment.

s. 818R54; O.C. 1463-2001, s. 86.

"**818R57.** The amount to which paragraph *b* of section 818R54 refers in respect of an insurer at the end of a taxation year is equal to the aggregate of

(*a*) the amount by which the amount of the insurer's Canadian reserve liabilities at the end of the year exceeds the aggregate of

i. the total of the insurer's Canadian outstanding premiums, policy loans and reinsurance recoverables at the end of the year, to the extent that each of those amounts is in respect of policies referred to in paragraphs *a* to *c* of the definition of "Canadian reserve liabilities" in section 818R53 and was not otherwise deducted in computing the amount of the insurer's Canadian reserve liabilities at the end of the year, and

ii. the amount of the insurer's deferred acquisition expenses at the end of the year in respect of its property and casualty insurance business carried on in Canada; and

(*b*) the greatest of

i. the aggregate of

(1) 8% of the amount described in paragraph *a*, and

(2) the aggregate of all amounts each of which is an amount of a deferred realized net gain or an amount expressed as a negative number of a deferred realized net loss of the insurer at the end of the year in respect of an insurance business carried on by the insurer in Canada,

ii. the amount by which the aggregate of the following amounts exceeds the aggregate of all amounts each of which is an amount described in any of subparagraphs ii to v of paragraph *a* of subsection 4 of section 219 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the insurer at the end of the year:

(1) the amount of the insurer's surplus funds derived from operations at the end of its preceding taxation year,

(2) the aggregate described in subparagraph 2 of subparagraph i, to the extent that it is not included in the amount described in subparagraph 1, and

(3) the aggregate of all amounts in respect of which the insurer made an election under subsection 4 or 5.2 of section 219 of the Income Tax Act, each of which is an amount included in the aggregate determined in respect of the insurer at the end of its preceding taxation year under subparagraph i.1 of paragraph *a* of subsection 4 of that section 219, and

iii. the aggregate of

(1) the amount of the insurer's attributed surplus for the year, and

(2) where the amount described in subparagraph 1 was determined without the taxpayer electing under paragraph *a* of the definition of "attributed surplus" in section 818R53, the amount described in subparagraph 2 of subparagraph i.

s. 818R55; O.C. 1463-2001, s. 86.

"**DIVISION III**

"EQUITY LIMIT OF AN INSURER

div. III; O.C. 1463-2001, s. 86.

"**818R58.** The equity limit of an insurer for a taxation year is

(*a*) in respect of a life insurer resident in Canada, the amount described in section 818R59;

(*b*) in respect of an insurer not resident in Canada, other than a life insurer, the amount described in section 818R60; or

(*c*) in respect of a life insurer not resident in Canada, the amount described in section 818R61.

s. 818R56; O.C. 1463-2001, s. 86.

"**818R59.** The amount to which paragraph *a* of section 818R58 refers in respect of an insurer for a taxation year is equal to that proportion of the aggregate of all amounts each of which is the value for the year of an equity property of the insurer that the insurer's weighted Canadian liabilities at the end of the year is of the insurer's weighted total liabilities at the end of the year.

s. 818R57; O.C. 1463-2001, s. 86.

"**818R60.** The amount to which paragraph *b* of section 818R58 refers in respect of an insurer for a taxation year is equal to 25% of the aggregate of

(*a*) the amount by which the insurer's mean Canadian reserve liabilities for the year exceeds the aggregate of

i. 50% of the aggregate of its premiums receivable and deferred acquisition expenses at the end of the year and its premiums receivable and deferred acquisition expenses at the end of its preceding taxation year to the extent that those amounts were included in the insurer's Canadian reserve liabilities for the year or the preceding taxation year, as the case may be, in respect of the insurer's business in Canada, and

ii. 50% of the aggregate of its reinsurance recoverables at the end of the year and its reinsurance recoverables at the end of the preceding taxation year that are in respect of policies referred to in paragraphs *b* and *c* of the definition of "Canadian reserve liabilities" in section 818R53; and

(*b*) the insurer's property and casualty insurance surplus for the year.

s. 818R58; O.C. 1463-2001, s. 86.

"**818R61.** The amount to which paragraph *c* of section 818R58 refers in respect of an insurer for a taxation year is equal to the aggregate of

(*a*) either

i. if the insurer makes an election referred to in paragraph *a* of the definition of "attributed surplus" in section 818R53 for the year, the greater of

(1) that proportion of the aggregate of all amounts each of which is the value for the year of an equity property of the insurer that the insurer's weighted Canadian liabilities at the end of the year is of the insurer's weighted total liabilities at the end of the year, and

(2) 8% of the insurer's mean Canadian investment fund for the year, or

ii. where subparagraph i does not apply, the amount described in subparagraph 2 of subparagraph i in respect of the insurer;

(*b*) 25% of the amount by which the insurer's mean Canadian reserve liabilities for the year exceeds 50% of the aggregate of its premiums receivable and deferred acquisition expenses at the end of the year and its premiums receivable and deferred acquisition expenses at the end of its preceding taxation year, to the extent that those amounts were included in the insurer's Canadian reserve liabilities at the end of the year or the preceding taxation year, as the case may be; and

(*c*) 25% of the insurer's property and casualty insurance surplus for the year.

For the purposes of subparagraph *b* of the first paragraph, the insurer's mean Canadian reserve liabilities for the year or the insurer's Canadian reserve liabilities at the end of a taxation year is determined on the assumption that the insurer's property and casualty insurance business carried on in Canada during the year was its only insurance business carried on in Canada that year.

s. 818R59; O.C. 1463-2001, s. 86.

"**DIVISION IV**

"GROSS CANADIAN LIFE INVESTMENT INCOME OF AN INSURER

div. IV; O.C. 1463-2001, s. 86.

"**818R62.** The gross Canadian life investment income of a life insurer for a taxation year means the amount by which the aggregate of all amounts each of which is any of the following amounts exceeds the amount described in section 818R63:

(*a*) the insurer's gross investment revenue for the year, to the extent that the revenue is from Canadian business property of the insurer for the year in respect of the insurer's life insurance business;

(*b*) the amount included in computing the insurer's income for the year under paragraph *a*.1 of section 844 of the Act;

(*c*) the portion of the amount deducted under section 140 of the Act in computing the insurer's income for its preceding taxation year that was in respect of Canadian business property of the insurer for that year in respect of the insurer's life insurance business;

(*d*) the amount included under Division II of Chapter II of Title V.1 of Book VI of Part I of the Act in computing the insurer's income for the year in respect of property disposed of by the insurer that was, in the taxation year of disposition, Canadian business property of the insurer for that year in respect of the insurer's life insurance business;

(*e*) the insurer's gain for the year from the disposition of a Canadian business property of the insurer for the year in respect of the insurer's life insurance business, other than a capital property or a property in respect of the disposition of which Division II of Chapter II of Title V.1 of Book VI of Part I of the Act applies; or

(*f*) the insurer's taxable capital gain for the year from the disposition of a Canadian business property of the insurer for the year in respect of the insurer's life insurance business.

s. 818R60; O.C. 1463-2001, s. 86.

"**818R63.** The amount to which section 818R62 refers in respect of an insurer for a taxation year is equal to the aggregate of all amounts each of which is

(*a*) the portion of the amount deducted under section 140 of the Act in computing the insurer's income for the year that is in respect of Canadian business property of the insurer for the year in respect of the insurer's life insurance business;

(*b*) the amount deductible under Division II of Chapter II of Title V.1 of Book VI of Part I of the Act in computing the insurer's income for the year in respect of a property disposed of by the insurer that was, in the taxation year of disposition, a Canadian business property of the insurer for that year in respect of the insurer's life insurance business;

(*c*) the insurer's loss for the year from the disposition of a Canadian business property of the insurer for the year in respect of the insurer's life insurance business, other than a capital property or a property in respect of the disposition of which Division II of Chapter II of Title V.1 of Book VI of Part I of the Act applies; or

(*d*) the insurer's allowable capital loss for the year from the disposition of a Canadian business property of the insurer for the year in respect of the insurer's life insurance business.

s. 818R61; O.C. 1463-2001, s. 86.

"**DIVISION V**

"INVESTMENT PROPERTY OF AN INSURER

div. V; O.C. 1463-2001, s. 86.

"**818R64.** Property to which the definition of "investment property" of an insurer for a taxation year in section 818R53 refers is property owned by an insurer, other than a policy loan payable to the insurer, at any time in the year, that is not included in a segregated fund and that is

(*a*) subject to section 818R65, property acquired by the insurer for the purpose of earning gross investment revenue in the year;

(*b*) that proportion of property of the insurer that is property described in section 818R66 that the use made of the property by the insurer in the year for the purpose of earning gross investment revenue in the year is of the whole use made of the property by the insurer in the year;

(*c*) if the insurer is a life insurer, property described in any of subparagraphs *a* to *d* of the second paragraph of section 844.3 of the Act;

(*d*) subject to section 818R67, a share of the capital stock of, or a debt owing to the insurer by, a corporation, other than a corporation that is a financial institution, affiliated with the insurer or an interest in a trust or partnership; or

(*e*) an amount due or an amount accrued to the insurer on account of income that

i. is from designated insurance property for the year that is investment property of the insurer for the year because of any of paragraphs *a* to *d*, and

ii. was assumed in computing the insurer's Canadian reserve liabilities for the year.

s. 818R62; O.C. 1463-2001, s. 86.

"**818R65.** Property described in paragraph *a* of section 818R64 does not include, in respect of an insurer for a taxation year,

(*a*) property, a proportion of which is investment property of the insurer for the year because of paragraph *b* of section 818R64;

(*b*) a share of the capital stock of, or a debt owing to the insurer by, a corporation affiliated with the insurer;

(*c*) an interest in a trust; or

(*d*) an interest in a partnership.

s. 818R63; O.C. 1463-2001, s. 86.

"**818R66.** Property to which paragraph *b* of section 818R64 refers in respect of an insurer for a

taxation year means property of the insurer that is land, depreciable property or property that would be depreciable property if it were situated in Canada and used or held by the insurer in the year in the course of carrying on an insurance business in Canada.

s. 818R64; O.C. 1463-2001, s. 86.

"**818R67.** Paragraph *d* of section 818R64 applies to property for a taxation year only if the value for the year of all investment property of the corporation, trust or partnership, as the case may be, for the year is not less than 75% of the value for the year of all its property.

For the purposes of the first paragraph, a corporation, trust or partnership is deemed to be an insurer.

s. 818R65; O.C. 1463-2001, s. 86.

"**DIVISION VI**

"VALUE OF A PROPERTY OF A PERSON OR PARTNERSHIP

div. VI; O.C. 1463-2001, s. 86.

"**818R68.** The value for a taxation year of a property of a person or partnership, in this division referred to as the "owner", is

(*a*) in the case of a property that is an obligation secured by a hypothec or mortgage, an agreement of sale or an investment property that is a deposit balance, the amount by which the amount obtained when the gross investment revenue of the owner for the year from the property is divided by the average rate of interest earned by the owner, expressed as an annual rate, on the amortized cost of the property during the year exceeds the amount described in section 818R69;

(*b*) in the case of a property that is an amount due or an amount accrued to the owner, the amount obtained when the aggregate of all amounts each of which is an amount due or accrued at the end of each day in the year is divided by the number of days in the year;

(*c*) in the case of a property, other than a property referred to in paragraph *a* or *b*, that was not owned by the owner throughout the year, the amount by which that proportion of the carrying value of the property at the end of the preceding taxation year, if the property was owned by the owner at that time, of the carrying value of the property at the end of the year, if the property was owned by the owner at that time and not at the end of the preceding taxation year or, in any other case, of the cost of the property to the owner when it was acquired, that the number of days in the year at the end of which the owner owned the property is of the number of days in the year, exceeds the amount described in section 818R69; or

(*d*) in the case of any other property, the amount by which 50% of the aggregate of the carrying value of the property at the end of the year and the carrying value of the property at the end of the preceding taxation year exceeds the amount described in section 818R69.

s. 818R66; O.C. 1463-2001, s. 86.

"**818R69.** The amount to which paragraphs *a*, *c* and *d* of section 818R68 refer in respect of property of an owner for a taxation year is equal to the amount obtained when the interest payable by the owner, for the period in the year during which the property was held by the owner, on debt incurred or assumed by the owner in respect of the acquisition of the property, or another property for which the property is a substituted property, is divided by the average rate of interest payable by the owner, expressed as an annual rate, on the debt for the year.

s. 818R67; O.C. 1463-2001, s. 86.

"**DIVISION VII**

"MEAN CANADIAN INVESTMENT FUND OF AN INSURER

div. VII; O.C. 1463-2001, s. 86.

"**818R70.** The mean Canadian investment fund of an insurer for a particular taxation year is the aggregate of

(*a*) 50% of the aggregate of its Canadian investment fund at the end of the particular year and

i. if the insurer is resident in Canada, its Canadian investment fund at the end of its preceding taxation year, or

ii. if the insurer is not resident in Canada, its Canadian investment fund at the end of its preceding taxation year determined as if its attributed surplus for that preceding taxation year were its attributed surplus for the particular year; and

(*b*) the insurer's cash-flow adjustment for the particular year.

s. 818R68; O.C. 1463-2001, s. 86.

"**818R71.** For the purposes of this division, an insurer's cash-flow adjustment for a taxation year is the amount equal to

(*a*) if the year ended two months or more after it began, the positive or negative amount determined by the formula

$50\% \times (A - B / C)$; or

(*b*) where subparagraph *a* does not apply, nil.

In the formula in subparagraph *a* of the first paragraph,

(*a*) A is the aggregate of all amounts each of which is the amount computed under section 818R73 in respect of a full month in the year, or in respect of the part of the month that

ends after the last full month in the year, if that part is greater than 15 days;

(*b*) B is the amount described in section 818R72; and

(*c*) C is the number of full months in the year plus one, if the year ends more than 15 days after the end of the last full month in the year.

s. 818R69; O.C. 1463-2001, s. 86.

"**818R72.** The amount to which subparagraph *b* of the second paragraph of section 818R71 refers in respect of an insurer for a taxation year is equal to the aggregate of all amounts each of which is the amount determined, in respect of a particular full month in the year or in respect of the part of the particular month that ends after the last full month in the year, if that part is greater than 15 days, by the formula

A × (1 + 2B).

In the formula in the first paragraph,

(*a*) A is the amount computed under section 818R73 in respect of the particular month or part of the particular month; and

(*b*) B is the number of months in the year that ended before the beginning of the particular month or part of the particular month.

s. 818R70; O.C. 1463-2001, s. 86.

"**818R73.** For the purposes of this division, the amount computed in respect of an insurer for a particular month or part of a particular month, in this section referred to as a "month", in a taxation year is the positive or negative amount determined by the formula

A − B.

In the formula in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is

i. the amount of a premium or consideration received by the insurer in the month in respect of a contract of insurance, including a settlement annuity, entered into in the course of carrying on its insurance businesses in Canada,

ii. an amount received by the insurer in the month in respect of interest on or a repayment in respect of a policy loan made under a life insurance policy in Canada, or

iii. an amount received by the insurer in the month in respect of reinsurance, other than reinsurance undertaken to effect a transfer of a business in respect of which any of sections 832.3, 832.7 and 832.9 of the Act applies, arising in the course of carrying on its insurance businesses in Canada; and

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

i. the amount of a benefit or indemnity, including a payment under an annuity or settlement annuity, a payment of a policy dividend and an amount paid on a lapsed or terminated policy, a refund of premiums, a premium or a commission paid by the insurer in the month under a contract of insurance in the course of carrying on its insurance businesses in Canada,

ii. the amount of a policy loan made by the insurer in the month under a life insurance policy in Canada, or

iii. an amount paid by the insurer in the month in respect of reinsurance, other than reinsurance undertaken to effect a transfer of a business in respect of which any of sections 832.3, 832.7 and 832.9 of the Act applies, in the course of carrying on its insurance businesses in Canada.

s. 818R71; O.C. 1463-2001, s. 86.

"**818R74.** For the purposes of this division, a reference to a "month" means

(*a*) if an insurer's taxation year does not begin on the first day of a calendar month and the insurer elects to have this paragraph apply for the year, the period beginning on the day in a calendar month that has the same calendar number as the particular day on which the taxation year began and ending

i. on the day immediately before the day in the next calendar month that has the same calendar number as the particular day, or

ii. the last day of the next calendar month, if the next calendar month does not have a day that has the same calendar number as the particular day; and

(*b*) in any other case, a calendar month.

s. 818R72; O.C. 1463-2001, s. 86.

"**DIVISION VIII**

"GENERAL

div. VIII; O.C. 1463-2001, s. 86.

"**818R75.** A reference in Chapters IX to XIV, XVI and XX to an amount or item reported as an asset or liability of an insurer at the end of a taxation year means an amount or item reported as an asset or liability in the insurer's non-consolidated balance sheet at the end of the year that is accepted or, if that non-consolidated balance sheet had been prepared at the end of the year, the non-consolidated balance sheet that would have been accepted, by

(*a*) the Superintendent of Financial Institutions of Canada, where the insurer is required under the Insurance Companies

Act (Statutes of Canada, 1991, chapter 47) to report to the Superintendent; or

(*b*) the Autorité des marchés financiers, the Superintendent of Insurance or other similar officer or authority of a province, where the insurer is incorporated under the laws of a province and is required by law to report to that officer or authority.

s. 818R73; O.C. 1463-2001, s. 86; O.C. 1149-2006, s. 39.

" **818R76.** For the purposes of Chapters IX to XIV, XVI and XX, except section 818R87, an asset of an insurer is deemed not to have been used or held by the insurer in a taxation year in the course of carrying on an insurance business if the asset is owned by the insurer at the end of the year and is a share of the capital stock of, or a debt owing to the insurer by, a financial institution affiliated with the insurer during each of the days in the year during which the insurer owned the asset.

s. 818R74; O.C. 1463-2001, s. 86.

" **818R77.** For the purposes of subparagraph *b* of the first paragraph of section 818R56, an asset of an insurer is deemed not to have been used or held by the insurer in a taxation year in the course of carrying on an insurance business if

(*a*) the asset is owned by the insurer at the end of the year; and

(b) the asset is

i. goodwill which arose as a result of an amalgamation, a winding-up of an affiliated financial institution, or the assumption by the insurer of any obligation of another insurer with which the insurer deals at arm's length if a reserve in respect of the obligation may be claimed by the insurer under the second paragraph of section 152 or paragraph *a* or *a*.1 of section 840 of the Act or could be claimed by the insurer under any of those provisions if the obligation were insurance policies in Canada, or

ii. immovable property, or the portion of immovable property, owned by the insurer and occupied by the insurer for the purpose of carrying on an insurance business.

s. 818R75; O.C. 1463-2001, s. 86.

" **818R78.** A particular property or a particular portion of a property may not, directly or indirectly, be used or included more than once in determining, for a taxation year, the equity property or the Canadian equity property of a person or partnership.

s. 818R76; O.C. 1463-2001, s. 86.

" **CHAPTER X**

" DESIGNATED INSURANCE PROPERTY

chap. VI.0.0.2; O.C. 1463-2001, s. 86.

" **DIVISION I**

" GENERAL

div. I; O.C. 1463-2001, s. 86.

" **818R79.** In section 818 of the Act, "designated insurance property" of an insurer for a taxation year means property that is designated in accordance with sections 818R80 to 818R87 for the year by the insurer in its fiscal return under Part I of the Act for the year or by the Minister, if the Minister determines that the insurer has not made a designation that is in accordance with the rules set out in this chapter.

s. 818R77; O.C. 1463-2001, s. 86.

" **818R80.** Despite any other provision in Chapters IX to XIV, XVI and XX, a policy loan payable to an insurer is not designated insurance property of the insurer.

s. 818R78; O.C. 1463-2001, s. 86.

" **DIVISION II**

" DESIGNATION RULES

div. II; O.C. 1463-2001, s. 86.

" **818R81.** For the purposes of section 818R79, the following rules apply:

(*a*) the insurer or, as the case may be, the Minister must designate for a taxation year investment property of the insurer for the year with a total value for the year equal to the amount by which the insurer's mean Canadian reserve liabilities for the year in respect of its life insurance business in Canada exceeds the aggregate of

i. the insurer's mean Canadian outstanding premiums for the year in respect of that business, and

ii. the insurer's mean policy loans for the year in respect of that business, to the extent that the amount of the mean policy loans was not otherwise deducted in computing the insurer's mean Canadian reserve liabilities for the year;

(*b*) the insurer or, as the case may be, the Minister must designate for a taxation year investment property of the insurer for the year with a total value for the year equal to the amount by which the insurer's mean Canadian reserve liabilities for the year in respect of its accident and sickness insurance business exceeds the aggregate of

i. the insurer's mean Canadian outstanding premiums for the year in respect of that business, and

ii. 50% of the aggregate of all amounts each of which is its total reinsurance recoverables, at the end of the year or at the end of the preceding taxation year, in respect of that business;

(*c*) the insurer or, as the case may be, the Minister must designate for a taxation year investment property of the insurer for the year with a total value for the year equal to the amount by which the insurer's mean Canadian reserve liabilities for the year in respect of the insurer's insurance business in Canada, other than a life insurance business or an accident and sickness insurance business, exceeds the aggregate of

i. 50% of the aggregate of all amounts each of which is the amount, at the end of the year or at the end of its preceding taxation year, of a premium receivable or a deferred acquisition expense of the insurer in respect of that business, to the extent that it is included in the insurer's Canadian reserve liabilities at the end of the year or at the end of the preceding taxation year, as the case may be, and

ii. 50% of the aggregate of all amounts each of which is its total reinsurance recoverables, at the end of the year or at the end of the preceding taxation year, in respect of that business; and

(*d*) the insurer or, as the case may be, the Minister must, if the insurer's mean Canadian investment fund for a taxation year exceeds the total value for the year of all property required to be designated under paragraphs *a* to *c* for the year, designate for the year, in respect of a particular insurance business that the insurer carries on in Canada, investment property of the insurer for the year with a total value for the year equal to that excess.

s. 818R79; O.C. 1463-2001, s. 86.

"**818R82.** No investment property, or portion of investment property, designated for a taxation year under any of paragraphs *a* to *d* of section 818R81 may be designated again for the year under any other of those paragraphs.

s. 818R80; O.C. 1463-2001, s. 86.

"**818R83.** The insurer or the Minister may designate for a taxation year only a portion of a particular investment property under any of paragraphs *a* to *d* of section 818R81, if the designation of the entire property would result in a designation of property with a total value for the year exceeding that required to be designated under that paragraph for the year.

s. 818R81; O.C. 1463-2001, s. 86.

"**818R84.** For the purposes of section 818R81, investment property of an insurer for a taxation year must be designated for the year in respect of the insurer's insurance businesses carried on by it in Canada in the following order:

(*a*) Canadian investment property of the insurer for the year owned by the insurer at the beginning of the year that was designated insurance property of the insurer for its preceding taxation year, except that such property must be designated in the following order:

i. immovable property and depreciable property,

ii. hypothecary claims, mortgages, agreements of sale or other forms of indebtedness in respect of immovable property situated in Canada or depreciable property situated in Canada or depreciable property leased to a person resident in Canada for use inside or outside of Canada, and

iii. other property;

(*b*) investment property, other than Canadian investment property of the insurer for the year, owned by the insurer at the beginning of the year that was designated insurance property of the insurer for its preceding taxation year;

(*c*) Canadian investment property of the insurer for the year, other than property described in paragraph *a*, in the order set out in subparagraphs i to iii of that paragraph; and

(*d*) other investment property.

s. 818R82; O.C. 1463-2001, s. 86.

"**DIVISION III**

"OTHER RULES

div. III; O.C. 1463-2001, s. 86.

"**818R85.** Despite Division II, the following rules apply:

(*a*) the total value for the year of Canadian equity property of an insurer that may be designated in respect of the insurer's insurance businesses for a taxation year may not exceed the insurer's equity limit for the year; and

(*b*) for a taxation year a portion of a particular Canadian equity property of an insurer may be designated if the designation of the entire Canadian equity property would result in a designation of Canadian equity property of the insurer for the year with a total value for the year exceeding the insurer's equity limit for the year.

s. 818R83; O.C. 1463-2001, s. 86.

"**818R86.** For the purposes of section 818R84, property acquired by an insurer in a particular taxation year as consideration for or in exchange for property of the insurer that was designated insurance property of the insurer in respect of a particular insurance business of the insurer for its preceding taxation year is deemed to be designated insurance property of the insurer in respect of the particular insurance business for its preceding taxation year and to have been owned by the insurer at the beginning of the particular taxation year if the property was acquired by reason of a transaction to which any of Divisions XIII and XIII.1 of Chapter IV of Title IV of Book III of Part I of the Act, Division VI of Chapter IV of Title IX of that

Book III or Chapter V of that Title IX applies, by reason of a transaction in respect of which an election is made under section 518 or 529 of the Act, by reason of an amalgamation within the meaning of section 544 of the Act or by reason of a winding-up of a corporation to which Chapter VII of Title IX of Book III of Part I of the Act applies.

s. 818R84; O.C. 1463-2001, s. 86.

"**818R87.** Property owned by an insurer at any time in a taxation year, other than investment property of the insurer for the year, that is not included in a segregated fund and that is used or held by the insurer in the year in the course of carrying on an insurance business in Canada is deemed to be designated insurance property of the insurer for the year in respect of the business.

s. 818R85; O.C. 1463-2001, s. 86.

"**CHAPTER XI**

"AMOUNT TO BE INCLUDED IN COMPUTING AN INSURER'S INCOME

chap. VI.0.1; O.C. 91-91, s. 80; O.C. 1463-2001, s. 87.

"**825R1.** In this chapter, foreign investment property of an insurer means investment property of the insurer that is not Canadian investment property of the insurer, except where the insurer is not resident in Canada and establishes that the investment property is not effectively connected with its insurance businesses in Canada.

s. 825R1; O.C. 91-94, s. 80.

"**825R2.** Subject to section 825R3, the amount referred to in subparagraph *b* of the first paragraph of section 825 of the Act, in respect of an insurer for a taxation year, is the amount established according to the following formula:

A − (B + C + D).

In the formula in the first paragraph,

(*a*) A is the positive or negative amount, as the case may be, determined for the year in respect of the insurer under section 825R4;

(*b*) B is the positive or negative amount, as the case may be, determined in respect of the insurer for the year under section 825R5 in respect of the insurer's investment property for the year that is designated insurance property of the insurer for the year;

(*c*) C is the positive or negative amount, as the case may be, determined in respect of the insurer for the year under section 825R6 in respect of property disposed of by the insurer in a taxation year for which it was designated insurance property of the insurer; and

(*d*) D is the amount deducted by the insurer for the year in respect of the balance of its cumulative excess account at the end of the year.

s. 825R2; O.C. 91-94, s. 80; O.C. 1463-2001, s. 88.

"**825R3.** Where an amount computed under section 825R2 in respect of an insurer is a negative amount, it is deemed to be nil.

s. 825R3; O.C. 91-94, s. 80.

"**825R4.** The positive or negative amount, as the case may be, that is to be determined under this section in respect of an insurer for a taxation year, for the purposes of subparagraph *a* of the second paragraph of section 825R2, is

(*a*) if the value for the year of the insurer's foreign investment property that is designated insurance property for the year is not greater than 5% of the amount of the insurer's mean Canadian investment fund for the year and the insurer so elects in its fiscal return under Part I of the Act for the year, the amount determined by the formula

[((A + B) / C) × (D + K)] + [(E / F) × G]; and

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

[((A + B) / C) × D] + [(E / F) × G] + [((H + I) / J) × K].

In the formulas in the first paragraph,

(*a*) A is the positive or negative amount, as the case may be, determined in respect of the insurer for the year under section 825R5 in respect of Canadian investment property, other than Canadian equity property, owned by it at any time in the year;

(*b*) B is the positive or negative amount, as the case may be, determined in respect of the insurer for the year under section 825R6 in respect of Canadian investment property, other than Canadian equity property, disposed of by the insurer in the year or a preceding taxation year;

(*c*) C is the value for the year of the aggregate of Canadian investment property, other than Canadian equity property and any property described in paragraph *i* of the definition of "Canadian investment property" in section 818R53, owned by the insurer at any time in the year;

(*d*) D is the value for the year of all of the insurer's Canadian investment property for the year, other than Canadian equity property or any property described in paragraph *i* of the definition of "Canadian investment property" in section 818R53, that is designated insurance property of the insurer for the year;

(*e*) E is the positive or negative amount, as the case may be, determined in respect of the insurer for the year under

section 825R5 in respect of Canadian investment property that is Canadian equity property owned by it at any time in the year;

(*f*) F is the value for the year of the aggregate of Canadian investment property that is Canadian equity property, other than any property described in paragraph *i* of the definition of "Canadian investment property" in section 818R53, owned by the insurer at any time in the year;

(*g*) G is the value for the year of all of the insurer's Canadian investment property for the year, other than any property described in paragraph *i* of the definition of "Canadian investment property" in section 818R53, that is Canadian equity property and designated insurance property of the insurer for the year;

(*h*) H is the positive or negative amount, as the case may be, determined in respect of the insurer for the year under section 825R5 in respect of foreign investment property owned by the insurer at any time in the year;

(*i*) I is the positive or negative amount, as the case may be, determined in respect of the insurer for the year under section 825R6 in respect of foreign investment property disposed of by the insurer in the year or a preceding taxation year;

(*j*) J is the value for the year of the aggregate of foreign investment property, other than any property described in paragraph *e* of section 818R64, owned by the insurer at any time in the year;

(*k*) K is the value for the year of all of the insurer's foreign investment property, other than any property described in paragraph *e* of section 818R64, that is designated insurance property for the year.

s. 825R4; O.C. 91-94, s. 80; O.C. 1463-2001, s. 89; O.C. 1149-2006, s. 40.

"**825R5.** The positive or negative amount, as the case may be, that is required to be determined under this section in respect of an insurer for a taxation year in respect of particular property, for the purposes of subparagraph *b* of the second paragraph of section 825R2 and subparagraphs *a*, *e* and *h* of the second paragraph of section 825R4, is the amount established according to the following formula:

A − B.

In the formula in the first paragraph,

(*a*) A is the total of the following amounts determined in respect of the particular property for the year, or that would be determined in respect of the particular property for the year if the particular property were designated insurance property of the insurer in respect of an insurance business in Canada for each taxation year in which the property was held by the insurer:

i. the insurer's gross investment income for the year derived from the particular property excluding taxable dividends that are or would be deductible in computing the insurer's taxable income for the year under sections 738 to 745 or section 845 of the Act,

ii. the amounts that are or would be included in computing the insurer's income for the year under paragraph *b* or *c* of section 844 of the Act,

iii. the amounts that are or would be included in computing the insurer's taxable capital gains for the year resulting from the disposition of the particular property,

iv. the amounts that are or would be included in computing the insurer's gains for the year resulting from the disposition of the particular property, except where the particular property is Canadian securities or capital property,

v. the amounts that are or would be included in computing the insurer's income for the year in respect of the particular property under section 94 of the Act,

vi. the amounts that are or would be included in computing the insurer's income for the year in respect of the particular property under any of paragraphs *d*, *d*.1 and *i* of section 87 of the Act,

vii. the amounts that are or would be included in computing the insurer's income for the year in respect of the particular property under paragraphs *c* to *g* of section 330 or section 332.1 of the Act,

viii. the amounts that are or would be included in computing the insurer's income for the year in respect of the particular property under section 105 of the Act, and

ix. any other amount that is or would be included in computing the insurer's income for the year in respect of the particular property;

(*b*) B is the total of the following amounts, which are determined in respect of the particular property for the year or would be so determined if the particular property were insurance property of the insurer for the year in respect of an insurance business in Canada:

i. the amounts that are or would be included in computing the insurer's allowable capital losses for the year resulting from the disposition of the particular property,

ii. the amounts that are or would be included in computing the insurer's losses for the year resulting from the disposition of the particular property, except where the particular property is Canadian securities or capital property,

iii. the amounts that are or would be deductible in computing the insurer's income for the year in respect of the given property under paragraph *d* or *e* of section 841 of the Act,

iv. the amounts that are or would be deductible in computing the insurer's income for the year under paragraph *a* of section 130 of the Act in respect of the capital cost of the particular property or under section 160 or 163 of the Act in respect of the interest paid or payable on borrowed money that is used to acquire the particular property,

v. where the particular property is rental property or leasing property within the meaning of section 130R88 or 130R93 respectively, the amounts that are or would be deductible in computing the insurer's income for the year in respect of expenses directly related to the earning of rental income from the particular property,

vi. the amounts that are or would be deductible in computing the insurer's income for the year as a reserve for doubtful or bad debts in respect of the particular property under any of sections 140, 140.2 and 141 of the Act,

vii. the amounts that are or would be deductible in computing the insurer's income for the year under any of sections 359 to 359.19, 362 to 418.12, 419.1 to 419.4 and 419.6 of the Act in respect of the particular property,

viii. the amounts that are or would be deductible in computing the insurer's income for the year in respect of the particular property under paragraph *b* of section 130 of the Act, and

ix. any amount that is or would be deductible in computing the insurer's income for the year in respect of any other expense directly related to the earning of gross investment income from the particular property.

s. 825R6; O.C. 91-94, s. 80; O.C. 35-96, s. 86; O.C. 1454-99, s. 39; O.C. 1463-2001, s. 91; O.C. 1149-2006, s. 41.

"**825R6.** The positive or negative amount, as the case may be, that is to be determined under this section in respect of an insurer for a taxation year in respect of particular property disposed of by the insurer in the year or a preceding taxation year is, for the purposes of subparagraph *c* of the second paragraph of section 825R2 and subparagraphs *b* and *i* of the second paragraph of section 825R4, the amount determined by the formula

A − B.

In the formula in the first paragraph,

(*a*) A is the aggregate of the amounts included under paragraphs *a* and *c* of section 851.22.11 of the Act in computing the insurer's income for the year in respect of the particular property, or that would be so included if the particular property were designated insurance property of the insurer in respect of an insurance business in Canada for each taxation year in which it was held by the insurer; and

(*b*) B is the aggregate of the amounts deductible under paragraphs *b* and *d* of section 851.22.11 of the Act in computing the insurer's income for the year in respect of the particular property, or that would be so deductible if the particular property were designated insurance property of the insurer in respect of an insurance business in Canada for each taxation year in which it was held by the insurer.

s. 825R6.1; O.C. 1463-2001, s. 92.

"**825R7.** For the purposes of section 825R5, a property that has not been designated by the insurer for the year, in accordance with sections 818R30 and 818R38, as investment property used or held by it in the course of carrying on an insurance business in Canada is deemed to be property used or held by it in the course of carrying on the insurance business in Canada in respect of which the insurer reported the property in its annual report for the year filed with the Superintendent of Financial Institutions or, where the insurer was subject to the supervision of the Superintendent of Financial Institutions throughout the year but was not required to file an annual report with the Superintendent of Financial Institutions for the year, the insurance business in respect of which the insurer would have reported the property if it had been required to file such a report with the Superintendent of Financial Institutions for the year.

s. 825R7; O.C. 91-94, s. 80.

"**825R8.** For the purposes of subparagraph *d* of the second paragraph of section 825R2, the balance of an insurer's cumulative excess account at the end of a taxation year is equal to the amount by which the aggregate of all amounts each of which is a positive amount determined in respect of each of its seven preceding taxation years that began after 17 June 1987 and ended after 31 December 1987 exceeds the amount described in section 825R9, according to the formula

B − A.

In the formula in the first paragraph,

(*a*) A is the amount determined under subparagraph *a* of the second paragraph of section 825R2 for the preceding taxation year; and

(*b*) B is the amount determined under subparagraph *b* of the second paragraph of section 825R2 for the preceding taxation year.

s. 825R8; O.C. 91-94, s. 80; O.C. 1463-2001, s. 93.

"**825R9.** The amount to which the first paragraph of section 825R8 refers in respect of an insurer at the end of a taxation year is equal to the aggregate of all amounts each of which is an amount claimed by the insurer under section 825R2 in respect of its cumulative excess account for a preceding taxation year that may be attributed to a positive amount determined under that first paragraph for that year.

For the purposes of the first paragraph, a positive amount determined in respect of a particular taxation year is deemed

to have been claimed before a positive amount determined in respect of any subsequent taxation year.

s. 825R9; O.C. 1463-2001, s. 94.

" **CHAPTER XII**

" PRESCRIBED CORPORATION

chap. VI.1; O.C. 1472-87, s. 19; O.C. 91-94, s. 81; O.C. 1707-97, s. 98.

" **832.3R1.** For the purposes of subparagraph *b* of the first paragraph of section 832.3 of the Act, a prescribed corporation is a qualified related corporation within the meaning of subsection 8 of section 219 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the insurer referred to in that section 832.3.

s. 832.3R2; O.C. 1472-87, s. 19; O.C. 35-96, s. 75; O.C. 1707-97, s. 98.

" **CHAPTER XIII**

" CAPITAL COST OF DEPRECIABLE PROPERTY ACQUIRED BEFORE 1969

chap. VII; O.C. 3926-80, s. 31; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. VII.

" **837R1.** For the purposes of section 837 of the Act, the capital cost of property referred to therein is computed without reference to paragraph *a* of subsection 1 of section 32 of the Act to amend the Income Tax Act (S.C., 1968-69, c. 44) as it applied to the 1971 taxation year for the purposes of the former Acts within the meaning of section 1 of the Act respecting the application of the Taxation Act (R.S.Q., c. I-4).

s. 837R1; O.C. 1981-80, s. 837R1; R.R.Q., 1981, c. I-3, r.1, s. 837R1.

" **CHAPTER XIV**

" AMORTIZED COST OF A LOAN OR LENDING ASSET OF AN INSURER

chap. VIII; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. VIII; O.C. 91-94, s. 83.

" **838R1.** For the purposes of the second paragraph of section 838 of the Act, "specified Canadian assets", "Canadian investment fund for a taxation year" and "value for a taxation year" have the meaning assigned to them by the regulatory provisions made under that paragraph, as they applied to the 1977 taxation year.

s. 838R1; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 838R1.

" **CHAPTER XV**

" DEDUCTIBLE RESERVES

chap. IX; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. IX.

" **DIVISION I**

" INTERPRETATION

div. I; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. IX, div. I.

" **840R1.** In this chapter,

"amount payable" has the meaning assigned by paragraph *j* of section 835 of the Act;

"benefit", in respect of a policy, includes a policy dividend, other than a policy dividend in respect of a policy described in paragraph *a* of section 840R23, in respect of the policy to the extent that the dividend was specifically treated as a benefit by the insurer in determining a premium for the policy, and an expense of maintaining the policy after all premiums in respect of the policy have been paid to the extent that the expense was specifically provided for by the insurer in determining a premium for the policy, but does not include

(*a*) a policy loan;

(*b*) interest on funds left on deposit with the insurer under the terms of the policy; and

(*c*) any other amount under the policy that was not specifically provided for by the insurer in determining a premium for the policy;

"capital tax" means a tax imposed under Part I.3 or VI of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or a similar tax imposed under a law of a province;

"cash surrender value" has the meaning assigned by paragraph *d* of section 966 of the Act;

"general amending provision" of an insurance policy means a provision of the policy that allows it to be amended with the consent of the policyholder;

"interest" has the meaning assigned by paragraph *i* of section 835 of the Act;

"lapse-supported policy" means a life insurance policy that would require materially greater premiums if premiums were determined using policy lapse rates that are zero from the sixth policy year;

"modified net premium", in respect of a premium under a policy, other than a prepaid premium under a policy that may be refunded only on termination of the policy, means

(*a*) where all benefits, other than policy dividends, and premiums, other than the frequency of payment of premiums, in respect of the policy are determined at the date of issue of the policy, the amount determined under section 840R2; or

(*b*) where paragraph *a* does not apply, the amount that would be determined under paragraph *a* if that paragraph applied and the amount were adjusted in a manner that is reasonable in the circumstances;

"non-cancellable or guaranteed renewable accident and sickness policy" includes a non-cancellable or guaranteed renewable accident and sickness benefit under a group policy;

"participating life insurance policy" has the meaning assigned by paragraph *f* of section 835 of the Act;

"policy liability" of an insurer at the end of a taxation year in respect of an insurance policy or a claim, possible claim or risk under an insurance policy means the positive or negative amount of the insurer's reserve in respect of its potential liability in respect of the policy, claim, possible claim or risk at the end of the year determined in accordance with accepted actuarial practice, but without reference to projected income and capital taxes, other than the tax payable under Part XII.3 of the Income Tax Act;

"policy loan" has the meaning assigned by paragraph *h* of section 835 of the Act;

"post-1995 life insurance policy" means a life insurance policy that is not a pre-1996 life insurance policy;

"post-1995 non-cancellable or guaranteed renewable accident and sickness policy" means a non-cancellable or guaranteed renewable accident and sickness policy that is not a pre-1996 non-cancellable or guaranteed renewable accident and sickness policy;

"pre-1996 life insurance policy", at a particular time, means a life insurance policy where

(*a*) the policy was issued before 1 January 1996; and

(*b*) after 31 December 1995 and before the particular time there has been no change, except in accordance with the provisions, other than a general amending provision, of the policy as they existed on 31 December 1995, to

i. the amount of any benefit under the policy,

ii. the amount of any premium or other amount payable under the policy, or

iii. the number of premiums or other payments under the policy;

"pre-1996 non-cancellable or guaranteed renewable accident and sickness policy", at a particular time, means a non-cancellable or guaranteed renewable accident and sickness policy where

(*a*) the policy was issued before 1 January 1996; and

(*b*) after 31 December 1995 and before the particular time there has been no change, except in accordance with the provisions, other than a general amending provision, of the policy as they existed on 31 December 1995, to

i. the amount of any benefit under the policy,

ii. the amount of any premium or other amount payable under the policy, or

iii. the number of premiums or other payments under the policy;

"qualified annuity" means a contract, other than a deposit administration fund policy or a policy in respect of which section 628.8 of the former Regulation, within the meaning of section 2000R2, applied, as that section 628.8 read for the purposes of its application to the taxation year 1977 of the insurer, that is an annuity contract issued before 1 January 1982

(*a*) in respect of which regular periodic annuity payments have commenced;

(*b*) in respect of which a contract or certificate has been issued that provides for regular periodic annuity payments to commence within one year after the date of issue of the contract or certificate;

(*c*) that

i. is not issued as or under a registered retirement savings plan, registered pension plan or deferred profit sharing plan,

ii. does not provide for a guaranteed cash surrender value at any time, and

iii. provides for regular periodic annuity payments to commence not later than the attainment of age 71 by the annuitant; or

(*d*) that

i. is issued as or under a registered retirement savings plan, registered pension plan or deferred profit sharing plan, if

ii. the interest rate is gurarranteed for at least 10 years, and

iii. the plan does not provide for any participation in profits, directly or indirectly;

"reported reserve" of an insurer at the end of a taxation year in respect of an insurance policy or a claim, possible claim, risk, dividend, premium, refund of premiums or refund of premium deposits under an insurance policy means

(*a*) where the insurer is required to file an annual report with the Superintendent of Financial Institutions for a period ending coincidentally with the year, the positive or negative amount of the reserve that would be reported in that report in respect of the insurer's potential liability under the policy if the reserve were determined without reference to projected income and capital taxes, other than tax payable under Part XII.3 of the Income Tax Act;

(*b*) where the insurer is, throughout the year, subject to the supervision of the Superintendent of Financial Institutions and paragraph *a* does not apply, the positive or negative amount of the reserve that would be reported in its financial statements for the year in respect of the insurer's potential liability under the policy if those financial statements were prepared in accordance with generally accepted accounting principles and the reserve were determined without reference to projected income and capital taxes, other than the tax payable under Part XII.3 of the Income Tax Act;

(*c*) where the insurer is the Canada Mortgage and Housing Corporation or a foreign affiliate of a taxpayer resident in Canada, the positive or negative amount of the reserve that would be reported in its financial statements for the year in respect of the insurer's potential liability under the policy if those financial statements were prepared in accordance with generally accepted accounting principles and the reserve were determined without reference to projected income and capital taxes, other than the tax payable under Part XII.3 of the Income Tax Act; and

(*d*) in any other case, nil;

"segregated fund" has the meaning assigned by paragraph *b* of section 835 of the Act;

"segregated fund policy" has the meaning assigned by paragraph *g* of section 835 of the Act;

"Superintendent of Financial Institutions", in respect of an insurer, means

(*a*) the Superintendent of Financial Institutions of Canada, where the insurer is required by law to report to the Superintendent; or

(*b*) in any other case, where the insurer is incorporated under the laws of Québec, the Autorité des marchés financiers or where the insurer is incorporated under the laws of another province, the Superintendent of Insurance or other similar agent or authority of the other province.

s. 840R1; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R1; O.C. 7-87, s. 14; O.C. 1472-87, s. 20; O.C. 1471-91, s. 26; O.C. 1114-93, s. 23; O.C. 91-94, s. 82; O.C. 67-96, s. 50; O.C. 1707-97, s. 98; O.C. 1466-98, s. 126; O.C. 1454-99, s. 40; O.C. 1463-2001, s. 95; O.C. 1470-2002, s. 57; O.C. 1155-2004, s. 36; O.C. 1149-2006, s. 42.

"**840R2.** The amount to be determined under this section for the purposes of paragraph *a* of the definition of "modified net premium" in section 840R1, in respect of a particular premium under a policy, is determined, subject to the third paragraph, by the formula

$$A \times [(B + C) / (D + E)].$$

In the formula in the first paragraph,

(*a*) A is the amount of the particular premium;

(*b*) B is the present value, at the date of the issue of the policy, of the amount of the benefits required to be provided under the policy after the date of the first anniversary of the issue of the policy;

(*c*) C is the present value, at the date of the issue of the policy, of the amount of the benefits required to be provided under the policy after the date of the second anniversary of the issue of the policy;

(*d*) D is the present value, at the date of the issue of the policy, of the amount of the premiums payable under the policy on or after the date of the first anniversary of the issue of the policy;

(*e*) E is the present value, at the date of the issue of the policy, of the amount of the premiums payable under the policy on or after the date of the second anniversary of the issue of the policy.

However, in respect of the particular premium for the second year of the policy, the amount determined by the formula in the first paragraph is deemed to be equal to one-half of the aggregate of the amount that would otherwise be determined under the formula and the amount of a one-year term life insurance premium, determined without regard to the frequency of payment of the premium, that would be payable under the policy.

s. 840R1.1; O.C. 91-94, s. 85; O.C. 1463-2001, s. 96.

"**840R3.** For the purposes of this chapter, any rider to a life insurance policy is a separate insurance policy where it provides for additional life insurance or for an annuity.

s. 840R3; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R3.

"**840R4.** For the purposes of this chapter, any rider that is attached to a policy and that provides for additional non-cancellable or guaranteed renewable accident and sickness insurance, as the case may be, is a separate non-cancellable or guaranteed renewable accident and sickness policy.

s. 840R3.1; O.C. 1463-2001, s. 98.

"**840R5.** For the purposes of the definition of "pre-1996 life insurance policy" and of "pre-1996 non-cancellable or guaranteed renewable accident and sickness policy" in section 840R1, a change in the amount of any benefit or in

the amount or number of any premiums or other amounts payable under a policy is deemed not to have occurred where the change results from

(*a*) a change in an underwriting class;

(*b*) a change in frequency of premium payments within a year that does not alter the present value, at the beginning of the year, of the total premiums to be paid under the policy in the year;

(*c*) the deletion of a rider;

(*d*) the correction of erroneous information;

(*e*) the reinstatement of the policy after its lapse, if the reinstatement occurs not later than 60 days after the end of the calendar year in which the lapse occurred;

(*f*) the redating of the policy for policy loan indebtedness; or

(*g*) a change in the amount of a benefit under the policy that is granted by the insurer on a class basis, where

i. no consideration was payable by the policyholder or any other person for the change, and

ii. the change was not made because of the terms or conditions of the policy or any other policy or contract to which the insurer is a party.

s. 840R3.2; O.C. 1463-2001, s. 98; O.C. 1470-2002, s. 58.

"**840R6.** For the purposes of this chapter, the following rules apply:

(*a*) the reference to a premium paid by the policyholder is, depending on the method regularly followed by the insurer in computing its income, to be read as a reference to a premium paid or payable by that policyholder;

(*b*) in computing the premium paid by a policyholder in respect of that policy, the insurer may deduct the part of the premium that

i. may reasonably be considered, at the time when the policy is issued, to be a deposit that, in accordance with the terms of the policy or the by-laws of the insurer, will be returned to the policyholder or credited to the policyholder's account by the insurer on the termination of the policy, and

ii. was not otherwise deducted under section 832 of the Act.

s. 840R4; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R4; O.C. 1471-91, s. 27; O.C. 1466-98, s. 126; O.C. 1463-2001, s. 99.

"**840R7.** For the purposes of the formula in the first paragraph of section 840R2, it may be assumed that premiums are payable annually in advance.

s. 840R5; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R5; O.C. 1463-2001, s. 101.

"**840R8.** The definition of "group term life insurance policy" in section 1 of the Act does not apply to this chapter.

s. 840R6; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R6; O.C. 1463-2001, s. 101.

"**DIVISION II**

"GENERALITIES

div. II; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. IX, div. II.

"**840R9.** For the purposes of paragraph *a* of section 840 of the Act, a life insurer may deduct in computing its income derived, for a taxation year, from the carrying on of its life insurance business in Canada, as reserves in respect of its life insurance policies in Canada, the amounts provided for in Divisions IV to VIII.

However, an amount may be deducted under the first paragraph only in respect of a life insurance policy in Canada that is a pre-1996 life insurance policy.

s. 840R7; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R7; O.C. 1463-2001, s. 102.

"**840R10.** For the purposes of paragraph *a* of section 840 of the Act, a life insurer may also deduct, in computing its income from carrying on its life insurance business in Canada for a taxation year in respect of its life insurance policies in Canada that are post-1995 life insurance policies, the amount provided for in Division IX.

s. 840R7.1; O.C. 1463-2001, s. 103.

"**840R11.** Any amount determined under this chapter must be determined on a net of reinsurance ceded basis.

s. 840R8; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R8; O.C. 1463-2001, s. 104.

"**840R12.** The following rules apply for determining the amounts that an insurer may deduct under sections 840R9, 840R10 and 840R16:

(*a*) in the case of section 840R9, except for the deduction under section 840R32 in respect of a guarantee referred to in paragraph *c* of section 840R33, the amounts do not include an amount in respect of a liability of a segregated fund; and

(*b*) in the case of sections 840R10 and 840R16, the amounts must be calculated without reference to any liability in

respect of a segregated fund, other than a liability in respect of a guarantee in respect of a segregated fund policy.

s. 840R9; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R9; O.C. 1463-2001, s. 104.

"**840R13.** In order to compute the amount that it may deduct under paragraph *a* of section 840 of the Act in computing its income for a taxation year, a life insurer must deduct, from the aggregate of the amounts that it may deduct under section 840R9, the aggregate of the amounts determined in respect of a life insurance policy referred to in section 840R22 each of which corresponds to the lesser of the following amounts, computed in respect of that policy:

(*a*) the amount by which the amount payable in respect of a policy loan outstanding at the end of the year and made in respect of the policy or in respect of the interest accrued on that loan for the benefit of the insurer at the end of the year exceeds the cash surrender value of the policy at that time; and

(*b*) the amount by which the aggregate of the present value, at the end of the year, of any future modified net premium in respect of the policy and of the amount payable in respect of a policy loan outstanding at that time and made in respect of the policy or in respect of the interest accrued on that loan for the benefit of the insurer at the end of the year exceeds the present value, at that time, of the future benefits provided by the policy.

s. 840R9.1; O.C. 91-94, s. 86; O.C. 1470-2002, s. 59.

"**840R14.** Every amount referred to in section 840R16 or Division IX or determined under that section or that division may be equal to, or less than, nil.

s. 840R9.1.1; O.C. 1463-2001, s. 105.

"**DIVISION III**

"UNPAID CLAIMS

div. II.1; O.C. 1463-2001, s. 105.

"**840R15.** For the purposes of paragraph *a*.1 of section 840 of the Act, a life insurer may deduct, in computing its income for a taxation year, as a reserve in respect of unpaid claims received by it before the end of the year under life insurance policies in Canada that are pre-1996 life insurance policies, an amount not exceeding the present value at the end of the year, computed using a rate of interest that is reasonable in the circumstances, of a reasonable amount in respect of those unpaid claims.

s. 840R9.2; O.C. 91-94, s. 86; O.C. 1463-2001, s. 106.

"**840R16.** For the purposes of paragraph *a*.1 of section 840 of the Act, a life insurer may deduct, in computing its income for a taxation year, as a reserve in respect of an unpaid claim received by it before the end of the year under a life insurance policy in Canada that is a post-1995 life insurance policy, an amount not exceeding the lesser of

(*a*) the reported reserve of the insurer at the end of the year in respect of the claim; and

(*b*) the policy liability of the insurer at the end of the year in respect of the claim.

s. 840R9.3; O.C. 1463-2001, s. 107.

"**DIVISION IV**

"PRE-1996 DEPOSIT ADMINISTRATION FUND POLICIES

div. III; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. IX, div. III; O.C. 1463-2001, s. 108.

"**840R17.** An insurer may deduct, in respect of its deposit administration fund policies, a reasonable amount in respect of its liabilities at the end of the year in respect of the aggregate of those policies, to the extent that that amount does not exceed its liabilities under those policies, determined in the manner required in its annual report for the year filed with the Superintendent of Financial Institutions or, where the insurer was subject to the supervision of the Superintendent of Financial Institutions throughout the year but was not required to file an annual report with the Superintendent for the year, in its financial statements for the year.

s. 840R10; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R11; O.C. 91-94, s. 87.

"**DIVISION V**

"PRE-1996 GROUP LIFE INSURANCE POLICIES

div. IV; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. IX, div. IV; O.C. 91-94, s. 88; O.C. 1463-2001, s. 109.

"**840R18.** An insurer may deduct, in respect of a group term life insurance policy covering a period not exceeding 12 months, an amount that does not exceed the unearned portion of the premium paid by the policyholder in respect of the policy at the end of the year determined by apportioning that premium equally over the period to which it pertains.

s. 840R11; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R11; O.C. 1463-2001, s. 110; O.C. 1155-2004, s. 37.

"**840R19.** An insurer may deduct, in respect of a policy referred to in section 840R18, where a claim under the policy is made after the end of the year in respect of a death that occurred before the end of the year, an amount not exceeding the lesser of

(*a*) the present value, at the end of the year, of the payments to be made in respect of the claim or of an estimate of those payments that is reasonable in the circumstances; and

(*b*) 95% of the amount of the reserve in respect of that claim, reported by the insurer in its annual report for the

year filed with the Superintendent of Financial Institutions or, where the insurer was subject to the supervision of the Superintendent of Financial Institutions throughout the year but was not required to file an annual report with the Superintendent for the year, in its financial statements for the year.

s. 840R11.1; O.C. 1549-88, s. 24; O.C. 91-94, s. 89.

"**840R20.** Subject to the second paragraph, in respect of a group life insurance policy an insurer may deduct an amount in respect of a dividend, refund of premiums or refund of premium deposits provided for under the terms of the policy that is used by the insurer to reduce or eliminate a future adverse claims experience under the policy or that is paid or unconditionally credited to the policyholder by the insurer or applied in discharge, in whole or in part, a liability of the policyholder to pay premiums to the insurer, not exceeding the least of

(*a*) a reasonable amount in respect of such a dividend, refund of premiums or refund of premium deposits;

(*b*) an amount equal to 25% of the amount of the premium payable under the terms of the policy for the 12-month period ending on the date the policy expires, if the policy expires in the year, or at the end of the year, in any other case; and

(*c*) the amount of the reserve or liability in respect of such a dividend, refund of premiums or refund of premium deposits reported by the insurer in its annual report for the year filed with the Superintendent of Financial Institutions or, where the insurer was subject to the supervision of the Superintendent of Financial Institutions throughout the year but was not required to file an annual report with the Superintendent for the year, in its financial statements for the year.

An insurer may not, pursuant to the first paragraph, deduct an amount that may be otherwise deducted in computing its income for the year under paragraph *b* of section 841 of the Act.

s. 840R11.2; O.C. 91-94, s. 90; O.C. 67-96, s. 52; O.C. 1466-98, s. 126; O.C. 1463-2001, s. 111.

"**DIVISION VI**

"PRE-1996 QUALIFIED ANNUITIES

div. V; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. IX, div. V; O.C. 1463-2001, s. 112.

"**840R21.** An insurer may deduct, in respect of a qualified annuity, an amount not exceeding the amount by which the amount that would have been determined for the year in respect of the annuity, pursuant to section 840R22, if the rate of interest used, or deemed under Division VII to have been used, by the insurer for the purposes of determining the premium in respect of the annuity were reduced by 0.5%, exceeds the maximum amount that the insurer may deduct pursuant to that section in respect of the annuity.

s. 840R12; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R12.

"**DIVISION VII**

"PRE-1996 LIFE INSURANCE POLICIES

div. VI; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. IX, div. VI; O.C. 1463-2001, s. 113.

"**840R22.** An insurer may deduct, in respect of a life insurance policy other than a policy referred to in section 840R17 or 840R18, an amount not exceeding the greater of

(*a*) the amount by which the cash surrender value of the policy, at the end of the year, exceeds the amount payable in respect of a policy loan outstanding at that time and made in respect of such policy or in respect of the interest accrued on such loan for the benefit of the insurer at the end of the year; or

(*b*) the amount by which the discounted value of the future benefits provided by the policy at the end of the year exceeds the aggregate of the discounted value, at that time, of any future modified net premium in respect of the policy and of the amount payable in respect of a policy loan outstanding at that time and made in respect of the policy or in respect of the interest accrued on such loan for the benefit of the insurer at the end of the year.

s. 840R13; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R13; O.C. 1472-87, s. 21; O.C. 1470-2002, s. 60.

"**840R23.** For the purposes of section 840R22, the amount that an insurer may deduct for a taxation year and a modified net premium must be computed based solely on rates of interest, mortality and policy lapse, in the case of a lapse-supported policy effected after 31 December 1990, and based solely on rates of interest and mortality, in any other case, using,

(*a*) in the case of a modified net premium and a benefit, other than a benefit referred to in paragraph *b* of a participating life insurance policy, other than an annuity contract, under the terms of which the policyholder is entitled to receive a specified amount in respect of the policy's cash surrender value, the rates used by the insurer when the policy was issued in computing the cash surrender values of the policy;

(*b*) in the case of a benefit provided for in lieu of a cash settlement on the termination or maturity of a policy, or in satisfaction of a dividend on a policy, the rates used by the insurer in computing the amount of such benefit; and

(*c*) in the case of the whole or part of any other policy, the rates used by the insurer in computing the amount of the premiums in respect of the policy.

s. 840R14; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R14; O.C. 67-96, s. 53; O.C. 1466-98, s. 126.

"**840R24.** For the purposes of section 840R23, where the present value of the premiums in respect of a policy on the date of its issue is less than the present value on that date of the aggregate of the benefits provided for by the policy and outlays and expenses referred to in section 840R25, an increased rate of interest must be determined by multiplying the amount of such premiums by a constant factor so that, when the increased rate of interest is used, the present value of those premiums on that date is equal to the present value on that date of the aggregate of those benefits, outlays and expenses and, in such case, that increased rate of interest is deemed to have been used by the insurer in computing the amount of such premiums.

s. 840R15; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R15.

"**840R25.** The outlays and expenses referred to in section 840R24 are those made or incurred by the insurer in respect of the policy or those that it estimates to make or incur in respect of the policy, except for the maintenance in force of the policy after the payment of all premiums if an express provision in that respect has not been made in calculating the premiums, and such part of any other outlays or expenses incurred by the insurer that is applicable to the policy.

s. 840R16; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R16.

"**840R26.** For the purposes of section 840R23, where a rate of mortality or other probability used by an insurer in computing a premium in respect of a policy is not reasonable in the circumstances, the Minister may, on the advice of the Superintendent of Financial Institutions, modify that rate in a manner that is reasonable in the circumstances and the insurer is deemed to have used that modified rate in computing that premium.

Likewise, for the purposes of section 840R24, a present value referred to therein must be computed using the rates of mortality and other probabilities used by the insurer in computing its premiums after any modification required by the first paragraph.

s. 840R17; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R17; O.C. 91-94, s. 91.

"**840R27.** For the purposes of section 840R23, where no document related to the rate of interest or mortality used by an insurer in computing the amount of the premiums in respect of a policy is available, the insurer may, if the policy was issued before 1978, make a reasonable estimate of that rate and the Minister, on the advice of the Superintendent of Financial Institutions, may do likewise if the policy was issued after 1977 or, where it was issued before 1978, if the insurer has not made such an estimate.

s. 840R18; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R18; O.C. 91-94, s. 92.

"**840R28.** Despite section 840R22, a life insurer may use a method of approximation in computing its income for a taxation year, in respect of any class of life insurance policies referred to in that section and issued before its 1988 taxation year, in order to convert the amount that it reported as a reserve in respect of those policies in its annual report for the year filed with the Superintendent of Financial Institutions into an amount that is a reasonable estimate of the amount that, but for this section, would have been computed under that section 840R22 in respect of those policies, provided that that method of approximation is acceptable to the Minister on the advice of the Superintendent of Financial Institutions.

s. 840R19; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R19; O.C. 91-94, s. 92.

"**840R29.** For the purposes of section 840R23 and despite any other provision of this division, where an individual annuity contract was issued before 1969 by a life insurer or a benefit was purchased before 1969 under a group annuity contract issued by a life insurer, and the contract is a policy in respect of which section 628.8 of the former Regulation, within the meaning of section 2000R2, applied as that section 628.8 read for the purposes of its application to the insurer's 1977 taxation year, the insurer must use the same rates of interest and mortality as those used in computing its reserve provided for by such section 628.8 in respect of the policy for its 1977 taxation year.

s. 840R20; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R20.

"**840R30.** An insurer may deduct, in respect of a policy referred to in section 840R22 under which, after the end of the year, a claim is made in respect of a death that occurred before the end of the year, an amount not exceeding the lesser of

(*a*) the amount by which the present value, at the end of the year, of the payments to be made in respect of the claim or an estimate of those payments that is reasonable in the circumstances exceeds the maximum amounts that the insurer may deduct for the year in respect of the policy under sections 840R22 and 840R32 to 840R34; and

(*b*) 95% of the amount of the reserve in respect of that claim reported by the insurer in its annual report for the year filed with the Superintendent of Financial Institutions or, where the insurer was subject to the supervision of the Superintendent of Financial Institutions throughout the year but was not required to file an annual report with the Superintendent for the year, it its financial statements for the year.

s. 840R20.1; O.C. 1549-88, s. 25; O.C. 91-94, s. 93.

"**840R31.** For the purposes of section 840R23 for a taxation year, the Minister may, at the request of an insurer and on the advice of the Superintendent of Financial Institutions, revise the rates of interest and mortality in order to eliminate, in whole or in part, the reserve deficiency determined in subparagraph *c*, where

(*a*) a disposition to which section 832.7 of the Act applies has been made to the insurer during the year by a person with whom it was dealing at arm's length;

(*b*) the insurer assumes, as a result of the disposition referred to in subparagraph *a*, obligations under life insurance policies in respect of which it may claim an amount as a reserve for the year under section 840R22;

(*c*) the amount by which the aggregate of the amounts received or receivable by the insurer from the person referred to in subparagraph *a* in respect of the policies referred to in subparagraph *b* exceeds the aggregate of the amounts paid or payable by the insurer to the person referred to in subparagraph *a* as commissions in respect of the amounts received or receivable by the insurer from that person in respect of the policies referred to in subparagraph *b* is greater than the aggregate of the maximum amounts that may be claimed by the insurer for the year as a reserve under section 840R22, determined without reference to this section, in respect of the policies referred to in subparagraph *b*; and

(*d*) the reserve deficiency determined in subparagrah *c* may reasonably be attributed to the fact that the rates of interest and mortality used by the issuer of the policies referred to in subparagraph *b* in order to determine the cash surrender value of the policies or the premiums in respect of those policies are not reasonable in the circumstances.

The rates of interest and mortality revised under the first paragraph are deemed to have been used by the issuer of the policies referred to in subparagraph *b* of the first paragraph for the purpose of determining the cash surrender value of the policies or the premiums in respect of those policies.

s. 840R20.2; O.C. 91-94, s. 94.

"**DIVISION VIII**

"OTHER DEDUCTIONS IN RESPECT OF PRE-1996 POLICIES

div. VII; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. IX, div. VII; O.C. 1463-2001, s. 114.

"**840R32.** An insurer may deduct, in respect of a benefit, risk or guarantee referred to in section 840R33 and related to a life insurance policy other than a policy referred to in section 840R17, an amount not exceeding the lesser of

(*a*) a reasonable amount in respect of the benefit, risk or guarantee; and

(*b*) the amount that it reported as a reserve in respect of the benefit, risk or guarantee in its annual report for the year filed with the Superintendent of Financial Institutions or, where the insurer was subject to the supervision of the Superintendent of Financial Institutions throughout the year but was not required to file an annual report with the Superintendent for the year, in its financial statements for the year.

s. 840R21; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R21; O.C. 91-94, s. 95.

"**840R33.** The benefit, risk or guarantee in respect of which an insurer may deduct in amount under section 840R32 means

(*a*) an accidental death benefit or a disability benefit;

(*b*) an additional risk in respect of

i. a substandard life insurance,

ii. a settlement option,

iii. a guaranteed insurability benefit, or

iv. the conversion, after the end of the year, of a term policy or benefits under a group policy into another insurance policy;

(*c*) a guarantee in respect of a segregated fund policy; or

(*d*) subject to the prior approval of the Minister on the advice of the Superintendent of Financial Institutions, any other benefit that is ancillary to the policy referred to in section 840R32.

s. 840R22; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R22; O.C. 91-94, s. 96.

"**840R34.** An insurer may not deduct any amount under section 840R32 in respect of benefit, risk or guarantee if it has previously deducted in computing its income for the year an amount, under another provision of Divisions I to VII, excluding sections 840R19 and 840R30, in respect of the benefit, risk or guarantee.

s. 840R23; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 840R23; O.C. 1549-88, s. 26.

"**DIVISION IX**

"POST-1995 LIFE INSURANCE POLICIES

div. VII.1; O.C. 1463-2001, s. 115.

"**840R35.** An insurer may deduct, in respect of its life insurance policies in Canada that are post-1995 life insurance policies, an amount not exceeding

(*a*) the amount determined under section 840R36 in respect of the insurer for the year, where that amount is greater than nil; or

(*b*) nil, in any other case.

s. 840R23.1; O.C. 1463-2001, s. 115.

"**840R36.** For the purposes of paragraph *a* of sections 840R35 and 844R1, the amount to be determined under this section in respect of an insurer for a taxation year, in respect of its life insurance policies in Canada that are post-1995 life insurance policies, is the amount, which may be positive or negative, determined by the formula

A + B + C + D − E.

In the formula in the first paragraph,

(*a*) A is the amount, in respect of the insurer's life insurance policies in Canada that are post-1995 life insurance policies, except to the extent that the amount is determined in respect of a claim, dividend, premium or refund in respect of which an amount is included in computing any of the amounts determined under subparagraphs *b* to *d*, equal to the lesser of the total of the reported reserves of the insurer at the end of the year in respect of those policies and the total of the policy liabilities of the insurer at that time in respect of those policies;

(*b*) B is the amount, in respect of the insurer's life insurance policies in Canada that are post-1995 life insurance policies under which there may be claims incurred before the end of the year that have not been made to the insurer before the end of the year, equal to 95% of the lesser of the total of the reported reserves of the insurer at the end of the year in respect of the possibility that there are such claims and the total of the policy liabilities of the insurer at the end of the year in respect of the possibility that there are such claims;

(*c*) C is the total of all amounts each of which is the unearned portion at the end of the year of the premium paid by the policyholder in respect of the premium, determined by apportioning the net premium equally over the period to which that premium relates, where the policy is a life insurance policy in Canada that is a group term life insurance policy that provides coverage for a period that does not exceed 12 months and is a post-1995 life insurance policy;

(*d*) D is the total of all amounts each of which

i. is not an amount deductible under paragraph *b* of section 841 of the Act,

ii. is the amount, in respect of a dividend, refund of premiums or refund of premium deposits provided for under the terms of a life insurance policy in Canada that is a group life insurance policy and a post-1995 life insurance policy, that will be used by the insurer to reduce or eliminate a future adverse claims experience under the policy, paid or unconditionnaly credited to the policyholder by the insurer, or applied in discharge, in whole or in part, of a liability of the policyholder to pay premiums to the insurer under the policy, and

iii. is equal to the least of

(1) a reasonable amount as a reserve determined at the end of the year in respect of the dividend, refund of premiums or refund of premium deposits provided for under the terms of the policy,

(2) 25% of the amount of the premium under the terms of the policy for the 12-month period ending on the day the policy is terminated, if the policy is terminated in the year, or at the end of the year, in any other case, and

(3) the amount of the reported reserve of the insurer at the end of the year in respect of the dividend, refund of premiums or refund of premium deposits provided for under the terms of the policy; and

(*e*) E is the total of all amounts determined in respect of a life insurance policy in Canada that is a post-1995 life insurance policy each of which is an amount payable in respect of a policy loan under a policy or interest that has accrued to the insurer to the end of the year in respect of a policy loan under the policy.

s. 840R23.2; O.C. 1463-2001, s. 115; O.C. 1470-2002, s. 61; O.C. 1155-2004, s. 38.

"**CHAPTER XVI**

"INCOME FROM PARTICIPATING LIFE INSURANCE BUSINESS

chap. X; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. X.

"**DIVISION I**

"COMPUTATION OF INCOME

div. I; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. X, div. I.

"**841R1.** For the purposes of subparagraph ii of paragraph *a* of section 841 of the Act and paragraph *e* of section 92.19R7, the income of an insurer derived from the operation of its participating life insurance business carried on in Canada for a taxation year is computed in accordance with the provisions of the Act concerning the computation of the income derived from a source, subject to the provisions of sections 841R2 to 841R6.

s. 841R1; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 841R1; O.C. 7-87, s. 15; O.C. 1114-93, s. 24.

"**841R2.** In the computation referred to in section 841R1, the insurer must include

(*a*) the proportion of its gross Canadian life investment income for the year that

i. the aggregate of its mean maximum tax actuarial reserve for the year in respect of its participating life insurance policies in Canada and the mean amount on deposit with the insurer for the year in respect of those policies, is of

ii. the aggregate of its mean maximum tax actuarial reserve for the year in respect of each class of life insurance policies in Canada and the mean amount on deposit with the insurer for the year in respect of each of such classes of policies;

(*b*) the amount that it has deducted under paragraph *d* of section 840 of the Act in computing its income for the preceding taxation year;

(*c*) its maximum tax actuarial reserve for the preceding taxation year in respect of participating life insurance policies in Canada;

(*d*) the maximum amount that it may deduct under paragraph *a*.1 of section 840 of the Act in computing its income for the preceding taxation year in respect of participating life insurance policies in Canada; and

(*e*) the proportion of the amount included in computing its income for the year under section 92.21 of the Act, that

i. the amount determined under subparagraph i of paragraph *a* in respect of the insurer for its first taxation year commencing after 17 June 1987 and ending after 31 December 1987, is of

ii. the amount determined under subparagraph ii of paragraph *a* in respect of the insurer for its first taxation year beginning after 17 June 1987 and ending after 31 December 1987.

s. 841R2; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 841R2; O.C. 91-94, s. 97; O.C. 1463-2001, s. 116.

"**841R3.** In the computation referred to in section 841R1, the insurer must deduct the aggregate of

(*a*) its maximum tax actuarial reserve for the year in respect of participating life insurance policies in Canada;

(*b*) the maximum amount that it may deduct under paragraph *a*.1 of section 840 of the Act in computing its income for the year in respect of participating life insurance policies in Canada; and

(*c*) the proportion of the amount deducted in computing its income for the year under section 157.12 of the Act that

i. the amount determined for the year under subparagraph i of paragraph *a* of section 841R2 in respect of the insurer, is of

ii. the amount determined for the year under subparagraph ii of paragraph *a* of section 841R2 in respect of the insurer.

s. 841R3; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 841R3; O.C. 91-94, s. 98; O.C. 1463-2001, s. 117.

"**DIVISION II**

" AMOUNTS EXCLUDED

div. II; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. X, div. II.

"**841R4.** In the computation under section 841R1, the insurer may not include an amount in respect of its participating life insurance policies in Canada deducted by it under paragraph *a* or *a*.1 of section 840 of the Act in computing its income for the preceding taxation year or, except as provided for in paragraph *a* of section 841R2, an amount deducted by it under section 140 of the Act in computing its income for the preceding taxation year or included by it in computing its income for the year in accordance with paragraph *b* or *c* of section 844 of the Act or included by it in computing its gains or taxable capital gains for the year resulting from the disposition of property.

s. 841R4; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 841R4; O.C. 91-94, s. 99.

"**841R5.** In the computation under section 841R1, no deduction may be made by the insurer

(*a*) in respect of an amount deductible, under paragraph *d* of section 840 of the Act or paragraph *a* of section 841 of that Act, in computing its income for the year;

(*b*) except as provided in section 841R3, in respect of a reserve deductible under paragraph *a* or *a*.1 of section 840 of the Act in computing its income for the year; or

(*c*) except as provided in paragraph *a* of section 841R2, in respect of an amount deductible under paragraph *d* or *e* of section 841 of the Act in computing its income for the year or an amount deductible as a reserve under section 140 of the Act in computing its income for the year or an amount included in computing its losses or its allowable capital losses for the year resulting from the disposition of property.

s. 841R5; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 841R5; O.C. 91-94, s. 100.

"**DIVISION III**

" TRANSITORY PROVISIONS

div. III; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. X, div. III.

"**841R6.** For the purposes of applying Divisions I and II to the 1978 taxation year of a life insurer, section 841R2 apply as if

(*a*) the insurer's maximum tax actuarial reserve for its 1977 taxation year, in respect of its participating life insurance policies in Canada or in respect of any class of life insurance policies in Canada, had been the reserve that would have been respectively computed in that regard for that year if the rules applicable to the 1978 taxation year had been applied to the 1977 taxation year; and

(*b*) the amount deducted by the insurer under paragraph *d* of section 840 of the Act for its 1977 taxation year had been that deducted by the insurer under that paragraph for that year, increased by the amount by which the amount that would have been deductible under that paragraph for that year, but for subparagraph iii of that paragraph, exceeds the amount deducted by the insurer under that paragraph for that year.

s. 841R6; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, s. 841R6; O.C. 1463-2001, s. 118.

"**CHAPTER XVII**

"OTHER DEDUCTIONS

chap. XI; O.C. 3926-80, s. 32; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. XI.

"**841.1R1.** For the purposes of paragraph *a* of section 841.1 of the Act, the 1975-76 excess policy dividend deduction of an insurer who made an election under section 825 of the Act for its 1975 taxation year means the amount determined as such in respect of the insurer at the same time and for the same purposes under section 138 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 841.1R1; O.C. 1981-80, s. 841.1R1; R.R.Q., 1981, c. I-3, r.1, s. 841.1R1; O.C. 1076-88, s. 22; O.C. 35-96, s. 86.

"**841.1R2.** For the purposes of paragraph *b* of section 841.1 of the Act, a life insurer's 1977 excess policy dividend deduction means the amount determined in that regard in respect of the insurer at the same time and for the same purposes under section 138 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 841.1R2; O.C. 3926-80, s. 33; R.R.Q., 1981, c. I-3, r.1, s. 841.1R2; O.C. 1076-88, s. 22; O.C. 35-96, s. 86.

"**CHAPTER XVIII**

"AMOUNT TO BE INCLUDED IN RESPECT OF POST-1995 LIFE INSURANCE POLICIES

chap. XI.2; O.C. 1463-2001, s. 120.

"**844R1.** The amount referred to in paragraph *a*.1 of section 844 of the Act in respect of an insurer for a taxation year, in respect of its life insurance policies in Canada that are post-1995 life insurance policies, is

(*a*) where the amount determined under section 840R36 in respect of the insurer for the year is less than nil, that amount expressed as a positive number; and

(*b*) in any other case, nil.

s. 844R2; O.C. 1463-2001, s. 120.

"**CHAPTER XIX**

"AMOUNTS DEEMED TO HAVE BEEN DEDUCTED BY AN INSURER

chap. XII; O.C. 3926-80, s. 33; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. XII.

"**844.1R1.** For the purposes of section 844.1 of the Act, the prescribed amounts that an insurer is deemed to have deducted in computing its income for the 1976 or 1977 taxation year means the amounts respectively determined as such in respect of the insurer at the same time and for the same purposes under subsection 4.1 or 4.2 of section 138, as the case may be, of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 844.1R1; O.C. 1981-80, s. 844.1R1; R.R.Q., 1981, c. I-3, r.1, s. 844.1R1; O.C. 35-96, s. 86.

"**CHAPTER XX**

"AMOUNTS TO BE INCLUDED IN RESPECT OF CERTAIN PROPERTY OF AN INSURER

chap. XII.1; O.C. 91-94, s. 101.

"**844.3R1.** For the purposes of the first paragraph of section 844.3 of the Act, the amount prescribed in respect of an insurer's cost or capital cost of a property for a period in a taxation year is the amount determined by the formula

$$[(A \times B) \times C / 365] - D.$$

In the formula in the first paragraph,

(*a*) A is the average annual rate of interest computed on the basis of the rate determined in accordance with subparagraph i of paragraph *a* of section 4301 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) for the months or portions thereof in the period;

(*b*) B is the amount by which the average cost or average capital cost, as the case may be, of the property for the period exceeds the average amount of the debt, related to the acquisition of the property, that is outstanding during the period and that bears interest at the market rate and, for that purpose

i. the average cost or average capital cost, as the case may be, of a property is the total of

(1) the aggregate of the amounts each of which is the cost or capital cost, as the case may be, of the property immediately before the beginning of the period, and

(2) the aggregate of the amounts each of which is the proportion of an expenditure incurred on any date in the period, in respect of the cost or capital cost, as the case may be, of the property, that the number of days from that date to

the end of the period is of the number of days in the period, and

ii. the average amount of the debt related to the acquisition of a property is the amount by which the aggregate of the following amounts exceeds the aggregate of the amount each of which is the proportion of an amount, other than an amount of interest, that was paid in respect of a debt referred to in subparagraph 1 or 2 at any date in the period, that the number of days from that date to the end of the period is of the number of days in the period:

(1) the aggregate of the amounts each of which is a debt that is outstanding at the beginning of the period and is related to the acquisition, and

(2) the aggregate of the amounts each of which is the proportion of a debt related to the acquisition that was incurred at any date in the period, that the number of days from that date to the end of the period is of the number of days in the period;

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

(*d*) D is the income derived from the property in the period by the person or partnership that owned the property.

s. 844.3R1; O.C. 91-94, s. 101; O.C. 35-96, s. 86; O.C. 1707-97, s. 98; O.C. 1466-98, s. 126; O.C. 1463-2001, s. 121.

"**CHAPTER XXI**

"SEGREGATED FUND TRUSTS

chap. XIV; O.C. 3926-80, s. 34; R.R.Q., 1981, c. I-3, r.1, title XIII, chap. XIV.

"**851.20R1.** The trustee of a segregated fund trust must make the election under section 851.20 of the Act by filing with the Minister, not later than 90 days after the end of the taxation year of the trust, the prescribed form in respect of any capital property deemed to have been disposed of during the year because of the election.

s. 851.20R1; O.C. 1981-80, s. 851.20R1; R.R.Q., 1981, c. I-3, r.1, s. 851.20R1; O.C. 1451-2000, s. 66; O.C. 1282-2003, s. 51.

"**TITLE XXXIII**

"FINANCIAL INSTITUTIONS

title XXIII.0.1 ; O.C. 1470-2002, s. 62.

"**851.22.1R1.** For the purposes of the definition of "specified debt obligation" in the first paragraph of section 851.22.1 of the Act, a property is a prescribed property throughout a taxation year if the property is a direct financing lease, or any other financing agreement, of a taxpayer that is reported as a loan in the taxpayer's financial statements for the year, prepared in accordance with generally accepted accounting principles, provided that an amount is deductible in computing the taxpayer's income for the year, in respect of the property that is the subject of the lease or agreement, under paragraph *a* of section 130 or the second paragraph of section 130.1 of the Act.

s. 851.22.1R1; O.C. 1470-2002, s. 62.

"**TITLE XXXIV**

"TAX SHELTER INVESTMENT

title XXIII.1; O.C. 1463-2001, s. 124.

"**851.42R1.** For the purposes of section 851.42 of the Act, the prescribed rate of interest at a particular time is the rate determined in accordance with subparagraph i of paragraph *a* of section 4301 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the period that includes the particular time.

s. 851.42R1; O.C. 1463-2001, s. 124.

"**TITLE XXXV**

"PROFIT SHARING PLANS AND OTHER SPECIAL INCOME ARRANGEMENTS

title XXIV; O.C. 1981-80, title XXIV; R.R.Q., 1981, c. I-3, r.1, title XXIV.

"**CHAPTER I**

"GENERALITIES

chap. I; O.C. 1981-80, title XXIV, chap. I; R.R.Q., 1981, c. I-3, r.1, title XXIV, chap. I.

"**853R1.** An employer makes the election under section 853 of the Act by forwarding to the Minister by registered mail a declaration stating that the employer wishes to make such election, and a copy of the agreement and of any supplementary agreement concerning the plan.

If the employer is a corporation, the declaration must be accompanied by a certified true copy of the resolution of its directors authorizing the election to be made, where the latter are legally entitled to administer the affairs of the corporation or, otherwise, of the authorization of the making of the election by the person legally entitled to administer the affairs of the corporation.

s. 853R1; O.C. 1981-80, s. 853R1; R.R.Q., 1981, c. I-3, r.1, s. 853R1; O.C. 1707-97, s. 98. O.C. 1451-2000, s. 66.

"**861R1.** The trustee must make the election under section 861 of the Act by filing with the Minister, in duplicate, a declaration with supporting evidence attesting that the trustee has made the election under subsection 4.1 of section 144 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 861R1; O.C. 1981-80, s. 861R1; R.R.Q., 1981, c. I-3, r.1, s. 861R1; O.C. 35-96, s. 86.

"**862R1.** The trustee must make the election under the first paragraph of section 862 of the Act by filing with the Minister the prescribed form in duplicate. The election must be made on or before the last day of a taxation year of the trust in respect of any capital property deemed to have been disposed of in that taxation year because of the election.

s. 862R1; O.C. 1981-80, s. 862R1; R.R.Q., 1981, c. I-3, r.1, s. 862R1; O.C. 1451-2000, s. 66; O.C. 1282-2003, s. 52.

"**CHAPTER II**

"RETIREMENT COMPENSATION ARRANGEMENTS

chap. I.1; O.C. 1466-98, s. 79.

"**890.1R1.** For the purposes of subparagraph *n* of the second paragraph of section 890.1 of the Act, the following plans or arrangements are prescribed:

(*a*) the plan instituted under the Act respecting the Québec Pension Plan (R.S.Q., c. R-9);

(*b*) a similar plan within the meaning of the Act respecting the Québec Pension Plan;

(*c*) a plan instituted under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23);

(*d*) a plan established in accordance with an agreement in writing for the purpose of deferring the salary or wages of a professional referee or linesman for services in that capacity with the National Hockey League where, in the case of a professional referee or linesman resident in Canada, the trust or any other person having custody and control of the funds, investments or other property under the plan is also resident in Canada;

(*e*) an arrangement under which all contributions are made pursuant to a law of Canada or a province, where one of the main purposes of the law is to enforce minimum standards with respect to wages, vacation entitlement or severance pay;

(*f*) an arrangement under which all contributions are made in connection with a dispute regarding the entitlement of one or more persons to receive benefits; or

(*g*) a plan or arrangement instituted by the social security legislation of a country other than Canada or of a state, province or other political subdivision of such a country.

s. 890.1R1; O.C. 1114-93, s. 27; O.C. 35-96, s. 86; O.C. 523-96, s. 20; O.C. 1707-97, s. 61; O.C. 1466-98, s. 80.

"**890.15R1.** An educational institution referred to in paragraph *d* of the definition of "trust" in section 890.15 of the Act means a university, college or other educational institution in Canada, designated by the Lieutenant Governor in Council of a province as a specified educational institution under the Canada Student Loans Act (Revised Statutes of Canada, 1985, chapter S-23), or 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, Recreation and Sports for the purposes of the Act respecting financial assistance for education expenses (R.S.Q., c. A-13.3).

s. 890.15R1; O.C. 1451-2000, s. 30; 2005, c. 28, s. 195.

"**CHAPTER III**

"REGISTERED EDUCATION SAVINGS PLANS

chap. I.2; O.C. 1466-98, s. 81.

"**895R1.** For the purposes of this section and paragraphs *f* and *f*.1 of section 895 of the Act,

(*a*) a post-secondary educational institution means

i. an educational institution in Canada that is

(1) described in section 890.15R1, or

(2) recognized by the Minister as being an educational institution offering instruction, other than instruction designed for university credit, that furnishes a person with skills for, or improves a person's skills in, an occupation, or

ii. an educational institution outside Canada that is a university, college or other institution providing post-secondary education, at which a beneficiary, as defined in section 890.15 of the Act, was enrolled in a course of not less than 13 consecutive weeks; and

(*b*) an educational program means a post-secondary level program lasting not less than three consecutive weeks, under which a participating student must devote not less than 10 hours per week to courses or to the program workload.

s. 895R1; O.C. 67-96, s. 54; O.C. 1707-97, s. 63; 1997, c. 90, s. 14; O.C. 263-98; O.C. 1454-99, s. 41; O.C. 1451-2000, s. 33; O.C. 1155-2004, s. 40; O.C. 1149-2006, s. 43.

"**895.0.1R1.** For the purposes of section 895.0.1 of the Act, a prescribed post-secondary educational institution and a prescribed educational program are respectively a post-secondary educational institution referred to in paragraph *a* of section 895R1 and an educational program referred to in paragraph *b* of that section.

s. 895.0.1R1; O.C. 1282-2003, s. 53.

"**CHAPTER IV**

"REGISTERED RETIREMENT INCOME FUNDS

chap. III.0.1; O.C. 1631-96, s. 37.

"**961.1.5.0.1R1.** For the purposes of subparagraph *b* of the second paragraph of section 961.1.5.0.1 of the Act, the prescribed factor in respect of an individual for a year in connection with a retirement income fund is

(*a*) where the retirement income fund was a qualifying retirement income fund at the beginning of the year, the

prescribed factor determined in accordance with subsection 3 of section 7308 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in respect of the individual for the year in connection with a retirement income fund; or

(*b*) where the retirement income fund was not a qualifying retirement income fund at the beginning of the year, the prescribed factor determined in accordance with subsection 4 of section 7308 of the Income Tax Regulations made under the Income Tax Act, in respect of the individual for the year in connection with a retirement income fund.

s. 961.1.5.0.1R1; O.C. 1451-2000, s. 35.

"**961.1.5.0.1R2.** For the purposes of this chapter, a retirement income fund is a qualifying retirement income fund at a particular time if

(*a*) the arrangement in connection therewith was entered into before 1 January 1993 and the carrier has not accepted any property as consideration under the fund after 31 December 1992 and at or before the particular time; or

(*b*) the carrier has not accepted any property as consideration under the fund after 31 December 1992 and at or before the particular time, other than property transferred from a retirement income fund that, immediately before the time of the transfer, was a qualifying retirement income fund.

In this section, "carrier" has the meaning assigned by paragraph *b* of section 961.1.5 of the Act.

s. 961.1.5.0.1R2; O.C. 1451-2000, s. 35.

"**CHAPTER V**

"ELECTION IN RESPECT OF A UNIT IN A QUALIFIED TRUST

chap. III.2; O.C. 291-90, s. 12; O.C. 1249-2005, s. 25; O.C. 1116-2007, s. 31.

"**961.24R1.** For the purposes of section 961.24 of the Act, a qualified trust makes an election under that section by sending to the Minister a declaration, with supporting evidence, attesting that it has made the election under subsection 1 of section 259 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the period referred to in that section 961.24.

s. 961.24R1; O.C. 291-90, s. 12; O.C. 1249-2005, s. 27; O.C. 1116-2007, s. 32.

"**CHAPTER VI**

"REGISTERED SUPPLEMENTARY UNEMPLOYMENT BENEFIT PLANS

chap. IV; O.C. 1981-80, title XXIV, chap. IV; R.R.Q., 1981, c. I-3, r.1, title XXIV, chap. IV.

"**962R1.** Subject to the power of the Minister to refuse or revoke a registration, each plan validly registered as a registered supplementary unemployment benefit plan under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) is deemed to be equally registered as such with the Minister.

s. 962R1; O.C. 1981-80, s. 962R1; R.R.Q., 1981, c. I-3, r.1, s. 962R1; O.C. 35-96, s. 86.

"**CHAPTER VII**

"STOCK SAVINGS PLAN

chap. IV.1; O.C. 544-86, s. 16.

"**965.2R1.** For the purposes of section 965.2 of the Act, an indexed security investment plan is a prescribed plan.

s. 965.2R1; O.C. 421-88, s. 28.

"**965.4.5R1.** For the purposes of section 965.4.5 of the Act, sections 21.20 to 21.25 and section 781.1 of the Act determine whether a corporation is associated with another corporation at a date, with the necessary modifications.

s. 965.4.5R1; O.C. 544-86, s. 16; O.C. 1232-91, s. 23; O.C. 1633-96, s. 44; O.C. 1707-97, s. 98.

"**965.20.1R1.** An individual makes the election under the second paragraph of section 965.20.1 of the Act by sending to the individual's broker a document indicating the method chosen in respect of the aggregate of the shares in the same class of share capital of a corporation that the individual withdraws from the stock savings plan.

s. 965.20.1R1; O.C. 544-86, s. 16; O.C. 1707-97, s. 98.

"**CHAPTER VIII**

"LIFE INSURANCE POLICIES

chap. V; O.C. 1981-80, title XXIV, chap. V; R.R.Q., 1981, c. I-3, r.1, title XXIV, chap. V.

"**DIVISION I**

"INTERPRETATION

div. I; O.C. 1981-80, title XXIV, chap. V, div. I; R.R.Q., 1981, c. I-3, r.1, title XXIV, chap. V, div. I.

"**966R1.** In this Chapter,

"cash surrender value" has the meaning assigned by paragraph *d* of section 966 of the Act;

"death benefit" has the meaning assigned by section 92.11R1;

"life annuity contract" has the meaning assigned by sections 966R2 to 966R4;

"mortality gain" has the meaning assigned by sections 976R2 and 976R3;

"mortality loss" has the meaning assigned by sections 976.1R2 and 976.1R3;

"policy loan" has the meaning assigned by paragraph *a*.1.1 of section 966 of the Act;

"proceeds of disposition" has the meaning assigned by paragraph *b*.4 of section 966 of the Act.

s. 966R1; O.C. 1981-80, s. 966R1; R.R.Q., 1981, c. I-3, r.1, s. 966R1; O.C. 7-87, s. 16; O.C. 67-96, s. 55; O.C. 1470-2002, s. 63; O.C. 1155-2004, s. 41.

"**DIVISION II**

"LIFE ANNUITY CONTRACTS

div. II; O.C. 7-87, s. 16.

"**966R2.** For the purposes of section 966 of the Act, a life annuity contract means a contract between an individual and a person holding a licence or otherwise authorized by the laws of Canada or of a province to sell annuities in Canada under which that person agrees to make annuity payments to an individual.

s. 966R2; O.C. 7-87, s. 16.

"**966R3.** To qualify as a life annuity contract, the contract must specify that the annuity payments covered by section 966R2 will begin on a fixed date and will be paid annually or at shorter periodic intervals to the individual during the individual's lifetime.

s. 966R3; O.C. 7-87, s. 16.

"**966R4.** A life annuity contract does not cease to qualify as such by reason only of containing provisions to the effect that

(*a*) the annuitant or the holder may transfer the annuity payments;

(*b*) the annuity payments will end after a fixed period of not less than 10 years, or if the annuitant dies before the end of that period, on the annuitant's death;

(*c*) the annuity payments will be paid to the annuitant during the annuitant's lifetime or for a longer guaranteed time and, in the latter case, the payments will be made to a particular person;

(*d*) an additional payment will be made on the annuitant's death;

(*e*) the annuitant or the holder may, at annuitant's discretion, amend, in respect of the entire contract or part of it, the date on which the annuity payments begin or the date on which the holder becomes eligible to receive the proceeds of the disposition; or

(*f*) all or part of the proceeds to be paid at a particular time under the contract may be received in the form of an annuity contract other than a life annuity contract.

s. 966R4; O.C. 7-87, s. 16.

"**966R5.** For the purposes of this chapter and section 966 of the Act, the accumulating fund at a particular time in respect of an interest in an annuity contract or in a life insurance policy is the amount determined at that time in respect of the interest in accordance with sections 92.11R2 to 92.11R13.

s. 966R5; O.C. 7-87, s. 16; O.C. 67-96, s. 56.

"**967R1.** For the purposes of section 967 of the Act, the accumulating fund at a particular time in respect of an interest in an annuity contract or in a life insurance policy is the amount determined at that time in respect of the interest in accordance with sections 92.11R2 to 92.11R13.

s. 967R1; O.C. 7-87, s. 16; O.C. 67-96, s. 56.

"**967R2.** An annuity contract referred to in subparagraph ii of paragraph *b* of section 967 of the Act for a taxation year does not include a prescribed annuity contract for that year within the meaning assigned to that expression by sections 92.11R14 to 92.11R19.

s. 967R2; O.C. 1471-91, s. 28.

"**DIVISION III**

"PRESCRIBED TAX

div. III; O.C. 7-87, s. 16.

"**976R1.** The tax referred to in paragraph *g* of section 976 of the Act is that provided for in paragraph *o* of subsection 1 of section 212 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 976R1; O.C. 7-87, s. 16; O.C. 35-96, s. 76.

"**DIVISION IV**

"MORTALITY GAIN

div. IV; O.C. 7-87, s. 16.

"**976R2.** For the purposes of paragraph *h* of section 976 of the Act, a mortality gain, immediately before the end of a calendar year ending after 31 December 1982, in respect of a taxpayer's interest in a life annuity contract means the reasonable amount, in respect of the taxpayer's interest at

that time, that the life insurer determines to be the increase in the accumulating fund in respect of the interest, occurring during that year and attributable to the survival, at the end of the year, of an annuitant under the contract.

s. 976R2; O.C. 7-87, s. 16.

"**976R3.** In calculating an amount referred to in section 976R2 for a year in respect of an interest in a life annuity contract, the expected value of mortality gains in respect of the interest for the year must be equal to the expected value of the mortality losses in respect of the interest for the year and the mortality rates used for the year in calculating the expected values must be those that would be appropriate to the interest and that are specified in any of paragraphs *a* to *c* of section 840R23.

s. 976R3; O.C. 7-87, s. 16.

"**DIVISION V**

"NET COST OF PURE INSURANCE

div. V; O.C. 7-87, s. 16.

"**976.1R1.** For the purposes of paragraph *e* of section 976.1 of the Act, the net cost of pure insurance for a year in respect of a taxpayer's interest in a life insurance policy means the result obtained when the probability, computed on the basis of the rates of mortality under the 1969 - 1975 mortality tables published in volume XVI of the Proceedings of the Canadian Institute of Actuaries or on the basis of the second paragraph, that a person having the same characteristics as the person whose life is insured will die in the year is multiplied by the amount by which the death benefit in respect of the taxpayer's interest at the end of the year exceeds, depending upon the method regularly used by the life insurer in computing the net cost of pure insurance, either the accumulating fund in respect of the taxpayer's interest in the policy at the end of the year, determined without reference to any outstanding policy loan, or the cash surrender value of that interest at the end of the year.

Where premiums for a particular class of life insurance policy offered by a life insurer are not established directly on the basis of the insured's sex or the fact that the insured is a smoker or non-smoker, the probability described in the first paragraph may be determined on the basis of rates of mortality established otherwise, provided that for each age for such class of life insurance policy, the expected value of the total net cost of pure insurance, calculated on the basis of such rates of mortality, is equal to the expected value of the total net cost of pure insurance computed on the basis of the rates of mortality under the 1969-1975 mortality tables published in volume XVI of the Proceedings of the Canadian Institute of Actuaries.

s. 976.1R1; O.C. 7-87, s. 16; O.C. 366-94, s. 25; O.C. 1470-2002, s. 64.

"**DIVISION VI**

"MORTALITY LOSS

div. VI; O.C. 7-87, s. 16.

"**976.1R2.** For the purposes of paragraph *g* of section 976.1 of the Act, a mortality loss, immediately before a particular time later than 31 December 1982, in respect of an interest in a life annuity contract that is disposed of immediately after the particular time following the death of an annuitant under the policy means the reasonable amount that the life insurer determines as being the reduction, following the death, in the accumulating fund in respect of the interest, by assuming, for the purposes of computing that reduction, that the accumulating fund immediately after the death is determined in the manner described in subparagraph *a* of the first paragraph of section 92.11R6.

s. 976.1R2; O.C. 7-87, s. 16; O.C. 67-96, s. 58.

"**976.1R3.** Section 976R3 also applies for the purposes of calculating an amount referred to in section 976.1R2 for a year in respect of an interest in a life annuity contract.

s. 976.1R3; O.C. 7-87, s. 16.

"**977.1R1.** For the purposes of section 977.1 of the Act, the accumulating fund at a particular time in respect of an interest in an annuity contract or in a life insurance policy is the amount determined at that time in respect of the interest in accordance with sections 92.11R2 to 92.11R13.

s. 977.1R1; O.C. 7-87, s. 16; O.C. 67-96, s. 58.

"**TITLE XXXVI**

"CHARITIES

titre XXV; O.C. 1981-80, title XXV; R.R.Q., 1981, c. I-3, r.1, title XXV; O.C. 538-91, s. 4; O.C. 35-96, s. 86.

"**CHAPTER I**

"REGISTRATION

chap. I; O.C. 538-91, s. 5.

"**985.5R1.** Subject to the Minister's power to refuse or revoke a registration or to change a designation, a charitable organization within the meaning of section 985.1 of the Act, a private foundation or a public foundation is also deemed to be registered with the Minister as a charitable organization, private foundation or public foundation, as the case may be, where

(*a*) it is deemed to possess a valid registration as such under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); or

(*b*) it possesses a valid registration as such under the Income Tax Act and has provided to the Minister, within 30 days following the confirmation of the obtaining of its registration as such under that Act, a true copy of the

documents submitted in support of the application in respect of that registration, as well as reasonable proof of the obtaining of that registration.

For the purposes of the first paragraph, the date of the taking effect of the deemed registration of a charity to which subparagraph *b* of that paragraph applies is the date determined by the Minister of National Revenue or by any other person authorized under the Income Tax Regulations made under the Income Tax Act.

s. 985.5R1; O.C. 1981-80, s. 985.5R1; R.R.Q., 1981, c. I-3, r.1, s. 985.5R1; O.C. 615-88, s. 31; O.C. 1745-88, s. 1; O.C. 140-90, s. 6; O.C. 35-96, s. 86; O.C. 1451-2000, s. 37.

"**CHAPTER II**

"CHARITABLE FOUNDATIONS

chap. II; O.C. 538-91, s. 6; O.C. 35-96, s. 86.

"**DIVISION I**

"INTERPRETATION

div. I; O.C. 538-91, s. 6.

"**985.9.2R1.** In this chapter,

"charitable foundation" has the meaning assigned by paragraph *d* of section 985.1 of the Act;

"limited-dividend housing company" means a limited-dividend housing company referred to in paragraph *c* of section 998 of the Act;

"non-qualified investment" has the meaning assigned by subsection 1 of section 149.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

"taxation year" has the meaning assigned by paragraph *a* of section 985.1 of the Act.

s. 985.9.2R1; O.C. 538-91, s. 6; O.C. 1114-93, s. 32; O.C. 35-96, s. 77; O.C. 1633-96, s. 20; O.C. 1463-2001, s. 125.

"**DIVISION II**

"DISBURSEMENT QUOTA

div. II; O.C. 538-91, s. 6.

"**985.9.2R2.** The amount referred to in paragraph *a* of section 985.9.2 of the Act is determined, for a taxation year of a charitable foundation, in accordance with the following rules:

(*a*) the charitable foundation chooses a number, not less than two nor more than eight, of equal and consecutive periods that total 24 months and that end immediately before the beginning of the year;

(*b*) for each period chosen in accordance with subparagraph *a*, it adds together all the amounts each of which is the value, determined in accordance with section 985.9.2R3, of property or a portion thereof owned by the foundation and not directly used in charitable activities or in administration on the last day of that period;

(*c*) it adds together all the amounts each of which is the result of the addition under subparagraph *b* for a period chosen in accordance with subparagraph *a*; and

(*d*) it divides the amount obtained under subparagraph *c* by the number of periods chosen under subparagraph *a*.

For the purposes of the first paragraph and subject to the third paragraph,

(*a*) the number of periods chosen by a charitable foundation under subparagraph *a* of the first paragraph must, unless otherwise authorized by the Minister, be used for the taxation year and for any subsequent taxation year; and

(*b*) a charitable foundation is deemed to have existed on the last day of each of the periods chosen by it.

The charitable foundation may, for its first taxation year beginning after 31 December 1986, change the number of periods chosen previously under subparagraph *a* of the first paragraph, and the new number must, unless otherwise authorized by the Minister, be used for that taxation year and for all subsequent taxation years.

s. 985.9.2R2; O.C. 538-91, s. 6; O.C. 35-96, s. 86.

"**985.9.2R3.** For the purposes of the first paragraph of section 985.9.2R2, the value of property or a portion thereof owned by a charitable foundation and not directly used in charitable activities or in administration on the last day of a period must be determined as of that day and must be equal to,

(*a*) in the case of a non-qualified investment, its fair market value on that day or its cost amount to the foundation, whichever is greater;

(*b*) subject to subparagraph *c*, in the case of property other than a non-qualified investment that is

i. a share of a corporation that is listed on a Canadian or foreign stock exchange, the closing price or the average of the bid and asked prices of that share on that day or, if there is no closing price or bid and asked prices on that day, on the last preceding day for which there was a closing price or an average of the bid and asked prices,

ii. a share of a corporation that is not listed on a Canadian or foreign stock exchange, the fair market value of that share on that day,

iii. an interest in immovable property, the fair market value of that interest on that day, less the amount of any debt bearing a reasonable rate of interest incurred by the foundation in respect of the acquisition of that interest and secured by the immovable property or the interest therein,

iv. property that has been pledged, nil,

v. an interest in property where the foundation does not have the present use or enjoyment of the interest, nil,

vi. a life insurance policy in force, other than an annuity contract, nil, or

vii. property other than property described in subparagraphs i to vi, the fair market value of the property on that day; or

(*c*) in the case of property described in subparagraph *b* that is either property owned in connection with the charitable activities of the foundation and is a share of a limited-dividend housing company or a debt arising from a loan, or property that has ceased to be used for charitable purposes and is being held pending disposition or pending use for charitable purposes, or property that has been acquired for use for charitable purposes, the lesser of the fair market value of the property on that day and the amount determined in accordance with the following formula:

(A / 0,045) × (12 / B).

In the formula in subparagraph *c* of the first paragraph,

(*a*) A is the income earned from the property during the period; and

(*b*) B is the number of months in the period.

For the purposes of the first paragraph, the Minister may accept, as a method for determining the fair market value of property or a portion thereof on the last day of a period, an appraisal made by an independent expert

(*a*) in the case of property described in subparagraph ii or iii of subparagraph *b* of the first paragraph, not more than three years before that day; or

(*b*) in the case of property described in subparagraph *a* or *c* of the first paragraph or in subparagraph vii of subparagraph *b* of the first paragraph, not more than one year before that day.

s. 985.9.2R3; O.C. 538-91, s. 6; O.C. 35-96, s. 86; O.C. 1633-96, s. 21; O.C. 1707-97, s. 98; O.C. 1466-98, s. 126; O.C. 1463-2001, s. 126.

"**TITLE XXXVII**

"PRESCRIBED PERSONS

title XXV.1; O.C. 421-88, s. 29.

"**998R1.** For the purposes of paragraph *c*.2 of section 998 of the Act, prescribed persons are

(*a*) a trust all the beneficiaries of which are trusts all the beneficiaries of which are registered pension plans;

(*b*) a corporation incorporated before 17 November 1978 solely for the administration of a registered pension plan or in connection with such a plan;

(*c*) a trust created or a corporation incorporated by a law of a province or under such a law whose principal activity consists in administering, managing or investing the funds of a retirement plan created in accordance with a law of that province or an order in council or a regulation made under such a law;

(*d*) the Canada Pension Plan Investment Board;

(*e*) a trust created or a corporation incorporated by a law of a province or under such a law, in connection with a compensation plan or program for workers injured in an accident arising out of or in the course of their work;

(*f*) the State;

(*g*) Her Majesty in right of a province, other than Québec;

(*h*) a trust all the beneficiaries of which are one of the following entities or any combination thereof:

i. a registered pension plan,

ii. a trust all the beneficiaries of which are registered pension plans,

iii. a segregated fund trust, within the meaning of paragraph *k* of section 835 of the Act, all the beneficiaries of which are registered pension plans, and

iv. a person described in this section; and

(*i*) a corporation all of the shares of the capital stock of which are owned by one or more of the following:

i. a registered pension plan,

ii. a trust all the beneficiaries of which are registered pension plans,

iii. a segregated fund trust, within the meaning of paragraph *k* of section 835 of the Act, all the beneficiaries of which are registered pension plans, and

iv. a person described in this section.

s. 998R1; O.C. 421-88, s. 29; O.C. 538-91, s. 7; O.C. 1114-93, s. 33; O.C. 1660-94, s. 13; O.C. 1707-97, s. 98; O.C. 1466-98, s. 82; O.C. 1454-99, s. 42; O.C. 1155-2004, s. 42.

"**998R2.** For the purposes of paragraph *c*.3 of section 998 of the Act, a small business investment corporation is, subject to the rule prescribed in subsection 4 of section 5101 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1,

5th Supplement), a corporation that fulfils the conditions set out in subsection 1 of that section.

s. 998R2; O.C. 291-90, s. 13; O.C. 1114-93, s. 34; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**998R3.** For the purposes of paragraph *c*.4 of section 998 of the Act, a trust is, at any time, a master trust if, at all times after its creation and before that time, it fulfils the following conditions:

(*a*) it is resident in Canada;

(*b*) its sole undertaking consists in investing its funds;

(*c*) it never borrowed money, except where the borrowing is for a term of not more than 90 days and it is established that the borrowing is not part of a series of loans or other transactions and repayments;

(*d*) it never accepted deposits; and

(*e*) each of its beneficiaries is a trust governed by a registered pension plan or a deferred profit sharing plan.

s. 998R5; O.C. 1114-93, s. 36.

"**998R4.** For the purposes of paragraph *k* of section 998 of the Act, the following are prescribed insurers:

(*a*) Laurentian Farm Insurance Company Inc.;

(*b*) Les Clairvoyants Compagnie d'Assurance Générale Inc.; and

(*c*) Union Québécoise, compagnie d'assurances générales inc.

s. 998R6; O.C. 1631-96, s. 38.

"**TITLE XXXVIII**

"ADMINISTRATION

title XXVI; O.C. 1981-80, title XXVI; R.R.Q., 1981, c. I-3, r.1, title XXVI.

"**CHAPTER I**

"DEDUCTION AT SOURCE

chap. I; O.C. 1981-80, title XXVI, chap. I; R.R.Q., 1981, c. I-3, r.1, title XXVI, chap. I.

"**DIVISION I**

"GENERALITIES

div. I; O.C. 1981-80, title XXVI, chap. I, div. I; R.R.Q., 1981, c. I-3, r.1, title XXVI, chap. I, div. I.

"**1015R1.** In this chapter,

"annual pay" means the product obtained by multiplying the amount of the remuneration for the pay period by the number of pay periods in the year;

"employee" means any person receiving a remuneration;

"employer" means any person paying a remuneration;

"pay" means a remuneration;

"pay period" means a one-week period, a two-week period, a semi-monthly period or a monthly period;

"personal tax credits", in respect of a particular taxation year, means the product obtained by multiplying 5

(*a*) by the amount determined for the year pursuant to the second paragraph of section 1015.3 of the Act with reference to the adjustment provided for in the third paragraph of that section; or

(*b*) where the employee has provided the employer with a return referred to in section 1015.3 of the Act, by the aggregate of all amounts that, according to the information set out in the most recent return referred to in section 1015.3 that the employee has provided to the employer, the employee

i. would be entitled to deduct from the employee's tax otherwise payable for the year under section 752.0.0.1 of the Act if the total of $6,275 and the supplementary amount for the year were replaced by the amount used for the year in accordance with the second and third paragraphs of section 1015.3 of the Act,

ii. would be entitled to deduct from the employee's tax otherwise payable for the year under section 776.41.5 of the Act if the amount determined according to the formula in the first paragraph of that section were read as a reference to the amount obtained by multiplying the percentage determined in section 750.1 of the Act for the year by the amount used for the year pursuant to the second and third paragraphs of section 1015.3 of the Act,

iii. is entitled to deduct from the employee's tax otherwise payable under sections 752.0.1 and 752.0.7.1 to 752.0.8 of the Act, and

iv. may deduct from the employee's tax otherwise payable for the year under section 752.0.14 of the Act, or that the employee would be entitled to deduct under that section if it were read without reference to subparagraph *d* of the first paragraph of that section;

"remuneration" means

(*a*) salary, wages, allowance, benefit or other advantage paid, allocated, granted or awarded to an employee or former employee;

(*b*) a payment of commissions or other similar amounts fixed by reference to the volume of the sales made or the contracts negotiated, referred to as "commissions" in this chapter, if the payment is made to an employee or former employee;

(*c*) pension benefits, including an annuity payment under a pension plan;

(*d*) a retiring allowance;

(*e*) a death benefit;

(*f*) a payment as a benefit under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23) or a benefit under a supplementary unemployment benefit plan;

(*g*) a payment as a benefit under the Act respecting parental insurance (R.S.Q., c. A-29.011);

(*h*) an amount that is described in any of paragraphs *e*.2 to *e*.4 of section 311 of the Act, except the portion of the amount that relates to child care expenses and tuition costs;

(*i*) a payment under a deferred profit sharing plan or a plan designated in subsection 15 of section 147 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as a revoked plan, reduced by the amounts determined under sections 883, 884 and 886 of the Act;

(*j*) an amount paid as proceeds of the surrender, cancellation or redemption of an income-averaging annuity contract;

(*k*) a payment made during the lifetime of an annuitant, within the meaning of paragraph *d* of section 961.1.5 of the Act, under a registered retirement income fund of the annuitant, other than a particular payment to the extent that

i. the particular payment is in relation to the minimum amount, within the meaning of paragraph *c* of that section 961.1.5, under the fund for a year, or

ii. where the fund governs a trust, the particular payment would be in relation to the minimum amount, within the meaning of paragraph *c* of that section 961.1.5, under the fund for a year if each amount that, at the beginning of the year, must be paid after the time of the particular payment and in the year to the trust under an annuity contract that is held by the trust both at the beginning of the year and at the time of the particular payment, is paid to the trust in the year;

(*l*) a payment made out of or under a registered retirement savings plan during the lifetime of an annuitant, within the meaning of paragraph *b* of section 905.1 of the Act, of such a plan for whom a retirement income is provided by the plan, other than a periodical annuity payment or a payment made by a person who has reasonable grounds to believe that the payment is deductible in computing an individual's income under section 924 of the Act;

(*m*) a payment that is a benefit of a new plan referred to in section 914 of the Act or under such a plan, other than a periodical annuity payment or, where section 914 of the Act applies to the plan after 25 May 1976, a payment made in a year subsequent to the year in which that section 914 applies to the plan;

(*n*) a benefit referred to in section 311R1;

(*o*) a payment that is an amount that may be regarded as having been received, in whole or in part, as consideration for entering into a contract for performance of services to be rendered in Québec or for an undertaking not to enter into such a contract with a third party;

(*p*) an amount received from a retirement compensation arrangement or under such an arrangement;

(*q*) an amount referred to in section 43.2 of the Act, to the extent that it is not covered by paragraph *a*;

(*r*) a payment out of a registered education savings plan other than

i. a refund of contributions,

ii. an educational assistance payment, or

iii. an amount, up to $50,000, of an accumulated income payment that is made to a subscriber, as defined in section 1129.63 of the Act, or if there is no such subscriber at that time, that is made to a person that has been the spouse of an individual who was a subscriber, if

(1) that amount is transferred to a registered retirement savings plan in which the annuitant is either the recipient of the payment or the recipient's spouse, and

(2) it is reasonable for the person making the payment to believe that that portion of the accumulated income payment is deductible for the year under sections 922 and 923 of the Act in computing the recipient's income; and

(s) a payment made in connection with the closing of a farm income stabilization account under sections 45 and 46 of the "Farm Income Stabilization Account" program established under the Act respecting La Financière agricole du Québec (R.S.Q., c. L-0.1).

s. 1015R1; O.C. 1981-80, s. 1015R1; O.C. 2456-80, s. 17; O.C. 3926-80, s. 38; O.C. 871-81, s. 1; O.C. 1535-81, s. 17; R.R.Q., 1981, c. I-3, r.1, s. 1015R1; O.C. 2583-85, s. 22; O.C. 421-88, s. 30; O.C. 1076-88, s. 23; O.C. 1025-91, s. 1; O.C. 1114-93, s. 37; O.C. 473-95, s. 22; O.C. 35-96, s. 78; O.C. 523-96, s. 22; O.C. 1633-96, s. 22; O.C. 1707-97, s. 65; O.C. 1466-98, s. 83; O.C. 1451-2000, s. 38; O.C. 1463-2001, s. 127; O.C. 1470-2002, s. 65; O.C. 1282-2003, s. 54; O.C. 1155-2004, s. 43; O.C. 1249-2005, s. 28; O.C. 1149-2006, s. 45.

"**1015R2.** For the purposes of this chapter, any reference to a remuneration that a person or an employer pays or that is paid is a reference to a remuneration that that person or

employer pays, allocates, grants or awards, or that is paid, allocated, granted or awarded.

s. 1015R1.0.0.1; O.C. 523-96, s. 23.

"**1015R3.** For the purposes of subparagraph *m* of the second paragraph of section 1015 of the Act, a prescribed benefit is a benefit described in section 311R1.

s. 1015R1.0.1.1; O.C. 1707-97, s. 66.

"**1015R4.** For the purposes of paragraph *b* of the definition of "remuneration" in section 1015R1, the expression "payment of commissions" in respect of a payment of commissions made in a taxation year means the amount of that payment.

However, when the employee has elected to file with the employer the declaration referred to in the first paragraph of section 1015R27 in respect of the year, within the time determined therein, and has not revoked that election, that expression means the amount by which the amount of such payment exceeds the proportion of that amount that

(*a*) the aggregate of the amounts that were deductible under sections 62, 63, 63.1, 64 and 78 of the Act in computing the employee's income for the preceding taxation year is of the amount of the commissions received by the employee during that last year; or

(*b*) the aggregate of the amounts that, according to the employee's estimation, will be deductible under sections 62, 63, 63.1, 64 and 78 of the Act in computing the employee's income for the year is of the total amount of the commissions that, according to the employee's estimation, will be received by the employee during the year.

s. 1015R1.1; O.C. 871-81, s. 2; R.R.Q., 1981, c. I-3, r.1, s. 1015R1.1; O.C. 2583-85, s. 23; O.C. 473-95, s. 24; O.C. 523-96, s. 25; O.C. 1631-96, s. 39; O.C. 1707-97, s. 67; O.C. 1155-2004, s. 45; O.C. 1149-2006, s. 46.

"**1015R5.** For the purposes of this chapter, the amount of renumeration remaining to be paid to an employee after deduction by an employer of the aggregate determined in respect of that remuneration under section 1015R6 in respect of the employee is deemed to be the amount of the remuneration paid or to be paid.

s. 1015R2; O.C. 1981-80, s. 1015R2; R.R.Q., 1981, c. I-3, r.1, s. 1015R2; O.C. 2727-84, s. 21; O.C. 1344-89, s. 1.

"**1015R6.** The aggregate mentioned in section 1015R5 in respect of remuneration is, in respect of an employee, the aggregate of

(*a*) the employee's premium paid to a registered retirement savings plan;

(*b*) the employee's eligible contribution to a registered pension plan;

(*c*) where the amount that the employer is required to deduct under section 1015 of the Act in respect of the employee's remuneration is not established according to the mathematical formula referred to in the third paragraph of that section, 75% of the amount deducted from the employee's remuneration by the employer, pursuant to the employee's authorization, for the purchase by that employee as first purchaser of class "A" shares issued by the corporation governed by the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (R.S.Q., c. F-3.2.1) or class "A" or "B" shares issued by the corporation governed by the Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (R.S.Q., c. F-3.1.2), without the total of the amounts determined under this paragraph exceeding, for a year, an amount equal to 75% of $5,000;

(*d*) where the amount that the employer is required to deduct under section 1015 of the Act in respect of the employee's remuneration is not established according to the mathematical formula referred to in the third paragraph of that section, the amount obtained by multiplying the appropriate percentage determined under section 1015R7 by the amount deducted from the employee's remuneration by the employer, pursuant to the employee's authorization, for the acquisition by that employee of a qualifying security within the meaning of the cooperative investment plan adopted under the Act respecting the Ministère du Développement économique, de l'Innovation et de l'Exportation (R.S.Q., c. M-30.01) or the Cooperative Investment Plan Act (R.S.Q., c. R-8.1.1), without the total of the amounts determined under this paragraph exceeding, for a year, 30% of the amount by which the salary or wages paid to the employee for the year exceeds the total of the amounts determined for the year under paragraphs *a* and *b*, in respect of a qualifying security;

(*e*) the contribution that may be deducted by the employee under section 70.2 of the Act;

(*f*) the employee's remuneration or part of remuneration referred to in section 63 of the Act respecting international financial centres (R.S.Q., c. C-8.3), from the employee's employment with a corporation or partnership operating an international financial centre;

(*g*) the employee's remuneration referred to in section 1015.0.1 of the Act; and

(*h*) the amount that may be deductible by the employee under section 350.1 of the Act because of subparagraph *a* of the first paragraph of section 350.2 of the Act.

s. 1015R2.1; O.C. 1344-89, s. 1; O.C. 1025-91, s. 3; O.C. 1114-93, s. 38; O.C. 473-95, s. 25; O.C. 523-96, s. 26; O.C. 1631-96, s. 40; O.C. 1633-96, s. 23; O.C. 1707-97, s. 68; O.C. 1466-98, s. 84; O.C. 1451-2000, s. 39; O.C. 1470-2002, s. 67; O.C. 1282-2003, s. 55; O.C. 1155-2004, s. 46; 2006, c. 8, s. 31; O.C. 1116-2007, s. 33.

"**1015R7.** The percentage to which paragraph *d* of section 1015R6 refers in relation to the acquisition of a qualifying security within the meaning of the cooperative investment plan adopted under the Act respecting the Ministère du Développement économique, de l'Innovation et de l'Exportation (R.S.Q., c. M-30.01) is

(*a*) 112.5% in the case of the acquisition of a qualifying security of a small or medium-sized cooperative, within the meaning of the cooperative investment plan, within the scope of a workers investment program;

(*b*) 93.75% in the case of the acquisition of a qualifying security of a small or medium-sized cooperative, within the meaning of the cooperative investment plan, otherwise than within the scope of a workers investment program;

(*c*) 93.75% in the case of the acquisition of a qualifying security within the scope of a workers investment program in a cooperative, other than a cooperative referred to in paragraph *a* or *b*; and

(*d*) 75% in the case of the acquisition of a qualifying security in respect of which any of paragraphs *a* to *c* do not apply.

The percentage to which paragraph *d* of section 1015R6 refers in relation to the acquisition of a qualifying security within the meaning of the cooperative investment plan adopted under the Cooperative Investment Plan Act (R.S.Q., c. R-8.1.1) is 125%.

s. 1015R2.1.1; O.C. 1282-2003, s. 56; O.C. 1155-2004, s. 47; 2006, c. 8, s. 31; O.C. 1116-2007, s. 34.

"**1015R8.** For the purposes of paragraph *a* of section 1015R6, a premium referred to therein in respect of a remuneration is, in respect of an employee,

(*a*) the employee's premium that, after an agreement to that effect, is deducted directly from the employee's remuneration by the employer and transferred by the latter to the issuer, within the meaning of paragraph *c* of section 905.1 of the Act, of a plan under which the employee or the employee's spouse is the annuitant within the meaning of paragraph *b* of that section 905.1;

(*b*) an amount equal to the employee's premium consisting of class "A" shares issued by the corporation governed by the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (R.S.Q., c. F-3.2.1) or class "A" or "B" shares issued by the corporation governed by the Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (R.S.Q., c. F-3.1.2), that is deducted directly from the employee's remuneration and transferred by the employer to the issuer, within the meaning of paragraph *c* of section 905.1 of the Act, of a plan under which the employee or the employee's spouse is the annuitant within the meaning of paragraph *b* of that section 905.1, without the total of the amounts determined under this paragraph exceeding for a year an amount equal to $5,000; or

(*c*) an amount equal to the employee's premium consisting of qualifying securities within the meaning of the cooperative investment plan adopted under the Act respecting the Ministère du Développement économique, de l'Innovation et de l'Exportation (R.S.Q., c. M-30.01) or the Cooperative Investment Plan Act (R.S.Q., c. R-8.1.1), that is deducted directly from the employee's remuneration and transferred by the employer to the issuer, within the meaning of paragraph *c* of section 905.1 of the Act, of a plan under which the employee or the employee's spouse is the annuitant within the meaning of paragraph *b* of that section 905.1.

s. 1015R2.2; O.C. 1344-89, s. 1; O.C. 1114-93, s. 39; O.C. 523-96, s. 27; O.C. 1633-96, s. 24; O.C. 1707-97, s. 98; O.C. 1466-98, s. 85; O.C. 1470-2002, s. 68; O.C. 1282-2003, s. 57; O.C. 1155-2004, s. 48; 2006, c. 8, s. 31; O.C. 1116-2007, s. 35.

"**1015R9.** For the purposes of this chapter, the amount of remuneration otherwise determined in respect of an employee for a pay period in a taxation year, including the amount deemed by section 1015R5 to be the amount of the employee's remuneration, must be reduced by an amount equal to the quotient obtained by dividing the amount of the reduction for the year determined in respect of the employee under the second paragraph by the number of pay periods in the year.

For the purposes of the first paragraph, the amount of the reduction for a taxation year determined in respect of an employee is the aggregate of the amounts, as shown on the employee's most recent return referred to in section 1015.3 of the Act that the employee has provided to the employer, that the employee may deduct for the year under section 336.0.3 of the Act and section 350.1 of the Act because of subparagraph *b* of the first paragraph of section 350.2 of the Act.

s. 1015R2.3; O.C. 1025-91, s. 4; O.C. 523-96, s. 27; O.C. 1633-96, s. 25; O.C. 1466-98, s. 86; O.C. 1451-2000, s. 40; O.C. 1463-2001, s. 128; O.C. 1470-2002, s. 69; O.C. 1282-2003, s. 58; O.C. 1155-2004, s. 49; O.C. 1249-2005, s. 29.

"**1015R10.** The amount that an employer is required to deduct or withhold under the Act from any payment of remuneration made to an employee is equal to the amount determined in accordance with the tables drawn up by the Minister under section 1015 of the Act having regard to the amount of the remuneration paid to the employee, the length

of the pay period and the amount of the employee's personal tax credits.

s. 1015R3; O.C. 1981-80, s. 1015R3; R.R.Q., 1981, c. I-3, r.1, s. 1015R3; O.C. 1025-91, s. 5; O.C. 473-95, s. 26; O.C. 1633-96, s. 26; O.C. 1707-97, s. 69; O.C. 1466-98, s. 87; O.C. 1463-2001, s. 129; O.C. 1470-2002, s. 70.

"**1015R11.** Despite section 1015R10, an employer may not make any deduction in respect of a payment of commissions made to an employee in a year if those commissions have been earned during the preceding taxation year and the employer has mentioned them in an information return respecting the employee's remuneration for that preceding taxation year.

s. 1015R3.1; O.C. 871-81, s. 3; R.R.Q., 1981, c. I-3, r.1, s. 1015R3.1.

"**1015R12.** Despite section 1015R10, where under a multi-employer insurance plan, within the meaning of section 43.1 of the Act, an employer is required to pay an amount referred to in section 43.2 of the Act for a year in respect of an employee, the employer fixes a reasonable amount as the estimated value of the benefit that would be granted to the employee for that year if the employee enjoyed coverage under the plan for the entire year, and it may reasonably be considered that the total of the amounts so required to be paid by the employer for the year in respect of the employee significantly exceeds that reasonable amount, the employer may not make any deduction in respect of the amounts among those amounts that the employer pays after the total of the amounts already paid has reached that reasonable amount.

s. 1015R3.5; O.C. 473-95, s. 27; O.C. 1633-96, s. 44.

"**1015R13.** Despite section 1015R10, an employer may not make any deduction in respect of an amount determined under paragraph *d*.1 of section 725 of the Act.

s. 1015R3.6; O.C. 1149-2006, s. 47.

"**1015R14.** Where an employee's pay period is not provided for in the tables drawn up by the Minister under section 1015 of the Act, or the amount of the employee's remuneration is greater than the amount provided for in those tables, the employer must deduct from any such payment to the employee an amount equal to that proportion of the payment that the employee's tax as estimated for the year, on the basis of current rates and the employee's personal tax credits, is of the employee's estimated annual pay.

Despite section 1015R10, the same rule applies to all other cases, if the employer obtains the assent of the Minister.

s. 1015R4; O.C. 1981-80, s. 1015R4; R.R.Q., 1981, c. I-3, r.1, s. 1015R4; O.C. 1466-98, s. 88; O.C. 1463-2001, s. 130.

"**1015R15.** Where a payment of a bonus or a retroactive increase is made in a particular taxation year to an employee whose estimated annual pay, including the bonus or retroactive increase, does not exceed the amount determined in accordance with the second paragraph, the employer must deduct 8% therefrom.

The amount referred to in the first paragraph is equal to the amount determined by the formula

(A × B) / C.

In the formula in the second paragraph,

(*a*) A is the amount used for the particular taxation year in accordance with the second and third paragraphs of section 1015.3 of the Act;

(*b*) B is the percentage described in any of the paragraphs in section 750.1 of the Act that applies for the particular taxation year; and

(*c*) C is the rate described in paragraph *a* of section 750 of the Act.

Where the amount determined in accordance with the second paragraph is not a multiple of $50, it must be rounded to the nearest multiple of $50 or, if it is equidistant from two such multiples, to the greater thereof.

s. 1015R5; O.C. 1981-80, s. 1015R5; R.R.Q., 1981, c. I-3, r.1, s. 1015R5; O.C. 473-95, s. 28; O.C. 1466-98, s. 89; O.C. 1463-2001, s. 131; O.C. 1470-2002, s. 71; O.C. 1155-2004, s. 50; O.C. 1249-2005, s. 31.

"**1015R16.** Where a bonus is paid to an employee whose estimated annual pay, including the bonus, exceeds the amount determined in accordance with the second paragraph of section 1015R15, the amount to be deducted therefrom must be established by the employer

(*a*) by calculating the amount established in accordance with the tables drawn up by the Minister under section 1015 of the Act in respect of a remuneration equal to the amount of regular remuneration to which was added the amount obtained by dividing the amount of the bonus by the number of pay periods in the year;

(*b*) by subtracting the amount appearing in the tables drawn up by the Minister under section 1015 of the Act in respect of the amount of regular remuneration from the sum obtained under paragraph *a*; and

(*c*) by multiplying the amount obtained under paragraph *b* by the number of pay periods in the year.

s. 1015R6; O.C. 1981-80, s. 1015R6; R.R.Q., 1981, c. I-3, r.1, s. 1015R6; O.C. 1466-98, s. 90; O.C. 1463-2001, s. 132; O.C. 1470-2002, s. 72.

"**1015R17.** Where a retroactive increase in remuneration is paid to an employee whose estimated annual pay, including the retroactive increase, exceeds the amount determined in accordance with the second paragraph of section 1015R15, the amount to be deducted therefrom must be established by the employer

(*a*) by calculating the amount established in accordance with the tables drawn up by the Minister under section 1015 of the Act, on the basis of the new rate of remuneration;

(*b*) by subtracting from the amount obtained under paragraph *a* the amount established in accordance with the tables drawn up by the Minister under section 1015 of the Act, on the basis of the previous rate of remuneration; and

(*c*) by multiplying the amount obtained under paragraph *b* by the number of pay periods to which the increase applies.

s. 1015R7; O.C. 1981-80, s. 1015R7; R.R.Q., 1981, c. I-3, r.1, s. 1015R7; O.C. 1466-98, s. 91; O.C. 1463-2001, s. 133; O.C. 1470-2002, s. 73.

"**1015R18.** Despite sections 1015R10 and 1015R14, every person who makes a payment for services rendered in Québec by a person who is not resident in Canada, other than in the course of regular and continuous employment, must deduct 9% from that payment.

s. 1015R8; O.C. 1981-80, s. 1015R8; R.R.Q., 1981, c. I-3, r.1, s. 1015R8.

"**1015R19.** An employer who makes a lump sum payment described in section 1015R20 must deduct therefrom 16% if the payment does not exceed $5,000 and 20% if the payment exceeds $5,000.

However, no deduction is to made by the employer from the amount of such payment in respect of an employee that the employer transfers directly to a trustee under a deferred profit sharing plan or a registered pension plan, to the issuer, within the meaning of paragraph *c* of section 905.1 of the Act, of a registered retirement savings plan, to a person licensed or otherwise authorized under the laws of Canada or a province to carry on an annuities business in Canada or to the carrier, within the meaning of paragraph *b* of section 961.1.5 of the Act, of a registered retirement income fund, where that amount is deductible under any of paragraphs *d* to *f* of section 339 of the Act in computing the employee's income.

s. 1015R9; O.C. 1981-80, s. 1015R9; R.R.Q., 1981, c. I-3, r.1, s. 1015R9; O.C. 2727-84, s. 22; O.C. 1025-91, s. 6; O.C. 1114-93, s. 40; O.C. 1466-98, s. 92; O.C. 1463-2001, s. 134; O.C. 1470-2002, s. 74; O.C. 1155-2004, s. 51.

"**1015R20.** The payment to which section 1015R19 refers is

(*a*) a payment described in subparagraph i or iii of paragraph *a* of section 345 of the Act and in paragraph *c* or *i* of that section 345;

(*b*) a payment under a deferred profit sharing plan or a plan designated in subsection 15 of section 147 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as a revoked plan, excluding a payment referred to in subparagraph v of paragraph *k* of subsection 2 of section 147 of that Act;

(*c*) an amount paid as proceeds of the surrender, cancellation or redemption of an income-averaging annuity contract;

(*d*) a retiring allowance; or

(*e*) a payment referred to in paragraph *r* or *s* of the definition of "remuneration" in section 1015R1.

s. 1015R11; O.C. 1981-80, s. 1015R11; O.C. 1983-80, s. 39; O.C. 2456-80, s. 18; O.C. 3926-80, s. 39; O.C. 1535-81, s. 18; R.R.Q., 1981, c. I-3, r.1, s. 1015R11; O.C. 2583-85, s. 25; O.C. 1025-91, s. 8; O.C. 1114-93, s. 41; O.C. 35-96, s. 79; O.C. 1451-2000, s. 41; O.C. 1282-2003, s. 59; O.C. 1155-2004, s. 52; O.C. 1249-2005, s. 32.

"**1015R21.** Subject to the third paragraph, an employer who makes a single payment described in the second paragraph must deduct 16% of the amount.

The payment to which the first paragraph refers is

(*a*) a payment made during the lifetime of an annuitant, within the meaning of paragraph *d* of section 961.1.5 of the Act, under a registered retirement income fund of the annuitant, other than a payment made in respect of the minimum amount, within the meaning of paragraph *c* of that section 961.1.5, that is to be paid under the fund for a year;

(*b*) a payment made out of or under a registered retirement savings plan during the lifetime of an annuitant, within the meaning of paragraph *b* of section 905.1 of the Act, of such a plan for whom a retirement income is provided by the plan, other than a periodical annuity payment or a payment made by a person who has reasonable grounds to believe that the payment is deductible in computing an individual's income under section 924 of the Act; or

(*c*) a payment that is a benefit of a new plan referred to in section 914 of the Act or under such a plan, other than a periodical annuity payment or, where section 914 of the Act applies to the plan after 25 May 1976, a payment made in a taxation year subsequent to the taxation year in which that section 914 applies to the plan.

No amount is to deducted by the employer on the amount of a payment in respect of an employee that is a direct transfer made by the employer to a trustee under a deferred profit sharing plan or a registered pension plan, to the issuer within the meaning of paragraph *c* of section 905.1 of the Act of a registered retirement savings plan, to a person licensed or

otherwise authorized under the laws of Canada or a province to carry on an annuities business in Canada, or to the carrier within the meaning of paragraph *b* of section 961.1.5 of the Act of a registered retirement income fund, where the amount is deductible in computing the employee's income under any of paragraphs *d* to *f* of section 339 of the Act.

s. 1015R11.0.1; O.C. 1155-2004, s. 53; O.C. 1249-2005, s. 33.

"**1015R22.** Every person making a payment described in paragraph *r* of the definition of "remuneration" in section 1015R1 must deduct, in addition to any other amount required to be deducted under section 1015 of the Act on account of the tax payable under Part III.15 of the Act, an amount equal to 8% of the payment.

s. 1015R11.1; O.C. 1451-2000, s. 42.

"**1015R23.** Every person making a payment described in paragraph *h* of the definition of "remuneration" in section 1015R1 must deduct, where that paragraph refers to an amount described in paragraph *e*.2 of section 311 of the Act as earnings supplements provided under a project sponsored by a government or government agency in Canada, otherwise than in connection with the program entitled "Return to Work Supplement" established by Emploi-Québec, an amount equal to 16% of the payment.

s. 1015R11.2; O.C. 1470-2002, s. 75.

"**1015R24.** No amount is to deducted under sections 1015R10, 1015R15 to 1015R17 and 1015R19 by the employer from the remuneration of an employee for a taxation year from the employee's office or employment with the employer if the employee has filed with the employer the return referred to in section 1015.3 of the Act, for the year, stating that the employee's income from all sources for the year will be less than the aggregate of

(*a*) the product obtained by multiplying the aggregate of the employee's personal tax credits in respect of the year, as shown in the return, by the quotient obtained by dividing the percentage referred to in section 750.1 of the Act for the year by the rate provided for in paragraph *a* of section 750 of the Act; and

(*b*) the amount of the reduction for the taxation year determined in respect of the employee under the second paragraph of section 1015R9, as shown in the return.

The same applies where an employee neither performs the duties of an office or employment in Canada nor resides in Canada at the time of payment of the employee's remuneration, except in respect of remuneration described in subparagraph i of paragraph *b* of section 1092 of the Act that is paid to a person not resident in Canada who has, in the year or in any previous year, ceased to be resident in Québec, or in respect of remuneration reasonably attributable to the duties of any office or employment performed or to be performed in Québec by a person not resident in Canada.

s. 1015R12; O.C. 1981-80, s. 1015R12; R.R.Q., 1981, c. I-3, r.1, s. 1015R12; O.C. 1025-91, s. 9; O.C. 1660-94, s. 14; O.C. 1633-96, s. 27; O.C. 1466-98, s. 94; O.C. 1249-2005, s. 34.

"**1015R25.** No amount is to deducted from a payment made by a person as a benefit of a registered retirement savings plan or under such a plan paid during the lifetime of an individual referred to in paragraph *a* of the definition of the term "annuitant" in subsection 1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) for whom a retirement income is provided under the plan, if, at the time of payment, the individual certifies in prescribed form to that person that

(*a*) the individual, or a disabled person related to the individual who is entitled to the deduction provided for in subsection 1 of section 118.3 of the Income Tax Act in computing tax payable under Part I of that Act, has entered into an agreement in writing to acquire a dwelling;

(*b*) the individual intends that the individual or the disabled person, as the case may be, will use the dwelling as a principal place of residence in Canada within one year after its acquisition;

(*c*) the dwelling has not previously been owned by the individual, by the disabled person or by either of their respective spouses;

(*d*) the individual is resident in Canada at that time;

(*e*) the aggregate of the payment and all other similar payments received by the individual not later than that time in respect of the dwelling does not exceed $20,000;

(*f*) except where the individual certifies that the individual is a disabled person who is entitled to the deduction provided for in subsection 1 of section 118.3 of the Income Tax Act in computing the individual's tax payable under Part I of that Act, or that the withdrawal is made for the benefit of such a person, and that the individual is a qualified purchaser of a dwelling at the time of the certificate; and

(*g*) where, before the calendar year in which the certificate is made, the individual withdrew an eligible amount, within the meaning assigned by the first paragraph of section 935.1 of the Act, that the aggregate of all amounts each of which is an amount received by the individual before that calendar year, does not exceed the aggregate of all amounts each of which is an amount that the individual previously designated under section 935.3 of the Act or that the individual included in computing the individual's income under section 935.4 or 935.5 of the Act.

For the purposes of the first paragraph, the individual is a qualified purchaser of a dwelling at a particular time except where

(*a*) the individual had an owner-occupied dwelling during the period commencing at the beginning of the fourth calendar year preceding the particular time and ending on the thirty-first day before that particular time; or

(*b*) the individual's spouse had an owner-occupied dwelling, during the period referred to in subparagraph *a*, that was inhabited by the individual while the individual was married to that spouse.

For the purposes of the second paragraph, an individual is deemed to have had an owner-occupied dwelling at a particular time if the individual owned it at that time, jointly with another person or otherwise, and used it, at that time, as the principal place of residence.

For the purposes of the first, second and third paragraphs, "dwelling" means

(*a*) a housing unit;

(*b*) a share of the capital stock of a housing cooperative, where the holder of the share is entitled to possession of a housing unit; or

(*c*) where the context so requires, the housing unit to which a share referred to in subparagraph *b* relates.

s. 1015R12.1; O.C. 67-96, s. 59; O.C. 1631-96, s. 41; O.C. 1707-97, s. 98; O.C. 1451-2000, s. 43; O.C. 1470-2002, s. 76.

"**1015R26.** No amount is to deducted from a payment made by a person as a benefit of a registered retirement savings plan or under such a plan paid during the lifetime of an individual referred to in paragraph *a* of the definition of the term "annuitant" in subsection 1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) for whom a retirement income is provided under the plan, if, at the time of payment, the individual certifies in prescribed form to that person that

(*a*) the individual or the individual's spouse fulfills any of the following conditions at the time of the certificate:

i. the individual is a full-time student in a qualifying educational program,

ii. the individual is a part-time student and is entitled to the deduction provided for in subsection 1 of section 118.3 of the Income Tax Act in computing the individual's tax payable under Part I of that Act, or

iii. the individual received a written notice indicating that the individual has the right, either absolutely or contingently, to enroll before March of the year following the certificate, as:

(1) a full-time student in a qualifying educational program, or

(2) a part-time student in a qualifying educational program, where the individual or the individual's spouse is entitled to the deduction provided for in subsection 1 of section 118.3 of the Income Tax Act in computing the individual's or the individual's spouse's tax payable under Part I of that Act;

(*b*) the individual is resident in Canada;

(*c*) the aggregate of the payment and all other similar payments received by the individual for the year and not later than that time does not exceed $10,000; and

(*d*) the aggregate of the payments received by the individual not later than that time does not exceed $20,000 for the entire period in which the individual participates in the Lifelong Learning Plan.

For the purposes of the first paragraph, a qualifying educational program means a qualifying educational program within the meaning assigned by subsection 1 of section 146.02 of the Income Tax Act.

s. 1015R12.2; O.C. 1470-2002, s. 77.

"**1015R27.** An employee who is remunerated, in whole or in part, on a commission basis at the beginning of one year or commences to be so in a year may elect to file with the employer, not later than 31 January of the year or, as the case may be, not later than the 30th day following the day where the employee commences to be so remunerated or following the day when an event occurs that may affect the proportion referred to in paragraph *a* or *b* as the case may be, of the second paragraph of section 1015R4, a return in prescribed form stating that proportion.

This election may be revoked by means of a written notice to that effect filed by the employee with the employer and the revocation is effective from the date mentioned in that notice.

s. 1015R13.1; O.C. 871-81, s. 4; R.R.Q., 1981, c. I-3, r.1, s. 1015R13.1; O.C. 1471-91, s. 33; O.C. 473-95, s. 48; O.C. 1155-2004, s. 54.

"**DIVISION II**

"FISHERMEN'S ELECTION

div. II; O.C. 2583-85, s. 26.

"**1015R28.** Despite section 1015R1, in this division,

"catch" means a catch of shell fish, crustaceans, aquatic animals or marine plants caught or taken from any body of water;

"crew" means one or more fishermen;

"fisherman" means an individual engaged in making a catch other than under a contract of employment.

"remuneration" means

(*a*) where the boat and the gear used in making a catch are owned by a person other than a member of the crew

to whom the catch is to be delivered for subsequent sale or other disposition, such part of the proceeds from the disposition of the catch that is payable to the fisherman in accordance with an arrangement under which the proceeds of disposition of the catch are to be distributed;

(*b*) where the boat or gear used in making a catch is owned or leased by a fisherman who alone or with another individual engaged under a contract of service makes the catch, the amount by which the proceeds from the disposition of the catch exceeds the aggregate of the amount in respect of any portion of the catch not caught by the fisherman or the other individual, the amount payable to the other individual under the contract of employment and the amount of such proportionate share of the catch as is attributable to the expenses of the operation of the boat or its gear pursuant to their share arrangement;

(*c*) where a crew includes the owner of the boat or gear and any other fisherman engaged in making a catch, in the case of an owner, the amount by which the proceeds from the disposition of the catch exceeds the aggregate of the amount in respect of that portion of the catch not caught by the crew or an owner of the boat or gear, the aggregate of all amounts each of which is an amount payable to a crew member other than the owner of the boat or gear pursuant to their share arrangement or to an individual engaged under a contract of employment, and the amount of such proportionate share of the catch as is attributable to the expenses of the owner's operation of the boat or its gear pursuant to their share arrangement, and in the case of any other crew member, such proceeds from the disposition of the catch as is payable to the crew member pursuant to their share arrangement; or

(*d*) in any other case, the proceeds of disposition of the catch payable to the fisherman.

s. 1015R13.2; O.C. 2583-85, s. 26; O.C. 1660-94, s. 15.

"**1015R29.** Every person paying in a taxation year an amount of remuneration to a fisherman who, pursuant to subparagraph *n* of the second paragraph of section 1015 of the Act, has elected for the year in prescribed form in respect of all such amounts must deduct 16% of each such amount paid to the fisherman while the election is in force.

s. 1015R13.3; O.C. 2583-85, s. 26; O.C. 1471-91, s. 33; O.C. 473-95, s. 48; O.C. 1633-96, s. 29; O.C. 1466-98, s. 95; O.C. 1463-2001, s. 135.

"**DIVISION III**

"PAYMENT AND RETURN

div. III; O.C. 2583-85, s. 26; O.C. 838-88, s. 1.

"**1015R30.** Any amount that is required to be paid to the Minister by an employer under section 1015 of the Act in respect of a remuneration that the employer pays during a calendar year must be so paid on the dates, for the periods and according to the terms prescribed in this division.

s. 1015R14; O.C. 1981-80, s. 1015R14; R.R.Q., 1981, c. I-3, r.1, s. 1015R14; O.C. 838-88, s. 2; O.C. 223-90, s. 1; O.C. 473-95, s. 29.

"**1015R31.** Subject to sections 1015R32 to 1015R35, an employer must pay to the Minister any amount required under section 1015 of the Act, in respect of a remuneration that the employer pays during a month, not later than the fifteenth day of the following month.

s. 1015R14.1; O.C. 838-88, s. 3; O.C. 223-90, s. 1; O.C. 473-95, s. 29; O.C. 1155-2004, s. 55.

"**1015R32.** Subject to sections 1015R34 and 1015R35, where the average monthly withholding of an employer for the second calendar year preceding a particular calendar year is $15,000 or more but less than $50,000, the employer must pay to the Minister any amount required under section 1015 of the Act

(*a*) in respect of a remuneration that the employer pays, during a month in the particular calendar year, before the sixteenth day of that month, not later than the twenty-fifth day of that month; or

(*b*) in respect of a remuneration that the employer pays, during a particular month in the particular calendar year, after the fifteenth day of that month, not later than the tenth day of the month following the particular month.

s. 1015R14.2; O.C. 223-90, s. 1; O.C. 473-95, s. 29; O.C. 1155-2004, s. 56.

"**1015R33.** Subject to sections 1015R34 and 1015R35, where the average monthly withholding of an employer for the second calendar year preceding a particular calendar year is $50,000 or more, the employer must pay to the Minister any amount required under section 1015 of the Act, in respect of a remuneration that the employer pays during one of the following periods, not later than the third day, excluding any holiday, following the end of that period:

(*a*) the period commencing on the first day of a month in the particular calendar year and ending on the seventh day of that month;

(*b*) the period commencing on the eighth day of a month in the particular calendar year and ending on the fourteenth day of that month;

(*c*) the period commencing on the fifteenth day of a month in the particular calendar year and ending on the twenty-first day of that month; or

(*d*) the period commencing on the twenty-second day of a month in the particular calendar year and ending on the last day of that month.

For the purposes of this section, Saturday is deemed to be a statutory holiday.

s. 1015R14.3; O.C. 223-90, s. 1; O.C. 1697-92, s. 57; O.C. 473-95, s. 30; O.C. 1155-2004, s. 57.

"**1015R34.** Where an employer referred to in section 1015R32 or 1015R33 would otherwise be required to pay to the Minister, in accordance with one of those sections, any amount required under section 1015 of the Act for a particular calendar year, the employer may elect to pay that amount

(*a*) in accordance with section 1015R31, where the average monthly withholding of the employer for the calendar year preceding the particular calendar year is less than $15,000 and informs the Minister of the election; or

(*b*) where the average monthly withholding of the employer for the calendar year preceding the particular calendar year is $15,000 or more but less than $50,000 and informs the Minister of the election

i. in respect of a remuneration that the employer pays, during a month in the particular calendar year, before the sixteenth day of that month, not later than the twenty-fifth day of that month, or

ii. in respect of a remuneration that the employer pays, during a particular month in the particular calendar year, after the fifteenth day of that month, not later than the tenth day of the month following the particular month.

s. 1015R14.3.1; O.C. 473-95, s. 31.

"**1015R35.** Where the sixth paragraph of section 1015 of the Act applies in relation to an amount that an employer must pay to the Minister under that section in respect of remuneration that the employer pays during a particular month of a particular calendar year, the employer must, except if the employer notifies the Minister of the employer's intention not to have the provisions of this section apply, pay that amount on or before

(*a*) 15 April of the particular calendar year, if the remuneration is paid in January, February or March of the particular calendar year;

(*b*) 15 July of the particular calendar year, if the remuneration is paid in April, May or June of the particular calendar year;

(*c*) 15 October of the particular calendar year, if the remuneration is paid in July, August or September of the particular calendar year;

(*d*) 15 January of the calendar year following the particular calendar year, if the remuneration is paid in October, November or December of the particular calendar year; or

(*e*) despite subparagraphs *a* to *d*, the fifteenth day of the month following the month, called "month in which the notice was sent" in this subparagraph and the second paragraph, in the particular calendar year in which the Minister sends to the employer the notice of change in the frequency of payment referred to in subparagraph *a* of the seventh paragraph of section 1015, if the remuneration is paid in the month in which the notice was sent or in a previous month of the quarter referred to in any of subparagraphs *a* to *d* that includes the month in which the notice was sent.

In addition, where subparagraph *e* of the first paragraph applies, the employer must pay to the Minister any amount required under section 1015 of the Act in respect of remuneration that the employer pays in a month of the particular calendar year that is subsequent to the month in which the notice was sent, on or before the fifteenth day of the month following the month in which the remuneration was paid.

s. 1015R14.3.2; O.C. 1155-2004, s. 58.

"**1015R36.** For the purposes of this division, the average monthly withholding of an employer for a particular calendar year is equal to the quotient obtained by dividing the aggregate of the amounts that are required to be paid to the Minister by the employer, and, where the employer is a corporation, the aggregate of the amounts that are required to be so paid by any other corporation that is associated with the employer in a taxation year of that employer ending during the second calendar year following the particular calendar year, under section 1015 of the Act, section 62 of the Act respecting parental insurance (R.S.Q., c. A-29.011), section 34 of the Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., c. R-5) and section 63 of the Act respecting the Québec Pension Plan (R.S.Q., c. R-9), in respect of the remuneration that the employer and, where applicable, each other corporation pay during the particular calendar year, by the number of months in that year, not exceeding 12, for which those amounts are required to be paid to the Minister.

s. 1015R14.4; O.C. 223-90, s. 1; O.C. 473-95, s. 32; O.C. 1707-97, s. 98; 1999, c. 89, s. 53; O.C. 149-2000; O.C. 1149-2006, s. 48.

"**1015R37.** For the purposes of section 1015R36, where a particular employer that is a corporation acquires, during a taxation year of the corporation ending during a particular calendar year, in any of the circumstances described in the second paragraph, all or substantially all of the property of another employer used by it in a business, that other employer is deemed to be a corporation that is associated with the particular employer in the taxation year and in each of the taxation years ending at any time during the two subsequent calendar years.

The first paragraph applies where the particular employer acquires all or substantially all of the property of the other employer

(*a*) in a transaction in respect of which an election referred to in section 518 or 529 of the Act was made;

(*b*) by reason of an amalgamation within the meaning of section 544 of the Act; or

(*c*) as the result of a winding-up to which the rules provided for in Chapter VII of Title IX of Book III of Part I of the Act apply.

s. 1015R14.6; O.C. 473-95, s. 34; O.C. 1707-97, s. 98; O.C. 1466-98, s. 96.

"**1015R38.** Any amount that an employer who ceases to carry on business is required to pay in respect of an employee's remuneration under section 1015 of the Act must be paid to the Minister by that employer, where it has not already been so paid, within seven days from the date on which the employer ceases to carry on business.

s. 1015R15; O.C. 1981-80, s. 1015R15; R.R.Q., 1981, c. I-3, r.1, s. 1015R15; O.C. 838-88, s. 4.

"**1015R39.** An employer who ceases to deduct or withhold an amount that the employer formerly deducted or withheld under section 1015 of the Act must file the prescribed form not later than the twentieth day of the month following the month during which the employer last paid such amount to the Minister.

s. 1015R16; O.C. 1981-80, s. 1015R16; R.R.Q., 1981, c. I-3, r.1, s. 1015R16; O.C. 838-88, s. 4; O.C. 223-90, s. 2; O.C. 473-95, s. 35.

"**1015R40.** An employer who fails to pay, on the dates set in any of sections 1015R31 to 1015R35, an amount that was required to be paid to the Minister under section 1015 of the Act must file the prescribed form not later than the twentieth day of the month following the month during which the employer should have paid that amount to the Minister.

s. 1015R16.1; O.C. 473-95, s. 36; O.C. 1155-2004, s. 59.

"**1015R41.** An employer must file the prescribed form with the Minister with every payment of amounts deducted or withheld under section 1015 of the Act.

s. 1015R17; O.C. 1981-80, s. 1015R17; R.R.Q., 1981, c. I-3, r.1, s. 1015R17; O.C. 838-88, s. 4; O.C. 473-95, s. 48.

"**DIVISION IV**

"INCREASE IN THE DEDUCTION

div. IV; O.C. 2583-85, s. 27.

"**1017R1.** For the purposes of section 1017 of the Act, the following rules apply:

(*a*) a taxpayer makes the election under that section by filing with the person who pays, allocates, grants or awards an amount referred to in section 1015 of the Act a return in prescribed form;

(*b*) the taxpayer may amend that election by filing with that person a new return in prescribed form; and

(*c*) that person is required to take that election or that amendment into consideration only if it is made, within a reasonable time limit determined by the person, before the person pays, allocates, grants or awards such amount after the election or the amendment.

s. 1017R1; O.C. 1981-80, s. 1017R1; R.R.Q., 1981, c. I-3, r.1, s. 1017R1; O.C. 1471-91, s. 33; O.C. 473-95, s. 37; O.C. 523-96, s. 29.

"**CHAPTER II**

"GENERALITIES

chap. II; O.C. 1981-80, title XXIV, chap. II; R.R.Q., 1981, c. I-3, r.1, title XXIV, chap. II.

"**1020R1.** The Minister is authorized to make adjustment payments to the Government of Canada or any province for the 1972 and subsequent taxation years.

The Minister is also authorized to sign with the Government of Canada or any other province any agreement considered to be necessary for the application of section 1020 of the Act.

s. 1020R1; O.C. 1981-80, s. 1020R1; R.R.Q., 1981, c. I-3, r.1, s. 1020R1.

"**1025R1.** The basic provisional account, for a particular year, is equal to the tax payable under Part I of the Act for the same year, computed without taking into account

(*a*) sections 776.6 to 776.20 of the Act;

(*b*) an amount excluded from the income for the year under sections 294 to 298 of the Act in respect of an option exercised in a subsequent taxation year;

(*c*) an amount deducted for the year in respect of a subsequent taxation year and to which section 1012.1 of the Act refers; and

(*d*) the specified tax consequences for the year.

s. 1025R1; O.C. 1981-80, s. 1025R1; R.R.Q., 1981, c. I-3, r.1, s. 1025R1; O.C. 421-88, s. 32; O.C. 1463-2001, s. 136.

"**1026R1.** For the purposes of section 1026 of the Act, the basic provisional account for a year is equal to the tax payable under Part I of the Act for the same year, computed in the manner described in section 1025R1.

s. 1026R1; O.C. 2962-82, s. 84; O.C. 500-83, s. 84; O.C. 421-88, s. 32.

"**1027R1.** For the purposes of subparagraph i of subparagraph *a* of the first paragraph of section 1027 of the Act and subject to sections 1027R7 and 1027R9, the first basic provisional account of a corporation for a taxation

year means the proportion of the tax payable under Part I of the Act by the corporation for the preceding taxation year, computed in the manner specified in the second paragraph or, where the corporation was for that preceding taxation year a corporation that carried on a recognized business within the meaning of the first paragraph of section 737.18.14 of the Act, a qualified corporation within the meaning of the first paragraph of section 737.18.18 or of sections 771.5 to 771.7 of the Act or an exempt corporation within the meaning of sections 771.12 and 771.13 of the Act, the proportion of what that tax so computed would have been if that corporation had not been such a corporation that carried on a recognized business, a qualified corporation or exempt corporation, that 365 is of the number of days in that year.

The tax payable under the first paragraph is computed without taking into account

(*a*) an amount excluded from the income for the preceding year under sections 294 to 298 of the Act in respect of an option exercised in a subsequent taxation year;

(*b*) an amount deducted for the preceding year in respect of a subsequent taxation year and to which section 1012.1 of the Act refers; and

(*c*) the specified tax consequences for the year.

s. 1027R1; O.C. 2962-82, s. 84; O.C. 500-83, s. 84; O.C. 421-88, s. 33; O.C. 1076-88, s. 24; Erratum, 1988 G.O. 2, 5009 and 5519; O.C. 1114-92, s. 37; O.C. 1697-92, s. 58; O.C. 1633-96, s. 30; O.C. 1707-97, s. 98; O.C. 1466-98, s. 97; O.C. 1463-2001, s. 137; O.C. 1282-2003, s. 60.

"**1027R2.** For the purposes of subparagraph ii of subparagraph *a* of the first paragraph of section 1027 of the Act and subject to sections 1027R7 and 1027R9, the second basic provisional account of a corporation means its first basic provisional account for the preceding taxation year.

s. 1027R2; O.C. 2962-82, s. 84; O.C. 500-83, s. 84; O.C. 1076-88, s. 25; O.C. 1707-97, s. 98; O.C. 1466-98, s. 126.

"**1027R3.** Despite section 1027R1, where the preceding taxation year of a corporation contains less than 183 days, its first basic provisional account is equal to the greater of the amount determined for it under section 1027R1 and the amount that would be determined for it if the preceding taxation year referred to the last taxation year of the corporation that contained more than 182 days.

s. 1027R3; O.C. 2962-82, s. 84; O.C. 500-83, s. 84; O.C. 1707-97, s. 98.

"**1027R4.** Despite sections 1027R1 and 1027R2, in the case of the first taxation year of a new corporation resulting from an amalgamation within the meaning of section 544 of the Act,

(*a*) its first basic provisional account means the aggregate of each amount that would be the first basic provisional account of a predecessor corporation for that year; and

(*b*) its second basic provisional account means the aggregate of each first basic provisional account of a predecessor corporation for its taxation year preceding that year.

s. 1027R4; O.C. 2962-82, s. 84; O.C. 500-83, s. 84; O.C. 1707-97, s. 98.

"**1027R5.** Despite sections 1027R1 and 1027R3, in the case of the second taxation year of a new corporation, where its preceding taxation year contains less than 183 days, its first basic provisional account is equal to the greater of the amount determined under section 1027R1 and its first basic provisional account for its preceding taxation year.

s. 1027R5; O.C. 2962-82, s. 84; O.C. 500-83, s. 84; O.C. 1707-97, s. 98.

"**1027R6.** For the purposes of paragraph *a* of section 1027R4, where the last taxation year of a predecessor corporation contains less than 183 days, its first basic provisional account for the first year of the new corporation is equal to the greater of the amount determined under section 1027R1 and its first basic provisional account for its preceding taxation year.

s. 1027R6; O.C. 2962-82, s. 84; O.C. 500-83, s. 84; O.C. 1707-97, s. 98.

"**1027R7.** Subject to section 1027R8, where a subsidiary, within the meaning of section 556 of the Act, is wound up, and, during the winding-up, all or substantially all of its property is distributed to the parent corporation, the following rules apply:

(*a*) in the case of the taxation year of the parent corporation during which the distribution of property took place, the first and the second basic provisional account of the subsidiary for its taxation year during which the distribution of property took place must be added respectively to the first and the second basic provisional account of the parent corporation;

(*b*) in the case of the taxation year of the parent corporation following its taxation year referred to in paragraph *a*, to its first basic provisional account must be added the amount that is the proportion of the subsidiary's first basic provisional account for the taxation year referred to in paragraph *a* that the number of complete months in the taxation year referred to in paragraph *a* of the parent corporation ending not later than the time of that distribution is of 12, and to its second basic provisional account must be added the first basic provisional account of the subsidiary for its taxation year referred to in paragraph *a*.

s. 1027R7; O.C. 2962-82, s. 84; O.C. 500-83, s. 84; O.C. 1707-97, s. 98.

"**1027R8.** A payment that a parent corporation is deemed, under the third paragraph of section 1038 of the Act, to have been required to pay for the taxation year referred to in paragraph *a* of section 1027R7 must be computed as if section 1027R7 did not apply to a distribution of property occurring after the date on which the payment should have been made.

s. 1027R8; O.C. 2962-82, s. 84; O.C. 500-83, s. 84; O.C. 1707-97, s. 98.

"**1027R9.** Where a corporation disposes of all or substantially all of its properties to another corporation with which it was not dealing at arm's length, and section 518 or section 529 of the Act applies to the disposition of one of those properties, paragraphs *a* and *b* of section 1027R7 and section 1027R8 apply with the necessary modifications to that disposition.

s. 1027R9; O.C. 2962-82, s. 84; O.C. 500-83, s. 84; O.C. 1633-96, s. 44; O.C. 1707-97, s. 98.

"**1029.7R1.** For the purposes of subparagraph 1 of subparagraph vii of subparagraph *b* of the third paragraph of section 1029.7 of the Act, an expenditure described in section 230R1 or 230R2 is a prescribed expenditure.

"**1029.8R1.** For the purposes of subparagraph 1 of subparagraph vi of subparagraph *b* of the third paragraph of section 1029.8 of the Act, an expenditure described in section 230R1 or 230R2 is a prescribed expenditure.

"**1029.8.1R1.** The government research centres referred to in paragraph *a*.1 of section 1029.8.1 of the Act are

(*a*) Her Majesty in right of Canada in respect of

i. any of the following research centres of the Department of Agriculture and Agri-Food of Canada:

(1) the Food Research and Development Centre,

(2) the Horticulture Research and Development Centre,

(3) the Dairy and Swine Research and Development Centre,

(4) the Research and Development Centre for Soils and Crops,

ii. the Defence Research Establishment Valcartier (DREV),

iii. the Aerospace Manufacturing Technology Centre (AMTC),

iv. the Maurice Lamontagne Institute of Fisheries and Oceans Canada,

v. the Health of Animals and Food Laboratory, or

vi. the CANMET Energy Technology Centre (CETC);

(*b*) the Centre de recherche industrielle du Québec;

(*c*) the Institute of Magnesium Technology (IMT);

(*d*) Hydro-Québec in respect of

i. the Institut de recherche d'Hydro-Québec, or

ii. the Laboratoire des technologies de l'énergie (LTE);

(*e*) the National Research Council of Canada in respect of

i. the Biotechnology Research Institute, or

ii. the Industrial Materials Research Institute;

(*f*) the National Optics Institute;

(*g*) the Centre de recherche appliquée de l'Institut de tourisme et d'hôtellerie du Québec; and

(*h*) the Centre de santé et de services sociaux de Chicoutimi (CSSS de Chicoutimi).

s. 1029.8.1R0.1; O.C. 1539-93, s. 39; O.C. 1707-97, s. 70; O.C. 1466-98, s. 98; O.C. 1451-2000, s. 44; O.C. 1116-2007, s. 36.

"**1029.8.1R2.** The college centres for the transfer of technology referred to in paragraph *a*.1 of section 1029.8.1 of the Act are

(*a*) Agrinova;

(*b*) the Cégep de Jonquière in respect of its Centre de production automatisée;

(*c*) the Cégep de la Gaspésie et des Îles in respect of its Centre collégial de tranfert de technologie des pêches;

(*d*) the Cégep de Maisonneuve in respect of

i. its Centre d'études des procédés chimiques du Québec, or

ii. its Institut de chimie et de pétrochimie;

(*e*) the Cégep de Saint-Jérôme in respect of

i. its Centre de développement des composites du Québec, or

ii. its Institut du transport avancé du Québec;

(*f*) the Cégep de Trois-Rivières in respect of

i. its Centre intégré de fonderie et de métallurgie, or

ii. its Centre spécialisé en pâtes et papiers;

(*g*) the Centre d'enseignement et de recherche en foresterie de S^{te}-Foy inc.;

(*h*) the Centre de productique intégrée du Québec inc.;

(*i*) the Centre de robotique et de vision industrielles inc.;

(*j*) the Centre de technologie minérale et de plasturgie inc.;

(*k*) the Centre de transfert technologique de la mode (CTTM);

(*l*) the Centre de transfert technologique en écologie industrielle, Centre J-E. Simard;

(*m*) the Centre d'expérimentation et de développement en forêt boréale (CEDFOB);

(*n*) the Centre d'innovation en microélectronique du Québec (CIMEQ) inc.;

(*o*) the Centre national en électrochimie et en technologies environnementales inc.;

(*p*) the Centre spécialisé de technologie physique du Québec inc.;

(*q*) the Centre technologique en aérospatiale C.T.A.;

(*r*) Cintech agroalimentaire;

(*s*) EQMBO-ENTREPRISES Centre d'aide technique et technologique inc.;

(*t*) Groupe CTT inc.;

(*u*) Innovation maritime;

(*v*) the Institut des communications graphiques du Québec;

(*w*) OLEOTEK inc.;

(*x*) the Service d'innovation et de transfert technologiques (SITTE) inc.;

(*y*) MUSILAB inc.

s. 1029.8.1R0.2; O.C. 1539-93, s. 39; O.C. 523-96, s. 31; O.C. 1707-97, s. 71; O.C. 1466-98, s. 99; O.C. 1282-2003, s. 62; O.C. 1155-2004, s. 60; O.C. 1249-2005, s. 35; O.C. 1149-2006, s. 49; O.C. 1116-2007, s. 37.

"**1029.8.1R3.** For the purposes of paragraph *a*.1 of section 1029.8.1 of the Act, the following are prescribed bodies:

(*a*) the Centre national du transport en commun Inc.;

(*b*) the Centre interuniversitaire de recherche en analyse des organisations (CIRANO);

(*c*) the Centre de haute technologie Saguenay–Lac-Saint-Jean;

(*d*) the Centre de recherche minérale (CRM);

(*e*) the Centre de géomatique du Québec Inc;

(*f*) the Centre de valorisation des plantes;

(*g*) the Centre de recherche Les Buissons inc.;

(*h*) the Institut universitaire de gériatrie de Sherbrooke;

(*i*) the Corporation du Service de recherche et d'expertise en transformation des produits forestiers de l'Est-du-Québec (SEREX);

(*j*) the Centre de foresterie des Laurentides;

(*k*) the Réseau d'Informations Scientifiques du Québec (RISQ) Inc.;

(*l*) the Centre de recherche sur les biotechnologies marines (CRBM);

(*m*) the Centre de développement bioalimentaire du Québec inc. (CDBQ);

(*n*) the Centre d'expertise en production ovine du Québec inc. (CEPOQ);

(*o*) the Centre d'expérimentation et de transfert technologique en acériculture du Bas-Saint-Laurent (CETTA);

(*p*) the Centre d'aide régional sur les aliments du Saguenay–Lac-Saint-Jean–Côte-Nord (CARA).

s. 1029.8.1R0.3; O.C. 1539-93, s. 39; O.C. 1707-97, s. 72; O.C. 1454-99, s. 43; O.C. 1451-2000, s. 45; O.C. 1463-2001, s. 138; O.C. 1282-2003, s. 63; O.C. 1249-2005, s. 36; O.C. 1116-2007, s. 38.

"**1029.8.1R4.** The linkage agencies referred to in paragraphs *a*.2 and *b* of section 1029.8.1 of the Act are

(*a*) the Centre de recherche industrielle du Québec;

(*b*) the Centre québécois de valorisation des biomasses et des biotechnologies;

(*c*) the Centre francophone d'informatisation des organisations (CEFRIO);

(*d*) the Fonds pour la formation de chercheurs et l'aide à la recherche;

(*e*) the Fonds de la recherche en santé du Québec;

(*f*) the Centre québecois de recherche et de développement de l'aluminium;

(*g*) the Centre interuniversitaire de recherche en analyse des organisations (CIRANO);

(*h*) the Centre de développement de la géomatique (CDG);

(*i*) the Centre de recherche informatique de Montréal inc.

s. 1029.8.1R1; O.C. 1666-90, s. 20; O.C. 1539-93, s. 40; O.C. 523-96, s. 32; O.C. 1707-97, s. 73; O.C. 1451-2000, s. 46; O.C. 1463-2001, s. 139.

"**1029.8.1R5.** The university hospital medical research centres referred to in paragraph *f* of section 1029.8.1 of the Act are

(*a*) the following McGill University network centres:

i. Douglas Hospital Research Centre,

ii. Douglas Hospital,

iii. Montréal Neurological Hospital, before 20 August 1998,

iv. Sir Mortimer B. Davis Jewish General Hospital,

v. Montréal Children's Hospital, before 20 August 1998,

vi. Montréal General Hospital Research Institute,

vii. Montreal General Hospital, before 7 April 1999,

viii. Royal Victoria Hospital, before 20 August 1998, and

ix. McGill University Health Centre;

(*b*) the following Université de Montréal network centres:

i. Institut du cancer de Montréal,

ii. Montréal Heart Institute,

iii. Institut de réadaptation de Montréal,

iv. Clinical Research Institute of Montréal,

v. Hôpital Louis-H. Lafontaine,

vi. Hôpital Maisonneuve-Rosemont,

vii. Hôpital Notre-Dame,

viii. Hôpital du Sacré-Coeur de Montréal,

ix. l'Hôpital Saint-Luc,

x. Hôpital Sainte-Justine,

xi. Centre hospitalier Côte-des-Neiges,

xii. Hôtel-Dieu de Montréal, and

xiii. l'Institut Philippe Pinel de Montréal;

(*c*) the following Université Laval network centres:

i. Centre hospitalier de l'Université Laval, before 12 December 1995,

ii. Hôpital l'Enfant-Jésus, before 11 April 1997,

iii. Hôpital Laval,

iv. Hôtel-Dieu de Québec, before 12 December 1995,

v. Hôpital Saint-François d'Assise, before 12 December 1995,

vi. Centre hospitalier universitaire de Québec, and

vii. Centre hospitalier affilié universitaire de Québec;

(*d*) Centre hospitalier universitaire de Sherbrooke, before 1 July 1995;

(*e*) Centre universitaire de santé de l'Estrie, after 30 June 1995 and before 12 July 2000;

(*f*) Centre hospitalier universitaire de Sherbrooke.

s. 1029.8.1R2; O.C. 1666-90, s. 20; O.C. 1471-91, s. 29; O.C. 1539-93, s. 41; O.C. 1707-97, s. 74; O.C. 1463-2001, s. 140.

"**1029.8.1R6.** For the purposes of paragraph *f* of section 1029.8.1 of the Act, the following are prescribed bodies:

(*a*) the Centre de recherche informatique de Montréal Inc.;

(*b*) the Canadian Centre for Automation and Robotics in Mining;

(*c*) the Mineral Exploration Research Institute;

(*d*) the Société de microélectronique industrielle de Sherbrooke Inc.;

(*e*) the Centre de caractérisation microscopique des matériaux $(cm)^2$;

(*f*) the Centre de recherche Université Laval — Robert-Giffard;

(*g*) the Institut de recherche en pharmacie industrielle IRPI Inc.;

(*h*) the Institut de recherche en biologie végétale de Montréal;

(*i*) the Centre de recherche en calcul appliqué (CERCA);

(*j*) the Centre de recherche Louis-Charles Simard;

(*k*) the Canadian Dental Research Institute (CDRI);

(*l*) the Centre François-Charon;

(*m*) the Institut des biomatériaux du Québec I.B.Q. Inc.;

(*n*) the Centre de développement rapide de produits et de procédés.

s. 1029.8.1R3; O.C. 1666-90, s. 20; O.C. 1471-91, s. 30; O.C. 1539-93, s. 42; O.C. 523-96, s. 33; O.C. 1707-97, s. 75; O.C. 1454-99, s. 44; O.C. 1249-2005, s. 38.

"**1029.8.5.1R1.** For the purposes of paragraph *a* of section 1029.8.5.1 of the Act, an expenditure described in section 230R1 or 230R2 is a prescribed expenditure.

s. 1029.8.5.1R1; O.C. 1697-92, s. 60.

"**1029.8.6R1.** For the purposes of section 1029.8.6 of the Act, a prescribed linking agency is a body mentioned in section 1029.8.1R4.

s. 1029.8.6R1; O.C. 1666-90, s. 20.

"**1029.8.7R1.** For the purposes of section 1029.8.7 of the Act, a prescribed linking agency is a body mentioned in section 1029.8.1R4.

s. 1029.8.7R1; O.C. 1666-90, s. 20.

"**1029.8.9.0.1R1.** The university hospital medical research centres referred to in section 1029.8.9.0.1 of the Act are those mentioned in section 1029.8.1R5.

s. 1029.8.9.0.1R1; O.C. 1539-93, s. 43.

"**1029.8.9.0.2.2R1.** For the purposes of paragraph *a* of section 1029.8.9.0.2.2 of the Act, an expenditure described in section 230R1 or 230R2 is a prescribed expenditure.

s. 1029.8.9.0.2.2R1; O.C. 1149-2006, s. 50.

"**1029.8.9.1R1.** For the purposes of the definition of "qualified expenditure" in section 1029.8.9.1 of the Act, the prescribed proxy amount of a taxpayer in respect of a business for a taxation year in respect of which the taxpayer has made the election under subparagraph *c* of the first paragraph of section 230 of the Act is equal to 65% of the aggregate of the amounts each of which represents the portion of an expenditure incurred in the year by the taxpayer for the salary or wages of an employee of the taxpayer who is directly engaged in scientific research and experimental development carried out in Canada that may reasonably be considered to be attributable to that research and development having regard to the working time spent by the employee thereon.

s. 1029.8.9.1R1; O.C. 1707-97, s. 76; O.C. 1282-2003, s. 65.

"**1029.8.9.1R2.** For the purposes of section 1029.8.9.1R1 and subject to sections 1029.8.9.1R3 to 1029.8.9.1R5, the portion of an expenditure is deemed to be equal to the amount of the expenditure where it represents all or substantially all thereof.

s. 1029.8.9.1R2; O.C. 1707-97, s. 76.

"**1029.8.9.1R3.** The amount determined under section 1029.8.9.1R1 as being the prescribed proxy amount of a taxpayer in respect of a business for a taxation year may not exceed the amount by which the aggregate of the amounts deducted in computing the taxpayer's income for the year from the business exceeds the aggregate of the amounts each of which represents

(*a*) an amount deducted in computing the taxpayer's income for the year from the business under sections 128, 130 and 130.1, paragraph *b* of section 135, sections 137 to 143, 145 to 154, 155, 156, 157 to 157.3, 157.5 to 157.14, 158, 160 to 163.1, 167, 167.1, 176 to 179, 183, 188 to 189.0.1 and 198 of the Act, Divisions I, VI and XI of Chapter V of Title III of Book III of Part I of the Act, Chapter X of Title VI of that book, excluding sections 360 and 361, and Title XII of that book, excluding sections 650 to 651.1, 652.2, 661, 662, 665, 665.1 and 683 to 692.4; or

(*b*) an amount incurred by the taxpayer in the year in respect of an outlay made or expenditure incurred for the use of or the right to use a building other than a special-purpose building described in section 230.0.0.2R1.

s. 1029.8.9.1R3; O.C. 1707-97, s. 76.

"**1029.8.9.1R4.** For the purposes of computing the prescribed proxy amount of a taxpayer for a taxation year, the portion of an expenditure incurred in the year by the taxpayer for the salary or wages of a specified employee of the taxpayer that is included in computing the aggregate referred to in section 1029.8.9.1R1 may not exceed the lesser of

(*a*) 75% of the amount of the expenditure incurred in the year by the taxpayer for the salary or wages of the employee; and

(*b*) the amount determined according to the following formula:

2.5 × A × (B / 365).

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

(*a*) A is the Maximum Pensionable Earnings, as determined under section 40 of the Act respecting the Québec Pension Plan (R.S.Q., c. R-9), for the calendar year in which the taxation year ends; and

(*b*) B is the number of days in the taxation year on which the employee is employed by the taxpayer.

s. 1029.8.9.1R4; O.C. 1707-97, s. 76; O.C. 1454-99, s. 45.

"**1029.8.9.1R5.** Where, during a taxation year ending in a particular calendar year, a corporation employs an

individual who is a specified employee of the corporation, the corporation is associated with another corporation during a taxation year of the other corporation ending in the particular calendar year and the individual is an employee of the other corporation during that taxation year of the other corporation, the total of the amounts that may be included, for the salary or wages of the individual, in computing the aggregate referred to in section 1029.8.9.1R1 by the corporation and by any other corporation associated with it, for their respective taxation year ending in the particular calendar year, may not exceed the product obtained by multiplying 2.5 by the Maximum Pensionable Earnings, as determined under section 40 of the Act respecting the Québec Pension Plan (R.S.Q., c. R-9), for the particular calendar year.

s. 1029.8.9.1R5; O.C. 1707-97, s. 76; O.C. 1454-99, s. 46.

"**1029.8.9.1R6.** For the purposes of sections 1029.8.9.1R1 and 1029.8.9.1R4, an expenditure incurred in the year by the taxpayer for the salary or wages of an employee does not include

(*a*) an amount referred to in any of sections 34 to 58.3 of the Act;

(*b*) an expenditure deemed to have been made under the first paragraph of section 482 of the Act; or

(*c*) a remuneration based on profits or a bonus.

s. 1029.8.9.1R6; O.C. 1707-97, s. 76.

"**1029.8.9.1R7.** For the purposes of section 1029.8.9.1R5, the following are deemed to be a corporation associated with a particular corporation:

(*a*) an individual who is related to the particular corporation; and

(*b*) a partnership at least one of whose members is an individual related to or a corporation associated with the particular corporation.

s. 1029.8.9.1R7; O.C. 1707-97, s. 76.

"**1029.8.15.1R1.** For the purposes of paragraph *a* of section 1029.8.15.1 of the Act, an expenditure described in section 230R1 or 230R2 is a prescribed expenditure.

s. 1029.8.15.1R1; O.C. 1697-92, s. 61.

"**1029.8.16.1.1R1.** For the purposes of the definition of "qualified expenditure" in the first paragraph of section 1029.8.16.1.1 of the Act, the prescribed proxy amount is that determined under sections 1029.8.9.1R1 to 1029.8.9.1R7.

"**1029.8.16.1.6R1.** For the purposes of subparagraph i of paragraph *a* of section 1029.8.16.1.6 of the Act, an expenditure described in section 230R1 or 230R2 is a prescribed expenditure.

"**1029.8.17R1.** For the purposes of subparagraph ii of paragraph *c* of section 1029.8.17 of the Act, a prescribed amount is an amount received from the Canadian Commercial Corporation as an amount received by that Corporation from a government, municipality or other public authority other than the Government of Canada or a provincial government, a Canadian municipality or other Canadian public authority.

s. 1029.8.17R2; O.C. 1232-91, s. 24; O.C. 1707-97, s. 98.

"**1029.8.18R1.** For the purposes of subparagraphs *a* and *b* of the first paragraph of section 1029.8.18 of the Act, the prescribed proxy amount is that determined under sections 1029.8.9.1R1 to 1029.8.9.1R7.

s. 1029.8.18R1; O.C. 1707-97, s. 78.

"**1029.8.18.0.1R1.** For the purposes of subparagraphs *a* and *b* of the first paragraph of section 1029.8.18.0.1 of the Act, the prescribed proxy amount is that determined under sections 1029.8.9.1R1 to 1029.8.9.1R7.

s. 1029.8.18.0.1R1; O.C. 1707-97, s. 78.

"**1029.8.18.2R1.** For the purposes of paragraph *a* of section 1029.8.18.2 of the Act, the prescribed proxy amount is that determined under sections 1029.8.9.1R1 to 1029.8.9.1R7.

s. 1029.8.18.2R1; O.C. 1707-97, s. 78.

"**1029.8.21.17R1.** For the purposes of the definition of "eligible college centre for the transfer of technology" in the first paragraph of section 1029.8.21.17 of the Act, the following are prescribed college centres for the transfer of technology:

(*a*) Agrinova;

(*b*) the Cégep de Jonquière in respect of its Centre de production automatisée;

(*c*) the Cégep de la Gaspésie et des Îles in respect of its Centre collégial de transfert de technologie des pêches;

(*d*) the Cégep de Maisonneuve in respect of its Centre d'études des procédés chimiques du Québec;

(*e*) the Cégep de Saint-Jérôme in respect of

i. its Centre de développement des composites du Québec, or

ii. its Institut du transport avancé du Québec;

(*f*) the Cégep de Trois-Rivières in respect of

i. its Centre intégré de fonderie et de métallurgie, or

ii. its Centre spécialisé en pâtes et papiers;

(*g*) the Centre de développement bioalimentaire du Québec inc.;

(*h*) the Centre de géomatique du Québec inc.;

(*i*) the Centre d'enseignement et de recherche en foresterie de S^{te}-Foy inc.;

(*j*) the Centre de photonique du Québec inc.;

(*k*) the Centre de productique intégrée du Québec inc.;

(*l*) the Centre de robotique et de vision industrielles inc.;

(*m*) the Centre de technologie minérale et de plasturgie inc.;

(*n*) the Centre de technologie physique et photonique de Montréal;

(*o*) the Centre de transfert technologique de la mode (CTTM);

(*p*) the Centre de transfert technologique en écologie industrielle, Centre J-E. Simard;

(*q*) the Centre d'expérimentation et de développement en forêt boréale (CEDFOB);

(*r*) the Centre d'innovation en microélectronique du Québec (CIMEQ) inc.;

(*s*) the Centre national en électrochimie et en technologies environnementales inc.;

(*t*) the Centre spécialisé de technologie physique du Québec inc.;

(*u*) the Centre technologique des résidus industriels;

(*v*) the Centre technologique en aérospatiale C.T.A.;

(*w*) Cintech agroalimentaire;

(*x*) EQMBO-ENTREPRISES Centre d'aide technique et technologique inc.;

(*y*) Groupe CTT inc.;

(*z*) Innovation maritime;

(*z*.1) the Institut des communications graphiques du Québec;

(*z*.2) MUSILAB inc.;

(*z*.3) OLEOTEK inc.;

(*z*.4) the Service d'innovation et de transfert technologiques (SITTE) inc.; and

(*z*.5) TRANS BIO TECH Centre collégial de transfert en biotechnologies.

s. 1029.8.21.17R1; O.C. 1463-2001, s. 141; O.C. 1282-2003, s. 67; O.C. 1155-2004, s. 61; O.C. 1249-2005, s. 39; O.C. 1149-2006, s. 51; O.C. 1116-2007, s. 40.

"**1029.8.21.17R2.** For the purposes of the definition of "eligible liaison and transfer centre" in the first paragraph of section 1029.8.21.17 of the Act, the following liaison and transfer centres are prescribed liaison and transfer centres:

(*a*) the Centre de recherche en calcul appliqué (CERCA);

(*b*) the Centre de recherche informatique de Montréal inc.;

(*c*) the Centre francophone d'informatisation des organisations (CEFRIO);

(*d*) the Centre interuniversitaire de recherche en analyse des organisations (CIRANO);

(*e*) the Centre québécois de recherche et de développement de l'aluminium; and

(*f*) the Centre québécois de valorisation des biomasses et des biotechnologies.

s. 1029.8.21.17R2; O.C. 1463-2001, s. 141.

"**1029.8.21.17R3.** For the purposes of the definition of "eligible competitive intelligence centre" in the first paragraph of section 1029.8.21.17 of the Act, the following competitive intelligence centres are prescribed competitive intelligence centres:

(*a*) the Bureau de promotion des produits forestiers du Québec (Q-Web);

(*b*) the Centre d'étude sur les médias inc., in respect of the Centre de veille sur les médias;

(*c*) the Centre de veille de la construction (CeVeC);

(*d*) the Centre de veille des équipements de transport terrestre (CVETT);

(*e*) the Centre de veille sur les métaux légers – CVML;

(*f*) the Centre d'information et de valorisation du secteur du meuble de la Mauricie;

(*g*) the CEVEIL (Cellule de veille en industrie de la langue);

(*h*) EQMBO Enterprises inc.;

(*i*) the Institut des communications graphiques inc., in respect of its Centre de veille concurrentielle sur les communications graphiques (Vigicom);

(*j*) the Institut québécois du développement de l'horticulture ornementale (IQDHO);

(*k*) the Observatoire des technologies de l'information du Québec (OBTIQ);

(*l*) the Réseau de veille concurrentielle en environnement;

(*m*) the Réseau de veille stratégique bioalimentaire;

(*n*) the Réseau d'information stratégique de la mode et des textiles;

(*o*) the Réseau d'information stratégique de l'industrie chimique (RISIC); and

(*p*) the Réseau d'informations stratégiques de la plasturgie.

s. 1029.8.21.17R3; O.C. 1463-2001, s. 141; O.C. 1470-2002, s. 78; O.C. 1249-2005, s. 40.

"**1029.8.21.17R4.** For the purposes of the definition of "eligible liaison and transfer service" in the first paragraph of section 1029.8.21.17 of the Act, the following products and services are prescribed liaison and transfer products or services:

(*a*) locating and brokering research results;

(*b*) assessment of the needs of businesses;

(*c*) bringing together stakeholders;

(*d*) the carrying out of technical feasibility studies and studies assessing the commercial potential of innovation projects;

(*e*) supporting businesses through the various stages of realizing innovation projects; and

(*f*) software certification tests.

s. 1029.8.21.17R4; O.C. 1463-2001, s. 141.

"**1029.8.21.17R5.** For the purposes of the definition of "eligible competitive intelligence service" in the first paragraph of section 1029.8.21.17 of the Act, the following products and services are prescribed competitive intelligence products or services:

(*a*) the publication of monthly newsletters;

(*b*) customized information services;

(*c*) the preparation of summaries;

(*d*) the preparation of multi-client studies;

(*e*) one-stop information lines;

(*f*) systematic monitoring of international markets;

(*g*) an internet site;

(*h*) the organization of symposia and seminars; and

(*i*) business networking activities.

s. 1029.8.21.17R5; O.C. 1463-2001, s. 141.

"**1029.8.33.2R1.** For the purposes of paragraph *c* of the definition of "eligible trainee" in the first paragraph of section 1029.8.33.2 of the Act, the following are prescribed programs:

(*a*) a program approved by the Ministère de l'Éducation, du Loisir et du Sport in accordance with the section "A NEW PATH IN VOCATIONAL EDUCATION" of the Experimental Program for Offering a Greater Variety of Options to Young People in Vocational Education;

(*b*) a program that is an individualized path for learning in life skills and work skills education (*cheminement particulier de formation visant l'insertion sociale et professionnelle des jeunes (ISPJ)*) at the secondary level; and

(*c*) a program developed in accordance with the Sociovocational Integration Services (SIS) program at the secondary level.

s. 1029.8.33.2R1; O.C. 1633-96, s. 33; O.C. 1707-97, s. 79; O.C. 1466-98, s. 100; 2005, c. 28, s. 195.

"**1029.8.36.0.17R1.** For the purposes of paragraph *a* of the definition of "eligible facility" in the first paragraph of section 1029.8.36.0.17 of the Act, a prescribed specialized facility is, as the case may be,

(*a*) if the biotechnology development centre is that of Laval,

i. a specialized facility of the Centre québécois d'innovation en biotechnologie that is situated in that biotechnology development centre,

ii. a specialized facility of the Institut national de la recherche scientifique (INRS) that is situated in the City of Biotechnology and Human Health of Metropolitan Montréal;

(*b*) if the biotechnology development centre is that of Lévis,

i. the chemistry and biology laboratories of the department of chemistry and biology at the Cégep de Lévis-Lauzon that are situated in Lévis, or

ii. a specialized facility of TRANS BIO TECH Centre collégial de transfert en biotechnologies that is situated in Lévis;

(*c*) if the biotechnology development centre is that of Saint-Hyacinthe,

i. a specialized facility of the Food Research and Development Centre that is situated in Saint-Hyacinthe,

ii. a specialized facility of Cintech agroalimentaire that is situated in Saint-Hyacinthe, or

iii. a specialized facility of the Institut de biotechnologie vétérinaire et alimentaire (IBVA) that is situated in Saint-Hyacinthe;

(*d*) if the biotechnology development centre is that of Sherbrooke,

i. a specialized facility of the Clinical Research Centre at the Centre hospitalier universitaire de Sherbrooke that is situated on the site of that hospital centre, or

ii. a specialized facility in the faculty of medicine at Université de Sherbrooke that is situated on the East campus of that university.

For the purposes of this section, "City of Biotechnology and Human Health of Metropolitan Montréal" means a site in the territory of Ville de Laval established by the Minister of Finance as the City of Biotechnology and Human Health of Metropolitan Montréal.

s. 1029.8.36.0.17R1; O.C. 1155-2004, s. 62; O.C. 1149-2006, s. 53.

"**1029.8.61.19R1.** The rules to which section 1029.8.61.19 of the Act refers for the purpose of determining if a child has an impairment or a developmental disability that substantially limits the child in the activities of daily living during a foreseeable period of at least one year are those set out in sections 1029.8.61.19R2 to 1029.8.61.19R6.

For the purposes of the first paragraph, activities of daily living are the activities a child performs, for the child's age, to take care of himself or herself and participate in social life. The activities include feeding, moving about, dressing, communicating, and learning, and going to and moving about the places where the activities take place.

s. 1029.8.61.19R1; O.C. 1249-2005, s. 41.

"**1029.8.61.19R2.** A child whose condition during a foreseeable period of at least one year corresponds or compares to the cases specified in Schedule A is presumed to be handicapped within the meaning of section 1029.8.61.19R1.

In all other cases, the extent of the child's handicap is to be assessed in accordance with the following criteria:

(*a*) the disabilities that subsist in spite of facilitating factors;

(*b*) the obstacles in the child's environment; and

(*c*) the constraints on the child's family.

Facilitating factors include devices such as corrective lenses, hearing aids, ortheses, medication administered by a natural route, technical aids available without charge or services accessible in the region in which the child lives.

Obstacles in the environment include having to alter the physical layout of the home, day care centre or school and to adapt devices and everyday tools or transportation.

Constraints on the child's family, as a result of the impairment or developmental disability, are constraints that significantly complicate the task of caring for and educating the child. Such constraints include having to frequently accompany the child to care providers, to have the child accompanied to the day care centre or to school, and having to provide constant supervision or special assistance.

s. 1029.8.61.19R2; O.C. 1249-2005, s. 41.

"**1029.8.61.19R3.** A child whose condition corresponds to the exclusions in Schedule A is not presumed to be handicapped within the meaning of section 1029.8.61.19R1.

s. 1029.8.61.19R3; O.C. 1249-2005, s. 41.

"**1029.8.61.19R4.** An impairment exists when a persistent loss of an organ or structure of the child's body is manifested by a metabolic, cellular, histological, anatomical or physiological structure or function.

The abnormality must be confirmed by objective signs through a physical examination, biological tests or medical imaging or, for sight or hearing, a recognized measurement of visual acuity or hearing. The results must be attested to by an expert who is a member of a professional order.

s. 1029.8.61.19R4; O.C. 1249-2005, s. 41.

"**1029.8.61.19R5.** A developmental disability exists when a persistent psychological and emotional disturbance or cognitive impairment hinders or delays the integration of experiences and learning and compromises the child's adaptation.

The disability must be attested to by an expert who is a member of a professional order in a report describing the child's abilities and disabilities and the support measures and treatment initiated, and containing the expert's recommendations.

If the cognitive functions, including language, are assessed other than using a development scale or a standardized test, the data enabling the reliability and margin of error of the assessment method to be assessed must be specified in the expert's report. The results must enable the child to be assessed in comparison with the most directly comparable standardized group.

Where a standardized test or a development scale is used, the derived score must be expressed in centiles, standard deviations, quotients or age equivalents and the confidence interval must be stated in the expert's report.

A standardized test is a test where the raw score is converted into a relative measure that ranks the child in comparison with the norm for the child's age group. The norm is established by representative samples.

s. 1029.8.61.19R5; O.C. 1249-2005, s. 41.

"**1029.8.61.19R6.** Impairments and developmental disabilities are not presumed to be handicaps before the beginning of diagnostic or therapeutic intervention, or if they affect a function that is not yet developed in a healthy child.

If required for assessing a premature infant's condition, the age of the infant is adjusted by subtracting the number of weeks of prematurity.

s. 1029.8.61.19R6; O.C. 1249-2005, s. 41.

"**1029.8.67R1.** For the purposes of the definition of "child care expense" in section 1029.8.67 of the Act, a prescribed expense is an expense that is paid by an individual as a contribution fixed by the Regulation respecting reduced contributions (O.C. 1071-97, 1997, G.O. 2, 4392), or as a contribution fixed by the budgetary rules established in accordance with section 472 of the Education Act (R.S.Q., c. I-13.3), where the contribution is, according to the rules, related to the basic services provided to a child who regularly attends school day care, except the contribution fixed for the spring or fall break.

s. 1029.8.67R1; O.C. 1466-98, s. 101; O.C. 1454-99, s. 48; O.C. 1149-2006, s. 54.

"**1029.8.116.5.1R1.** The amounts of the work premium reduction thresholds in subparagraphs i and ii of subparagraphs *b* and *c* of the second paragraph of section 1029.8.116.5 of the Act that are applicable for a particular taxation year are the highest of the reduction thresholds that were applicable for the preceding taxation year and the amounts determined by the Minister of Finance as the work income over which a person would cease to be entitled, for the particular taxation year, to a benefit under the Social Assistance Program established under the Individual and Family Assistance Act (R.S.Q., c. A-13.1.1), if the work income was wages received by that person in the particular taxation year and the benefit was computed on an annual basis, taking into account,

(*a*) for the purpose of determining the amount of the work premium reduction threshold in subparagraph i of subparagraphs *b* and *c* of the second paragraph of section 1029.8.116.5 of the Act, the amount of the basic benefit granted to an adult who is able to work, the amount of the adjustment granted to account for the advance Québec sales tax credit to an independent adult who does not share a dwelling unit and the amount excluded from the work income for an adult whose capacity for employment is not severely limited;

(*b*) for the purpose of determining the amount of the work premium reduction threshold in subparagraph ii of subparagraphs *b* and *c* of the second paragraph of section 1029.8.116.5 of the Act, the amount of the basic benefit granted to a family composed of two adults who are able to work, the amount of the adjustment granted to account for the advance Québec sales tax credit to a family composed of two adults and the amount excluded from the work income for a family composed of two adults whose capacity for employment is not severely limited; and

(*c*) the amount that would be payable in respect of the work income as the employee's premium under the Act respecting parental insurance (R.S.Q., c. A-29.011), contribution under the Act respecting the Québec Pension Plan (R.S.Q., c. R-9) and premium under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23), considering in that respect the rate applicable for an employee who reports to an establishment of the employer in Québec, and the amount of the federal tax that would be payable in respect of the work income, as if that tax were computed taking into account only the basic tax credit, the spousal tax credit, if any, the tax credit for Canadian employment and the tax credit for Québec Pension Plan member contributions and parental insurance plan and employment insurance plan employee premiums.

For the purposes of the first paragraph, if the work income is not a multiple of $2, it must be rounded to the nearest multiple of $2 or, if it is equidistant from two multiples, to the higher multiple of $2.

s. 1029.8.116.5.1R1; O.C. 1116-2007, s. 41.

"**1032R1.** An election by a legal representative under section 1032 of the Act is made by filing with the Minister the prescribed form on or before the balance-due day that would otherwise have been applicable to the individual referred to in the first paragraph of that section 1032 for the taxation year referred to in that paragraph.

s. 1032R1; R.R.Q., 1981, c. I-3, r.1, s. 1032R1; O.C. 1466-98, s. 104.

"**1054R1.** The legal representative makes the election under section 1054 of the Act by forwarding to the Minister

(*a*) a declaration from the legal representative specifying the part of one or more capital losses from the disposition of capital property referred to in paragraph *a* of that section and the part of any deductible amount referred to in paragraph *b* of that section in respect of which the election, where applicable, is made;

(*b*) where the declaration specifies the part of one or more capital losses from the disposition of capital property referred to in paragraph *a* of that section, a statement of the capital

gains and capital losses from the dispositions of the capital property referred to in paragraph *a* of section 1055 of the Act; and

(*c*) where the declaration specifies the part of any deductible amount referred to in paragraph *b* of section 1054 of the Act,

i. a statement of the undepreciated capital cost of depreciable property of each prescribed class referred to in paragraph *b* of section 1055 of the Act,

ii. a statement of the amount which, but for that section 1054, would be the non-capital loss of the succession for its first taxation year, and

iii. a statement of the amount which, but for that section 1054, would be the farm loss of the succession for its first taxation year.

s. 1054R1; O.C. 1981-80, s. 1054R1; R.R.Q., 1981, c. I-3, r.1, s. 1054R1; O.C. 421-88, s. 34; O.C. 1549-88, s. 28.

"**1054R2.** The documents referred to in section 1054R1 must be filed on or before the later of

(*a*) the filing-due date that applies to the taxpayer for the taxation year of the taxpayer's death; and

(*b*) the filing-due date that applies to the first taxation year of the deceased taxpayer's succession.

s. 1054R2; O.C. 1981-80, s. 1054R2; R.R.Q., 1981, c. I-3, r.1, s. 1054R2; O.C. 1549-88, s. 29; O.C. 1466-98, s. 105.

"**1055.1R1.** An election under section 1055.1 of the Act is made by the legal representative of a deceased taxpayer by filing with the Minister a return from the legal representative setting out the following:

(*a*) the amount of the benefit referred to in the portion of paragraph *a* of that section 1055.1 before subparagraph i;

(*b*) the value of the right referred to in subparagraph i of paragraph *a* of that section 1055.1, and the amount paid by the taxpayer for the right;

(*c*) the amount referred to in subparagraph ii of paragraph *a* of that section 1055.1 that has been deducted in computing the taxpayer's taxable income; and

(*d*) the amount of the loss referred to in paragraph *b* of that section 1055.1.

s. 1055.1R1; O.C. 1149-2006, s. 55.

"**1055.1R2.** The return referred to in section 1055.1R1 must be filed on or before the day that is the later of

(*a*) the filing due-date that applies to the taxpayer for the taxation year of the taxpayer's death; and

(*b*) the filing due-date that applies to the first taxation year of the deceased taxpayer's succession.

s. 1055.1R2; O.C. 1149-2006, s. 55.

"**1056.4R1.** For the purposes of section 1056.4 of the Act, a prescribed election is an election under

(*a*) section 21.4.2, the first paragraph of section 87.4, section 92.12, the first paragraph of section 93.9, subsection 2 of section 96, any of sections 101.6, 110.1, 180 to 182, 257.2, 279, 280.3, 284, 286.1 and 299, any of paragraphs *c* to *e* of section 418.23 or 418.24, any of sections 442, 444, 450, 453, 454 and 470, paragraph *a* of section 485.21, section 499 or 502, paragraph *f* of section 578.1, any of sections 656.4, 659 and 688.0.0.1, paragraph *d* of section 785.2, paragraph *a* or *c* of section 785.2.2, paragraph *a* or *d* of section 785.2.3 or any of sections 785.2.4, 851.28, 935.7, 1054 and 1055.1 of the Act; or

(*b*) any of sections 130R128, 130R129 and 130R137.

For the purposes of subparagraph *a* of the first paragraph,

(*a*) a reference to section 92.12 or 499 of the Act is a reference to that section as it read before its revocation;

(*b*) a reference to any of sections 442, 444, 450 and 454 of the Act is a reference to that section as it read in respect of a transfer or distribution made before 26 March 1997; and

(*c*) a reference to section 659 of the Act is a reference to that section as it read in respect of an election made for a taxation year of a trust that ended before 1 April 1998.

s. 1056.4R1; O.C. 67-96, s. 60; O.C. 1707-97, s. 80; O.C. 1466-98, s. 106; O.C. 1451-2000, s. 47; O.C. 1463-2001, s. 142; O.C. 1282-2003, s. 68; O.C. 1155-2004, s. 64; O.C. 1149-2006, s. 56; O.C. 1116-2007, s. 42.

"**TITLE XXXIX**

"INFORMATION RESPECTING TAX SHELTERS

title XXVI.1; O.C. 1114-92, s. 38.

"**1079.1R1.** For the purposes of this Title, "promoter" has the meaning assigned by the first paragraph of section 1079.1 of the Act.

s. 1079.1R1; O.C. 1114-92, s. 38; O.C. 1451-2000, s. 48.

"**1079.1R2.** For the purposes of the definition of "tax shelter" in the first paragraph of section 1079.1 of the Act, property that is a registered pension plan, a registered retirement savings plan, a deferred profit sharing plan, a registered retirement income fund, a registered education savings plan, a property in respect of which section 241.0.1 of the Act applies or a property described in the second paragraph is a prescribed property in relation to a tax shelter.

The property mentioned in the first paragraph refers to

(*a*) shares subject to a stipulation to the effect that they may be included in a stock savings plan within the meaning of paragraph *i* of section 965.1 of the Act;

(*b*) shares subject to a stipulation to the effect that they may be included in an SME growth stock plan within the meaning of the first paragraph of section 965.55 of the Act;

(*c*) shares meeting the requirements of sections 73 to 80 of the Savings and Credit Unions Act (R.S.Q., c. C-4.1), as they read on 30 June 2001, and which are issued by a savings and credit union governed by that Act;

(*d*) Class "A" shares issued by the corporation governed by the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (R.S.Q., c. F-3.2.1);

(*e*) class "A" or "B" shares issued by the corporation governed by the Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (R.S.Q., c. F-3.1.2);

(*f*) eligible shares within the meaning of the Régime d'investissement coopératif established under the Act respecting the Ministère du Développement économique, de l'Innovation et de l'Exportation (R.S.Q., c. M-30.01);

(*g*) qualifying security within the meaning of the cooperative investment plan adopted under the Cooperative Investment Plan Act (R.S.Q., c. R-8.1.1);

(*h*) common shares with full voting rights within the meaning of the Act respecting Québec business investment companies (R.S.Q., c. S-29.1); and

(*i*) shares of the capital stock of the corporation governed by the Act constituting Capital régional et coopératif Desjardins (R.S.Q., c. C-6.1).

s. 1079.1R2; O.C. 1114-92, s. 38; O.C. 1114-93, s. 42; O.C. 473-95, s. 41; O.C. 523-96, s. 35; O.C. 1633-96, s. 34; O.C. 1707-97, s. 98; O.C. 1466-98, s. 126; O.C. 1454-99, s. 49; O.C. 1451-2000, s. 49; O.C. 1282-2003, s. 69; 2006, c. 8, s. 31; O.C. 1116-2007, s. 43.

"**1079.1R3.** For the purposes of the definition of "tax shelter" in the first paragraph of section 1079.1 of the Act, a prescribed benefit in relation to an interest in a property means any amount that may reasonably be expected, having regard to statements or representations made in respect of the interest, to be received or enjoyed by a person, in this section referred to as "the purchaser", who acquires the interest, or a person with whom the purchaser does not deal at arm's length, which receipt or enjoyment would have the effect of reducing the impact of any loss that the purchaser may sustain in respect of the interest, and includes the amounts described in the second paragraph, but, subject to subparagraph ii of subparagraph *b* of that paragraph, does not include profits earned in respect of the interest.

The amounts mentioned in the first paragraph are in reference to

(*a*) an amount owed, immediately or in the future, by the purchaser, or a person with whom the purchaser does not deal at arm's length, to any other person to the extent that

i. liability to pay that amount is contingent,

ii. payment of that amount is or will be guaranteed, security is or will be provided in respect of the amount or an agreement to indemnify the other person to whom the amount is owed is or will be entered into by one of the following persons:

(1) a promoter in respect of the interest,

(2) a person with whom the promoter does not deal at arm's length, or

(3) a person who is to receive a payment, other than a payment made by the purchaser, in respect of the guarantee, security or agreement to indemnity,

iii. the rights of that other person against the purchaser, or against a person with whom the purchaser does not deal at arm's length, in respect of the collection of all or part of the purchase price, are limited to a maximum amount, are enforceable only against certain property, or are otherwise limited by agreement, or

iv. payment of that amount is to be made in a foreign currency or is to be determined by reference to its value in a foreign currency and it may reasonably be considered, having regard to the history of the exchange rate between the foreign currency and Canadian currency, that the aggregate of all such payments, when converted to Canadian currency at the exchange rate expected to prevail at the date on which each such payment would be required to be made, will be substantially less than that aggregate would be if each such payment was converted to Canadian currency at the time that each such payment became owing;

(*b*) an amount that the purchaser or a person with whom the purchaser does not deal at arm's length is entitled at any time to receive, directly or indirectly, or to have available

i. as a form of assistance from a government, municipality or other public authority, whether as a subsidy, grant, forgiveable loan, deduction from tax or investment allowance, or as any other form of assistance, or

ii. by reason of a revenue guarantee or other agreement in respect of which revenue may be earned by the purchaser or a person with whom the purchaser does not deal at arm's length, to the extent that the revenue guarantee or other agreement may reasonably be considered to ensure that the purchaser or person will receive a return of all or a portion of the purchaser's outlays in respect of the interest;

(*c*) an amount that is the proceeds of disposition to which the purchaser is entitled by way of an agreement or other arrangement under which the purchaser has a right, either absolutely or contingently, to dispose of the interest, otherwise than as a consequence of the purchaser's death, including the fair market value of any property that the agreement or arrangement provides for the acquisition of in exchange for all or any part of the interest; and

(*d*) an amount that is owed to a promoter, or a person with whom the promoter does not deal at arm's length, by the purchaser or a person with whom the purchaser does not deal at arm's length in respect of the acquisition of the interest.

s. 1079.1R3; O.C. 1114-92, s. 38; O.C. 1466-98, s. 126; O.C. 1451-2000, s. 50.

"**1079.1R4.** For the purposes of the definition of "tax shelter" in the first paragraph of section 1079.1 of the Act, a prescribed benefit in respect of an interest in a property includes an amount that is a limited-recourse amount under any of sections 851.38, 851.42 and 851.48 of the Act, but does not include an amount of indebtedness that is a limited-recourse amount

(*a*) solely because it is not required to be repaid within 10 years from the time the indebtedness arose where the debtor would, if the interest were acquired by the debtor immediately after that time, be

i. a partnership at least 90% of the fair market value of the property of which is attributable to the partnership's corporeal capital property located in Canada, and at least 90% of the value of all interests in which are held by limited partners within the meaning of section 613.6 of the Act, except where it is reasonable to conclude that one of the main reasons for the acquisition of one or more properties by the partnership, or for the acquisition of one or more interests in the partnership by limited partners, is to avoid the application of this section, or

ii. a member of a particular partnership having fewer than six members, except where

(1) the particular partnership is a member of another partnership,

(2) there is a limited partner, within the meaning of section 613.6 of the Act, of the particular partnership,

(3) less than 90% of the fair market value of the particular partnership's property is attributable to the particular partnership's corporeal capital property located in Canada, or

(4) it is reasonable to conclude that one of the main reasons for the existence of a partnership that is a member of a group of partnerships, one of which is the particular partnership, or for the acquisition of one or more properties by the particular partnership, is to avoid the application of this Title to the member's indebtedness;

(*b*) of a partnership where

i. the indebtedness is secured by and used to acquire the partnership's corporeal capital property located in Canada, other than specified energy property within the meaning of section 130R51, rental property within the meaning of section 130R88 and leasing property within the meaning of section 130R93,

ii. the person to whom the indebtedness is repayable is a member of the Canadian Payments Association, and

iii. throughout the period during which any amount is outstanding in respect of the indebtedness, except where it is reasonable to conclude that one of the main reasons for the acquisition of one or more properties by the partnership, or for the acquisition of one or more interests in the partnership by limited partners, is to avoid the application of this section,

(1) at least 90% of the fair market value of the property of the partnership is attributable to corporeal capital property located in Canada of the partnership,

(2) at least 90% of the value of all interests in the partnership are held by limited partners, within the meaning of section 613.6 of the Act, that are corporations, and

(3) the principal business of each limited partner referred to in subparagraph 2 is related to the principal business of the partnership; or

(*c*) of a corporation where the amount is a *bona fide* business loan made to the corporation for the purpose of financing a business that the corporation operates and the loan is made pursuant to a loan program of the Government of Canada or of a province the purpose of which is to extend financing to small and medium-sized Canadian businesses.

s. 1079.1R4; O.C. 1282-2003, s. 70; O.C. 1249-2005, s. 42.

"**TITLE XL**

" INFORMATION

title XXVII; O.C. 1981-80, title XXVII; R.R.Q., 1981, c. I-3, r.1, title XXVII.

"**1086R1.** Every person who makes a payment mentioned in section 1015 of the Act that is not an annuity payment related to an interest in an annuity contract to which section 1086R9 applies must file an information return in prescribed form.

Except as provided in the third and fourth paragraphs, an information return must also be submitted by every person who pays, grants or allocates an amount as

(*a*) a scholarship, fellowship or bursary, or a prize for achievement in a field of endeavour ordinarily carried on by the recipient, other than a bursary received by the recipient from a school board, which relates to the actual costs of periodic transportation incurred by the recipient, or by an individual who is a member of the recipient's household,

in accordance with the budgetary rules established by the Minister of Education, Recreation and Sports for the purpose of applying the Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., c. I-14);

(*b*) a grant paid to a recipient to carry on research or any similar work;

(*c*) an amount that is required to be included by any of paragraphs *e*.2 to *e*.4 of section 311 of the Act in computing a taxpayer's income;

(*d*) a benefit under regulations made under an Appropriation Act providing for a scheme of transitional assistance benefits to persons employed in the production of products to which the Canada - United States Agreement on Automobile Products, signed on 16 January 1965, applies;

(*e*) a benefit described in section 311R1;

(*f*) an amount payable on a periodic basis to a beneficiary in respect of the loss of all or part of income from an office or employment, under an insurance plan to which the employer has paid a contribution;

(*g*) a benefit whose value must be included in computing the income of an individual pursuant under section 37, 37.1, 41, 47.1 or 119.1 of the Act;

(*h*) a benefit whose value must be included in computing the income of a shareholder under section 117 of the Act;

(*i*) a contribution that is required to be included in computing the income of an individual under section 43.2 of the Act; or

(*j*) a payment made under a registered education savings plan, other than a refund of contributions.

An information return in prescribed form must also be filed by an employer of an individual where a person related to that employer either makes an automobile available to the individual or to a person related to the individual, or pays a premium in respect of the individual under a personal insurance plan.

An information return in prescribed form must also be filed by a corporation where a person related thereto makes an automobile available to a shareholder of the corporation or to a person related to the shareholder.

Where a particular qualifying person, within the meaning of section 47.18 of the Act, has agreed to sell or issue a security, within the meaning of that section, 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 it does not deal at arm's length, and the taxpayer has acquired the security under the agreement in circumstances to which section 58.0.1 of the Act applied, each of the particular qualifying person, the qualifying person of which the security is acquired and the qualifying person that is the taxpayer's employer must, for the taxation year in which the security is acquired, file an information return in prescribed form in respect of the benefit that the taxpayer would be deemed to have received, but for section 58.0.1, because of the taxpayer's office or employment in that year and, for that purpose, an information return filed by one of the qualifying persons in respect of the taxpayer's acquisition of the security is deemed to be filed by each of the qualifying persons.

s. 1086R1; O.C. 1981-80, s. 1086R1; O.C. 1983-80, s. 40; O.C. 3926-80, s. 40; R.R.Q., 1981, c. I-3, r.1, s. 1086R1; O.C. 2962-82, s. 85; O.C. 500-83, s. 85; O.C. 2727-84, s. 24; O.C. 2583-85, s. 29; O.C. 615-88, s. 35; O.C. 1471-91, s. 33; O.C. 1114-92, s. 39; O.C. 473-95, s. 42; O.C. 35-96, s. 86; O.C. 1707-97, s. 81; O.C. 1451-2000, s. 52; O.C. 1282-2003, s. 71; O.C. 1155-2004, s. 65; 2005, c. 28, s. 195.

"**1086R2.** Every trustee of a profit sharing plan must file an information return in prescribed form and an employer may file it in lieu of the trustee.

s. 1086R2; O.C. 1981-80, s. 1086R2; R.R.Q., 1981, c. I-3, r.1, s. 1086R2; O.C. 1471-91, s. 33; O.C. 473-95, s. 48.

"**1086R3.** Every person who pays an amount that, pursuant to section 929 of the Act, must be included in computing a taxpayer's income for a taxation year, must file an information return in prescribed form.

Where an amount in respect of a plan to which section 914 of the Act applies must be included in computing a taxpayer's income for a taxation year, or where an annuitant is deemed, under the first paragraph of section 915.2 of the Act, to have received an amount as a benefit out of or under a registered retirement savings plan and the amount of which must be included in computing the annuitant's income for a taxation year pursuant to section 929 of the Act, the issuer of such plan must file an information return in prescribed form.

Where, in a taxation year, any of sections 926, 928, 932 and 933 of the Act applies in respect of a trust governed by a registered retirement savings plan, the trustee of that plan must file an information return in prescribed form.

Where a payment or transfer of property of a registered retirement savings plan under which a taxpayer is the annuitant is made to another registered retirement savings plan or to a registered retirement income fund under which the spouse or former spouse of the transferor is the annuitant and section 913 of the Act applies in respect of the payment or transfer, the issuer of the plan from which the payment or transfer is made must file an information return in prescribed form in respect of the payment or transfer.

In this section, "issuer" has the meaning assigned by paragraph *c* of section 905.1 of the Act and "annuitant" has the meaning assigned by paragraph *b* of that section.

s. 1086R3; O.C. 1981-80, s. 1086R3; O.C. 3926-80, s. 41; R.R.Q., 1981, c. I-3, r.1, s. 1086R3; O.C. 2583-85, s. 30; O.C. 1471-91, s. 33; O.C. 1114-93, s. 43; O.C. 473-95, s. 48; O.C. 1707-97, s. 82; O.C. 1282-2003, s. 72; O.C. 1149-2006, s. 58.

"**1086R4.** Every trustee of a trust governed by a registered retirement income fund must file an information return in prescribed form

(*a*) in respect of an amount that the beneficiary is deemed to have received under the first paragraph of section 961.17.1 of the Act during a taxation year;

(*b*) in respect of an amount that the beneficiary pays out of that fund or under that fund and in respect of which

i. a portion of the amount must be included in computing the income of a taxpayer under the first paragraph of section 961.17 of the Act, or

ii. subparagraph *b* of the second paragraph of section 961.17 of the Act applies in respect of the amount;

(*c*) where, for a taxation year, a taxpayer who is a beneficiary under the fund is required to include an amount in computing the taxpayer's income in accordance with section 961.18 or 961.19 of the Act or may be allowed pursuant to section 961.20 or 961.21 of the Act to deduct an amount in computing the taxpayer's income; and

(*d*) where, for a taxation year, a taxpayer is required to include an amount in computing the taxpayer's income in accordance with section 961.9 of the Act.

s. 1086R6.1; O.C. 1983-80, s. 41; R.R.Q., 1981, c. I-3, r.1, s. 1086R6.1; O.C. 421-88, s. 35; O.C. 1471-91, s. 33; O.C. 473-95, s. 48; O.C. 1454-99, s. 50; O.C. 1282-2003, s. 73; O.C. 1155-2004, s. 66; O.C. 1149-2006, s. 59.

"**1086R5.** An information return in prescribed form must be filed, in respect of the part of the payment mentioned hereinafter for which an information return was not previously filed under this section or under any of sections 1086R6 to 1086R9 and 1086R54, by every person who makes, to an individual resident in Québec or to a corporation having an establishment therein, one of the following payments:

(*a*) a dividend or an amount deemed by the Act to be a dividend other than a dividend deemed to have been paid to a person under sections 504 to 506, 507 and 508 of the Act where, pursuant to section 510.1 of the Act, those sections do not apply to deem the dividend to have been received by the person;

(*b*) an interest, excluding the part of that interest to which any of sections 1086R6 to 1086R8 applies, paid in respect of

i. a registered bond,

ii. money on loan or on deposit or property of any kind deposited or placed with a corporation, association, organization or institution,

iii. an investment with an investment dealer or broker,

iv. an insurance policy or an annuity contract by an insurer, or

v. an amount payable in respect of a compensation for property expropriated;

(*c*) royalties for the use of a work, invention or right to remove natural resources;

(*d*) a payment referred to in section 120 of the Act, where such payment was made by a corporation, association, organization or institution;

(*e*) an amount paid from a person's NISA Fund No. 2; and

(*f*) an amount that is required by section 979.21 of the Act to be added in computing a person's income for a taxation year.

s. 1086R7; O.C. 1981-80, s. 1086R7; O.C. 3926-80, s. 42; R.R.Q., 1981, c. I-3, r.1, s. 1086R7; O.C. 2583-85, s. 33; O.C. 615-88, s. 36; O.C. 1471-91, s. 33; O.C. 473-95, s. 48; O.C. 67-96, s. 61; O.C. 1707-97, s. 98; O.C. 1466-98, s. 108; O.C. 1454-99, s. 51.

"**1086R6.** A person or partnership that is indebted in a calendar year under a debt obligation in respect of which section 92.1 of the Act and paragraph *b* of section 1086R5 apply with respect to a taxpayer must file an information return in prescribed form in respect of the amount that would, if the year were a taxation year of the taxpayer, be included as interest in respect of the debt obligation in computing the taxpayer's income for the year.

s. 1086R7.1; O.C. 615-88, s. 37; O.C. 1076-88, s. 28; O.C. 1471-91, s. 33; O.C. 366-94, s. 26; O.C. 473-95, s. 48; O.C. 1707-97, s. 98; O.C. 1454-99, s. 52.

"**1086R7.** A person or partnership that is indebted in a calendar year under an indexed debt obligation in respect of which paragraph *b* of section 1086R5 applies must, for each taxpayer who holds an interest in the debt obligation at any time in the year, file an information return in prescribed form in respect of the amount that would, if the year were a taxation year of the taxpayer, be included as interest in respect of the debt obligation in computing the taxpayer's income for the year.

s. 1086R7.1.1; O.C. 1454-99, s. 53.

"**1086R8.** Where, at any time in a calendar year, a person or partnership holds, on behalf or as a mandatary of a taxpayer resident in Québec, an interest in a debt obligation referred to in the second paragraph, that person or partnership must file an information return in prescribed

form in respect of the amount that would, if the year were a taxation year of the taxpayer, be included as interest in respect of the debt obligation in computing the taxpayer's income for the year.

The debt obligation to which the first paragraph refers is an obligation referred to in paragraph *b* of section 1086R5 that is

(*a*) an obligation in respect of which section 92.1 of the Act applies with respect to the taxpayer; or

(*b*) an indexed debt obligation.

s. 1086R7.1.2; O.C. 1454-99, s. 53.

"**1086R9.** Every insurer, within the meaning of paragraph *a*.1 of section 966 of the Act, who is a party to a life insurance policy in respect of which an amount is to be included in computing the income of a taxpayer pursuant to section 92.9, as it read before its revocation, or section 92.11 or 92.13 of the Act or pursuant to paragraph *c*.1 of section 312 of the Act, as it read before being struck out, must file an information return in prescribed form in respect of that amount.

s. 1086R7.2; O.C. 615-88, s. 37; O.C. 1471-91, s. 33; O.C. 366-94, s. 26; O.C. 473-95, s. 48; O.C. 67-96, s. 62; O.C. 1454-99, s. 54.

"**1086R10.** Every financial institution making a payment for interest accrued after the redemption, assignment or any other transfer of a bond, debenture or similar security, other than an income bond, an income debenture or an investment contract in respect of which section 1086R6 applies, must, unless the payment is made to another financial institution, file an information return in prescribed form not later than the fifteenth day of the month following the month during which the payment is made and remit to the beneficiary, at the time of payment, two copies of the return concerning the beneficiary.

For the purposes of this section, a financial institution includes a taxpayer referred to in paragraphs *a* to *f* of section 250.3 of the Act.

s. 1086R7.3; O.C. 1797-90, s. 1; O.C. 1471-91, s. 33; O.C. 366-94, s. 27; O.C. 473-95, s. 48.

"**1086R11.** Every person authorized to redeem Québec or Canada savings bond who pays in respect of any of those bonds a cash bonus, payment of which was not planned at the time of the issue of the bond, must file an information return in prescribed form not later than the fifteenth day of the month following the month during which the payment is made and remit to the beneficiary, at the time of payment, two copies of the return concerning the beneficiary.

s. 1086R7.4; O.C. 1797-90, s. 1; O.C. 1471-91, s. 33; O.C. 473-95, s. 48.

"**1086R12.** Every person who, in respect of the disposition or redemption of a bearer debt obligation, makes a payment to an individual resident in Québec or acts on behalf or as the mandatary of such individual, must file an information return in prescribed form in respect of that transaction, indicating therein, in particular, the proceeds of that disposition or the amount of that redemption.

For the purposes of the first paragraph, a bearer debt obligation does not include a debt obligation redeemed at an amount equal to its issue price, a debt obligation referred to in subparagraph *b* of the first paragraph of section 92.5R3 or a coupon, warrant or cheque referred to in section 54 of the Act respecting the Ministère du Revenu (R.S.Q., c. M-31).

s. 1086R7.5; O.C. 1471-91, s. 31; O.C. 473-95, s. 48.

"**1086R13.** Where a financial institution designated for the purposes of the Subsidy and Loan Program for Workers, administered by the Ministère de l'Emploi et de la Solidarité sociale, receives from an individual, before the end of a year an amount that is deductible by the individual under paragraph *k* of section 336 of the Act, that institution must file an information return in prescribed form in respect of the amount so received, unless an information return in prescribed form was previously filed in respect of that amount.

s. 1086R7.6; O.C. 1539-93, s. 45; O.C. 473-95, s. 48; O.C. 523-96, s. 36; 1997, c. 63, s. 138; O.C. 1466-98, s. 109; O.C. 1454-99, s. 55; 2001, c. 44, s. 30; O.C. 1155-2004, s. 67.

"**1086R14.** A cooperative that, in a calendar year, redeems preferred shares it issued as a qualified patronage dividend, within the meaning of section 726.27 of the Act, must file an information return in prescribed form in respect of the transaction, indicating therein, in particular, the amount of the redemption.

For the purposes of the first paragraph, a cooperative is deemed to redeem the preferred shares issued by the cooperative that are identical properties in the order in which it issued them.

s. 1086R7.7; O.C. 1249-2005, s. 44.

"**1086R15.** Any person who pays an amount that is required by section 313.1 of the Act to be included in computing a taxpayer's income for a taxation year, must file an information return in prescribed form.

s. 1086R8; O.C. 1981-80, s. 1086R8; R.R.Q., 1981, c. I-3, r.1, s. 1086R8; O.C. 1471-91, s. 33; O.C. 473-95, s. 48.

"**1086R16.** Every person who pays an amount that, pursuant to section 694.0.0.1 of the Act, must be included in computing a taxpayer's taxable income for a taxation year, must file an information return in prescribed form.

s. 1086R8.0.1; O.C. 1116-2007, s. 44.

"**1086R17.** Any broker or any investment fund referred to in section 965.2 of the Act with whom an individual or an investment group has made an arrangement that is a stock savings plan must file an information return, in prescribed form for any year during which the plan is in force.

s. 1086R8.1; O.C. 1983-80, s. 42; R.R.Q., 1981, c. I-3, r.1, s. 1086R8.1; O.C. 2727-84, s. 25; O.C. 1666-90, s. 21; O.C. 473-95, s. 48.

"**1086R18.** Any broker or any qualified mutual fund referred to in section 965.56 of the Act with which an individual has made an arrangement that is an SME growth stock plan must file an information return in prescribed form for any year during which the plan is in force.

s. 1086R8.1.0.1; O.C. 1149-2006, s. 60.

"**1086R19.** Where a Québec business investment company within the meaning of paragraph *f* of section 965.29 of the Act makes a qualified investment within the meaning of paragraph *d* of that section 965.29, Investissement Québec must file an information return in prescribed form in respect of each person who is the owner, at the time the qualified investment was made, of a share used to determine an interest in that qualified investment within the meaning of paragraph *c* of that section 965.29.

s. 1086R8.1.1; O.C. 1666-90, s. 22; O.C. 473-95, s. 48; O.C. 523-96, s. 37; 1998, c 17, s. 64; 2001, c. 69, s. 12.

"**1086R20.** A qualified cooperative within the meaning of paragraph *a* of section 965.35 of the Act that, in the course of a year, issues qualifying security within the meaning of paragraph *d* of that section, must file an information return in prescribed form in respect of that security for the entire year during which it issues such security.

s. 1086R8.1.3; O.C. 1666-90, s. 22; O.C. 473-95, s. 48.

"**1086R21.** A qualified cooperative or qualified federation of cooperatives within the meaning of section 965.39.1 of the Act that, in the course of a year, issues a qualifying security within the meaning of that section to a qualified investor within the meaning of section 9 of the Cooperative Investment Plan Act (R.S.Q., c. R-8.1.1), must file an information return in prescribed form in respect of that security for any year during which it issues such security.

A qualified cooperative or qualified federation of cooperatives must also send to each qualified investor having acquired a qualifying security an information return stating the adjusted cost of the qualifying security.

s. 1086R8.1.3.1; O.C. 1116-2007, s. 45.

"**1086R22.** An eligible research consortium within the meaning of section 1029.8.9.0.2 of the Act must, within 60 days following the end of a fiscal period of that eligible research consortium during which taxpayers or partnerships that are members thereof pay to it eligible fees within the meaning of that section, file an information return in prescribed form in respect of each of those members.

s. 1086R8.1.5; O.C. 1539-93, s. 46; O.C. 473-95, s. 48; O.C. 1707-97, s. 84.

"**1086R23.** A corporation governed by an Act establishing a labour-sponsored fund must file an information return in prescribed form in respect of the following shares:

(*a*) any class "A" share of its capital stock that it issues and, if it is governed by the Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (R.S.Q., c. F-3.1.2), any class "B" share of its capital stock that it issues; and

(*b*) any replacement share, within the meaning assigned by the first paragraph of section 776.1.5.0.1 or 776.1.5.0.6 of the Act, that was not acquired and should have been acquired in accordance with subdivision 2 of Division II of Chapter III of Title III of Book V of Part I of the Act or in accordance with subdivision 2 of Division III of that Chapter III, as the case may be.

The information return in respect of a share described in subparagraph *a* of the first paragraph must be sent to the Minister not later than

(*a*) where the share is issued during the first 60 days of a calendar year, 31 March of that calendar year; and

(*b*) in all other cases, 31 March of the calendar year following the year in which the share is issued.

The information return in respect of a share described in subparagraph *b* of the first paragraph must be sent to the Minister not later than 31 March of the calendar year following the calendar year for which that replacement share should have been acquired.

s. 1086R8.1.6; O.C. 473-95, s. 43; O.C. 1633-96, s. 35; O.C. 1707-97, s. 98; O.C. 1466-98, s. 126; O.C. 1470-2002, s. 80.

"**1086R24.** The corporation governed by the Act constituting Capital régional et coopératif Desjardins (R.S.Q., c. C-6.1) must file, in relation to a particular taxation year, an information return in prescribed form in respect of a share of the capital stock that it issues to an individual in the period referred to in the first paragraph of section 776.1.5.0.11 of the Act in relation to the particular year, except where

(*a*) during that period or within the 30 days that follow, the individual requests the redemption of the share in accordance with paragraph 3 of section 12 of the Act constituting Capital régional et coopératif Desjardins; or

(*b*) the corporation governed by the Act constituting Capital régional et coopératif Desjardins, at the request of the

individual and before 1 March of the year that follows the particular year, in relation to another share of the capital stock of the corporation,

i. redeems the share in accordance with paragraph 1 or 4 of section 12 of that Act, or

ii. purchases the share in accordance with the purchase by agreement policy approved by the Minister of Finance under the second paragraph of section 11 of that Act, except where the purchase is made in accordance with a provision of that policy under which the corporation may, by agreement, purchase a share that it issued because no amount was deducted in respect of the share under section 776.1.5.0.11 of the Act.

The return must be sent to the Minister not later than

(*a*) where the share is issued in January or February of a calendar year, 31 March of the calendar year; or

(*b*) in all other cases, 31 March of the calendar year following the year in which the share is issued.

s. 1086R8.1.6.1; O.C. 1282-2003, s. 74.

"**1086R25.** Where a partnership that carries on a business in Canada causes scientific research and experimental development to be undertaken on its behalf in Québec as part of a contract and makes an expenditure, as part of the contract, that is a portion of the consideration referred to in any of subparagraphs *c*, *e*, *g* and *i* of the first paragraph of section 1029.8 of the Act, the partnership must transmit in writing, within 60 days following the end of its fiscal period during which the expenditure is made, to each taxpayer who is a member thereof at the end of that fiscal period, the information required by section 1029.8.0.0.1 of the Act in respect of that contract.

s. 1086R8.1.8; O.C. 1633-96, s. 36; O.C. 1707-97, s. 98; O.C. 1454-99, s. 56; O.C. 1451-2000, s. 53.

"**1086R26.** Where the principal filming or taping work of a property that is a certified feature film, a certified production, a certified Québec film or a Québec film production, within the meaning assigned to those expressions by the first paragraph of section 130R3, has occurred during a year or has been completed not later than 60 days after the end of the year, the producer of the property, the corporation producing it or the mandatary of the producer or of the corporation must file an information return in prescribed form in respect of any person or partnership that is the owner of a share in the property at the end of the year.

s. 1086R8.2; O.C. 2727-84, s. 26; O.C. 1076-88, s. 29; O.C. 1471-91, s. 33; O.C. 1539-93, s. 47; O.C. 473-95, s. 48; O.C. 1707-97, s. 98.

"**1086R27.** The Commission de la santé et de la sécurité du travail must file an information return in prescribed form in respect of an income replacement indemnity or compensation for the loss of financial support it determines.

s. 1086R8.7; O.C. 1666-90, s. 23; O.C. 473-95, s. 48; O.C. 1633-96, s. 37; O.C. 1149-2006, s. 62.

"**1086R28.** The Société de l'assurance automobile du Québec must file an information return in prescribed form in respect of an income replacement indemnity or compensation for the loss of financial support it determines.

s. 1086R8.8; O.C. 1666-90, s. 23; O.C. 473-95, s. 48; O.C. 523-96, s. 39; O.C. 1451-2000, s. 54; O.C. 1149-2006, s. 62.

"**1086R29.** The Société de l'assurance automobile du Québec must issue, for a calendar year, an information return to an eligible taxpayer in respect of each taxi owner's permit of which the taxpayer is the holder.

The information return that must be issued to an eligible taxpayer under the first paragraph must be sent to the taxpayer at the taxpayer's last known address or delivered personally to the taxpayer, on or before the last day of February of the following year.

In this section, "eligible taxpayer", "taxi owner's permit" and "holder" have the meaning assigned by the first paragraph of section 1029.8.36.59.9 of the Act.

s. 1086R8.8.1; O.C. 1155-2004, s. 68.

"**1086R30.** The Minister of Employment and Social Solidarity must file an information return in prescribed form in respect of the following amounts:

(*a*) a benefit the Minister of Employment and Social Solidarity pays under the Act respecting income security (R.S.Q., c. S-3.1.1), other than a benefit paid under Chapter III of that Act, a payment described in section 311.1R1, or an amount described in subparagraph *a* or *b* of the second paragraph of section 311.1 of the Act;

(*b*) a benefit the Minister pays under the Act respecting income support, employment assistance and social solidarity (R.S.Q., c. S-32.001), other than a benefit paid under Chapter III of Title II of that Act, an amount described in subparagraph *a* or *b* of the second paragraph of section 311.1 of the Act, or a payment described in section 311.1R1; and

(*c*) a benefit the Minister pays under the Individual and Family Assistance Act (R.S.Q., c. A-13.1.1), other than an amount described in subparagraph *a* or *b* of the second paragraph of section 311.1 of the Act, or a payment described in section 311.1R1.

Every person, other than the person referred to in the first paragraph, who pays an amount described in section 311.1 of the Act to a particular person must file an information return in prescribed form in respect of the payment, except where

(*a*) in the case where the amount is paid as government assistance similar to last resort financial assistance paid under the Act respecting income support, employment assistance and social solidarity, the amount is an amount described in subparagraph *a* or *b* of the second paragraph of section 311.1 of the Act or is a payment described in section 311.1R1;

(*b*) in the case where the amount is paid as government assistance similar to last resort financial assistance paid under the Individual and Family Assistance Act, the amount is an amount described in subparagraph *a* or *b* of the second paragraph of section 311.1 of the Act or is a payment described in section 311.1R1; or

(*c*) in all other cases, the amount is

i. an amount paid in respect of child care expenses within the meaning that would be assigned by section 1029.8.67 of the Act if the definition of that expression were read with the words "neither prescribed nor" replaced by the word "not", incurred by or on behalf of the particular person or a person related to the particular person,

ii. an amount paid in respect of the funeral expenses of a person related to the particular person,

iii. an amount paid in respect of judicial expenses incurred by or on behalf of the particular person or a person related to the particular person,

iv. an amount paid in respect of vocational training or counselling of the particular person or a person related to the particular person,

v. an amount paid in a particular year as a part of a series of payments, the total of which in the year does not exceed $500, or

vi. an amount paid that is not a part of a series of payments.

A person who pays an amount described in section 311.2 of the Act must file an information return in prescribed form in respect of that amount.

s. 1086R8.9; O.C. 1666-90, s. 23; O.C. 1539-93, s. 49; O.C. 473-95, s. 48; O.C. 523-96, s. 40; O.C. 1633-96, s. 38; O.C. 1466-98, s. 110; O.C. 1454-99, s. 57; 2001, c. 44, s. 30; O.C. 1282-2003, s. 76; O.C. 1249-2005, s. 45; O.C. 1149-2006, s. 63; O.C. 1116-2007, s. 46.

"**1086R31.** The Commission de la santé et de la sécurité du travail and the Société de l'assurance automobile du Québec must forward, not later than the last day of February of each year, a copy of their payment record for the preceding year.

The payment record mentioned in the first paragraph must contain any information the Minister considers relevant for the application of the Act.

s. 1086R8.10; O.C. 1666-90, s. 23.

"**1086R32.** Every person who pays an amount as a lost-wages insurance or income insurance benefit or as a replacement for wages or income, other than a payment made owing to a strike or a payment referred to in section 1086R1, must file an information return, in prescribed form in respect of that amount.

s. 1086R8.11; O.C. 1666-90, s. 23; O.C. 473-95, s. 48.

"**1086R33.** Every eligible employer must file a statement of the amount of wages that is eligible income, in relation to a foreign researcher's employment with the eligible employer, paid for a taxation year to the foreign researcher by the eligible employer, and give two copies of the statement to the foreign researcher in person or send the copies to the foreign researcher at the foreign researcher's last known address, on or before the last day of February of each year in respect of the preceding calendar year.

In this section, "eligible employer", "eligible income" and "foreign researcher" have the meaning assigned to them by section 737.19 of the Act.

s. 1086R8.12; O.C. 1666-90, s. 23; O.C. 1633-96, s. 44; O.C. 1463-2001, s. 143; O.C. 1249-2005, s. 46.

"**1086R34.** Every corporation or partnership that carries on a recognized business for a taxation year must give, in person, to every foreign specialist in its employ in the year two copies of the valid certificate issued for the year by the Minister of Finance, certifying that the foreign specialist is employed by the corporation or partnership in the carrying on of the recognized business as an administrator or professional whose expertise is widely recognized in the individual's community, or send the copies to the foreign specialist at the foreign specialist's last known address, on or before the last day of February of each year in respect of the preceding calendar year.

In this section, "foreign specialist" and "recognized business" have the meanings assigned by section 737.18.6 of the Act.

s. 1086R8.12.0.0.0.1; O.C. 1463-2001, s. 144.

"**1086R35.** Every eligible employer must file a statement of the amount of wages that is eligible income, in relation to the employment of a foreign researcher on a post-doctoral internship with the eligible employer, paid for a taxation year to the foreign researcher on a post-doctoral internship by the eligible employer, and give two copies of the statement to the foreign researcher in person or send the copies to the foreign researcher at the foreign researcher's last known address, on or before the last day of February of each year in respect of the preceding calendar year.

In this section, "eligible employer", "eligible income" and "foreign researcher on a post-doctoral internship" have the meanings assigned by section 737.22.0.0.1 of the Act.

s. 1086R8.12.0.0.1; O.C. 1451-2000, s. 55; O.C. 1463-2001, s. 145; O.C. 1249-2005, s. 47.

"**1086R36.** Every eligible employer must file a statement of the amount of wages that is eligible income, in relation to a foreign expert's employment with the eligible employer, paid for a taxation year to the foreign expert by the eligible employer, and give two copies of the statement to the foreign expert in person or send the copies to the foreign expert at the foreign expert's last known address, on or before the last day of February of each year in respect of the preceding calendar year.

In this section, "eligible employer", "eligible income" and "foreign expert" have the meanings assigned by section 737.22.0.0.5 of the Act.

s. 1086R8.12.0.0.2; O.C. 1463-2001, s. 146; O.C. 1249-2005, s. 48.

"**1086R37.** Every eligible employer must file a statement of the amount of wages that is eligible income, in relation to a foreign specialist's employment with the eligible employer, paid for a taxation year to the foreign specialist by the eligible employer, and give two copies of the statement to the foreign specialist in person or send the copies to the foreign specialist at the foreign specialist's last known address, on or before the last day of February of each year in respect of the preceding calendar year.

In this section, "eligible employer", "eligible income" and "foreign specialist" have the meanings assigned by section 737.22.0.1 of the Act.

s. 1086R8.12.0.1; O.C. 1466-98, s. 111; O.C. 1463-2001, s. 147; O.C. 1249-2005, s. 49.

"**1086R38.** Every eligible employer must file a statement of the amount of wages that is eligible income, in relation to a foreign professor's employment with the eligible employer, paid for a taxation year to the foreign professor by the eligible employer, and give two copies of the statement to the foreign professor in person or send the copies to the foreign professor at the foreign professor's last known address, on or before the last day of February of each year in respect of the preceding calendar year.

In this section, "eligible employer", "eligible income" and "foreign professor" have the meanings assigned by section 737.22.0.5 of the Act.

s. 1086R8.12.0.2; O.C. 1282-2003, s. 77; O.C. 1249-2005, s. 50.

"**1086R39.** The administrator of a multi-employer insurance plan within the meaning of section 43.1 of the Act must disclose, to any employer that is a member of that plan and to any other person who pays a contribution referred to in section 157.15 of the Act, the part of any contribution required to be paid by that employer or that other person under the plan which may reasonably be attributed to a plan for the insurance of persons, other than in relation to coverage against a loss of all or part of an income from an office, employment or business.

s. 1086R8.12.1; O.C. 473-95, s. 45; O.C. 1633-96, s. 39.

"**1086R40.** The administrator of a multi-employer insurance plan within the meaning of section 43.1 of the Act must file an information return in prescribed form where, for a taxation year, an individual is required to include an amount in computing the individual's income under section 43.2 of the Act in relation to that plan or, if such is not the case, where the individual enjoys, at any time in the year, coverage under that plan, other than coverage against a loss of all or part of an income from an office, employment or business.

s. 1086R8.12.2; O.C. 473-95, s. 45; O.C. 1633-96, s. 39.

"**1086R41.** The administrator of a plan for the insurance of persons, other than a multi-employer insurance plan within the meaning of section 43.1 of the Act, must disclose, not later than the fifteenth day of January of each year in respect of the preceding calendar year, to any employer that is a member of the plan after 20 May 1993, the information that the administrator has and that is necessary to determine the value of the benefit conferred for that preceding calendar year upon an employee in relation to coverage under the plan, other than coverage against loss of all or part of an income from an office or employment.

s. 1086R8.12.3; O.C. 473-95, s. 45; O.C. 1633-96, s. 44.

"**1086R42.** Every corporation that has renounced an amount under any of sections 359.2, 359.2.1, 359.4 and 359.6 of the Act to a person must file an information return in prescribed form in respect of the amount renounced.

The return referred to in the first paragraph must be forwarded to the Minister with the prescribed form required under section 359.12 of the Act in respect of the amount renounced.

s. 1086R8.13; O.C. 538-91, s. 8; O.C. 473-95, s. 48; O.C. 1707-97, s. 98; O.C. 1466-98, s. 112.

"**1086R43.** Where a corporation or a partnership has renounced, under section 726.4.17.12 or 726.4.17.13 of the Act, as the case may be, an amount in respect of an issue of flow-through shares or an issue of securities that are interests in the partnership, and where part of that amount is added to the account relative to certain issue costs of an individual having acquired such share or such security or would be added, if it were an individual, to the account relative to certain issue costs of a particular partnership having acquired such share or such security, the corporation that issued such share or the partnership that issued such security must file

an information return in prescribed form, indicating the amount that, as applicable, is added to the account relative to certain issue costs of that individual or would be added to the account relative to certain issue costs of the particular partnership if the partnership were an individual.

The return filed under the first paragraph must be forwarded to the Minister on or before the later of

(*a*) the last day of the month following the month in which the renunciation referred to in the first paragraph was made; and

(*b*) the day on which a document must be filed at the latest with the Minister under section 359.12 of the Act where the return must be filed by a corporation, or under section 359.11 of the Act where it must be filed by a partnership or, as the case may be, under section 359.12.1 of the Act with regard to the renunciation of an amount in respect of Canadian exploration expenses that may reasonably be considered as having resulted in the amount that must be indicated in the return in accordance with the first paragraph.

s. 1086R8.14; O.C. 1539-93, s. 50; O.C. 473-95, s. 48; O.C. 1707-97, s. 98.

"**1086R44.** Where a corporation or a partnership has renounced, under section 726.4.17.12 or 726.4.17.13 of the Act, as the case may be, an amount in respect of an issue of flow-through shares or an issue of securities that are interests in the partnership, and where part of that amount is added to the account relative to certain issue costs of an individual by reason of the fact that that individual is a member of a particular partnership that acquired such share or such security, the particular partnership must file an information return in prescribed form, indicating the amount that is thus added to the account relative to certain issue costs of that individual.

The return filed under the first paragraph must be forwarded to the Minister on or before the later of

(*a*) the last day of the month following the month in which the renunciation referred to in the first paragraph was made; and

(*b*) the day on which a document must be filed at the latest with the Minister by the particular partnership under section 359.11 of the Act or, as applicable, under section 359.12.1 of the Act with regard to the renunciation of an amount in respect of Canadian exploration expenses that may reasonably be considered as having resulted in the amount that must be indicated in the return in accordance with the first paragraph.

s. 1086R8.15; O.C. 1539-93, s. 50; O.C. 473-95, s. 48; O.C. 1707-97, s. 98.

"**1086R45.** Every government, municipality or municipal or public body referred to as a "government" in sections 1086R46 and 1086R47, or producer organization or association that makes a payment to a person or partnership of an amount that is a farm support payment, other than an amount paid out of a net income stabilization account, must file an information return in prescribed form in respect of that amount.

For the purposes of the first paragraph, a farm support payment includes

(*a*) a payment that is computed in respect of an area of farm land;

(*b*) a payment that is made in respect of a unit of farm commodity grown or disposed of or a farm animal raised or disposed of; and

(*c*) a rebate of, or compensation for, all or a portion of

i. a cost or capital cost incurred in respect of farming, and

ii. unsowed or unplanted land or crops, or destroyed farm animals, crops or other farm output.

s. 1086R8.17; O.C. 67-96, s. 63; O.C. 1707-97, s. 98.

"**1086R46.** Every corporation or trust in respect of which a government or a producer organization or association is required to file a return under this Regulation must provide the government or the producer organization or association with its name, address and taxpayer identification number for the purposes of the Act.

s. 1086R8.18; O.C. 67-96, s. 63; O.C. 1707-97, s. 98.

"**1086R47.** Every person who is a member of a partnership in respect of which a government or a producer organization or association is required to file a return under this Regulation must provide the government or the producer organization or association with

(*a*) the person's name, address and social insurance number or, where the person is not an individual other than a trust, its name, address and taxpayer identification number for the purposes of the Act; and

(*b*) the partnership's name and address.

s. 1086R8.19; O.C. 67-96, s. 63; O.C. 1707-97, s. 98.

"**1086R48.** The Minister of Education, Recreation and Sports must issue, for a calendar year, to an individual recognized as an athlete having achieved the "Excellence", "Élite" or "Relève" performance level, as the case may be, in respect of an individual sport or a team sport in which the individual participated in the year, a certificate stating that recognition.

The certificate must contain, in addition to the information required by subparagraphs *a* to *f* of the first paragraph of section 1029.8.120 of the Act, the individual's name and address and social insurance number, and two copies of the

certificate must be sent to the individual at the individual's last known address or delivered personally to the individual, on or before the last day of February of the following year.

s. 1086R8.20; O.C. 1470-2002, s. 81; O.C. 559-2003;O.C. 1282-2003, s. 78; O.C. 1155-2004, s. 69; O.C. 120-2005.

"**1086R49.** Subject to the third paragraph, a department of the Government of Québec or a body referred to in Schedule 1, 2 or 3 of the Financial Administration Act (R.S.Q., c. A-6.001) that pays, directly or indirectly, an amount that is a contract payment to a person or a partnership must file an information return in prescribed form in respect of the amount, except in the case of

(*a*) an amount paid to a person whose identity must be protected;

(*b*) an amount paid in respect of a service provided outside Canada, to a person who is not resident in Canada at the time that the service is provided;

(*c*) an amount not required to be included in computing an individual's income for a taxation year, where the individual is employed by the department or the body;

(*d*) an amount in respect of which another information return in prescribed form must be filed under this Title;

(*e*) an amount paid to a government or a person exempt from tax under Book VIII of Part I of the Act; or

(*f*) an amount paid by credit card.

For the purposes of the first paragraph, "contract payment" means an amount received by a person or a partnership in full or partial satisfaction of the price stipulated in

(*a*) a contract of enterprise or for services;

(*b*) a contract of carriage;

(*c*) a contract of mandate;

(*d*) a contract in respect of the consumption of food or drink; or

(*e*) a contract whose object is an enterprise, a service, carriage or a mandate and the sale or lease of a property, other than such a contract whose price is all or substantially all of the value of a property sold or leased in connection with the contract.

An information return is not to be filed by a department or a body under the first paragraph where the aggregate of the amounts paid, other than an amount described in any of subparagraphs *a* to *f* of that paragraph, to a person or a partnership in a year is less than $1,000.

s. 1086R8.21; O.C. 1470-2002, s. 81; O.C. 1249-2005, s. 52; O.C. 1149-2006, s. 64.

"**1086R50.** A department of the Gouvernement du Québec or a body referred to in any of Schedules 1, 2 and 3 of the Financial Administration Act (R.S.Q., c. A-6.001) that pays an amount to a person or a partnership, in connection with a business or a property carried on by that person or that partnership or in respect of medical expenses giving right to the tax credit for medical expenses provided for in section 752.0.11 of the Act, as a form of assistance in respect of the cost of a property, an outlay or an expenditure, or as inducement, whether as a grant, a subsidy, a forgiveable loan, an allowance or a government transfer, must file an information return in respect of the amount in prescribed form, except in the case of

(*a*) a benefit paid by the Commission de la santé et de la sécurité du travail under the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001);

(*b*) an amount paid under the Crime Victims Compensation Act (R.S.Q., c. I-6);

(*c*) an amount paid under the Act to promote good citizenship (R.S.Q., c. C-20);

(*d*) an indemnity paid by the Société de l'assurance automobile du Québec under Chapter V of Title II of the Automobile Insurance Act (R.S.Q., c. A-25);

(*e*) a social assistance payment described in section 311.1R1;

(*f*) a government transfer paid to help fund

i. a public body,

ii. an organization of the health and education networks,

iii. a municipality, or

iv. a municipal body;

(*g*) an amount in respect of which another information return in prescribed form must be filed under this Title; or

(*h*) an amount paid to a government or to a person exempt from tax under Book VIII of Part I of the Act.

s. 1086R8.22; O.C. 1470-2002, s. 81.

"**1086R51.** A department of the Gouvernement du Québec or a body required to file an information return under section 1086R49 or 1086R50 must forward to each person or partnership in respect of whom the return is filed one copy of the part of the return that concerns that person or that partnership not later than the last day of February in respect of the previous calendar year.

s. 1086R8.23; O.C. 1470-2002, s. 81; O.C. 1282-2003, s. 79; O.C. 1149-2006, s. 65.

"**1086R52.** Every minister or body responsible for rendering a decision or issuing a certificate or similar

document for the purposes of the Act and, where applicable, for revoking such a document must send to the Minister an information return containing a list of the documents that the minister or body issues in any month, and the information that the documents contain that is necessary for the purposes of the Act.

Such an information return must also be sent to the Minister in respect of any documents referred to in the first paragraph that are subsequently amended or revoked by the minister or body in any month.

The information returns referred to in the first and second paragraphs must be sent to the Minister on or before the last day of the month that follows the month in which a document referred to in the first paragraph is issued, amended or revoked.

s. 1086R8.24; O.C. 1155-2004, s. 70.

"**1086R53.** Where a taxpayer must, under section 310 of the Act where it refers to sections 968 and 968.1 of the Act, include an amount in computing the taxpayer's income by reason of the disposition of an interest in a life insurance policy and where the insurer who issued the policy is a party to the disposition or is informed thereof in writing, the insurer must file an information return in prescribed form in respect of that amount.

In this section,

"disposition" has the meaning assigned by paragraph *a* of section 966 of the Act and includes everything that is deemed to be a disposition of an interest in a life insurance policy under section 967 of the Act;

"insurer" has the meaning assigned by paragraph *a*.1 of section 966 of the Act.

s. 1086R9; O.C. 1981-80, s. 1086R9; R.R.Q., 1981, c. I-3, r.1, s. 1086R9; O.C. 421-88, s. 36; O.C. 1471-91, s. 33; O.C. 473-95, s. 48; O.C. 67-96, s. 64.

"**1086R54.** Every person who receives a payment to which section 1086R5 applies, for the account of or as the mandatary of an individual resident in Québec or a corporation having an establishment therein, must file the return mentioned in that section.

s. 1086R10; O.C. 1981-80, s. 1086R10; R.R.Q., 1981, c. I-3, r.1, s. 1086R10; O.C. 615-88, s. 38; O.C. 1707-97, s. 98.

"**1086R55.** Every person who is licensed or otherwise authorized under the laws of Canada or of a province to carry on in Canada or in a province an annuities business or to offer trustee services there must file an information return in prescribed form in respect of

(*a*) any amount paid by that person to a resident of Québec as proceeds of the surrender, cancellation, redemption, sale or other disposition of an income averaging annuity contract; and

(*b*) any amount deemed, under section 346 of the Act, to have been received by an individual resident in Québec as proceeds of the disposition of an income-averaging annuity contract that was made with that person.

s. 1086R11; O.C. 1981-80, s. 1086R11; R.R.Q., 1981, c. I-3, r.1, s. 1086R11; O.C. 1471-91, s. 33; O.C. 473-95, s. 48.

"**1086R56.** Every person who is licensed or otherwise authorized under the laws of Québec or Canada to carry on in Québec an annuities business or to offer trustee services in Québec and who is authorized by the Minister, under section 346.0.3 of the Act, to offer an income-averaging annuity respecting income from artistic activities must file an information return in prescribed form in respect of

(*a*) any amount paid by the person as an annuity payment under an income-averaging annuity contract respecting income from artistic activities; and

(*b*) any amount paid by the person as a payment in full or partial commutation of an income-averaging annuity respecting income from artistic activities or as proceeds of disposition because of the cancellation or redemption of such an annuity.

s. 1086R11.1; O.C. 1149-2006, s. 66.

"**1086R57.** Every person who, as a trustee or in similar capacity, controls or receives income, gains or benefits meant for an individual resident in Québec or for a corporation having an establishment therein must file an information return in prescribed form.

Such return must be filed within 90 days following the end of the taxation year and must be in respect of the taxation year.

The first paragraph does not require a trust to file an information return for a taxation year at the end of which it is a registered charity or a cemetery care trust, or is governed by an eligible funeral arrangement, a profit sharing plan, a deferred profit sharing plan, a registered education savings plan or a plan referred to in subsection 15 of section 147 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as a revoked plan.

s. 1086R12; O.C. 1981-80, s. 1086R12; R.R.Q., 1981, c. I-3, r.1, s. 1086R12; O.C. 1471-91, s. 33; O.C. 1114-93, s. 44; O.C. 473-95, s. 48; O.C. 35-96, s. 86; O.C. 1707-97, s. 98; O.C. 1466-98, s. 114; O.C. 1451-2000, s. 56; O.C. 1282-2003, s. 80.

"**1086R58.** In this section and in sections 1086R59 to 1086R63,

"administrator" means an administrator within the meaning of paragraph *a* of section 307.1 of the Act, as it read before being repealed;

"designated security" means a security issued or granted by a corporation in respect of which the corporation has designated an amount pursuant to section 776.10 of the Act,

"first purchaser" of a designated security means the first registered holder of such a security, other than a trader or dealer in securities;

"security" means

(*a*) a share of the capital stock of a corporation;

(*b*) a debt obligation issued by a corporation; or

(*c*) a right granted by a corporation under a scientific research financing contract;

"trader or dealer in securities" means a trader or dealer in securities within the meaning of paragraph *c* of section 307.1 of the Act, as it read before being repealed.

s. 1086R12.1; O.C. 421-88, s. 37; O.C. 1707-97, s. 98; O.C. 1249-2005, s. 53.

"**1086R59.** Any corporation which designates an amount under section 776.10 of the Act in respect of a security that it issued or granted must file an information return, in prescribed form in respect of that security.

s. 1086R12.2; O.C. 421-88, s. 37; O.C. 1471-91, s. 33; O.C. 473-95, s. 48; O.C. 1707-97, s. 98.

"**1086R60.** Any trader or dealer in securities who acquires and disposes of a designated security during the course of the primary distribution of that security, pursuant to an offer made to the public, must file an information return, in prescribed form, in respect of that security.

s. 1086R12.3; O.C. 421-88, s. 37; O.C. 1471-91, s. 33; O.C. 473-95, s. 48.

"**1086R61.** Any bank, savings and credit union or trust corporation which, as an agent, acquires a designated security for the first purchaser of such a security must file an information return, in prescribed form, in respect of that security.

s. 1086R12.4; O.C. 421-88, s. 37; O.C. 1471-91, s. 33; O.C. 473-95, s. 48; O.C. 1707-97, s. 98.

"**1086R62.** Any trader or dealer in securities who, as an administrator of an indexed security investment plan, acquires a designated security for the first purchaser of that security must file an information return, in prescribed form, in respect of that security.

s. 1086R12.5; O.C. 421-88, s. 37; O.C. 1471-91, s. 33; O.C. 473-95, s. 48.

"**1086R63.** Despite section 1086R65, the following returns must be forwarded to the Minister not later than 31 March 1984:

(*a*) any return filed under section 1086R59 in respect of a security issued by a corporation before 1 March 1984;

(*b*) any return filed under section 1086R60 in respect of a designated security that was disposed of before 1 March 1984 in the manner indicated in that section; and

(*c*) any return filed under section 1086R61 or 1086R62 in respect of a designated security that was acquired before 1 March 1984 in the manner indicated in section 1086R61 or 1086R62, as the case may be.

s. 1086R12.6; O.C. 421-88, s. 37; O.C. 1707-97, s. 98.

"**1086R64.** Any person who pays an amount that is required by section 317.2 of the Act to be included in computing the income of a taxpayer for a taxation year must file an information return in prescribed form in respect of that taxpayer for that amount.

s. 1086R12.8; O.C. 1707-97, s. 86.

"**1086R65.** The return that is required under this Title, with the exception of the return required by section 1086R29 and except as otherwise expressly provided, must be filed with the Minister on or before the last day of February of each year in respect of the preceding calendar year.

s. 1086R13; O.C. 1981-80, s. 1086R13; R.R.Q., 1981, c. I-3, r.1, s. 1086R13; O.C. 1155-2004, s. 71.

"**1086R66.** The return required by section 1086R26 must be sent to the Minister not later than 31 March of each year in regard to the preceding calendar year.

s. 1086R13.1; O.C. 2727-84, s. 27.

"**1086R67.** A person who ceases to carry on a business and who has to file a return under this Title, must file a return within 30 days from the day of the cessation of the carrying on of such business and the return must be in respect of the whole period for which a return has not been filed.

s. 1086R14; O.C. 1981-80, s. 1086R14; R.R.Q., 1981, c. I-3, r.1, s. 1086R14; O.C. 1471-91, s. 33.

"**1086R68.** Where a person is required to file a return under this Title has died, such return must be filed by the person's legal representatives within 90 days from the date of death and must be in respect of that whole period previous to the death for which no return has been filed.

s. 1086R15; O.C. 1981-80, s. 1086R15; R.R.Q., 1981, c. I-3, r.1, s. 1086R15; O.C. 1471-91, s. 33.

"**1086R69.** Every bankruptcy trustee, cessionary, liquidator, curator, trustee of sequestrated property, agent or other person who administers, liquidates or controls in any manner whatsoever the property, business, estate or income of a person who has not filed an information return in accordance with this Title, must file such return.

s. 1086R16; O.C. 1981-80, s. 1086R16; R.R.Q., 1981, c. I-3, r.1, s. 1086R16; O.C. 1471-91, s. 33.

"**1086R70.** Every person required under this Title to file an information return, other than the information returns required by sections 1086R16, 1086R52 and 1086R88, must, subject to the second paragraph, send to each person in respect of whom the return is filed two copies of the part of the return concerning the person; the copies of the return must be sent to the person at the person's last known address or delivered personally to the person, on or before the day on which the return is required to be sent to the Minister.

The information return may be sent in an electronic format if the person has received the express consent of the person in respect of which it is filed and the person must send a single copy of the return to that person on or before the date on which the return is to be filed with the Minister.

For the purposes of the second paragraph, "express consent" means consent given in writing or in an electronic format.

s. 1086R17; O.C. 1981-80, s. 1086R17; R.R.Q., 1981, c. I-3, r.1, s. 1086R17; O.C. 1471-91, s. 33; O.C. 522-95, s. 1; O.C. 1463-2001, s. 149; O.C. 1282-2003, s. 81; O.C. 1155-2004, s. 72; O.C. 1116-2007, s. 47.

"**1086R71.** A person who ceases or fails to remit, at the time provided for, amounts that were previously deducted or withheld according to section 1015 of the Act, or under an interpretation thereof, must file an information return in prescribed form on or before the twentieth of the month following the month during which the person made the last remittance.

Every person, whether or not required to file the return referred to in the first paragraph, must, upon formal request, file with the Minister within the time stipulated therein the return to be filed under paragraph.

s. 1086R18; O.C. 1981-80, s. 1086R18; R.R.Q., 1981, c. I-3, r.1, s. 1086R18; O.C. 1471-91, s. 33; O.C. 473-95, s. 48; O.C. 1282-2003, s. 82.

"**1086R72.** Where, in respect of a particular period provided for in section 1015 of the Act, the Minister forwards a prescribed form to a person, the latter must file that form with the Minister within the time that is granted to the person for the payment of an amount payable to the Minister under that section 1015 for the particular period, or within the time that would be granted to the person if such a payment were for the particular period.

s. 1086R18.1; O.C. 1025-91, s. 11.

"**1086R73.** Every registered Québec amateur athletic association, or every Canadian amateur athletic association registered in accordance with subparagraph *a* of the second paragraph of section 21.41 of the Act, must file an information return in prescribed form for each fiscal period of the association within six months following the end of that fiscal period.

s. 1086R19; O.C. 1981-80, s. 1086R19; R.R.Q., 1981, c. I-3, r.1, s. 1086R19; O.C. 1076-88, s. 31; O.C. 1471-91, s. 33; O.C. 473-95, s. 46; O.C. 1149-2006, s. 68.

"**1086R74.** Every Canadian amateur athletic association that is deemed, under subparagraph *b* of the second paragraph of section 21.41 of the Act, to be registered with the Minister must file an information return in prescribed form on request by the Minister.

s. 1086R20; O.C. 1981-80, s. 1086R20; R.R.Q., 1981, c. I-3, r.1, s. 1086R20; O.C. 1471-91, s. 33; O.C. 473-95, s. 46; O.C. 1149-2006, s. 68.

"**1086R75.** For the purposes of section 1086R73, "fiscal period" means the period for which the accounts of the association have normally been made up, and, where there is no established rule, the fiscal period is that adopted by the association, the fiscal period may not, however, exceed 12 months.

s. 1086R21; O.C. 1981-80, s. 1086R21; R.R.Q., 1981, c. I-3, r.1, s. 1086R21.

"**1086R76.** Every person who, within the meaning of sections 786 to 796 of the Act, makes a patronage dividends payment to an individual resident in Québec or to a corporation having an establishment therein, must file an information return in prescribed form.

Every person who received a payment referred to in the first paragraph as nominee or agent for an individual resident in Québec or for a corporation having an establishment therein must also file an information return in prescribed form.

s. 1086R22; O.C. 1981-80, s. 1086R22; R.R.Q., 1981, c. I-3, r.1, s. 1086R22; O.C. 1471-91, s. 33; O.C. 473-95, s. 48; O.C. 1707-97, s. 98.

"**1086R77.** Where in any taxation year a reporting person, other than a registered investment, claims that a share of its capital stock issued by it, or an interest as a beneficiary under it, is a qualified investment within the meaning of section 890.15 of the Act, the reporting person must, for the year and within 90 days after the end of the year, file an information return in prescribed form.

For the purposes of the first paragraph,

(*a*) a reporting person is

i. a mutual fund corporation,

ii. an investment corporation,

iii. a mutual fund trust,

iv. a trust that would be a mutual fund trust if section 1120R1 were read without reference to paragraph *b*, or

v. any other person described in paragraph 1 of section 221 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); and

(*b*) a registered investment means a trust or corporation accepted for the purposes of the Income Tax Act by the Minister of National Revenue as a registered investment and the registration of which is in effect.

s. 1086R23; O.C. 1981-80, s. 1086R23; R.R.Q., 1981, c. I-3, r.1, s. 1086R23; O.C. 421-88, s. 38; O.C. 1471-91, s. 33; O.C. 1114-93, s. 45; O.C. 473-95, s. 48; O.C. 1707-97, s. 98; O.C. 1282-2003, s. 83; O.C. 1149-2006, s. 69.

"**1086R78.** Every member of a partnership that, at any time in a fiscal period of the partnership, carries on a business in Québec or carries on a business outside Québec in Canada and one of the members of which is an individual resident in Québec or a corporation having an establishment in Québec, or that is a Canadian partnership one of the members of which is such an individual or such a corporation, must make for that fiscal period an information return in prescribed form containing the following information:

(*a*) the income or loss of the partnership for the fiscal period;

(*b*) the name, address and, in the case of an individual, the Social Insurance Number of each member of the partnership who is entitled to a share referred to in subparagraph *c* or *d* for the fiscal period;

(*c*) the share of each member of the income or loss of the partnership for the fiscal period;

(*d*) the share of each member for the fiscal period of each deduction, credit or other amount in respect of the partnership that is relevant in determining the member's income, taxable income, tax payable or other amount under the Act;

(*e*) the prescribed information contained in the form prescribed for the purposes of section 230.0.0.4.1 of the Act, where the partnership has made an expenditure in respect of scientific research and experimental development in the fiscal period; and

(*f*) such other information as may be required by the prescribed form.

For the purposes of the first paragraph, an information return referred to therein made by any member of a partnership is deemed to have been made by each member of the partnership.

s. 1086R23.1; O.C. 1114-92, s. 40; O.C. 473-95, s. 48; O.C. 1707-97, s. 98; O.C. 1466-98, s. 115; O.C. 1451-2000, s. 57; O.C. 1282-2003, s. 84; O.C. 1155-2004, s. 73.

"**1086R79.** Every person who holds an interest in a partnership as mandatary or representative must make an information return in prescribed form in respect of that interest.

s. 1086R23.2; O.C. 1114-92, s. 40; O.C. 473-95, s. 48; O.C. 1707-97, s. 98.

"**1086R80.** Subject to section 1086R81, an information return required to be filed pursuant to section 1086R78 or 1086R79, must be filed with the Minister without notice or demand

(*a*) in the case of a fiscal period of a partnership all the members of which are corporations throughout the fiscal period, within five months after the end of the fiscal period;

(*b*) in the case of a fiscal period of a partnership all the members of which are individuals throughout the fiscal period, not later than 31 March of the calendar year immediately following the calendar year in which the fiscal period ended or with which the fiscal period ended coincidentally; and

(*c*) in the case of any other fiscal period of a partnership, not later than the earlier of

i. the last day of the fifth month after the end of the fiscal period, and

ii. 31 March in the calendar year immediately following the calendar year in which the fiscal period ended or with which the fiscal period ended coincidentally.

s. 1086R23.3; O.C. 1114-92, s. 40; O.C. 1707-97, s. 98.

"**1086R81.** Where a partnership discontinues its business or activity, the information return referred to in section 1086R78 or 1086R79 must be filed, in respect of any fiscal period or portion thereof prior to the discontinuance of the business or activity for which an information return has not previously been filed pursuant to those sections, no later than the earlier of

(*a*) the 90th day following the discontinuance of the business or activity; and

(*b*) the time period referred to in section 1086R80 within which the information return is required to be filed.

s. 1086R23.4; O.C. 1114-92, s. 40; O.C. 1707-97, s. 98.

"**1086R82.** For the purposes of this section and sections 1086R83 to 1086R87,

"publicly traded" means, with respect to any security, a security that is listed or posted for trading on a stock exchange, commodity exchange, futures exchange or any other exchange, or a security in respect of the sale and distribution of which a prospectus, registration statement or similar document has been filed with a public authority;

"sale" includes the granting of an option and a short sale;

"security" means

(*a*) a publicly traded share of the capital stock of a corporation;

(*b*) a publicly traded debt obligation;

(*c*) a debt obligation issued or guaranteed by the Government of Canada, the government of a province or an agent thereof, a municipality in Canada, a public or municipal body performing a function of government in Canada or the government of a foreign country or of a political subdivision of a foreign country or a local authority of such a government;

(*d*) a publicly traded interest in a trust;

(*e*) a publicly traded interest in a partnership;

(*f*) an option or contract in respect of any property described in any of paragraphs *a* to *e*; or

(*g*) a publicly traded option or contract in respect of any property including any commodity, financial futures, foreign currency or precious metal or in respect of any index relating to any property;

"trader or dealer in securities" means a person who, by virtue of being registered or licensed under the laws of a province, is authorized to trade in securities, or a person who, in the ordinary course of carrying on a business, sells securities as a mandatary on behalf of others.

s. 1086R23.6; O.C. 1114-92, s. 40; O.C. 1707-97, s. 87.

"**1086R83.** Every trader or dealer in securities who is an individual resident in Québec or a corporation having an establishment in Québec, who, in a calendar year, purchases from such individual or corporation a security as principal or sells a security as a mandatary of such individual or corporation, must file an information return for the year in prescribed form in respect of the purchase or sale.

s. 1086R23.7; O.C. 1114-92, s. 40; O.C. 473-95, s. 48; O.C. 1707-97, s. 98.

"**1086R84.** Every person who is an individual resident in Québec, other than an individual who is not a trust, or any corporation having an establishment in Québec, or any other entity described in the second paragraph and who, in a calendar year, redeems, acquires or cancels in any manner whatever, any security issued by that person to a person who, at the time of the redemption, acquisition or cancellation, is an individual resident in Québec or a corporation having an establishment in Québec, must file an information return for the year in prescribed form in respect of each such transaction, other than a transaction to which Division XIII or XIII.1 of Chapter IV of Title IV of Book III of Part I of the Act, Chapter V of Title IX of that book, where there is no consideration receivable other than new shares of the corporation referred to therein, Chapter VI of Title IX of that book or Division II or IV of Chapter IV of Title XI of that book applies.

The other entity referred to in the first paragraph is

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

(*b*) a municipal or public body performing a function of government in Canada; or

(*c*) a mandatary of a person referred to in subparagraph *a* or *b*.

s. 1086R23.8; O.C. 1114-92, s. 40; O.C. 473-95, s. 48; O.C. 1707-97, s. 98; O.C. 1454-99, s. 58; O.C. 1282-2003, s. 85.

"**1086R85.** Every person who is an individual resident in Québec or a corporation having an establishment in Québec, who, in the ordinary course of business of certificates, bullion or coins, makes a payment in a calendar year to another person who is such an individual or corporation in respect of a sale by that other person of any such property, must file an information return for the year in prescribed form in respect of each such sale.

s. 1086R23.9; O.C. 1114-92, s. 40; O.C. 473-95, s. 48; O.C. 1707-97, s. 98.

"**1086R86.** Every person who is an individual resident in Québec or a corporation having an establishment in Québec, who, while acting as representative or agent of such individual or corporation in respect of a sale or of any other transaction to which any of sections 1086R83 to 1086R85 applies, receives the proceeds of the sale or transaction, must, where the transaction is carried out in the name of the representative or agent, file an information return in prescribed form in respect of the sale or other transaction.

s. 1086R23.10; O.C. 1114-92, s. 40; O.C. 473-95, s. 48; O.C. 1707-97, s. 98.

"**1086R87.** Sections 1086R82 to 1086R86 do not apply in respect of

(*a*) a purchase of a security by a trader or dealer in securities from another trader or dealer in securities other than a non-resident trader or dealer in securities;

(*b*) a sale of currencies or precious metals in the form of jewellery, works of art or numismatic coins;

(*c*) a sale of precious metals by a person who, in the ordinary course of business, produces or sells precious metals in bulk or in commercial quantities;

(*d*) a sale of securities by a trader or dealer in securities on behalf of a person who is exempt from tax under Part I of the Act; or

(*e*) a redemption by the issuer or a mandatary of the issuer of a debt obligation where

i. the debt obligation was issued for its principal amount,

ii. the redemption satisfied all of the issuer's obligations in respect of the debt obligation,

iii. each person with an interest in the debt obligation is entitled in respect thereof to a proportion of all payments of principal equal to the proportion to which the person is entitled of all payments other than principal, and

iv. an information return is required, by reason of the redemption, to be made pursuant to this Title, without having regard to sections 1086R82 to 1086R86, in respect of each person with an interest in the debt obligation.

s. 1086R23.11; O.C. 1114-92, s. 40.

"**1086R88.** Where, during a taxation year or a fiscal period, as the case may be, a particular person, other than a corporation referred to in section 1086R89 or a person exempt from tax for the year under Book VIII of Part I of the Act, or a partnership incurs expenditures for renovation, improvement, maintenance or repair work in respect of a building, structure or land that is property situated in Québec and used in the course of carrying on a business or to derive income therefrom, that particular person or a member of that partnership designated by the members of the partnership must attach to the fiscal return that the person or member files for that year or for the person's or the member's taxation year during which the partnership's fiscal period ends, under Part I of the Act, an information return in prescribed form in respect of every person having carried out the work, other than a person who is

(*a*) an employee of the particular person or the partnership;

(*b*) the operator of a gas, telecommunications or electricity distribution network; or

(*c*) a government body.

For the purposes of the first paragraph,

(*a*) where no member of the partnership is designated for the purposes of filing the information return referred to therein, each of the members of the partnership is required to do so; and

(*b*) where the particular person or the member of the partnership designated for the purpose of filing the information return is not required to file a fiscal return under Part I of the Act for the year or for the taxation year in which the partnership's fiscal period ends, that particular person or that member must file the information return with the Minister on or before the filing-due date of the particular person or member for that year.

s. 1086R23.12; O.C. 522-95, s. 2; O.C. 523-96, s. 41; O.C. 1707-97, s. 98; O.C. 1466-98, s. 116; O.C. 1454-99, s. 59.

"**1086R89.** The corporation to which the first paragraph of section 1086R88 refers is a corporation whose assets as shown in its financial statements submitted to the shareholders or, where such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, that would be shown if such financial statements had been prepared in accordance with generally accepted accounting principles, for its preceding taxation year or, where the corporation is in its first fiscal period, at the beginning of its first fiscal period, are not less than $25,000,000.

Where the corporation referred to in the first paragraph is a cooperative, the first paragraph is to be read as if the reference therein to "submitted to the shareholders" were a reference to "submitted to the members".

s. 1086R23.12.1; O.C. 1454-99, s. 60.

"**1086R90.** For the purposes of section 1086R89, in computing the assets of a corporation at the time referred to therein, the amount representing the surplus reassessment of its property and the amount of its incorporeal assets must be subtracted, to the extent that the amount indicated in their respect exceeds the expenditure made in their respect.

For the purposes of the first paragraph, where all or part of an expenditure made in respect of incorporeal assets consists of shares of the corporation's or cooperative's capital stock, all or the part of the expenditure, as the case may be, is deemed to be nil.

s. 1086R23.12.2; O.C. 1454-99, s. 60; O.C. 1249-2005, s. 54.

"**1086R91.** For the purposes of section 1086R89, the assets of a corporation that is associated in a taxation year with one or more other corporations is equal to the amount by which the aggregate of the assets of the corporation and of each corporation associated with it, as determined in accordance with sections 1086R89 and 1086R90, exceeds the aggregate of the amount of investments the corporations own in each other and the balance of accounts between the corporations.

s. 1086R23.12.3; O.C. 1454-99, s. 60.

"**1086R92.** Every person, other than a prescribed person described in the second paragraph, who, in a calendar year, provides day care in Québec for remuneration must file

an information return in prescribed form in respect of the amounts paid to the person as or on account of child care expenses, within the meaning of section 1029.8.67 of the Act, for services rendered in that year.

For the purposes of the first paragraph, a prescribed person means an individual who is not a trust, other than such an individual holding a permit issued under the Act respecting child care centres and childcare services (R.S.Q., c. C-8.2), or recognized as a person responsible for home day care by a person holding a childcare centre permit issued under that Act.

s. 1086R23.15; O.C. 1633-96, s. 40; O.C. 1707-97, s. 88; O.C. 1466-98, s. 117.

"**1086R93.** Every person who is required by section 1086R92 to file an information return with the Minister must, not later than the date on which the information return is required to be filed with the Minister, forward to each taxpayer who, in a calendar year, has paid to the person an amount as or on account of child care expenses, within the meaning of section 1029.8.67 of the Act, incurred in respect of child care services provided in Québec, an information return in prescribed form.

The information return that is required to be forwarded to a taxpayer under the first paragraph must be sent to the taxpayer at the taxpayer's last known address or given to the taxpayer in person.

s. 1086R23.16; O.C. 1633-96, s. 40; O.C. 1466-98, s. 118; O.C. 1463-2001, s. 151.

"**1086R94.** Every lessor who leases to an individual a dwelling that is a self-contained domestic establishment or a room referred to in section 1029.8.61.1.1 of the Act must file an information return, in prescribed form, in respect of the individual, where

(*a*) the individual declared to the lessor, before the initial lease was entered into or, as the case may be, before its renewal, that at some time during the stipulated length of the initial lease or, as the case may be, the renewed lease, the individual will attain the age of 70, or an individual with whom the individual is to share the dwelling will attain the age of 70; and

(*b*) the agreed rent stipulated or to be stipulated in the lease relating to the dwelling, including the rent that may be stipulated in a schedule to the lease pursuant to the Regulation respecting mandatory lease forms and the particulars of a notice to a new lessee (O.C. 907-96, 1996, G.O. 2, 3713), in respect of services in addition to those stipulated in the lease that are offered to a lessee because of the lessee's personal condition, will include the cost of one or more eligible services within the meaning of the definition of "eligible service" in the first paragraph of section 1029.8.61.1 of the Act.

The lessor must send the information return referred to in the first paragraph to the Minister within ten days after the lease has been entered into or, in the case of a renewed lease, on or before its renewal date.

The lessor is not required to file a new information return under the first paragraph where the dwelling lease is renewed on terms that do not entail a change in the information return previously filed.

s. 1086R23.17; O.C. 1155-2004, s. 74; O.C. 1116-2007, s. 48.

"**1086R95.** Every syndicate of co-owners of an immovable under divided co-ownership must file for a calendar year, at the request of an individual who lives in the immovable, an information return in prescribed form in respect of the individual, where

(*a*) the request is made by the individual before the end of the year;

(*b*) the individual declares to the syndicate of co-owners that at the end of the year, the individual will attain the age of 70, or an individual with whom the individual shares the dwelling will attain the age of 70;

(*c*) the individual or the individual's spouse is the owner of a fraction of the immovable held in co-ownership; and

(*d*) the aggregate of the amounts paid during the year by the syndicate of co-owners as charges from the co-ownership of the common portions of the immovable, other than common portions for restricted use, includes the cost of one or more eligible services within the meaning of section 1029.8.61.1 of the Act.

s. 1086R23.17.1; O.C. 1116-2007, s. 49.

"**1086R96.** La Financière agricole du Québec must, in relation to the "Farm Income Stabilization Account" program established under the Act respecting La Financière agricole du Québec (R.S.Q., c. L-0.1), file an information return in prescribed form, for each fiscal period of a farming business of a participant in the program, in respect of the amounts related to the participant that represent

(*a*) a contribution referred to in any of sections 15 to 16.1 of the program;

(*b*) a withdrawal referred to in Division V or in sections 45 and 46 of the program; or

(*c*) a transfer referred to in Subdivision 3 of Division VI of the program.

La Financière agricole du Québec must send to the Minister the information return on or before the last day of February of each calendar year that follows the year in which the fiscal period of the participant's farming business ends.

La Financière agricole du Québec must also send to the participant two copies of the portion of the information return that concerns the participant; the copies must be sent to the participant's last known address or given to the participant in person, on or before the last day of the second month that follows the end of the fiscal period of the participant's farming business.

s. 1086R23.18; O.C. 1249-2005, s. 55.

"**1086R97.** Every educational institution designated by the Minister of Education, Recreation and Sports for the purposes of the loans and bursaries program for full-time studies in vocational training at the secondary level and for full-time studies at the postsecondary level, established under the Act respecting financial assistance for education expenses (R.S.Q., c. A-13.3) and situated in Québec must for a calendar year file an information return in prescribed form in respect of each person pursuing studies on a full-time basis, or who is deemed to be pursuing studies on a full-time basis under section 752.0.2.2 of the Act, in the institution where the person is enrolled in an educational program described in paragraph *a* of section 752.0.2.1 of the Act and has completed at least one session of studies undertaken in the year.

The information return referred to in the first paragraph must be sent to each person in respect of whom such a return is filed or be otherwise available to the person on or before the last day of February of the following year.

"**TITLE XLI**

"CLASSES OF PROPERTY

title XXVIII; O.C. 1981-80, title XXVIII; R.R.Q., 1981, c. I-3, r.1, title XXVIII.

"**1086R98.** For the purposes of subparagraph *e* of the first paragraph of section 1086 of the Act, the prescribed classes are listed in Schedule B.

s. 1086R24; O.C. 1981-80, s. 1086R24; R.R.Q., 1981, c. I-3, r.1, s. 1086R24; O.C. 1466-98, s. 119.

"**TITLE XLII**

"INCOME EARNED IN QUÉBEC BY AN INDIVIDUAL RESIDENT IN CANADA OUTSIDE QUÉBEC

title XXIX; O.C. 1981-80, title XXIX; R.R.Q., 1981, c. I-3, r.1, title XXIX.

"**CHAPTER I**

"GENERAL RULE

chap. I; O.C. 1981-80, title XXIX, chap. I; R.R.Q., 1981, c. I-3, r.1, title XXIX, chap. I.

"**1088R1.** The income from the carrying on of a business of an individual referred to in section 25 of the Act who has an establishment in Québec, is deemed to have been totally earned in Québec, for a taxation year, where such individual has, in the year, no establishment outside Québec.

s. 1088R1; O.C. 1981-80, s. 1088R1; R.R.Q., 1981, c. I-3, r.1, s. 1088R1.

"**1088R2.** The income of an individual referred to in section 25 of the Act is deemed to have been totally earned outside Québec, for a taxation year, where such individual has, in the year, no establishment in Québec.

s. 1088R2; O.C. 1981-80, s. 1088R2; R.R.Q., 1981, c. I-3, r.1, s. 1088R2.

"**1088R3.** In the case of an individual who is a member of a partnership operating a business that includes an international financial centre, the individual's portion of income for a taxation year from the business that is attributable to an establishment in Québec, that is otherwise determined under this Title, must be reduced by the amount deducted by the individual in computing the individual's taxable income for the year under section 737.14 of the Act in relation to the international financial centre.

s. 1088R2.1; O.C. 1249-2005, s. 56.

"**1088R4.** In the case of an individual referred to in section 726.33 or 726.35 of the Act, the individual's portion of income for a taxation year from a business that is attributable to an establishment in Québec, that is otherwise determined under this Title, must be increased by the amount included by the individual in computing the individual's taxable income for the year under section 726.35 of the Act and reduced by the amount deducted by the individual in computing the individual's taxable income for the year under section 726.33 of the Act.

s. 1088R2.2; O.C. 1116-2007, s. 50.

"**1088R5.** An individual who is resident in more than one province on the last day of a taxation year is deemed, for the purpose of this Title, to be resident on that day only in that province which may reasonably be regarded as the individual's principal place of residence.

s. 1088R3; O.C. 1981-80, s. 1088R3; R.R.Q., 1981, c. I-3, r.1, s. 1088R3.

"**CHAPTER II**

"ESTABLISHMENTS IN SEVERAL JURISDICTIONS

chap. II; O.C. 1981-80, title XXIX, chap. II; R.R.Q., 1981, c. I-3, r.1, title XXIX, chap. II.

"**DIVISION I**

"GENERAL RULE

div. I; O.C. 1981-80, title XXIX, chap. II, div. I; R.R.Q., 1981, c. I-3, r.1, title XXIX, chap. II, div. I.

"**1088R6.** Subject to the special provisions of Chapter III, where, in a taxation year, an individual referred to in section 25 of the Act carries on a business and has an establishment in Québec and an establishment in another jurisdiction, the part of the income derived from the business which is attributable to the establishment in Québec is that proportion of such income that is one-half of the aggregate of

(*a*) the proportion that the gross revenue of the business for the fiscal period ending in the year reasonably attributable to the establishment in Québec is of the total gross revenue of the business for that period; and

(*b*) the proportion that the salaries and wages paid by the individual in the fiscal period of the business ending in the year to the employees of the establishment situated in Québec is of the total of the salaries and wages paid by the individual in the period in the course of the business.

s. 1088R4; O.C. 1981-80, s. 1088R4; R.R.Q., 1981, c. I-3, r.1, s. 1088R4.

"**1088R7.** For the purposes of section 1088R6, gross income does not include interest on a bond, debenture, hypothecary claim or mortgage, dividends, or rentals or royalties from property that is not used in connection with the business of the individual.

s. 1088R5; O.C. 1981-80, s. 1088R5; R.R.Q., 1981, c. I-3, r.1, s. 1088R5; O.C. 1466-98, s. 120.

"**1088R8.** Except where it is a commission paid to a person who is not an employee of the individual, where a remuneration is paid under an agreement by the individual to a person for services that would normally be performed by the employees of the individual, such remuneration is deemed to be a salary or wages paid to such employee of the establishment of the individual to which such services are reasonably attributable and to the extent that they are so attributable.

s. 1088R6; O.C. 1981-80, s. 1088R6; R.R.Q., 1981, c. I-3, r.1, s. 1088R6.

"**DIVISION II**

"COMPUTATION OF GROSS REVENUE

div. II; O.C. 1981-80, title XXIX, chap. II, div. II; R.R.Q., 1981, c. I-3, r.1, title XXIX, chap. II, div. II.

"**1088R9.** The rules referred to in this division apply to the computation of gross revenue reasonably attributable to an establishment of an individual referred to in section 25 of the Act for a taxation year.

s. 1088R7; O.C. 1981-80, s. 1088R7; R.R.Q., 1981, c. I-3, r.1, s. 1088R7.

"**1088R10.** Where the merchandise sold is shipped into a jurisdiction where the individual has an establishment, the gross revenue derived from the sale is attributable to that establishment, otherwise, it is attributable to the establishment to which the person who has negotiated the sale is attached.

Where the buyer instructs that the merchandise be shipped to another person, the gross revenue derived from the sale is attributable to the establishment situated in the jurisdiction of the buyer's establishment, if the individual has an establishment in that jurisdiction, otherwise, it is attributable to the establishment to which the person who has negotiated the sale is attached.

s. 1088R8; O.C. 1981-80, s. 1088R8; R.R.Q., 1981, c. I-3, r.1, s. 1088R8.

"**1088R11.** Despite section 1088R10, where the merchandise sold is shipped to another country where the individual has no establishment and the merchandise was entirely produced or manufactured by the individual in one jurisdiction in Canada, the gross revenue derived from the sale is attributable to the establishment situated in that jurisdiction.

However, if the merchandise sold was produced or manufactured by the individual partly in Québec and partly in another jurisdiction, the gross revenue derived from the sale that is attributable to the establishment situated in Québec is equal to that proportion of the gross revenue that the salaries and wages paid in the year to employees of the establishment situated in Québec is of the aggregate of the salaries and wages paid in the year to employees of all the establishments where the merchandise sold was produced or manufactured.

The same rules apply where the establishment of the buyer is situated in a jurisdiction outside Canada in which the individual has no establishment and the buyer instructs that the merchandise be shipped to another person.

s. 1088R9; O.C. 1981-80, s. 1088R9; R.R.Q., 1981, c. I-3, r.1, s. 1088R9.

"**1088R12.** The gross revenue derived from services rendered in a jurisdiction is attributable to the establishment situated in that jurisdiction and, if there is no such establishment, it is attributable to the establishment to which the person who has negotiated the contract is attached.

s. 1088R10; O.C. 1981-80, s. 1088R10; R.R.Q., 1981, c. I-3, r.1, s. 1088R10.

"**1088R13.** Where standing timber or a cutting right is sold, the gross revenue derived from the sale is attributable to the establishment of the individual situated in the jurisdiction where the timber limit that is related to the sale of the standing timber or of the cutting right is situated.

s. 1088R11; O.C. 1981-80, s. 1088R11; R.R.Q., 1981, c. I-3, r.1, s. 1088R11.

"**1088R14.** Where land is an establishment, the gross revenue derived therefrom is attributable to that establishment.

s. 1088R12; O.C. 1981-80, s. 1088R12; R.R.Q., 1981, c. I-3, r.1, s. 1088R12.

"**CHAPTER III**

"BUS AND TRUCK TRANSPORTATION BUSINESS

chap. III; O.C. 1981-80, title XXIX, chap. III; R.R.Q., 1981, c. I-3, r.1, title XXIX, chap. III.

"**1088R15.** The part of income for a taxation year derived from the business of an individual carrying on a transportation business by buses and trucks that is attributable to the individual's establishment in Québec is that proportion of the income of such business that is one-half of the aggregate of

(*a*) the proportion that the number of kilometres travelled by the individual's vehicles in Québec for the fiscal period ending in the year is of the total number of kilometres travelled by the individual's vehicles during that fiscal period; and

(*b*) the proportion that the salaries and wages paid by the individual, in the fiscal period ending in the year, to the personnel of the individual's establishment in Québec is of the aggregate of all salaries and wages paid by the individual during that fiscal period.

s. 1088R13; O.C. 1981-80, s. 1088R13; R.R.Q., 1981, c. I-3, r.1, s. 1088R13.

"**CHAPTER IV**

"SPECIAL CASES

chap. IV; O.C. 1981-80, title XXIX, chap. IV; R.R.Q., 1981, c. I-3, r.1, title XXIX, chap. IV.

"**1088R16.** Where the aggregate of the amounts that is the income for a taxation year from a business carried on in Québec and elsewhere by an individual referred to in section 25 of the Act is greater than the individual's income for the year, the portion of the individual's income from a business that is attributable to an establishment in Québec is deemed to be equal to the proportion of the individual's income for the year that the individual's income for the year from the carrying on of a business that is attributable to an establishment in Québec, as otherwise determined, is of that aggregate.

For the purposes of the first paragraph, the income for a taxation year of an individual is the amount by which the aggregate of the individual's income, computed without reference to section 1029.8.50 of the Act, that would be determined for the year under section 28 of the Act, had the individual been resident in Québec on the last day of the taxation year, and the amount included by the individual in computing the individual's taxable income for the year under section 726.35, exceeds any amount that is deducted by the individual in computing the individual's taxable income for the year under any of sections 726.20.2, 726.33, 737.14, 737.16, 737.16.1, 737.18.10, 737.18.28, 737.18.34, 737.21, 737.22.0.0.3, 737.22.0.0.7, 737.22.0.3, 737.22.0.7, 737.25 and 737.28 of the Act.

s. 1088R14; O.C. 1981-80, s. 1088R14; R.R.Q., 1981, c. I-3, r.1, s. 1088R14; O.C. 1633-96, s. 41; O.C. 1707-97, s. 89; O.C. 1466-98, s. 121; O.C. 1451-2000, s. 59; O.C. 1463-2001, s. 152; O.C. 1282-2003, s. 86; O.C. 1155-2004, s. 75; O.C. 1116-2007, s. 51.

"**1088R17.** Where an individual operates more than one business in a taxation year, the provisions of this Title apply in respect of each business and, in such case, the portion of the business income that is attributable for the year to the individual's establishments in Québec is the aggregate of the amounts thus determined in respect of each business.

s. 1088R15; O.C. 1981-80, s. 1088R15; R.R.Q., 1981, c. I-3, r.1, s. 1088R15.

"**1088R18.** In the case of an individual referred to in section 25 of the Act who began to be resident or ceased to be resident in Canada in the taxation year, that portion of the individual's income for the year from the carrying on of a business that is attributable to an establishment in Québec is computed by reference only to a business whose income is included in computing the individual's taxable income under that section.

s. 1088R16; O.C. 1981-80, s. 1088R16; R.R.Q., 1981, c. I-3, r.1, s. 1088R16.

"**CHAPTER V**

"LOSSES ATTRIBUTABLE TO AN ESTABLISHMENT IN QUEBEC

chap. V; O.C. 1981-80, title XXIX, chap. V; R.R.Q., 1981, c. I-3, r.1, title XXIX, chap. V.

"**1088R19.** Sections 1088R1 to 1088R18 apply with the necessary modifications to determine the part of losses of

an individual referred to in section 1088 of the Act that is attributable to an establishment in Québec.

s. 1088R17; O.C. 1981-80, s. 1088R17; R.R.Q., 1981, c. I-3, r.1, s. 1088R17; O.C. 1633-96, s. 44.

"**TITLE XLIII**

"INCOME EARNED IN QUEBEC BY AN INDIVIDUAL NOT RESIDENT IN CANADA

title XXX; O.C. 1981-80, title XXX; R.R.Q., 1981, c. I-3, r.1, title XXX.

"**CHAPTER I**

"GENERAL RULE

chap. I; O.C. 1981-80, title XXX, chap. I; R.R.Q., 1981, c. I-3, r.1, title XXX, chap. I.

"**1089R1.** The income derived from the carrying on in Canada of a business of an individual referred to in section 26 of the Act who has an establishment in Québec is deemed to be totally earned in Québec for a taxation year where that individual has no establishment outside Québec during the year.

s. 1089R1; O.C. 1981-80, s. 1089R1; R.R.Q., 1981, c. I-3, r.1, s. 1089R1.

"**1089R2.** The income derived from the carrying on of a business of an individual referred to in section 26 of the Act is deemed to be totally earned outside Québec for a taxation year where that individual has no establishment in Québec during the year.

s. 1089R2; O.C. 1981-80, s. 1089R2; R.R.Q., 1981, c. I-3, r.1, s. 1089R2.

"**1089R3.** Where an individual operated more than one business in a taxation year, the provisions of this Title apply in respect of each business and, in such case, the portion of the business income which is attributable for the year to the individual's establishments in Québec is the aggregate of the amounts thus determined in respect of each business.

s. 1089R3; O.C. 1981-80, s. 1089R3; R.R.Q., 1981, c. I-3, r.1, s. 1089R3.

"**CHAPTER II**

"ESTABLISHMENTS IN SEVERAL JURISDICTIONS

chap. II; O.C. 1981-80, title XXX, chap. II; R.R.Q., 1981, c. I-3, r.1, title XXX, chap. II.

"**DIVISION I**

"GENERAL RULE

div. I; O.C. 1981-80, title XXX, chap. II, div. I; R.R.Q., 1981, c. I-3, r.1, title XXX, chap. II, div. I.

"**1089R4.** Subject to the particular provisions of Chapter III, where, in a taxation year, an individual referred to in section 26 of the Act who carries on a business in Canada has an establishment in Québec and an establishment elsewhere in Canada, the part of the individual's revenue derived from the business in Canada that is attributable to the establishment in Québec is that proportion of that revenue that is one-half of the aggregate of

(*a*) the proportion that the gross revenue of the business for the fiscal period ending in the year reasonably attributable to the establishment in Québec is of the individual's total gross revenue derived from the carrying on in Canada of that business for that fiscal period; and

(*b*) the proportion that the salaries and wages paid by the individual in the fiscal period of the business ending in the year to employees of the establishment situated in Québec is of the total salaries and wages paid by the individual for that fiscal period to employees of the establishments situated in Canada.

s. 1089R4; O.C. 1981-80, s. 1089R4; R.R.Q., 1981, c. I-3, r.1, s. 1089R4.

"**1089R5.** For the purposes of section 1089R4, gross income does not include interest on a bond, debenture, hypothecary claim or mortgage, dividends, or rentals or royalties from property that is not used in connection with the business of the individual.

s. 1089R5; O.C. 1981-80, s. 1089R5; R.R.Q., 1981, c. I-3, r.1, s. 1089R5; O.C. 1466-98, s. 122.

"**1089R6.** Except where a commission is paid to a person who is not an employee of the individual, where a remuneration is paid, under an agreement, by the individual to a person for services that would normally be performed by the employees of the individual, such remuneration is deemed to be a salary paid to such employee of the establishment of the individual to which such services are reasonably attributable and to the extent that they are so attributable.

s. 1089R6; O.C. 1981-80, s. 1089R6; R.R.Q., 1981, c. I-3, r.1, s. 1089R6.

"**DIVISION II**

"COMPUTATION OF GROSS REVENUE

div. II; O.C. 1981-80, title XXX, chap. II, div. II; R.R.Q., 1981, c. I-3, r.1, title XXX, chap. II, div. II.

"**1089R7.** The rules this division apply to the computation of the gross revenue reasonably attributable to an establishment of an individual referred to in section 26 of the Act for a taxation year.

s. 1089R7; O.C. 1981-80, s. 1089R7; R.R.Q., 1981, c. I-3, r.1, s. 1089R7.

"**1089R8.** Where the merchandise sold is shipped into a jurisdiction where the individual has an establishment, the gross revenue derived from the sale is attributable to that establishment, otherwise, it is attributable to the establishment to which the person who has negotiated the sale is attached.

Where the buyer instructs that the merchandise be shipped to another person, the gross revenue derived from the sale is attributable to the establishment situated in the jurisdiction of the buyer's establishment, if the individual has an establishment in that jurisdiction, otherwise, it is attributable to the establishment to which the person who has negotiated the sale is attached.

s. 1089R8; O.C. 1981-80, s. 1089R8; R.R.Q., 1981, c. I-3, r.1, s. 1089R8.

"**1089R9.** Despite section 1089R8, where the merchandise sold is shipped to another country where the individual has no establishment and the merchandise was entirely produced or manufactured by the individual in one jurisdiction in Canada, the gross revenue derived from the sale is attributable to the establishment situated in that jurisdiction.

However, if the merchandise sold was produced or manufactured by the individual partly in Québec and partly in another jurisdiction, the gross revenue derived from the sale that is attributable to the establishment situated in Quebec is equal to that proportion of the gross revenue that the salaries and wages paid in the year to employees of that establishment is of the aggregate of the salaries and wages paid in the year to employees of all the establishments in Canada where the merchandise sold was produced or manufactured.

The same rules apply where the establishment of the buyer is situated in a jurisdiction outside Canada in which the individual has no establishment and the buyer instructs that the merchandise be shipped to another person.

s. 1089R9; O.C. 1981-80, s. 1089R9; R.R.Q., 1981, c. I-3, r.1, s. 1089R9.

"**1089R10.** The gross revenue derived from services rendered in a jurisdiction is attributable to the establishment situated in that jurisdiction and, if there is no such establishment, it is attributable to the establishment to which the person who has negotiated the contract is attached.

s. 1089R10; O.C. 1981-80, s. 1089R10; R.R.Q., 1981, c. I-3, r.1, s. 1089R10.

"**1089R11.** Where standing timber or a cutting right is sold, the gross revenue derived from the sale is attributable to the establishment of the individual situated in the jurisdiction where the timber limit that is related to the sale of the standing timber or of the cutting right is situated.

s. 1089R11; O.C. 1981-80, s. 1089R11; R.R.Q., 1981, c. I-3, r.1, s. 1089R11.

"**1089R12.** Where land is an establishment, the gross revenue derived therefrom is attributable to that establishment.

s. 1089R12; O.C. 1981-80, s. 1089R12; R.R.Q., 1981, c. I-3, r.1, s. 1089R12.

"**CHAPTER III**

"BUS AND TRUCK TRANSPORTATION BUSINESS

chap. III; O.C. 1981-80, title XXX, chap. III; R.R.Q., 1981, c. I-3, r.1, title XXX, chap. III.

"**1089R13.** The part of income earned in Canada, for a taxation year, by an individual carrying on a transportation business by buses and trucks that is attributable to an establishment in Québec is that proportion of that income that is one-half of the aggregate of

(*a*) the proportion that the number of kilometres travelled by the individual's vehicles in Québec, in the fiscal period ending in the year, is of the total number of kilometres travelled by the individual's vehicles in Canada during that fiscal period; and

(*b*) the proportion that the salaries and wages paid by the individual, in the fiscal period ending in the year, to the personnel of the individual's establishment in Québec is of the aggregate of all salaries and wages paid by the individual to the personnel of the establishments in Canada during that fiscal period.

s. 1089R13; O.C. 1981-80, s. 1089R13; R.R.Q., 1981, c. I-3, r.1, s. 1089R13.

"**CHAPTER IV**

"LOSSES ATTRIBUTABLE TO AN ESTABLISHMENT IN QUÉBEC

chap. IV; O.C. 1981-80, title XXX, chap. IV; R.R.Q., 1981, c. I-3, r.1, title XXX, chap. IV.

"**1089R14.** For the purposes of subparagraph *i* of the first paragraph of section 1089 of the Act, sections 1089R1 to 1089R13 apply with the necessary modifications to

determine the part of losses that is attributable to an establishment in Québec.

s. 1089R14; O.C. 1981-80, s. 1089R14; R.R.Q., 1981, c. I-3, r.1, s. 1089R14; O.C. 1633-96, s. 44; O.C. 1282-2003, s. 87.

"**1089R15.** For the purposes of subparagraph *d* of the first paragraph of section 1089 of the Act, a Québec resource property means a property that would be referred to in section 370 of the Act if the words "Canada" and "Canadian" were replaced wherever they appear by the word "Québec".

s. 1089R15; O.C. 1981-80, s. 1089R15; R.R.Q., 1981, c. I-3, r.1, s. 1089R15; O.C. 1282-2003, s. 87.

"**1089R16.** For the purposes of subparagraph *e* of the first paragraph of section 1089 of the Act, a Québec timber resource property means property that would be referred to in subparagraph *d* of the first paragraph of section 93 of the Act if the word "Canada" were replaced wherever it appears by the word "Québec".

s. 1089R16; O.C. 1981-80, s. 1089R16; R.R.Q., 1981, c. I-3, r.1, s. 1089R16; O.C. 1282-2003, s. 87.

"**CHAPTER V**

"PROCEEDS OF THE DISPOSITION OF A RIGHT TO A SHARE OF THE INCOME OR LOSS OF A PARTNERSHIP ATTRIBUTABLE TO AN ESTABLISHMENT IN QUÉBEC

chap. VI; O.C. 1981-80, title XXX, chap. VI; R.R.Q., 1981, c. I-3, r.1, title XXX, chap. VI; O.C. 1707-97, s. 98.

"**1089R17.** For the purposes of subparagraph *h* of the first paragraph of section 1089 of the Act, the share of the excess referred to in that subparagraph that is attributable to an establishment of a partnership in Québec is computed in the same manner as the share of the revenues or losses of the businesses that the individual referred to in that subparagraph carried on in Canada or is deemed to have carried on in Canada pursuant to section 613 of the Act in respect of that partnership, for the preceding taxation year, that was attributable to an establishment in Québec under sections 1089R1 to 1089R14.

s. 1089R18; O.C. 1981-80, s. 1089R18; R.R.Q., 1981, c. I-3, r.1, s. 1089R18; O.C. 1707-97, s. 98; O.C. 1282-2003, s. 89.

"**CHAPTER VI**

"INCOME EARNED IN CANADA

chap. VII; O.C. 1981-80, title XXX, chap. VII; R.R.Q., 1981, c. I-3, r.1, title XXX, chap. VII.

"**1090R1.** For the purposes of this Title and of section 1090 of the Act, the income or loss derived from the carrying on, in Canada, of a business of an individual referred to in section 26 of the Act, is computed by taking into consideration only the income or loss attributable to the individual's establishments in Canada, as if the business carried on in Canada by the individual were a separate business that was carried on by a separate person; for such purposes, sections 771R44 and 771R45, subject to this Title, apply by replacing therein, wherever they occur,

(*a*) "corporation" by "individual";

(*b*) "business carried on" by "income earned"; and

(*c*) "foreign corporation" by "individual referred to in section 26 of the Act".

s. 1090R1; O.C. 1981-80, s. 1090R1; R.R.Q., 1981, c. I-3, r.1, s. 1090R1; O.C. 1707-97, s. 98.

"**TITLE XLIV**

"INVESTMENT INSTITUTIONS

title XXXI; O.C. 1981-80, title XXXI; R.R.Q., 1981, c. I-3, r.1, title XXXI.

"**CHAPTER I**

"INVESTMENT CORPORATIONS, MORTGAGE INVESTMENT CORPORATIONS AND MUTUAL FUND CORPORATIONS

chap. I; O.C. 1981-80, title XXXI, chap. I; R.R.Q., 1981, c. I-3, r.1, title XXXI, chap. I; O.C. 1707-97, s. 90.

"**1106R1.** The capital gains dividend account of an investment corporation at a particular time means an amount equal to the amount so determined at the same time under the definition of "capital gains dividend account" in subsection 6 of section 131 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 1106R1; O.C. 1981-80, s. 1106R1; R.R.Q., 1981, c. I-3, r.1, s. 1106R1; O.C. 35-96, s. 86; O.C. 1707-97, s. 91.

"**1106R2.** A corporation makes the election under section 1106 of the Act, in respect of the total amount of a dividend, by filing with the Minister, in duplicate, a return in prescribed form and a declaration, supported by evidence, attesting that it has made a similar election for the purposes of section 131 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the same dividend.

s. 1106R2; O.C. 1981-80, s. 1106R2; R.R.Q., 1981, c. I-3, r.1, s. 1106R2; O.C. 2962-82, s. 86; O.C. 500-83, s. 86; O.C. 35-96, s. 86; O.C. 1707-97, s. 91.

"**1108R1.** The expression "mortgage investment corporation" means a corporation that, throughout the taxation year in question, is a mortgage investment corporation within the meaning of section 130.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 1108R1; O.C. 1981-80, s. 1108R1; R.R.Q., 1981, c. I-3, r.1, s. 1108R1; O.C. 35-96, s. 80; O.C. 1707-97, s. 98.

"**1113R1.** A corporation makes the election under section 1113 of the Act, in respect of the total amount of a dividend, by filing with the Minister, in duplicate, a return in prescribed form and a declaration, supported by evidence, attesting that it has made a similar election for the purposes of section 130.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the same dividend.

s. 1113R1; O.C. 1076-88, s. 32; O.C. 35-96, s. 86; O.C. 1707-97, s. 92.

"**1116R1.** The capital gains dividend account of a mutual fund corporation at a particular time means an amount equal to the amount so determined at the same time under the definition of "capital gains dividend account" in subsection 6 of section 131 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 1116R1; O.C. 1981-80, s. 1116R1; R.R.Q., 1981, c. I-3, r.1, s. 1116R1; O.C. 35-96, s. 81; O.C. 1707-97, s. 92.

"**1116R2.** A corporation makes the election under section 1116 of the Act in respect of the total amount of a dividend in the manner prescribed in section 1106R2.

s. 1116R2; O.C. 1981-80, s. 1116R2; R.R.Q., 1981, c. I-3, r.1, s. 1116R2; O.C. 1707-97, s. 92.

"**1117R1.** For the purposes of section 1117 of the Act, a prescribed corporation means a corporation referred to in any of subparagraphs *g* to *k* of the first paragraph of section 21.19R1 or in any of subparagraphs *a* and *c* to *f* of the second paragraph of that section.

s. 1117R1; O.C. 1660-94, s. 16; O.C. 67-96, s. 65; O.C. 1707-97, s. 98; O.C. 1454-99, s. 61; O.C. 1463-2001, s. 153; O.C. 1282-2003, s. 90.

"**CHAPTER II**

"MUTUAL FUND TRUSTS

chap. II; O.C. 1981-80, title XXXI, chap. II; R.R.Q., 1981, c. I-3, r.1, title XXXI, chap. II; O.C. 1707-97, s. 93.

"**1120R1.** The conditions for qualification as a mutual fund trust are the following:

(*a*) a class of the units of the trust must be qualified for distribution to the public or there has been a lawful distribution in a province to the public of units of the trust and a prospectus, registration statement or similar document was not required under the laws of the province to be filed; and

(*b*) each of the classes referred to in paragraph *a* must include at least 150 beneficiaries, each of whom holds not less than one block of units of that class that have in the aggregate a fair market value of not less than $500.

s. 1120R1; O.C. 1981-80, s. 1120R1; R.R.Q., 1981, c. I-3, r.1, s. 1120R1; O.C. 1707-97, s. 94; O.C. 1282-2003, s. 91.

"**1120R2.** For the purposes of section 1120R1, a class of the units is qualified for distribution to the public if

(*a*) a prospectus, registration statement or similar document has been filed with, and, where required by law, accepted for filing by a public authority in Canada pursuant to the law of Canada or of a province and if effectively there has been a distribution to the public of units of that class in accordance with that document; or

(*b*) in the case of any class of units any of which were issued and outstanding on 1 January 1972, that class complied on that date with the conditions of paragraph *b* of section 1120R1.

s. 1120R2; O.C. 1981-80, s. 1120R2; R.R.Q., 1981, c. I-3, r.1, s. 1120R2.

"**1120R3.** In section 1120R1, "block of units" means with respect to any class of units, 100 units if the fair market value of one unit is less than $25, 25 units if it is $25 or more but less than $100, and 10 units if it is $100 or more.

s. 1120R3; O.C. 1981-80, s. 1120R3; R.R.Q., 1981, c. I-3, r.1, s. 1120R3.

"**1120R4.** For the purposes of paragraph *b* of section 1120R1 and subject to section 1120R5, a group of persons is deemed to be one person for the purposes of the computing of the number of persons who hold a class of units of a trust if such group holds not less than one block of units, within the meaning of section 1120R3, of such class and if the units of that class have in the aggregate a fair market value of not less than $500.

s. 1120R4; O.C. 1981-80, s. 1120R4; R.R.Q., 1981, c. I-3, r.1, s. 1120R4.

"**1120R5.** For the purposes of the computation in section 1120R4,

(*a*) no person may be included in more than one group;

(*b*) no person may be included in a group if the person holds one or more than one block of units, within the meaning of section 1120R3, of that class and if the units of that class have an aggregate fair market value of not less than $500; and

(*c*) the membership of each group is determined in the manner that results in the greatest possible number of groups.

s. 1120R5; O.C. 1981-80, s. 1120R5; R.R.Q., 1981, c. I-3, r.1, s. 1120R5.

"**1121.7R1.** For the purposes of section 1121.7 of the Act, a trust that is a money market fund as defined in National Instrument 81-102 Mutual Funds, as amended from time

to time, of the Canadian Securities Administrators is a prescribed trust.

s. 1121.7R1; O.C. 1282-2003, s. 92.

"**CHAPTER III**

"NON-RESIDENT OWNED INVESTMENT CORPORATIONS

chap. III; O.C. 1981-80, title XXXI, chap. III; R.R.Q., 1981, c. I-3, r.1, title XXXI, chap. III; O.C. 1707-97, s. 98.

"**1123R1.** A non-resident-owned investment corporation qualified as such for a taxation year only if it is considered for that year a non-resident-owned investment corporation for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

s. 1123R1; O.C. 1981-80, s. 1123R1; R.R.Q., 1981, c. I-3, r.1, s. 1123R1; O.C. 35-96, s. 86; O.C. 1707-97, s. 98.

"**TITLE XLV**

"ADDITIONAL TAX FOR MANUFACTURERS OF TOBACCO PRODUCTS

title XXXI.2; O.C. 1249-2005, s. 59.

"**1129.48R1.** The ratio referred to in the second paragraph of section 1129.48 of the Act, in respect of a corporation for a taxation year, is the ratio determined in respect of a corporation for the year under Title XXVII.

s. 1129.48R1; O.C. 1249-2005, s. 59.

"**TITLE XLVI**

"TAX ON CAPITAL AND COMPENSATORY TAX

title XXXII; O.C. 1981-80, title XXXII; R.R.Q., 1981, c. I-3, r.1, title XXXII; O.C. 1539-93, s. 52.

"**CHAPTER I**

"CORPORATIONS HAVING AN ESTABLISHMENT IN QUÉBEC AND AN ESTABLISHMENT OUTSIDE QUÉBEC

chap. I.1; O.C. 2727-84, s. 28; O.C. 1707-97, s. 98.

"**1133R1.** The proportion referred to in section 1133 of the Act is the proportion determined by sections 771R1 to 771R46.

s. 1133R1; O.C. 1981-80, s. 1133R1; R.R.Q., 1981, c. I-3, r.1, s. 1133R1.

"**CHAPTER II**

"EXEMPTION FROM TAX ON CAPITAL

chap. III; O.C. 1981-80, title XXXII, chap. III; R.R.Q., 1981, c. I-3, r.1, title XXXII, chap. III.

"**1143R1.** For the purposes of subparagraph *a* of the first paragraph of section 1143 of the Act, prescribed corporations are;

(*a*) the following Québec Government corporations:

i. Hydro-Québec;

ii. Société des loteries du Québec;

iii. Société des alcools du Québec;

iv. Société de développement de la Baie James;

v. Société générale de financement du Québec; and

(*b*) the wholly owned subsidiaries, within the meaning of section 1 of the Act, of the corporation mentioned in subparagraph *a*.

For the purposes of subparagraph *b* of the first paragraph, a subsidiary wholly-owned corporation of a corporation that is itself a subsidiary wholly-owned corporation of another corporation is deemed to be a subsidiary wholly-owned corporation of that other corporation.

s. 1143R1; O.C. 3211-81, s. 5; R.R.Q., 1981, c. I-3, r.1, s. 1143R1; O.C. 1697-92, s. 62; O.C. 1707-97, s. 98; O.C. 1466-98, s. 124; O.C. 1451-2000, s. 65.

"**1144R1.** Every corporation that is a water company and 90% of the shares of which are owned by a Canadian municipality and a foreign border municipality is exempt from tax on capital.

s. 1144R1; O.C. 1981-80, s. 1144R1; R.R.Q., 1981, c. I-3, r.1, s. 1144R1; O.C. 1707-97, s. 97.

"**1144R2.** Every corporation that did not carry on business during a taxation year and the amount of whose assets, within the meaning of subsections 3 and 4 of section 1138 of the Act, does not exceed $5,000, is exempt from tax on capital for that year.

s. 1144R2; O.C. 1981-80, s. 1144R2; R.R.Q., 1981, c. I-3, r.1, s. 1144R2; O.C. 1539-93, s. 53; O.C. 1707-97, s. 98.

"**CHAPTER III**

"COMPENSATORY TAX OF FINANCIAL INSTITUTIONS

chap. III.1; O.C. 1539-93, s. 54.

"**1159.5R1.** The proportion referred to in section 1159.5 of the Act in respect of a financial institution is equal to the

proportion determined in respect of that financial institution under sections 771R1 to 771R46.

s. 1159.5R1; O.C. 1539-93, s. 54.

"**CHAPTER IV**

"INSURANCE CORPORATIONS

chap. V; O.C. 2962-82, s. 87; O.C. 500-83, s. 87; O.C. 1707-97, s. 98.

"**1174R1.** A mutual benefit association, within the meaning of the Act respecting insurance (R.S.Q., c. A-32) is not required to include in the computation of the tax payable by it under section 1167 of the Act, any premium described therein with respect to a person resident at the time of maturity of the premium in another province where that other jurisdiction does not subject such an association to a similar tax.

s. 1174R1; O.C. 3926-80, s. 43; R.R.Q., 1981, c. I-3, r.1, s. 1174R1; O.C. 1466-98, s. 125.

"**1174R2.** An insurance corporation referred to in paragraph *k* of section 998 of the Act is exempt from the tax otherwise payable under section 1167 of the Act.

s. 1174R2; O.C. 3926-80, s. 43; R.R.Q., 1981, c. I-3, r.1, s. 1174R2; O.C. 1707-97, s. 98.

"**1174R3.** An insurance corporation that carries on an ocean marine insurance business in Québec and that subscribes premiums with respect to such business other than reinsurance premiums must pay, for each period of twelve months as tax on capital in respect of such business, subject to the second paragraph of section 1167 of the Act, the lesser of the tax referred to in the first paragraph of that section for that period in respect of such business, or 5% of the proportion of the profits derived for that period from the carrying on of its ocean marine insurance business in Canada, that the net premiums it subscribed in Québec is of those it subscribed in Canada during that period in respect of such business.

s. 1174R3; O.C. 3926-80, s. 43; R.R.Q., 1981, c. I-3, r.1, s. 1174R3; O.C. 1707-97, s. 98.

"**CHAPTER V**

"LIFE INSURANCE CORPORATIONS

chap. VI; O.C. 1149-2006, s. 72.

"**1175.6R1.** For the purposes of subparagraph *d* of the second paragraph of section 1175.6 of the Act, the proportion that the business carried on by a life insurer in Canada but not in Québec for a taxation year is of the aggregate of its business carried on in Canada is equal to the proportion that the aggregate of its net premiums in respect of insurance, other than on property, from contracts with persons resident in Canada but elsewhere than in Québec is of the aggregate of its net premiums in respect of insurance, other than on property, from contracts with persons resident in Canada.

s. 1175.6R1; O.C. 1149-2006, s. 72.

"**1175.6R2.** For the purposes of this chapter, net premiums are computed by deducting from gross premiums, other than consideration received for annuities, premiums paid by the corporation for reinsurance, dividends or rebates paid or credited to policyholders by the corporation, and rebates or returned premiums paid by the corporation in respect of the cancellation of policies.

s. 1175.6R2; O.C. 1149-2006, s. 72.

"**1175.6R3.** For the purposes of section 1175.6R1, where an insurance corporation does not have an establishment in a taxation year in a particular province, each net premium for that year in respect of insurance, other than on property, from contracts with a person resident in the particular province is deemed to be a net premium in respect of insurance, other than on property, from contracts with persons resident in the province in which the establishment to which the net premium is reasonably attributable is situated.

s. 1175.6R3; O.C. 1149-2006, s. 72.

"**TITLE XLVII**

"FINAL PROVISIONS

title XXXIV; O.C. 1981-80, title XXXIV; R.R.Q., 1981, c. I-3, r.1, title XXXIV.

"**2000R1.** The provisions of the Regulation respecting the Taxation Act, in this Title referred to as the "preceding regulation", amended by the regulations made by Orders in Council 3211-81 (1981, G.O. 2, 5010) (Suppl., p. 767), 3438-81 (1982, G.O. 2, 80) (Suppl., p. 789), 144-82 (1982, G.O. 2, 204) (Suppl., p. 790), 1544-82 (1982, G.O. 2, 1872) (Suppl., p. 792), 2823-82 (1982, G.O. 2, 3598), 2962-82 (1982, G.O. 2, 3714), 227-83 (1983, G.O. 2, 957), 500-83 (1983, G.O. 2, 1209), 2486-83 (1983, G.O. 2, 3872), 2727-84 (1984, G.O. 2, 4088), 2847-84 (1984, G.O. 2, 4196), 491-85 (1985, G.O. 2, 1152), 2508-85 (1985, G.O. 2, 4327), 2509-85 (1985, G.O. 2, 4328), 2583-85 (1986, G.O. 2, 20), 544-86 (1986, G.O. 2, 630), 1239-86 (1986, G.O. 2, 2183), 1811-86 (1986, G.O. 2, 2934), 1812-86 (1986, G.O. 2, 2938), 7-87 (1987, G.O. 2, 631), 1472-87 (1987, G.O. 2, 3724), 1875-87 (1987, G.O. 2, 4318), 421-88 (1988, G.O. 2, 1534), 615-88 (1988, G.O. 2, 2043), 838-88 (1988, G.O. 2, 2272), 1076-88 (1988, G.O. 2, 2829), 1549-88 (1988, G.O. 2, 3748), 1745-88 (1988, G.O. 2, 3913), 1746-88 (1988, G.O. 2, 3914), 1747-88 (1988, G.O. 2, 3917), 1819-88 (1988, G.O. 2, 4033), 1038-89 (1989, G.O. 2, 2562), 1344-89 (1989, G.O. 2, 3717), 1764-89 (1989, G.O. 2, 4161), 140-90 (1990, G.O. 2, 483), 223-90 (1990, G.O. 2, 554), 291-90 (1990, G.O. 2, 611), 1666-90 (1990, G.O. 2, 2941), 1797-90 (1991, G.O. 2, 21), 143-91 (1991, G.O. 2, 1025), 538-91 (1991, G.O. 2, 1511), 1025-91 (1991, G.O. 2, 2918), 1232-91 (1991, G.O. 2,

3617), 1471-91 (1991, G.O. 2, 4269), 1589-91 (1991, G.O. 2, 4652), 1114-92 (1992, G.O. 2, 4142), 1697-92 (1992, G.O. 2, 5153), 208-93 (1993, G.O. 2, 929), 868-93 (1993, G.O. 2, 3272), 1114-93 (1993, G.O. 2, 4852), 1539-93 (1993, G.O. 2, 6002), 1646-93 (1993, G.O. 2, 6429), 91-94 (1994, G.O. 2, 571), 366-94 (1994, G.O. 2, 1267), 849-94 (1994, G.O. 2, 2165), 1660-94 (1994, G.O. 2, 4500), 1691-94 (1994, G.O. 2, 4563), 473-95 (1995, G.O. 2, 1194), 522-95 (1995, G.O. 2, 1326), 1562-95 (1995, G.O. 2, 3428), 35-96 (1996, G.O. 2, 565), 67-96 (1996, G.O. 2, 1004), 523-96 (1996, G.O. 2, 2218), 1631-96 (1996, G.O. 2, 5507), 1633-96 (1996, G.O. 2, 5523), 1634-96 (1996, G.O. 2, 5534), 1707-97 (1997, G.O. 2, 6348), 1466-98 (1998, G.O. 2, 4610), 1454-99 (1999, G.O. 2, 5207), 1451-2000 (2000, G.O. 2, 5885), 1463-2001 (2001, G.O. 2, 6328), 1470-2002 (2002, G.O. 2, 6552), 1282-2003 (2003, G.O. 2, 3552), 1155-2004 (2004, G.O. 2, 3593), 1249-2005 (2005, G.O. 2, 5533), 300-2006 (2006, G.O. 2, 1287), 1149-2006 (2006, G.O. 2, 4087), 1116-2007 (2007, G.O. 2, 4042) and by section 2 of Order in Council (*insert the number of the Order in Council enacting this section, and its reference*), concerning its application continue to apply and govern the corresponding provisions of this regulation.

A reference to a provision of this Regulation concerning a period prior to (*insert the date of coming into force of the Order in Council enacting this section*) is a reference to the corresponding provision of the preceding regulation.

Similarly, a reference to the preceding regulation or to any of its replaced provisions is deemed, after (*insert the date of coming into force of the Order in Council enacting this section*), to be a reference to this Regulation or to the corresponding provision of this Regulation.

"**2000R2.** The provisions of the Regulation respecting the Taxation Act, in this section referred to as the "former regulation", made by Order in Council 3786-72 dated 13 December 1972, amended by the regulations made by Orders in Council 4478-73 dated 5 December 1973, 4644-73 dated 12 December 1973, 2023-75 dated 14 May 1975, 5555-75 dated 17 December 1975, 1121-76 dated 24 March 1976, 2220-76 dated 23 June 1976, 2685-76 dated 4 August 1976, 3994-76 dated 10 November 1976, 854-77 dated 16 March 1977, 2528-77 dated 3 August 1977, 1102-78 dated 5 April 1978, 1640-78 dated 17 May 1978, 3320-78 dated 25 October 1978, 3852-78 dated 13 December 1978, 377-79 dated 7 February 1979, 1381-79 dated 16 May 1979 and 3479-79 dated 19 December 1979, and by the regulations made by Orders in Council 336-80 (1980, G.O. 2, 1001) and 1980-80 (1980, G.O. 2, 2547), concerning its application continue to apply and govern the corresponding provisions of the preceding regulation.

A reference to a provision of the preceding regulation that concerns a period prior to the coming into force of the preceding regulation is a reference to the corresponding provision of the former regulation.

Similarly, a reference to the former regulation or to any of its provisions replaced under section 2000R1 of the preceding regulation is deemed, after the coming into force of the preceding regulation, to be a reference to the preceding regulation or to the corresponding provision of that regulation.

s. 2000R2; O.C. 1981-80, s. 2000R2; R.R.Q., 1981, c. I-3, r.1, s. 2000R2.

"**SCHEDULE A**
(s.s. 1029.8.61.19R2 and 1029.8.61.19R3)

TABLES OF PRESUMED CASES OF SERIOUS HANDICAP

1. IMPAIRMENTS

1.1 Sight

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(*a*) the child is less than four years of age and wears contact lenses because of bilateral aphakia;

(*b*) the child has a visual acuity of 6/60 or less;

c) the child's field of vision for both eyes is less than 30 degrees at the widest diameter, measured when focusing on a central point;

d) one of the cases in A and one of the cases in B below both apply to the child:

A Cases	B Cases
A.1 the child has a visual acuity of 6/21 or less.	B.1 special services are required to stimulate and maximize the child's visual potential.
A.2 the child's field of vision for both eyes is less than 60 degrees at the widest diameter, measured when focusing on a central point.	B.2 assistance is required to move about in an unfamiliar environment or to go to school or move about there.
A.3 the child has a loss of sight of 30% or more, calculated in accordance with the method and tables of the American Medical Association and taking into account loss of central vision, field of vision and eye motility.	B.3 adapted learning tools are required, particularly special school books, audio recordings, magnifying devices or documents in braille.

Assessment methods

Visual acuity must be measured in both eyes simultaneously following correction by adequate refraction lenses.

The method used to measure visual acuity must be specified in the expert's report. If measured other than with a Snellen chart, the Allen method or ocular fixation, the data enabling the reliability and margin of error of the method to be assessed must be specified in the expert's report.

1.2 Hearing

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(*a*) the average threshold in air conduction tests before fitting is more than 70 dB for the better ear;

(*b*) the child is less than six years of age and the average threshold in air conduction tests before fitting is more than 40 dB for the better ear;

(*c*) one of the cases in A and one of the cases in B below both apply to the child:

A Cases	B Cases
A.1 the child is less than six years of age and the average threshold in air conduction tests before fitting is 25 dB or more for the better ear.	B.1 in spite of an appropriate fitting, the child's delayed language development is comparable to the cases in Table 2.4 on language disorders.
A.2 the child is six years of age or older and the average threshold in air conduction tests before fitting is 40 dB or more for the better ear.	B.2 the child's hearing impairment requires specialized services outside the school more than twice a month; specialized services are audiologic, medical or speech therapy follow-ups and visits to a hearing-aid acoustician.

Assessment methods

Hearing loss is measured by taking into account the average threshold of pure sound at 500, 1,000, 2,000 and 4,000 Hz.

If the hearing is not measured by tonal audiometry, the data enabling the reliability of the method used to be assessed must be specified in the expert's report.

The assessment must show the child's usual level of hearing. It must not be carried out in the case of temporary conduction deafness, such as otitis media.

Exclusion

A child in respect of whom a central auditory processing disorder is inferred is not presumed to be handicapped unless an assessment of the child's difficulties, using standardized tests, shows results comparable to those of the cases referred to in Tables 2.1 to 2.5 on developmental disabilities.

Specific rule

A child is not presumed to be handicapped before the first reliable measurement of hearing loss.

1.3 Musculoskeletal system

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(*a*) the child has a total brachial plexus palsy;

(*b*) the child is two years of age or less and requires several surgical procedures for clubfoot;

(*c*) the child is more than three years of age and requires a wheelchair or a walker because of limited motor skills;

(*d*) the child is achondroplastic and the child's height is less than the third percentile;

(*e*) one of the cases in A and one of the cases in B below both apply to the child:

A Cases	B Cases
A.1 the child has a deformity or agenesis affecting the musculoskeletal system. A.2 the child has a type of dwarfism.	B.1 the child is less than five years of age and the ability to maintain sitting and standing positions, handle objects and move about is less than that of the average healthy child half that age.
A.3 the child has a neuromuscular disease. A.4 the child has cerebral palsy.	B.2 the child is two years of age or older and has an upper limb impairment resulting in inefficient prehension in one hand or hindering the activities of daily living that require both hands.

A.5 the child has myopathy. A.6 the child has arthropathy. A.7 the child has sequelae of disease or trauma limiting motor skills.	B.3 the child is five years of age or older and is unable to walk about in places to which the child would normally go, to walk there or use public transportation to get there; the abnormalities and limitations described in the expert's report imply that the child requires the assistance of another person, special apparatus or devices, adapted transportation or an adapted learning environment. B.4 the child is five years of age or older and prehension and coordination skills are such that the child cannot feed or dress or requires an inordinate amount of time to do so, thus requiring another person's help or a special apparatus or device. B.5 the child must undergo several specialized therapeutic interventions because of the limited skills, thus entailing more than two specific care treatments per month outside the home.

Assessment methods

The expert's report must include a diagnosis, confirmed by significant observations during a physical examination, by biological tests or medical imaging, as well as an assessment of the child's motor abilities and disabilities, in accordance with the child's age.

The report must describe any abnormality in muscular tone, motor control, range of motion, coordination and balance, muscular strength and endurance and contain comments on the limitations they entail in maintaining posture and in motor, exploratory and manipulative activities.

1.4 Respiratory function

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(*a*) the child receives daily oxygen therapy at home;

(*b*) the child has bronchopulmonary dysplasia requiring the daily use of a bronchodilator;

(*c*) the child has a deformity of the thorax or a restrictive syndrome that reduces vital capacity to 50% or less compared to the normal vital capacity for the child's size; vital capacity must be measured when the child's condition is stable, in the absence of acute infection or decompensation;

(*d*) one of the cases in A and one of the cases in B below both apply to the child:

A Cases	B Cases
A.1 the child is less than two years of age and has been treated for at least the past three months as recommended by the Asthma Committee of the Canadian Thoracic Society.	B.1 the child is less than two years of age and receives daily medication six months a year or more administered by wet nebulization, where a metered-dose inhaler is medically contraindicated.
A.2 the child is two years of age or older and has been treated for asthma for at least the past six months as recommended by the Asthma Committee of the Canadian Thoracic Society.	B.2 in spite of adequate preventive treatment, the child has had at least three severe decompensation episodes in the last twelve months, requiring treatment in hospital for more than 48 hours or oral corticosteroid treatment for more than seven days. B.3 in spite of inhaled beclomethasone in doses of 1,000 g/day or 20 g/kg/day with a metered-dose inhaler or its equivalent, the child's asthma cannot be controlled and the child has symptoms, at least six months a year, that limit the child's activities, or a condition that requires a greater dose of inhaled steroids or the addition of another medication the potential side effects of which require close medical supervision.

Assessment methods

The medical report must indicate the prescribed medication, dosage, frequency of medical visits, decompensation episodes, weight and height of the child, and the presence of avoidable respiratory irritants in the child's environment. Where respiratory allergens complicate control of the asthma, the allergy test results must be attached to the medical report.

If control of the asthma is not achieved, it must be demonstrated in the medical report, in accordance with any applicable measures given the child's age, through information concerning frequency of nocturnal symptoms, frequency of use of bronchodilators, variations in peak expiratory flow rates, results of bronchial and respiratory function challenge tests done when no infections or allergies are active. A preventive dose of a bronchodilator before exercise may not be considered in the assessment of daily needs.

A pharmaceutical record confirming the various medications and quantities purchased during the previous year must be attached to the medical report.

Where a nebulizer must be used, the medical report must describe the problems related to using a metered-dose inhaler or other method.

1.5 Cardiovascular function

Presumed cases of serious handicap

A child is presumed handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(*a*) the child is three years of age or less, has a heart disease and requires diuretics and digitalis;

(*b*) from birth to the end of two full years following surgery, if the child was born with hypoplastic left heart syndrome, transposition of the great vessels, pulmonary atresia or a tetralogy;

(*c*) the child has a valvular disease and is taking anticoagulants;

(*d*) the child has a pacemaker, and complications related to the implant site require two or more surgical procedures during the year;

(*e*) one of the cases in A and one of the cases in B below both apply to the child:

A Cases	B Cases
A.1 the child has a surgically uncorrected malformation of the heart.	B.1 the child, in spite of medication, has symptoms at rest or with low effort that hinder the activities of daily living.
A.2 the child has a malformation of the heart surgically corrected with a palliative procedure.	B.2 the child has seriously retarded growth: weight or height less than the third percentile or persistent weight or height loss of more than 15 percentiles.
A.3 the child has arrhythmia.	B.3 the progressive deterioration of the child's cardiovascular function requires surgery and the activities of daily living are affected, or the care required imposes substantial constraints on the child's family.
A.4 the child has cardiac insufficiency.	B.4 the child requires medical follow-up at least once a month to adjust medication according to the child's response to treatment and variations in weight.

Assessment methods

The medical report establishing the cardiovascular disability must indicate the diagnosis, the level of activity that triggers the cyanosis, dyspnea or tachycardia and must include a height and weight graph.

Exclusion

A child who has a malformation or cardiac disease with no active treatment, requiring only medically prescribed restrictions or limiting the playing of sports, is not presumed to be handicapped.

1.6 Nervous system abnormalities

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(*a*) the child has Lennox-Gastaut syndrome;

(*b*) one of the cases in A and one of the cases in B below both apply to the child:

A Cases	B Cases
A.1 the child has epilepsy and has been undergoing anticonvulsive therapy for more than six months.	B.1 in spite of medication, the child has more than one partial seizure a week.
A.2 the child has Tourette's disorder.	B.2 in spite of medication, the child has more than one episode of generalized seizures every two months.

A.3 the child has suffered a craniocerebral injury resulting in a coma.	B.3 in spite of medication, the child has persistent tics that significantly affect the activities of daily living. B.4 the side effects of the medication significantly affect the activities of daily living. B.5 the child cannot attend a day care centre or school without being accompanied.

Assessment methods

The diagnosis of nervous system impairments must be confirmed by a description of the objective abnormalities detected by a physical examination, analysis of diagnostic specimens, medical imaging or electrophysiology.

In the case of Tourette's disorder, the expert's report must describe the tics observed, stating at what age they began and how often they occur. A psychiatric assessment must be attached to the report.

Specific rules

Where a central nervous system dysfunction is the supposed cause of a cognitive, behavioural or communication disorder, or of dislexia, the provisions of Tables 2.1 to 2.5 on developmental disabilities apply.

Where the nervous system impairment is characterized by psychomotor retardation, the provisions of Table 2.1 on psychomotor retardation apply.

Where the nervous system impairment involves mainly motor skills, the provisions of Table 1.3 on impairments of the musculoskeletal system apply.

1.7 Nutrition and digestion

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(*a*) the child is fed by naso-gastric hyperalimentation;

(*b*) the child has a gluten-free diet;

(*c*) the child has a colostomy or ileostomy;

(*d*) the child has congenital anal imperforation and is two years of age or less;

(*e*) one of the cases in A and one of the cases in B below both apply to the child:

A Cases	B Cases
A.1 the child has a malformation or disease of the digestive tract.	B.1 the child's diet imposes substantial constraints on the child's family.
A.2 the child has oropharyngeal dyspraxia.	B.2 deglutition and mastication functions are such that the child requires the services of an occupational or speech therapist.
A.3 the child has an inflammatory intestinal disease.	B.3 the child's illness is not controlled by medication and the child has digestive problems, a deteriorated general condition or symptomatic anemia that restricts the activities of daily living for more than three months a year. B.4 the total period of hospitalization because of the inflammatory intestinal disease and its complications is more than one month a year. B.5 the child must go to a health care facility or a doctor more that ten times a year because of decompensation due to the inflammatory intestinal disease, extradigestive manifestations, endoscopy, biological tests and therapeutic adjustments.

Assessment methods

The diagnosis of an impairment related to nutrition must be confirmed, as the case may be, by a report from the occupational therapist or the speech therapist, by dated results of the abnormal biological tests, by the attending physician's notes on its course, hospitalization dates and the height and weight graph.

Exclusion

A child who has lactose intolerance or cow's milk protein intolerance is not presumed to be handicapped.

1.8 Renal and urinary functions

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(*a*) the child has a chronic renal insufficiency and is undergoing dialysis;

(*b*) the child uses a urinary catheter daily;

(*c*) the child has had a vesicostomy or a urethrostomy;

(*d*) the child is five years of age or older and diurnal incontinence requires daily care and sanitary products.

Exclusion

A child receiving prophylactic antibiotic therapy because of vesicourethral reflux is not presumed to be handicapped.

1.9 Metabolic or hereditary abnormalities

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(*a*) the child has a hemoglobinopathy of type SC, SS or Sß thalassemia with sickle cell anemia and is less than seven years of age;

(*b*) the child has a phenylalanine-reduced diet due to phenylketonuria and is less than seven years of age;

(*c*) the child has mucopolysaccharidosis of the Hunter or Hurler type;

(*d*) the child has Gaucher's disease, infantile form;

(*e*) the child has galactosemia;

(*f*) the child has tyrosinemia;

(*g*) the child has maple sugar urine disease;

(*h*) the child has lactic acidosis;

(*i*) the child has cystic fibrosis and pulmonary and digestive complications and is under continuous treatment with enzymes;

(*j*) the child is a hemophiliac with Factor VIII or IX activity of less than 1%;

(*k*) the child receives daily insulin therapy;

(*l*) one of the cases in A and one of the cases in B below both apply to the child:

A Cases	B Cases
A.1 the child has a metabolic illness resulting in an essential metabolite deficiency.	B.1 the child could experience severe decompensation after fasting for a few hours, with a fever or benign infection, a condition which requires specific care under medical supervision.
A.2 the child has a metabolic illness resulting in an accumulation of toxic metabolites.	B.2 the child must consume proteins, lipids or glucides of a specific type or in closely supervised portions, which prevents the child from consuming the same food as the child's family.
A.3 the child has a metabolic illness resulting in an insufficient energy production.	B.3 the child requires at least every month a medical or paramedical follow-up because of the illness, decompensations or to prevent the child's development from being affected.
	B.4 the child's fatigability restricts the activities of daily living.

Exclusion

A child who has a metabolic abnormality that is compensated by medication, vitamin therapy, food supplements or by excluding a food is not presumed to be handicapped.

Specific rules

Where the metabolic or genetic impairment causes psychomotor retardation, the provisions of Table 2.1 on psychomotor retardation apply.

1.10 Immune system abnormalities and neoplasia

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(*a*) the child is receiving chemotherapy or radiation therapy for leukemia or cancer;

(*b*) the child has AIDS and the condition imposes substantial constraints on the child's family;

(*c*) the child is undergoing immunosuppressive treatment for an autoimmune disease or following an organ transplant;

(*d*) the child has multiple food allergies to at least three different food groups consumed daily and the severity of the allergic reactions requires that emergency treatment be constantly available.

Assessment methods

The diagnosis must be confirmed by information on the type of tumour, the stage of the disease and the abnormal biological test reports.

For allergies, the medical report must describe any previous allergic reactions and include the allergy test results.

Exclusions

A child who is allergic to one food only, to pollens or to animals is not presumed to be handicapped.

A child whose tumour has been totally removed by surgery without any sequelae is not presumed to be handicapped.

1.11 Congenital malformations and chromosomal abnormalities

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(*a*) until the child is two years of age, if born with a complete unilateral or bilateral cleft lip and palate;

(*b*) the child has a trisomy involving the autosomes without mosaicism;

(*c*) the child has a monosomy involving the autosomes without mosaicism.

Assessment methods

The diagnosis must be confirmed by a description of the malformation. In the case of a syndrome in which the malformation or its degree varies from one subject to another, the child's abnormalities and functional limitations must be specified in the expert's report.

In the case of the chromosomal abnormalities referred to above, the karyotype analysis is sufficient.

Exclusion

A child who has a fissure of the soft palate or a cleft lip with an alveolar notch is not presumed to be handicapped.

2. DEVELOPMENTAL DISABILITIES

2.1 Psychomotor retardation

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 if one of the cases in A and one of the cases in B below both apply to the child:

A Cases	B Cases
A.1 the child has a delay in most areas of development which requires a specialized stimulation program.	B.1 the child is less than two years of age and the skills in at least two areas of development are the same as those acquired by a child half the child's age, based on the mean age of skill acquisition.
A.2 the child has a delay in most areas of development which imposes substantial constraints on the child's family.	B.2 the child is two to five years of age and the child's developmental quotient, assessed by an expert in accordance with a recognized development scale, in particular that of Bayley, Griffiths or Gesell, is less than 70.
	B.3 the child is two to five years of age and the child's developmental quotient, assessed by a standardized psychometric test, in particular that of Leiter, Brigance or the WPPSI, is less than 70, for a confidence interval of 90%.

Assessment methods

The diagnosis of psychomotor retardation must be confirmed by an assessment of skills acquired by the child in the main areas of development, namely motor skills, autonomy, communication, language and social interaction. The mean age of skill acquisition in those areas of development is the age given in

— WEBER, M.L., Dictionnaire de thérapeutique pédiatrique. Montréal/Paris: Les Presses de l'Université de Montréal/Doin éditeurs, 1995, and thereafter the most recent edition; or

— NELSON, W.E., BEHRMAN, R.E., KLIEGMAN, R.M. and ARVIN, A.M., Nelson Textbook of Pediatrics. 15th Edition, Philadelphia, W.B. Saunders Company, 1996, and thereafter the most recent edition.

The expert's report must enable the child's developmental age to be determined or the child to be ranked within intragroup norms.

The developmental quotient is determined by multiplying the ratio of developmental age over chronological age by 100.

2.2 Mental retardation

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(*a*) the child is more than five years of age and has a global IQ of 50 or less, for a confidence interval of 90%;

(*b*) one of the cases in A and one of the cases in B below both apply to the child:

A Cases	B Cases
A.1 the child is more than five years of age and the psychometric assessment shows, for a confidence interval of 90%, a global IQ equal to or less than 70.	B.1 the assessment of the child's adaptive skills using a recognized scale, in particular the Échelle québécoise des comportements adaptatifs (ÉQCA) [Maurice, P. et al. (1997, and thereafter the most recent edition). Manuel technique (97,0). Montréal: UQAM, Département de psychologie], or the Vineland scale, shows a standard deviation of two or more below the average.
A.2 the child is more than five years of age and the psychometric assessment shows, for a confidence interval of 90%, a percentile rank of two or less.	B.2 the child has an impairment in at least two of the following areas of adaptive functioning: communication, personal care, domestic skills, social skills, use of community resources, autonomy, functional academic abilities, leisure activities, work, health and security.
A.3 the child is more than five years of age and the psychometric assessment shows a standard deviation of two or more below the average.	B.3 the child's behavioural, emotional and social problems described by the expert markedly restrict the activities of daily living or impose substantial constraints on the child's family. B.4 the child is twelve years of age or less and school achievement is less than that of a child who is less than two-thirds the child's age.

Assessment methods

The diagnosis of mental retardation must be confirmed by standardized psychometric tests done in the year preceding the application and, especially in borderline cases, in accordance with a recognized adaptive behaviour assessment scale, in particular the Échelle québécoise des comportements adaptatifs (ÉQCA) [Maurice, P. et al. (1997, and thereafter the most recent edition). Manuel technique (97,0). Montréal: UQAM, Département de psychologie], or the Vineland scale.

Exclusion

A child described as "with handicaps or learning or adjustment difficulties" according to the criteria of the Ministère de l'Éducation, du Loisir et du Sport is not presumed to be handicapped, unless an assessment shows that the child meets the conditions of this Regulation. The criteria are given in: Ministère de l'Éducation, Élèves handicapés ou élèves en difficulté d'adaptation ou d'apprentissage (EHDAA): Définitions, 2000, and thereafter the most recent edition.

2.3 Pervasive development disorders

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(*a*) the child cannot attend a day care centre or school without being accompanied;

(*b*) the child attends a psychiatric centre during the day;

(*c*) care and tutoring at home impose substantial constraints on the child's family because of the disorder.

Assessment methods

The diagnosis of a pervasive development disorder must be confirmed by a psychiatric or multidisciplinary assessment that refers to the diagnostic criteria in the Diagnostic and Statistical Manual of Mental Disorders: DSM-IV published by the American Psychiatric Association, 4th Edition 1994, and thereafter the most recent edition.

2.4 Language disorders

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(*a*) the child is less than five years of age and language skills are those of a child less than half the child's age;

(*b*) the child is more than three years of age and does not speak;

(*c*) the child is more than six years of age and the child's speech is usually unintelligible to an adult who is not familiar with the child;

(*d*) the child obtained in the previous year, on standardized assessment tests for phonetic, semantic, morphosyntactic and pragmatic aspects, a result below the 2nd percentile and no result above the 10th percentile with respect to comprehension and expression;

(*e*) the child has a verbal IQ of less than 70, for a confidence interval of 90%;

(*f*) assessment of the child's adaptive skills using a recognized scale, in particular the Échelle québécoise des comportements adaptatifs (ÉQCA) [Maurice, P. et al. (1997, and thereafter the most recent edition). Manuel technique (97,0). Montréal: UQAM, Département de psychologie], or the Vineland scale, shows a standard deviation of two or more below the average in the areas of communication and socialization;

(*g*) the child is twelve years of age or less and the language disorder hinders the child's learning in school, which is less than that of a child who is less than two-thirds the child's age.

Assessment methods

The language disorder must be confirmed by standardized tests specific to language. The results must rank the child in relation to the child's group and the confidence interval must be stated. Where the tests cannot be used, the assessment report must describe the skills acquired and the deviation noted in the acquisition of the language code and give concrete examples of the use of language in the child's activities of daily living.

The assessment must show that the language disorder is not a result of a hearing impairment, intellectual disability or a pervasive development disorder. The results of the audiogram and of the intellectual and behavioural assessment must be reported.

If the language disorder is associated with a hearing impairment, an intellectual disability or a pervasive development disorder, the provisions of Table 1.2 on hearing, Table 2.2 on mental retardation or Table 2.3 on pervasive development disorders apply.

A neurological assessment that does not show an abnormality at the somatic examination or a lesion visible through medical imaging or electrophysiology is not taken into account in the determination of the extent of the handicap caused by the language disorder.

Exclusions

A child less than six years of age who has not had a multidisciplinary cognitive assessment, in particular as regards the acquisition of symbolic thought, verbal and non-verbal skills and the integrity of sensorial functions, is not presumed to be handicapped because of a specific language disorder.

A child six years of age or older who has not had an assessment of verbal and non-verbal aptitudes through standardized psychometric tests selected or adapted to language problems is not presumed to be handicapped because of a specific language disorder.

2.5 Behavioural disorders

Presumed cases of serious handicap

A child is presumed to be handicapped within the meaning of section 1029.8.61.19R1 in the following cases:

(*a*) the child has had psychotherapy at least every month for at least six months and the therapist considers that it should continue at a monthly rate for a total duration of at least one year;

(*b*) the child cannot attend a day care centre or school without being accompanied.

Assessment methods

The behavioural disorder must be confirmed by a psychiatric assessment that describes the nature and the seriousness of the disorder and its consequences on the child's family and in the school and social environment. The description must be sufficiently detailed to enable the Régie des rentes du Québec to assess the seriousness of the condition. The report must include the therapist's recommendations.

Exclusion

A child who has an attention deficit disorder, with or without hyperactivity, and is treated solely through medication is not presumed to be handicapped.

O.C. 1249-2005, a. 63; Erratum, 2006 G.O. 2, 963; D. 300-2006, s. 1; O.C. 1149-2006, s. 83.

"**SCHEDULE B**
(*ss. 130R3, 130R6, 130R7, 130R8, 130R9, 130R10, 130R12, 130R13, 130R14, 130R15, 130R16, 130R17, 130R18, 130R22, 130R34, 130R49, 130R103, 130R119, 130R120, 130R122, 130R123, 130R124, 130R135, 130R138, 130R142, 130R147, 130R150, 130R155, 130R156, 130R158, 130R159, 130R161, 130R162, 130R175, 130R184, 130R196, 130R197, 130R200, 130R203, 130R207, 130R208, 130.1R2, 1086R98*)

"CLASSES OF PROPERTY

"**CLASS 1**
(4%)
(*ss. 130R3, 130R22, 130R71, 130R77, 130R88, 130R105, 130R128, 130R131, 130R179, 130R180*)

Property, not included in any other class, that is

(*a*) a bridge;

(*b*) a canal;

(*c*) a culvert;

(*d*) a dam;

(*e*) a jetty acquired before 26 May 1976;

(*f*) a mole acquired before 26 May 1976;

(*g*) a road, sidewalk, aeroplane runway, parking area, storage area or similar surface construction, acquired before 26 May 1976;

(*h*) railway track and grading, including components such as rails, ballast, ties and other track material

i. that is not part of a railway system, or

ii. that was acquired after 25 May 1976;

(*i*) railway traffic control or signalling equipment acquired after 25 May 1976, including switching, block signalling, interlocking, crossing protection, detection, speed control or retarding equipment, but not including property that is principally electronic equipment or systems software therefor;

(*j*) a subway or tunnel, acquired after 25 May 1976;

(*k*) electrical generating equipment, except as specified elsewhere in this schedule;

(*l*) a pipeline, other than

i. a pipeline that is gas or oil well equipment, and

ii. a pipeline that is for oil or natural gas if the Minister is or has been satisfied that the main source of supply for the pipeline is or was likely to be exhausted within 15 years after the date on which the operation of the pipeline commenced;

(*m*) the generating or distributing equipment and plant, including structures, of a producer or distributor of electrical energy;

(*n*) manufacturing and distributing equipment and plant, including structures, acquired primarily for the production or distribution of gas, other than

i. a property acquired for the purpose of producing or distributing gas that is normally distributed in portable containers,

ii. a property acquired for the purpose of processing natural gas, before the delivery of such gas to a distribution system, and

iii. a property acquired for the purpose of producing oxygen or nitrogen;

(*o*) the distributing equipment and plant, including structures, of a distributor of water;

(*p*) the production and distributing equipment and plant, including structures, of a distributor of heat; or

(*q*) a building or other structure, or a part of it, including any component parts such as electric wiring, plumbing, sprinkler systems, air-conditioning equipment, heating equipment, lighting fixtures, elevators and escalators, except property described

i. in any of paragraphs *k* and *m* to *p*, or

ii. in any of paragraphs *a* to *e* of Class 8.

O.C. 1981-80, Sch. B, Class 1; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 1; O.C. 1697-92, s. 63; O.C. 1631-96, s. 61; O.C. 1454-99, s. 63; O.C. 1149-2006, s. 73; O.C. 1116-2007, s. 52.

"**CLASS 2**
(6%)
(*ss. 130R3, 130R22, 130R128, 130R129, 130R187*)

Property that is

(*a*) electrical generating equipment except as specified elsewhere in this schedule;

(*b*) a pipe-line, other than gas or oil well equipment, unless, in the case of a pipeline for oil or natural gas, the Minister is or has been satisfied that the main source of supply for the

pipeline will be or is likely to be exhausted within 15 years from the date on which operation of the pipeline commenced;

(*c*) the generating and distributing equipment and plant, including structures, of a producer or distributor of electrical energy, except property included in any of Classes 10, 13, 14, 26 and 28;

(*d*) manufacturing and distributing equipment and plant, including structures, acquired primarily for the production or distribution of gas, other than

i. a property included in any of Classes 10, 13 and 14,

ii. a property acquired for the purpose of processing or distributing gas that is normally distributed in portable containers,

iii. a property acquired for the purpose of processing natural gas before delivery to a distribution system, and

iv. a property acquired for the purposes of producing oxygen or nitrogen;

(*e*) the distributing equipment and general plant, including structures, of a distributor of water, except property included in any of Classes 10, 13 and 14; or

(*f*) the production and distributing equipment and general plant, including structures, of a distributor of heat, except a property included in any of Classes 10, 13 and 14.

The property in this class includes only property acquired by the taxpayer

(*a*) before 1 January 1988; or

(*b*) before 1 January 1990

i. pursuant to an obligation in writing entered into by the taxpayer before 18 June 1987,

ii. that was under construction by or on behalf of the taxpayer on 18 June 1987, or

iii. that is machinery or equipment that is a fixed and integral part of a building, structure, plant facility or other property that was under construction by or on behalf of the taxpayer on 18 June 1987.

O.C. 1981-80, Sch. B, Class 2; O.C. 1983-80, s. 43; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 2; O.C. 544-86, s. 19; O.C. 1076-88, s. 33; O.C. 1697-92, s. 64.

"**CLASS 3**
(5%)
(*ss. 130R22, 130R61, 130R71, 130R87, 130R88, 130R105, 130R128, 130R131, 130R152, 130R181, 130R182*)

Property not included in any other class, that is

(*a*) a building or other structure, or part thereof, including component parts such as electric wiring, plumbing, sprinkler systems, air-conditioning equipment, heating equipment, lighting fixtures, elevators and escalators acquired by the taxpayer

i. before 1 January 1988, or

ii. before 1 January 1990

(1) pursuant to an obligation in writing entered into by the taxpayer before 18 June 1987,

(2) that was under construction by or on behalf of the taxpayer on 18 June 1987, or

(3) that is a component part of a building that was under construction by or on behalf of the taxpayer on 18 June 1987;

(*b*) a breakwater other than a wooden breakwater;

(*c*) a dock;

(*d*) a trestle;

(*e*) a windmill;

(*f*) a wharf;

(*g*) an addition or alteration made after 31 March 1967 but before 1 January 1988, to a building that would have been included in this class during that period if it had not been included in Class 20;

(*h*) a jetty acquired after 25 May 1976;

(*i*) a mole acquired after 25 May 1976;

(*j*) telephone, telegraph or data communication equipment, acquired after 25 May 1976, that is a wire or cable;

(*k*) an addition or alteration, other than an addition or alteration described in paragraph *k* of Class 6, made after 31 December 1987, to a building included, in whole or in part, in this class, in Class 6 by virtue of subparagraph i of paragraph *a* thereof, or in Class 20, to the extent that the aggregate cost of all such additions or alterations to the building does not exceed the lesser of

i. $500,000, or

ii. 25% of the aggregate of the amounts that would, but for this paragraph, be the capital cost of the building and any additions or alterations thereto included in this class or Class 6 or 20; or

(*l*) supporting equipment for a wire or cable referred to in paragraph *j* or in Class 42, such as a pole, mast, tower, conduit, brace, crossarm, guy or insulator.

O.C. 1981-80, Sch. B, Class 3; O.C. 1983-80, s. 44; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 3; O.C. 1697-92, s. 65; O.C. 1631-96, s. 42.

"**CLASS 4**
(6%)
(*ss. 130R3, 130R22, 130R128, 130R129, 130R147*)

Property that would otherwise be included in another class in this schedule, that is

(*a*) a railway system or a part thereof, except automotive equipment not designed to run on rails or tracks, that was acquired after the end of the taxpayer's 1958 taxation year and before 26 May 1976; or

(*b*) a tramway or trolley bus system or a part thereof, except property included in any of Classes 10, 13 and 14.

O.C. 1981-80, Sch. B, Class 4; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 4.

"**CLASS 5**
(10%)
(*ss. 130R22, 130R128*)

A property that is included in Class 5 in Schedule II of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

O.C. 1981-80, Sch. B, Class 5; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 5; O.C. 35-96, s. 86.

"**CLASS 6**
(10%)
(*ss. 130R22, 130R61, 130R71, 130R87, 130R88, 130R105, 130R128, 130R131, 130R152*)

Property, not included in any other class, that is

(*a*) a building of frame, log, stucco on frame, galvanized iron or corrugated metal, including component parts such as electric wiring, plumbing, sprinkler systems, air-conditioning equipment, heating equipment, lighting fixtures, elevators and escalators, if the building

i. was acquired by the taxpayer before 1979 and is not described in subparagraph ii or iii,

ii. is used by the taxpayer for the purpose of gaining or producing income from farming or fishing,

iii. has no footings or other base support below ground level, or

iv. was acquired by the taxpayer after 1978 and the installation of footings or any other base support begun before 1979, where the taxpayer was committed to acquiring it under a written agreement entered into before 1979, where the taxpayer commenced construction before 1979 or where construction was commenced under a written agreement entered into by the taxpayer before 1979;

(*b*) a wooden breakwater;

(*c*) a fence;

(*d*) a greenhouse;

(*e*) an oil or water storage tank;

(*f*) a railway tank car acquired before 26 May 1976;

(*g*) a wooden wharf;

(*h*) an aeroplane hangar acquired after the end of the taxpayer's 1958 taxation year;

(*i*) an addition or alteration made after 31 March 1967 but before 1979 to a building that would have been included in that class during that period if it had not been included in Class 20, or an addition or alteration made after 1978 that the taxpayer was required to make to such building under a written agreement entered into before 1979;

(*j*) a railway locomotive acquired after 25 May 1976, but not including an automobile railway car; or

(*k*) an addition or alteration made after 1978 to a building included in this class under subparagraph i of paragraph *a*, to the extent that the aggregate cost of such additions or alterations does not exceed $100,000.

O.C. 1981-80, Sch. B, Class 6; O.C. 1983-80, s. 45; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 6; O.C. 1631-96, s. 43.

"**CLASS 7**
(15%)
(*ss. 130R22, 130R128, 130R164, 130R166*)

Property that is

(*a*) a canoe or rowboat;

(*b*) a scow;

(*c*) a vessel, but not including a vessel of a separate class prescribed by section 130R165 or included in Class 41;

(*d*) furniture, fittings and equipment attached to a property included in this class, but not including radiocommunication equipment;

(*e*) a spare engine for a property included in this class;

(*f*) a marine railway;

(*g*) a vessel under construction, other than a vessel included in Class 41;

(h) subject to an election made under section 130R133, property acquired after 27 February 2000 that is a rail suspension device designed to carry trailers that are designed to be hauled on both highways and railway tracks, or a railway car;

(*i*) a railway locomotive acquired after 27 February 2000, but not including an automobile railway car; or

(*j*) pumping or compression equipment, including equipment ancillary to pumping and compression equipment, acquired after 22 February 2005 if the equipment pumps or compresses petroleum, natural gas or a related hydrocarbon for the purpose of moving it

i. through a transmission pipeline,

ii. from a transmission pipeline to a storage facility, or

iii. from a storage facility to a transmission pipeline.

O.C. 1981-80, Sch. B, Class 7; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 7; O.C. 1697-92, s. 66; O.C. 1149-2006, s. 74; O.C. 1116-2007, s. 53.

"**CLASS 8**
(20%)
(*ss. 130R3, 130R22, 130R61, 130R71, 130R105, 130R128, 130R130, 130R152, 130R191, 130R198*)

Property not included in any of Classes 1, 2, 7, 9, 11, 17 and 30 that is

(*a*) a structure that is manufacturing or processing machinery or equipment;

(*b*) tangible property attached to a building and acquired solely for the purpose of

i. servicing, supporting or providing access to or egress from, machinery or equipment,

ii. manufacturing or processing, or

iii. any combination of the purposes prescribed in subparagraphs i and ii;

(*c*) a building that is a kiln, tank or vat, acquired for the purposes of manufacturing or processing;

(*d*) a building or other structure acquired after 19 February 1973 that is designed for preserving ensilage on a farm;

(*e*) a building or other structure acquired after 19 February 1973 that is designed to store fresh fruit or fresh vegetables at a controlled level of temperature and humidity and to be used principally for such storages by or for the person by whom they were grown;

(*f*) electrical generating equipment acquired after 25 May 1976 if

i. the taxpayer is not a person whose business is the production for the use of or distribution to others of electrical energy,

ii. the equipment is auxiliary to the taxpayer's main power supply, and

iii. the equipment is not used regularly as a source of supply;

(*g*) electrical generating equipment, acquired after 25 May 1976, that has a maximum load capacity of not more than 15 kilowatts;

(*h*) portable electrical generating equipment acquired after 25 May 1976;

(*i*) property not included in any other class that is radio-communication equipment acquired after 25 May 1976;

(*j*) a corporeal capital asset that is not included in another class in this schedule other than

i. an animal,

ii. a tree, shrub, herb or similar growing thing,

iii. an oil or gas well,

iv. a mine,

v. radium,

vi. a right of way,

vii. a timber limit,

viii. a tramway track,

ix. land or any interest therein,

x. property of a separate class prescribed by section 130R165, and

xi. a specified temporary access road of the taxpayer;

(*k*) a rapid transit car that is used for the purpose of public transportation within a metropolitan area and is not part of a railway system;

(*l*) an outdoor advertising poster panel or bulletin board; or

(*m*) a greenhouse constructed of a rigid frame and a replaceable, flexible plastic cover.

O.C. 1981-80, Sch. B, Class 8; O.C. 1535-81, s. 19; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 8; O.C. 421-88, s. 40; O.C. 1697-92, s. 67; O.C. 1631-96, s. 44; O.C. 1454-99, s. 64; O.C. 1470-2002, s. 84; O.C. 1249-2005, s. 60; O.C. 1149-2006, s. 75.

"**CLASS 8.1**
(33 1/3%)
(*s. 130R22*)

Property acquired after 21 April 2005 that would otherwise be included in Class 8 and that is a drawing, a print, an etching, a sculpture, a painting or other similar work of art of which the artist was a Canadian, within the meaning of the second paragraph of section 130R205, at the time the property was created.

O.C. 1149-2006, s. 76.

"**CLASS 9**
(25%)
(*ss. 130R22, 130R128*)

Property acquired before 26 May 1976, other than property included in Class 30, that is

(*a*) electrical generating equipment,

i. if the taxpayer is not a person whose business is the production for the use of or distribution to others of electrical energy,

ii. if the equipment is auxiliary to the taxpayer's main power supply, and

iii. if the equipment is not used regularly as a source of supply;

(*b*) radar equipment;

(*c*) radio transmission equipment;

(*d*) radio receiving equipment;

(*e*) electrical generating equipment that has a maximum load capacity of not more than 15 kilowatts; or

(*f*) portable electric generating equipment.

Property acquired after 25 May 1976, that is

(*a*) an aircraft;

(*b*) furniture, fittings or equipment attached to an aircraft; or

(*c*) a spare part for property referred to in subparagraph *a* or *b*.

O.C. 1981-80, Sch. B, Class 9; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 9; O.C. 1454-99, s. 65.

"**CLASS 10**
(30%)
(*ss. 101.8R1, 130R3, 130R6, 130R8, 130R22, 130R71, 130R93, 130R105, 130R109, 130R112, 130R113, 130R114, 130R115, 130R120, 130R121, 130R128, 130R141, 130R143, 130R146, 130R174, 130R189, 130R190, 130R198, 360R2, 360R49, 360R54, 360R55, 360R56, 776.50R1*)

Property, not included in any other class, that is

(*a*) automotive equipment, including a trolley bus, but not including an automotive railway car acquired after 25 May 1976, a tramcar or a railway locomotive;

(*b*) harness or stable equipment;

(*c*) a sleigh;

(*d*) a trailer, including a trailer designed to be hauled on both highways and railway tracks;

(*e*) a wagon;

(*f*) a portable tool acquired after 25 May 1976, for the purpose of earning rental income for short terms, such as hourly, daily, weekly or monthly, but not including a property described in Class 12;

(*g*) general-purpose electronic data processing equipment and systems software for that equipment, including ancillary data processing equipment, acquired after 25 May 1976 and before 23 March 2004, or after 22 March 2004 and before 1 January 2005 if an election in respect of the property is made under section 130R198, but not including property that is principally property described in any of subparagraphs i to iv or is used principally as

i. electronic process control or monitor equipment,

ii. electronic communications control equipment,

iii. systems software for equipment referred to in subparagraph i or ii, or

iv. data handling equipment unless it is ancillary to general-purpose electronic data processing equipment;

(*h*) designated expenses of underground storage; or

(*i*) an unmanned communication spacecraft designed to orbit above the earth.

Property, other than property included in Class 41 or property included in Class 43 and described in paragraph *b* of that

class, that would otherwise be included in another class and that is

(*a*) a building or other structure, other than property described in subparagraph *f* or *m*, that would otherwise be included in any of Classes 1, 3 and 6 and that was acquired for the purpose of gaining or producing income from a mine, except

i. a property included in Class 28,

ii. a property acquired principally for the purpose of gaining or producing income from the processing of mineral ores from a mineral resource that is not owned by the taxpayer,

iii. an office building not situated on the mine property, and

iv. a metal refinery that was acquired by the taxpayer before 8 November 1969, or after 7 November 1969 and that had been used before 8 November 1969 by any person with whom the taxpayer was not dealing at arm's length;

(*b*) contractor's movable equipment, including portable camp buildings, acquired for use in a construction business or for lease to another taxpayer for use in the taxpayer's construction business, other than property included in this class under subparagraph *n*, in a separate class in accordance with section 130R166 or in Class 22 or 38;

(*c*) a floor of a roller skating rink;

(*d*) gas or oil well equipment;

(*e*) property acquired for the purpose of gaining or producing income from a mine and that is a structure that would otherwise be included in Class 8 or machinery or equipment, other than

i. a property included in Class 28,

ii. a property described in subparagraph *f* or *m*, and

iii. a property acquired before 9 May 1972 for the purpose of gaining or producing income from the processing of mineral ores from a mineral resource that is not owned by the taxpayer;

(*f*) property acquired after the 1971 taxation year, other than property included in Class 28 or a railway not situated on the mine property, for the purpose of gaining or producing income from a mine and providing services to the mine or to a community where a substantial proportion of the persons who ordinarily work at the mine reside, if such property is any of the following:

i. an airport, dam, dock, fire hall, hospital, house, natural gas pipeline, power line, recreational facility, school, sewage disposal plant, sewer, street lighting system, town hall, water pipeline, water pumping station, water system, wharf or similar property,

ii. a road, sidewalk, aeroplane runway, parking area, storage area or similar surface construction, or

iii. any machinery or equipment ancillary to any of the property described in subparagraph i or ii;

(*g*) property that was acquired for the purpose of cutting and removing merchantable timber from a timber limit and that will be of no further use to the taxpayer after all the merchantable timber that the taxpayer is entitled to cut and remove from the limit has been cut and removed, unless the taxpayer has elected to include another property of this kind in another class;

(*h*) mechanical equipment acquired for logging operations, but not including a property described in Class 7;

(*i*) access roads and trails for the protection of standing timber against fire, insects, and disease;

(*j*) property that was acquired for a motion picture drive-in theatre;

(*k*) property included in this class by virtue of sections 130R143 and 130R144, except a property included in Class 28;

(*l*) a motion picture film or video tape acquired after 25 May 1976, other than a property referred to in any of subparagraphs *q* to *s* or a property included in Class 12;

(*m*) property, other than property included in Class 28 or rolling stock, acquired after 31 March 1977 principally for the purpose of gaining or producing income from a mine, if such property is property hereinafter referred to

i. railway track and grading including components such as rails, ballast, ties and other material,

ii. property ancillary to railway track referred to in subparagraph i and that is a bridge, culvert, trestle, subway or tunnel, as well as railway traffic control or signalling equipment, including switching, block signalling, interlocking, crossing protection, speed control or retarding equipment,

iii. machinery or equipment ancillary to any of the property referred to in subparagraph i or ii, or

iv. conveying, loading, unloading, or storing machinery or equipment, including a structure acquired for the purposes of shipping output from the mine by means of a railway track referred to in subparagraph i;

(*n*) property acquired after 22 May 1979 that is designed principally to determine the existence of a mineral resource or the accumulation of oil or natural gas, to locate such resource or such accumulation or to determine the extent or quality of it, or to drill an oil or gas well, except property included in a separate class under section 130R166;

(*o*) property acquired after 1980 to be used principally in the processing in Canada of heavy crude oil extracted from a natural gas reservoir located in Canada to a stage not exceeding that of crude oil or the equivalent and that is

i. property that would be included in Class 8, except railway rolling stock and radio communication equipment acquired after 25 May 1976 and not included in any other class,

ii. a water or petroleum reservoir,

iii. an industrial freight elevator that would be included in subparagraph *a* of the first paragraph, or

iv. property that would be included in subparagraph *g* of the first paragraph;

(*p*) property acquired after 31 August 1984 that is equipment used for the purpose of effecting an interface between a cable distribution system and electronic products used by consumers of that system and that is designed primarily to

i. increase the number of channels of a television or radio receiver,

ii. decode pay television or other signals provided on a discretionary basis, or

iii. achieve any combination of the functions described in subparagraphs i and ii;

(*q*) a certified production acquired after 31 December 1987 and before 1 March 1996;

(*r*) a Québec film production;

(*s*) a Canadian film or video production.

O.C. 1981-80, Sch. B, Class 10; O.C. 1983-80, s. 46; O.C. 1535-81, s. 20; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 10; O.C. 2962-82, s. 88; O.C. 500-83, s. 88; O.C. 1666-90, s. 24; O.C. 1232-91, s. 29; O.C. 1114-92, s. 41; O.C. 1697-92, s. 68; O.C. 1539-93, s. 55; O.C. 35-96, s. 83; O.C. 1631-96, s. 45; O.C. 1282-2003, s. 94; O.C. 1249-2005, s. 61; O.C. 1149-2006, s. 77.

"**CLASS 10.1**
(30%)
(*ss. 130R22, 130R127, 130R186*)

Property that would otherwise be included in Class 10 that is a passenger vehicle, the cost of which to the taxpayer exceeds $20,000 or such other amount as may be prescribed for the purposes of paragraph *d*.3 of section 99 of the Act.

O.C. 1697-92, s. 69.

"**CLASS 11**
(35%)
(*ss. 130R22, 130R128*)

Property, not included in any other class, that is used to earn rental income and that is

(*a*) an electrical advertising sign owned by the manufacturer thereof, acquired before 26 May 1976; or

(*b*) an outdoor advertising poster panel or bulletin board acquired by the taxpayer

i. before 1 January 1988, or

ii. before 1 January 1990

(1) pursuant to an obligation in writing entered into by the taxpayer before 18 June 1987, or

(2) that was under construction by or on behalf of the taxpayer on 18 June 1987.

O.C. 1981-80, Sch. B, Class 11; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 11; O.C. 1697-92, s. 70.

"**CLASS 12**
(100%)
(*ss. 93.6R1, 130R3, 130R7, 130R10, 130R22, 130R71, 130R93, 130R106, 130R108, 130R109, 130R111, 130R112, 130R113, 130R115, 130R116, 130R120, 130R128, 130R151, 130R192, 130R193, 130R194, 156.2R1, 156.3R1*)

Property, not included in any other class, that is

(*a*) a book that is part of a lending library;

(*b*) chinaware, cutlery or other tableware;

(*c*) a kitchen utensil costing less than $100, if acquired before 26 May 1976, or less than $200, if acquired after 25 May 1976;

(*d*) a die, jug, pattern, mould or last;

(*e*) a medical or dental instrument costing less than $100, if acquired before 26 May 1976, or less than $200, if acquired after 25 May 1976;

(*f*) a mine shaft, mine haulage way or similar underground work, designed for continuing use, or any extension thereof, sunk or constructed after the mine came into production, to the extent that that property was acquired before 1 January 1988;

(*g*) linen;

(*h*) a tool costing less than $100, if acquired before 26 May 1976, or less than $200, if acquired after 25 May 1976;

(*i*) a uniform;

(*j*) the cutting or shaping part in a machine;

(*k*) apparel or costume, including accessories used therewith, used for the purpose of earning rental income therefrom;

(*l*) a video tape acquired before 26 May 1976;

(*m*) a motion picture film or video tape that is a television commercial message;

(*n*) a certified feature film or a certified production;

(*o*) computer software acquired after 25 May 1976, but not including system software, or a property acquired after 8 August 1989 but before 1 January 1993 that is described in the third paragraph;

(*p*) a metric scale or a scale designed for ready conversion to the metric system, acquired after 31 March 1977 and before 1984 for use in a retail business, and having a maximum load of 100 kilograms;

(*q*) the cost of removing overburden;

(*r*) a certified Québec film;

(*s*) a videotape cassette, a laser disc or a DVD acquired for the purpose of renting and that is not intended to be rented to any one person for more than seven days in any 30-day period; or

(*t*) an incorporeal property acquired by the taxpayer after 16 May 1989 and before 13 June 2003, or after 12 June 2003 and before 13 June 2004 if it is referred to in the sixth paragraph, in the course of a technology transfer that must begin to be used within a reasonable period following that acquisition and that must be used for at least the entire period covering the process of implementing the innovation or invention relative to that technology transfer, by the taxpayer and, where applicable, by any other person who, before the end of that period, acquired the property in any of the circumstances described in section 130R149, only in Québec and primarily in the course of carrying on a business.

Property acquired by the taxpayer after 12 May 1988 and before 13 June 2003, or after 12 June 2003 and before 13 June 2004 if it is referred to in the sixth paragraph, that is not referred to in the third paragraph and that consists of a property

(*a*) that, before that acquisition, was neither used for any purpose nor acquired to be used or leased for any purpose whatsoever;

(*b*) that would otherwise be included

i. in Class 10 under subparagraph *g* of the first paragraph of that class,

ii. in Class 39,

iii. in Class 40 in the case of a property described in subparagraph *g* of the first paragraph of Class 10,

iv. in Class 43, or

v. in Class 45; and

(*c*) that must begin to be used within a reasonable period following that acquisition and that must be, during a period of at least 730 consecutive days following the day on which that use begins or, in the case of the loss or involuntary destruction of the property by fire, theft or water or in the case of a major breakdown of the property, during a shorter period, used entirely in Québec and primarily in the carrying on a business by the following persons:

i. the taxpayer, in the portion of that period during which the taxpayer owns the property and does not lease that property to another person,

ii. a person, other than the taxpayer, having acquired the property in one of the circumstances described in section 130R149, in the portion of that period during which the person owns the property and does not lease that property to another person, or

iii. a lessee of the property, during any part of that period during which the taxpayer or, where applicable, a person referred to in subparagraph ii leases the property to the taxpayer.

Property that would otherwise be included in another class and that consists of a property

(*a*) that is acquired by the taxpayer between 8 August 1989 and 1 January 1993, for use in a business of selling goods or providing services to consumers that is carried on in Canada, or for lease to another taxpayer for use by that other taxpayer in such a business; and

(*b*) that is any of the following property:

i. electronic bar code scanning equipment designed to read bar codes applied to goods held for sale in the ordinary course of business,

ii. a cash register or similar sales recording device designed with the capability of computing and recording sales tax imposed by more than one jurisdiction in respect of the same sale,

iii. equipment or computer software that is designed to convert a cash register or similar sales recording device into a property described in subparagraph ii, or

iv. electronic equipment or computer software that is ancillary to property described in any of subparagraphs i to iii and all or substantially all the use of which is in conjunction with that property.

Property that would otherwise be included in another class that is acquired by the taxpayer after 14 March 2000 and before 13 June 2003, or after 12 June 2003 and before 13 June 2004 if it is referred to in the sixth paragraph, that is not property acquired pursuant to an obligation in writing entered into before 15 March 2000 or the construction of which, by or on behalf of the taxpayer, had begun by 14 March 2000, and that

(*a*) before being acquired by the taxpayer, has not been used, or acquired for use or lease, for any purpose whatever;

(*b*) is

i. coaxial cable that would otherwise be included in Class 3 pursuant to paragraph *j* of that class,

ii. fibre-optic cable that would otherwise be included in Class 42,

iii. electronic or optoelectronic equipment, other than switches, that is part of and connected to a network that consists of property described in subparagraph i or ii, or

iv. equipment, for a microwave station, that consists of any of the following property:

(1) a decoder,

(2) an encoder,

(3) a modulator,

(4) a demodulator,

(5) a regenerator, including a repeater,

(6) a multiplexer,

(7) a demultiplexer,

(8) an asymmetric-mode transmitter-receiver capable of a throughput of at least 44.7 megabits per second, or

(9) a symmetric-mode transmitter-receiver capable of a throughput of at least 51.8 megabits per second; and

(*c*) must begin to be used within a reasonable time after it is acquired by the taxpayer and is, during a period of at least 730 consecutive days following the beginning of the use or during a shorter period in the case of the loss or involuntary destruction of the property by fire, theft or water or a major breakdown of the property, to be used solely in a region described in the fifth paragraph and primarily in the carrying on of a business by

i. the taxpayer, in the portion of that period during which the taxpayer owns the property and does not lease that property to another person,

ii. a person, other than the taxpayer, having acquired the property in one of the circumstances described in section 130R149, in the portion of that period during which the person owns the property and does not lease that property to another person, or

iii. a lessee of the property, in the portion of that period during which the property is leased by the taxpayer or, as the case may be, a person referred to in subparagraph ii to the lessee.

The region to which subparagraph *c* of the fourth paragraph refers is any of the administrative regions of Québec that are established by Décret 2000-87 (1988, G.O. 2, 120), amended by Décrets 1399-88 (1988, G.O. 2, 5120), 1389-89 (1989, G.O. 2, 5069), 965-97 (1997, G.O. 2, 5538) and 1437-99 (2000, G.O. 2, 42), other than

(*a*) the administrative region of Montréal;

(*b*) the administrative region of Laval; and

(*c*) in the administrative region of Québec, Ville de Québec.

Property to which subparagraph *t* of the first paragraph and the second and fourth paragraphs refer is property acquired pursuant to an obligation in writing entered into before 13 June 2003 or the construction of which, by or on behalf of the taxpayer, had begun by that date.

Where property to which the second paragraph refers consists of general-purpose electronic data processing equipment referred to in subparagraph *b* of the second paragraph, where that property is acquired after 14 March 2000 and is installed in Québec, "used entirely in Québec and primarily in the carrying on a business" in subparagraph *c* of the second paragraph is to be replaced by "used primarily in Québec in the carrying on of a business".

O.C. 1981-80, Sch. B, Class 12; O.C. 1983-80, s. 47; O.C. 3211-81, s. 7; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 12; O.C. 2727-84, s. 29; O.C. 421-88, s. 41; O.C. 615-88, s. 41; O.C. 1697-92, s. 71; O.C. 1539-93, s. 56; O.C. 35-96, s. 84; O.C. 1631-96, s. 46; O.C. 1466-98, s. 127; O.C. 1463-2001, s. 155; O.C. 1470-2002, s. 85; O.C. 1155-2004, s. 78; O.C. 1249-2005, s. 62; O.C. 1149-2006, s. 78.

"**CLASS 13**
(*ss. 130R24, 130R32, 130R88, 130R119*)

Property that is a leasehold interest and property acquired by a taxpayer that, if it were acquired by a person with whom the taxpayer does not deal at arm's length at the time when the taxpayer acquires it, would be a leasehold interest of that person, other than

(*a*) an interest in minerals, petroleum, natural gas, other related hydrocarbons or timber and property relating thereto or in respect of a right to explore for, drill for, take, remove

or cut minerals, petroleum, natural gas, other related hydrocarbons or timber;

(*b*) the part of the leasehold interest that is included in another class by reason of section 130R33 or 130R34; and

(*c*) a property that is included in Class 23.

O.C. 1981-80, Sch. B, Class 13; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 13; O.C. 35-96, s. 86; O.C. 1631-96, s. 47.

"**CLASS 14**
(*ss. 130R3, 130R37, 130R38, 130R119*)

Property that is a patent, concession or licence for a limited period in respect of property but not including

(*a*) a concession or licence in respect of minerals, petroleum, natural gas, other related hydrocarbons or timber and property relating thereto, except a concession for distributing gas to consumers or a licence to export gas from Canada or from a province, or in respect of a right to explore for, drill for, take, remove or cut minerals, petroleum, natural gas, other related hydrocarbons or timber;

(*b*) a leasehold interest;

(*c*) a property that is included in Class 12, 23 or 44; or

(*d*) a licence to use computer software.

O.C. 1981-80, Sch. B, Class 14; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 14; O.C. 2583-85, s. 34; O.C. 1697-92, s. 72; O.C. 35-96, s. 86; O.C. 1631-96, s. 48.

"**CLASS 15**
(*ss. 130R40, 130R119*)

Property that would otherwise be included in another class in this schedule and that

(*a*) was acquired for the purposes of cutting and removing merchantable timber from a timber limit; and

(*b*) will be of no further use to the taxpayer after all the merchantable timber that the taxpayer is entitled to cut and remove from the limit has been cut and removed.

This class does not include a timber resource property or property that the taxpayer has, in the taxation year or a previous taxation year, elected not to include in this class.

O.C. 1981-80, Sch. B, Class 15; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 15; O.C. 1631-96, s. 49.

"**CLASS 16**
(40%)
(*ss. 130R22, 130R121*)

Property acquired before 26 May 1976 that is

(*a*) an aircraft;

(*b*) furniture, fittings or equipment attached to an aircraft; or

(*c*) a spare part for property referred to in subparagraph *a* or *b*.

Property acquired after 25 May 1976 that is a taxicab.

Property acquired after 12 November 1981 consisting of a motor vehicle acquired to be leased, for which the duration of the lease anticipated for a single lessee is not to exceed 30 days during a 12-month period and that would be an automobile within the meaning that would be assigned to that expression by section 1 of the Act, if the definition of that expression provided for in that section 1 were read without paragraph *c*.

Property acquired after 15 February 1984 consisting of a coin-operated video game or pinball machine.

Property acquired after 6 December 1991 consisting of a truck or tractor designed for hauling freight and primarily used for that purpose by the taxpayer, or by a person with whom the taxpayer does not deal at arm's length, in a business that includes hauling freight, and having a "gross vehicle weight rating", within the meaning of the Motor Vehicle Safety Regulations made under the Motor Vehicle Safety Act (Statutes of Canada, 1993, chapter 16), in excess of 11,788 kilograms.

O.C. 1981-80, Sch. B, Class 16; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 16; O.C. 2847-84, s. 13; O.C. 421-88, s. 42; O.C. 1697-92, s. 73; O.C. 1631-96, s. 50.

"**CLASS 17**
(8%)
(*ss. 130R3, 130R22, 130R129*)

Property that would otherwise be included in another class and that is

(*a*) a telephone system, telegraph system or a part of one of those systems, acquired before 26 May 1976, other than

i. radiocommunication equipment, and

ii. property included in any of Classes 10, 13, 14 or 28, or

(*b*) property, other than a building or structure, acquired after 27 February 2000 that has not been used for any purpose before 28 February 2000 and that is

i. electrical generating equipment, other than electrical generating equipment described in any of paragraphs *f* to *h* of Class 8 or in any of Classes 43.1, 43.2 and 48, or

ii. production and distribution equipment of a distributor of water or steam, other than such property described in Class 43.1 or 43.2, used for heating or cooling, including, for that purpose, pipe used to collect or distribute an energy transfer medium but not including equipment or pipe used to distribute water that is for consumption, disposal or treatment.

Property acquired after 25 May 1976 that is not included in another class and that is

(a) telephone, telegraph or data communication switching equipment, other than

i. equipment installed on customers' premises, and

ii. property that is principally electronic equipment or systems software therefor, or

(*b*) a road, other than a specified temporary access road acquired after 6 March 1996, sidewalk, airplane runway, parking area, storage area or similar surface construction.

O.C. 1981-80, Sch. B, Class 17; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 17; O.C. 1470-2002, s. 86; O.C. 1149-2006, s. 79; O.C. 1116-2007, s. 54.

"**CLASS 18**
(60%)
(*ss. 130R3, 130R22*)

Property that is a motion picture film acquired before 26 May 1976, other than a television commercial message or a certified feature film.

O.C. 1981-80, Sch. B, Class 18; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 18; O.C. 1631-96, s. 51.

"**CLASS 19**
(*s. 130R130*)

Property that is included in Class 19 in Schedule II of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

O.C. 1981-80, Sch. B, Class 19; R.R.Q., 1981, c. I-3, r. 1, Sch. B, Class 19; O.C. 35-96, s. 86.

"**CLASS 20**
(*ss. 130R71, 130R131*)

Property that is included in Class 20 in Schedule II of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

O.C. 1981-80, Sch. B, Class 20; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 20; O.C. 35-96, s. 86.

"**CLASS 21**
(*s. 130R130*)

Property that is included in Class 21 in Schedule II of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

O.C. 1981-80, Sch. B, Class 21; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 21; O.C. 35-96, s. 86.

"**CLASS 22**
(50%)
(*s. 130R22*)

Property not included in Class 7, consisting of power-operated movable equipment designed for the purpose of excavating, moving, placing or compacting earth, rock, concrete or asphalt, acquired by the taxpayer after 16 March 1964 and

(*a*) before 1 January 1988; or

(*b*) before 1 January 1990

i. pursuant to an obligation in writing entered into by the taxpayer before 18 June 1987, or

ii. that was under construction by on behalf of the taxpayer on 18 June 1987.

O.C. 1981-80, Sch. B, Class 22; O.C. 1983-80, s. 48; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 22; O.C. 1697-92, s. 74.

"**CLASS 23**
(100%)
(*ss. 130R22, 130R119*)

Property included in Class 23 in Schedule II of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

O.C. 1981-80, Sch. B, Class 23; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 23; O.C. 544-86, s. 20; O.C. 35-96, s. 86.

"**CLASS 24**
(*ss. 130R46, 130R119*)

Property that is

(*a*) property acquired after 26 April 1965 but before 1971 and described in paragraph *a* of Class 24 in Schedule II

of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(*b*) property acquired after 31 December 1970 and before 1 January 1999 that would otherwise be included in another class in this schedule and that

i. has not been included by the taxpayer in any other class,

ii. had not been used in any manner before it was acquired by the taxpayer, and

iii. was acquired by the taxpayer primarily for the purpose of preventing, reducing or eliminating pollution of any of the inland, coastal or boundary waters of Canada, or any lake, river, stream, watercourse, pond, swamp or well in Canada, that is caused, or that, if the property had not been acquired and used, would be caused by operations carried on by the taxpayer at a site in Canada, or by the operation in Canada of a building or plant by the taxpayer or by the operation of transportation or other movable equipment by the taxpayer in Canada, including any of the inland, coastal or boundary waters of Canada; or

(*c*) property acquired after 8 May 1972 and before 1 January 1999 that would otherwise have been property referred to in subparagraph *b* except that it was acquired

i. by a taxpayer whose business includes the preventing, reducing or eliminating of pollution of a kind referred to in subparagraph iii of subparagraph *b*, where such pollution is caused primarily or would otherwise be caused primarily by operations referred to in the said subparagraph iii and carried on by other taxpayers, other than persons referred to in sections 980 to 999 of the Act, if the property is to be used in that business for the purpose of preventing, reducing or eliminating such pollution, or

ii. by a corporation whose principal business is the purchasing of sales contracts, accounts receivable, obligations secured by movable hypothec, bills of exchange or other obligations representing all or part of the sale price of merchandise or services, the lending of money, or the leasing of property, or any combination thereof, where the property is to be leased to a taxpayer, other than a person referred to in sections 980 to 999 of the Act, to be used by the taxpayer in an operation referred to in subparagraph iii of subparagraph *b* for the purpose of preventing, reducing or eliminating pollution of a kind referred to in that subparagraph.

The property referred to in subparagraphs *b* and *c* of the first paragraph must, upon application by the taxpayer, have been recognized by the Minister or accepted by the Minister of the Environment of Canada as property the primary use of which is to be the preventing, reducing or eliminating pollution of a kind referred to in subparagraph iii of that subparagraph *b*.

For the purposes of the first and second paragraphs, the following rules apply:

(*a*) where, after 31 December 1973, there is an amalgamation, within the meaning of subsection 1 of section 544 of the Act, of two or more particular corporations to form a single corporate entity, that entity is deemed to be the same corporation as each of the particular corporations and to continue their corporate existence;

(*b*) where there is a winding-up, after 31 December 1973, of a corporation in circumstances where sections 556 to 564.1 and 565 of the Act apply to that corporation and to another corporation, the latter corporation is deemed to be the same corporation as the wound-up corporation and to continue its corporate existence; and

(*c*) this class is to be read with subparagraph i of subparagraph *b* of the first paragraph being disregarded, where subparagraph *a* or *b* applies to the taxpayer and the property is acquired before 1 January 1992.

O.C. 1981-80, Sch. B, Class 24; O.C. 1983-80, s. 49; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 24; O.C. 35-96, s. 86; O.C. 1631-96, s. 52; O.C. 1707-97, s. 98; O.C. 1466-98, s. 126; O.C. 1454-99, s. 66.

" **CLASS 25**
(100%)
(*s. 130R22*)

Property that would otherwise be included in another class and that was acquired by a taxpayer that was, on 22 October 1968, a corporation, commission or association in respect of which, supposing that 22 October 1968 were included in its 1969 taxation year, the first and second paragraphs of section 985 of the Act, as it read before being amended by section 229 of the Act to amend the Taxation Act and other legislative provisions (S.Q., 2000, c. 5), would have applied but for the third paragraph of that section.

Such property must have been acquired before 23 October 1968 or after 22 October 1968 and before 1 January 1974, where the acquisition of the property may reasonably be regarded as having been in fulfilment of an obligation undertaken in an agreement made in writing before 23 October 1968 and ratified, confirmed or adopted by Parliament, or the legislature of a province, other than Québec, by a statute that came into force before that date.

O.C. 1981-80, Sch. B, Class 25; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 25; O.C. 1660-94, s. 17; O.C. 1707-97, s. 98; O.C. 1454-99, s. 67; O.C. 1451-2000, s. 67.

" **CLASS 26**
(5%)
(*s. 130R22*)

Property that is deuterium enriched water, commonly called "heavy water" acquired after 22 May 1979, or a catalyst.

O.C. 1981-80, Sch. B, Class 26; O.C. 1983-80, s. 50; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 26.

"**CLASS 27**
(*ss. 130R46, 130R119*)

Property acquired before 1 January 1999 that would otherwise be included in another class in this schedule and that

(*a*) has not been included by the taxpayer in any other class;

(*b*) had not been used in any manner before it was acquired by the taxpayer; and

(*c*) was acquired after 12 March 1970 by the taxpayer primarily for the purpose of preventing, reducing or eliminating air pollution by removing particulate, toxic or injurious materials from smoke or gas, or preventing the discharge of part or all of the smoke, gas or other air pollutant, where such pollution is discharged or, if the property had not been acquired and used, would be discharged as a result of operations carried on by the taxpayer at a site in Canada, or by the operation in Canada of a building or plant by the taxpayer, or by the operation of transportation of other movable equipment by the taxpayer in Canada, including any of the inland, coastal or boundary waters of Canada;

Property that was acquired after 8 May 1972 and that would otherwise have been property referred to in the first paragraph except that it was acquired

(*a*) by a taxpayer whose business includes the preventing, reducing or eliminating of air pollution that is caused or that otherwise would be caused primarily by operations described in subparagraph *c* of the first paragraph and carried on by other taxpayers, other than persons referred to in section 980 to 999 of the Act, if the property is to be used in that business for the purpose of preventing, reducing or eliminating air pollution in a manner described in that subparagraph *c*, or

(*b*) by a corporation whose principal business is the purchasing of sales contracts, accounts receivable, obligations secured by movable hypothec, bills of exchange or other obligations representing all or part of the sale price of merchandise or services, the lending of money, or the leasing of property, or any combination thereof, where the property is to be leased to a taxpayer, other than a person referred to in sections 980 to 999 of the Act, to be used by the taxpayer in an operation referred to in subparagraph *c* of the first paragraph for the purpose of preventing, reducing or eliminating air pollution in a manner described in that subparagraph *c*.

The property referred to in the first and second paragraphs must, upon application by the taxpayer, have been recognized by the Minister or accepted by the Minister of the Environment of Canada as property the primary use of which is to be the preventing, reducing or eliminating of air pollution in the manner described in the paragraph *c* of the first paragraph.

For the purposes of the first, second and third paragraphs, the following rules apply:

(*a*) where, after 31 December 1973, there is an amalgamation, within the meaning of subsection 1 of section 544 of the Act, of two or more particular corporations to form a single corporate entity, that entity is deemed to be the same corporation as each of the particular corporations and to continue their corporate existence;

(*b*) where there is a winding-up, after 31 December 1973, of a corporation in circumstances where sections 556 to 564.1 and 565 of the Act apply to that corporation and to another corporation, the latter corporation is deemed to be the same corporation as the wound-up corporation and to continue its corporate existence; and

(*c*) this class is to be read with subparagraph *b* of the first paragraph being disregarded, where subparagraph *a* or *b* applies to the taxpayer and the property is acquired before 1 January 1992.

O.C. 1981-80, Sch. B, Class 27; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 27; O.C. 1631-96, s. 53; O.C. 1707-97, s. 98; O.C. 1466-98, s. 126; O.C. 1454-99, s. 68.

"**CLASS 28**
(30%)
(*ss. 130R3, 130R7, 130R8, 130R22, 130R66, 130R105, 130R169, 360R2, 360R55, 360R56*)

Property situated in Canada that would otherwise be included in another class and

(*a*) was acquired by the taxpayer principally for the purpose of gaining or producing income from one or more mines operated by the taxpayer and situated in Canada and each of which

i. came into production in reasonable commercial quantities after 7 November 1969, or

ii. was the subject of a major expansion after 7 November 1969 and

(1) by virtue of that expansion, the greatest designed capacity, measured according to the weight of input of ore, of the mill that processed the ore from the mine was, in the year following the expansion, not less than 25% greater than it was in the year preceding the expansion, or

(2) in a case where, in the year preceding the expansion, no mill processed the ore from the mine or the mill that processed that ore also processed other ore, the Minister of National Revenue, in consultation with the Minister of Natural Resources of Canada, determines that the greatest designed capacity of the mine immediately after the expansion, measured according to the weight of output of ore, exceeded that projected greatest capacity immediately before the expansion by at least 25%;

(*b*) was acquired by the taxpayer

i. after 7 November 1969,

ii. before the coming into production in reasonable commercial quantity of the mine or the completion of the expansion of the mine referred to in subparagraph i or ii of subparagraph *a* as the case may be, and

iii. in the case of a mine that was the subject of a major expansion described in subparagraph ii of subparagraph *a*, in the course of and principally for the purposes of the expansion;

(*c*) was acquired by the taxpayer

i. before 1 January 1988, or

ii. before 1 January 1990

(1) pursuant to an obligation in writing entered into by the taxpayer before 18 June 1987,

(2) that was under construction by or on behalf of the taxpayer on 18 June 1987, or

(3) that is machinery or equipment that is a fixed and integral part of a building, structure, plant facility or other property that was under construction by or on behalf of the taxpayer on 18 June 1987;

(*d*) had not, before it was acquired by the taxpayer, been used for any purpose whatever by any person with whom the taxpayer was not dealing at arm's length; and

(*e*) is any of the following:

i. property that was acquired before the mine came into production in reasonable commercial quantity and that would, but for this class, be included in Class 10 under any of subparagraphs *a*, *e*, *f* and *k* of the second paragraph of the description of that class or would have been so included in that class if it had been acquired after the 1971 taxation year,

ii. property that was acquired before the mine came into production in reasonable commercial quantity and that would, but for this class, be included in Class 10 under subparagraph *m* of the second paragraph of the description of that class, or

iii. property acquired after the coming into production of the mine and that would be, if it were not included in this class, included in Class 10 under any of subparagraphs *a*, *e*, *f* and *k* of the second paragraph of the description of that class.

Property that would be referred to in the first paragraph if, subparagraphs *a*, *b* and *e* of that paragraph, were read with "mine" replaced by "mine situated in a bituminous or oil sands deposit or an oil shale deposit from which materials are extracted" and "after 7 November 1969" replaced by "before 8 November 1969".

O.C. 1981-80, Sch. B, Class 28; O.C. 1535-81, s. 21; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 28; O.C. 1697-92, s. 75; O.C. 1631-96, s. 54; O.C. 1470-2002, s. 87; O.C. 1282-2003, s. 95; O.C. 1116-2007, s. 55.

"**CLASS 29**
(*ss. 130R3, 130R12, 130R46, 130R119*)

Property that would otherwise be included in another class, that is not included in Class 41 by reason of subparagraph *f* or *g* of the first paragraph of that class and that is at the same time

(*a*) property, the manufacture of which was completed by the taxpayer or acquired by the taxpayer after 29 March 1973, to be used directly or indirectly by the taxpayer in Canada primarily in the manufacturing or processing of goods for sale or lease, or to be leased in the ordinary course of carrying on a business in Canada of the taxpayer to a lessee who may reasonably be expected to use the property directly or indirectly in Canada, primarily in Canadian field processing carried on by the lessee or in the manufacturing or processing by the lessee of goods for sale or lease if, in the case where the property is leased, the taxpayer is a corporation whose principal business is leasing property, manufacturing property for sale or lease, lending money, purchasing sales contracts, accounts receivable, obligations secured by movable hypothec, bills of exchange or other obligations representing part or all of the sale price of merchandise or services, selling, servicing or repairing a type of property that it also leases, or any combination thereof, unless use of the property by the lessee commenced before 30 March 1973;

(*b*) property, not including railway rolling stock, or a property described in paragraph *i* of Class 8, and that, but for this class, would be included in Class 8, and that is an oil or water storage tank, a powered industrial lift truck, electrical generating equipment described in Class 9 or property described in subparagraph *f* or *g* of the first paragraph of Class 10; and

(*c*) property that was acquired by the taxpayer

i. before 1 January 1988, or

ii. before 1 January 1990

(1) pursuant to an obligation in writing entered into by the taxpayer before 18 June 1987,

(2) that was under construction by or on behalf of the taxpayer on 18 June 1987, or

(3) that is machinery or equipment that is a fixed and integral part of a building, structure, plant facility or other property

that was under construction by or on behalf of the taxpayer on 18 June 1987.

However, in the case of property referred to in subparagraph *a* of the first paragraph, the manufacture of which was completed by the taxpayer or acquired by the taxpayer after 29 March 1973 but before 1 January 1976, that subparagraph must be read as if the word "Canada" wherever it appears, were replaced by the word "Québec".

O.C. 1981-80, Sch. B, Class 29; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 29; O.C. 1697-92, s. 76; O.C. 1707-97, s. 98; O.C. 1466-98, s. 126; O.C. 1470-2002, s. 88.

"**CLASS 30**
(40%)
(*ss. 130R22, 130R174*)

Property that is an unmanned telecommunication spacecraft designed to orbit above the earth and that was acquired by the taxpayer

(*a*) before 1 January 1988; or

(*b*) before 1 January 1990

i. pursuant to an obligation in writing entered into by the taxpayer before 18 June 1987, or

ii. that was under construction by or on behalf of the taxpayer on 18 June 1987.

O.C. 1981-80, Sch. B, Class 30; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 30; O.C. 1697-92, s. 77.

"**CLASS 31**
(5%)
(*ss. 130R22, 130R26, 130R33, 130R71, 130R122, 130R163*)

Property that is a multiple-unit residential building in Canada

(*a*) that would otherwise be included in Class 3 or 6;

(*b*) that was acquired by the taxpayer

i. before 18 June 1987, or

ii. after 17 June 1987 pursuant to an obligation in writing entered into by the taxpayer before 18 June 1987 or pursuant to the terms of a prospectus, preliminary prospectus, registration statement, offering memorandum or notice required to be filed with a public authority in Canada and filed before 18 June 1987 with that public authority;

(*c*) in respect of which a certificate has been issued, before 1982 or before the expiration of 18 months following the day on which the installation of footings or any other base support of the building was commenced, by the Société d'habitation du Québec or the Canada Mortgage and Housing Corporation certifying that the installation of footings or any other base support of the building was commenced either after 18 November 1974 and before 1980, or after 28 October 1980 and before 1982, in the case of a building that would otherwise be included in Class 3, or after 31 December 1977 and before 1979, in the case of a building that would otherwise be included in Class 6, and that, according to plans and specifications for the building, not less than 80% of the floor space is intended to be used in providing self-contained domestic establishments and related parking, recreation, service and storage areas, and not more than 20% of the floor space is actually used for any other purpose; and

(*d*) whose construction continues without undue delay after 31 December 1982, taking into consideration accidents, fortuitous events, labour disputes, fires or unusual delays attributable to common carriers or to suppliers of materials or equipment.

O.C. 1981-80, Sch. B, Class 31; O.C. 1983-80, s. 51; O.C. 3211-80, s. 8; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 31; O.C. 2847-84, s. 14; O.C. 1697-92, s. 78; O.C. 1707-97, s. 100.

"**CLASS 32**
(10%)
(*ss. 130R22, 130R26, 130R33, 130R71, 130R163*)

Property that is a multiple-unit residential building in Canada that would otherwise be included in Class 6 if, in subparagraph i of paragraph *a* of that Class 6, "1979" were replaced by "1980", and that would otherwise meet the requirements described in Class 31 if "or after 31 December 1977 and before 1979" were replaced by "or after 18 November 1974 and before 1978" therein.

O.C. 1981-80, Sch. B, Class 32; O.C. 1983-80, s. 51; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 32; O.C. 1707-97, s. 101.

"**CLASS 33**
(15%)
(*s. 130R22*)

Property that is a timber resource property.

O.C. 1981-80, Sch. B, Class 33; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 33.

"**CLASS 34**
(*ss. 130R13, 130R46, 130R50, 130R51, 130R119*)

Property that would otherwise be included in any of Classes 1, 2 and 8 and that

(*a*) consists of equipment for generating electricity, production equipment and pipes for a heat distributor, steam generating equipment acquired by the taxpayer mainly to produce steam in order to operate equipment

for generating electricity or an addition to either of those properties, excluding a building or other structure;

(*b*) was acquired by the taxpayer after 25 May 1976;

(*c*) was acquired by the taxpayer to be used by the taxpayer in a business operated by the taxpayer in Canada or to be leased by the taxpayer to a lessee for use in Canada; and

(*d*) is property in respect of which a certificate that has not been revoked under section 130R13 was issued by the Minister attesting that it is part of a plan devised

i. where the certificate was issued before 11 December 1979, to produce heat obtained mainly from the consumption of wood residues or garbage from a municipality, or where the certificate was issued after 10 December 1979, to produce heat obtained mainly from the consumption of natural gas, coal, coal gas, lignite, peat, wood residues, garbage from a municipality or a combination of any of those fuels,

ii. to produce electrical energy by the utilization of a fossil fuel that is petroleum, natural gas or related hydrocarbons, coal, coal gas, coke, lignite or peat, or another fuel that is wood waste or municipal waste, or any combination thereof, if the consumption of fossil fuel, expressed as the high heat value of the fossil fuel, chargeable to electrical energy on an annual basis in respect of the property is not greater than 7,000 Btu per kilowatt-hour of electrical energy produced, or

iii. to recover heat that is a by-product of an industrial process.

Property, other than a property described in subparagraph *a* of the first paragraph, that the taxpayer acquired after 10 December 1979, that would otherwise be included in another class and that

(*a*) was acquired by the taxpayer to be used by the taxpayer for the purpose of earning revenue obtained from a business operated by the taxpayer in Canada or obtained from property in Canada or to be leased by the taxpayer to a lessee for use in Canada;

(*b*) is property in respect of which a certificate that has not been revoked under section 130R13 was issued by the Minister; and

c) is

i. active solar heating equipment, including a solar collector, a solar hot water heater, equipment for conversion, storage or control of solar energy, and equipment designed to interface solar heating equipment with other heating equipment used to heat air or a liquid to be used directly in manufacturing or processing, to supply heat, when it is installed in a building or other new structure at the time of its initial construction, if the initial construction began after 10 December 1979, or to heat water,

ii. a hydro-electric installation of a producer of hydro-electric energy with a planned maximum generating capacity not exceeding 15 megawatts upon completion of site development that is the generating equipment and plant, including structures, of that producer including a canal, a dam, a dyke, an overflow spillway, a penstock, fishways or fish bypasses, control or transmission equipment and a powerhouse complete with generating equipment and other equipment ancillary thereto, except a property included in Class 10 or 17 or that is distribution equipment,

iii. heat recovery equipment that is designed to conserve energy or reduce the requirement to acquire energy by extracting and reusing heat from thermal waste including condensers, heat exchange equipment, steam compressors used to upgrade low pressure steam, waste heat boilers and ancillary equipment such as control panels, fans, pumps or measuring instruments,

iv. an addition or alteration to a hydro-electric installation described in subparagraph ii of subparagraph *c* that results in a change in generating capacity if the new maximum generating capacity at the installation does not exceed 15 megawatts, or

v. a device in a fixed location, acquired after 25 February 1986, that is a wind energy conversion system designed to produce electrical energy, consisting of a wind-driven turbine, a generator and related equipment, including control and conditioning equipment, support structures, a powerhouse with its ancillary equipment, and transmission equipment, but excluding property included in Class 10 or 17 or property consisting of electrical energy storage or distribution equipment.

However, property in this class does not include

(*a*) property that had been used before it was acquired by the taxpayer unless the property had previously been included in Class 34 for the purpose of computing the income of the person from whom it was acquired;

(*b*) property acquired by the taxpayer after 21 February 1994 other than

i. property, as the case may be

(1) that was acquired pursuant to an agreement of purchase and sale in writing entered into by the taxpayer before 22 February 1994,

(2) that was acquired in order to satisfy a legally binding obligation entered into by the taxpayer in writing before 22 February 1994 to sell electricity to a public power utility in Canada,

(3) that was under construction by or on behalf of the taxpayer on 22 February 1994, or

(4) that is machinery or equipment that is a fixed and integral part of a building, structure or other property that

was under construction by or on behalf of the taxpayer on 22 February 1994, and

ii. property acquired by the taxpayer before 1 January 1996

(1) pursuant to an agreement of purchase and sale in writing entered into before 1 January 1995 to acquire the property from a person or partnership in circumstances where the property was part of a project that was under construction by the person or partnership on 22 February 1994, and it is reasonable to conclude, having regard to all of the circumstances, that the person or partnership constructed the project with the intention of transferring all or part of the project to another taxpayer after completion, or

(2) pursuant to an agreement in writing entered into before 1 January 1995 by the taxpayer with a person or partnership where the taxpayer agrees to assume a legally binding obligation entered into by the person or partnership before 22 February 1994 to sell electricity to a public power utility in Canada; or

(*c*) property in respect of which a certificate has not been issued under subparagraph *d* of the first paragraph or subparagraph *b* of the second paragraph before the time that is the later of the end of 1995 and two years after the property is acquired by the taxpayer or, where the property is property acquired in circumstances to which subparagraph *b* applies, two years after substantial completion of the property.

O.C. 1981-80, Sch. B, Class 34; O.C. 2456-80, s. 22; O.C. 1535-81, s. 22; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 34; O.C. 2583-85, s. 35; O.C. 421-88, s. 43; O.C. 538-91, s. 9; O.C. 1697-92, s. 79; O.C. 35-96, s. 86; O.C. 1454-99, s. 69.

"**CLASS 35**
(7%)
(*ss. 130R22, 130R71, 130R105, 130R176, 130R177*)

Property not included in any other class that is a railway car acquired after 25 May 1976 or a rail suspension device designed to carry trailers that are designed to be hauled on both highways and railway tracks.

O.C. 1981-80, Sch. B, Class. 35; R.R.Q., 1981, c. I-3, r.1, Sch. B, Class 35; O.C. 1631-96, s. 55.

"**CLASS 36**
(*s. 130R183*)

Property acquired after 11 December 1979 and deemed to be depreciable property under paragraph *c* of section 97.2 of the Act.

O.C. 2962-82, s. 89; O.C. 500-83, s. 89.

"**CLASS 37**
(15%)
(*ss. 130R14, 130R22, 130R132*)

Property that would be included in another class and that is property used in connection with an amusement park, including

(*a*) improvement of land, other than landscaping, designed for park activities, including a canal or road, a sidewalk, a parking or storage area or other similar surface construction;

(*b*) a building, except a warehouse, an administrative building, a hotel or a motel, a structure or equipment that is not automobile equipment, including

i. a ticket office, a façade, a sideshow or a ride, and installations connected with such sideshow or such ride,

ii. equipment or furnishings inside a building included in this class and equipment and furnishings attached to the building, and

iii. a fence, any similar peripheral structure, or a bridge; and

(*c*) automobile equipment other than that designed for highway use.

Properties that are not included in another class that are used in respect of an amusement park and that are a waterway or a land improvement, except landscaping, removal or levelling land.

O.C. 2962-82, s. 89; O.C. 500-83, s. 89; O.C. 1660-94, s. 18.

"**CLASS 38**
(*ss. 130R56, 130R191*)

Property not included in Class 22 but that would otherwise be included in that class if that class were read without referred to paragraphs *a* and *b*.

O.C. 1697-92, s. 80.

"**CLASS 39**
(*s. 130R57*)

Property acquired after 31 December 1987 and before 26 February 1992 that

(*a*) is not included in Class 29, but that would otherwise be included in that class if that class were read with subparagraph *c* of the first paragraph of that class being disregarded and with the reference, in subparagraph *b* of that paragraph, to a property that is a powered industrial lift truck or a property described in subparagraph *f* or *g* of the first paragraph of Class 10 being disregarded; and

(*b*) is not included in Class 12 under the second paragraph of that class.

O.C. 1697-92, s. 80; O.C. 1631-96, s. 56.

"**CLASS 40**
(*ss. 130R58, 130R141*)

Property acquired after 31 December 1987 and before 1 January 1990 that

(*a*) is a powered industrial lift truck or a property described in subparagraph *f* or *g* of the first paragraph of Class 10, other than a property included in Class 12 under the second paragraph of that class; and

(*b*) is not included in Class 29 but would otherwise be included in that class if that class were read with subparagraph *c* of the first paragraph of that class being disregarded.

O.C. 1697-92, s. 80; O.C. 1631-96, s. 57.

"**CLASS 41**
(25%)
(*ss. 130R3, 130R7, 130R8, 130R9, 130R22, 130R143, 130R171, 130R172, 360R2, 360R49, 360R54, 360R55*)

Property consisting of

(*a*) property not included in Class 28 that would otherwise be included in that class if that class were read without reference to subparagraph *c* of the first paragraph of that class and if subparagraphs i to iii of subparagraph *e* of that first paragraph were read as follows:

"i. property that was acquired before the mine came into production in reasonable commercial quantity and that would, if it were not included in this class, be included in Class 10 because of any of subparagraphs *a*, *e*, *f* and *k* of the second paragraph of the description of that class or would have been so included in that class if it had been acquired after the 1971 taxation year, and property that would, if it were not included in this class, be included in Class 41 because of section 130R143 or 130R144,

"ii. property that was acquired before the mine came into production in reasonable commercial quantity and that would, if it were not included in this class, be included in Class 10 because of subparagraph *m* of the second paragraph of the description of that class, or

"iii. property that was acquired after the mine came into production in reasonable commercial quantity and that would, if it were not included in this class, be included in Class 10 because of any of subparagraphs *a*, *e*, *f* and *k* of the second paragraph of the description of that class, and property that would, if it were not included in this class, be included in Class 41 because of section 130R143 or 130R144.";

(*b*) property that is the portion, expressed as a percentage determined by reference to capital cost, of property referred to in the second paragraph, where that percentage is determined by the formula

$$\{100 \times [A - (B \times 365 / C)]\} / A;$$

(*c*) property that

i. would, if it were not included in this class, be included in Class 10 because of any of subparagraphs *a*, *e* and *f* of the second paragraph of the description of that class, or that is included in this class because of section 130R143 or 130R144,

ii. was acquired by the taxpayer in a taxation year principally for the purpose of gaining or producing income from one or more mines each of which

(1) is one or more wells operated in Canada by the taxpayer for the extraction of material from a deposit of bituminous sands or oil shales,

(2) was the subject of a major expansion after 6 March 1996, and

(3) is a mine in respect of which the Minister of National Revenue, in consultation with the Minister of Natural Resources of Canada, determines that the greatest designed capacity of the mine immediately after the expansion, measured according to the volume of oil that is not beyond the crude oil stage or its equivalent, exceeded the greatest designed capacity of the mine immediately before the expansion by at least 25%,

iii. was acquired by the taxpayer after 6 March 1996, before the completion of the expansion referred to in subparagraph ii, and in the course of and principally for the purposes of the expansion, and

iv. had not, before it was acquired by the taxpayer, been used for any purpose by any person or partnership with whom the taxpayer was not dealing at arm's length;

(*d*) property included in this class because of section 130R143 or 130R144, other than property described in subparagraph *a* or *c* or the portion of property described in subparagraph *b*;

(*e*) any of the following property acquired by the taxpayer after 31 December 1987:

i. property that would be included in Class 10 under subparagraph *h* of the first paragraph or under any of subparagraphs *a*, *d*, *e*, *f*, *k* and *m* to *o* of the second paragraph of that class, if that subparagraph *e* were disregarded, or

ii. a vessel, including the furniture, fittings, radio communication equipment and other equipment attached thereto, that is designed principally for the purpose of determining the existence, location, extent or quality of accumulations of petroleum, natural gas or mineral resources or for the purpose of drilling oil or gas wells;

(*f*) property that is acquired by the taxpayer after 29 March 1973 to be used directly or indirectly by the taxpayer in Canada primarily in Canadian field processing, where the property would be included in Class 29 if

i. subparagraph *c* of the first paragraph of that Class 29 were disregarded and if the reference, in subparagraph *b* of that paragraph, to a property that is a powered industrial lift truck or a property described in subparagraph *f* or *g* of the first paragraph of Class 10 were disregarded,

ii. section 130R12 were read without reference to paragraph *k*, and

iii. Schedule B were read without reference to this class and Classes 39 and 43; or

(*g*) property that is acquired by the taxpayer after 5 December 1996, otherwise than in accordance with an agreement in writing entered into on or before that date, to be leased, in the ordinary course of carrying on a business in Canada of the taxpayer, to a lessee who may reasonably be expected to use the property directly or indirectly in Canada, primarily in Canadian field processing, where the property would be included in Class 29 if

i. subparagraph *c* of the first paragraph of that Class 29 were disregarded and if the reference, in subparagraph *b* of that paragraph, to a property that is a powered industrial lift truck or a property described in subparagraph *f* or *g* of the first paragraph of Class 10 were disregarded, and

ii. Schedule B were read without reference to this class and Classes 39 and 43.

The property to which subparagraph *b* of the first paragraph refers is the property that

(*a*) would, if it were not included in this class, be included in Class 10 because of any of subparagraphs *a*, *e* and *f* of the second paragraph of the description of that class, or that is included in this class because of section 130R143 or 130R144;

(*b*) is not described in subparagraph *a* or *c* of the first paragraph;

(*c*) was acquired by the taxpayer principally for the purpose of gaining or producing income from one or more mines that are operated by the taxpayer and situated in Canada, and that became available for use for the purposes of section 93.6 of the Act in a particular taxation year; and

(*d*) had not, before it was acquired by the taxpayer, been used for any purpose by any person or partnership with whom the taxpayer was not dealing at arm's length.

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

(*a*) A is the aggregate of all amounts each of which is the capital cost of a property of the taxpayer described in the second paragraph for the particular taxation year in respect of the mine or mines referred to therein, as the case may be;

(*b*) B is 5% of the taxpayer's gross revenue from the mine or mines, as the case may be, for the taxation year; and

(*c*) C is the number of days in the taxation year.

The property described in subparagraph *e* of the first paragraph does not include property acquired by the taxpayer before 1 January 1990

(*a*) pursuant to an obligation in writing entered into by the taxpayer before 18 June 1987;

(*b*) that was under construction by or on behalf of the taxpayer on 18 June 1987; or

(*c*) that is machinery and equipment that is a fixed and integral part of property that was under construction by or on behalf of the taxpayer on 18 June 1987.

O.C. 1697-92, s. 80; O.C. 35-96, s. 85; O.C. 1631-96, s. 58; O.C. 1454-99, s. 70; O.C. 1470-2002, s. 89; O.C. 1282-2003, s. 96; O.C. 1116-2007, s. 56.

" **CLASS 42**
(12%)
(*s. 130R22*)

Property that is

(*a*) fibre-optic cable; or

(*b*) telephone, telegraph or data communication equipment that is a wire or cable, other than a cable included in this class because of paragraph *a*, acquired after 22 February 2005, and that has not been used, or acquired for use, for any purpose before 23 February 2005.

O.C. 1631-96, s. 59; O.C. 1116-2007, s. 57.

" **CLASS 43**
(30%)
(*ss. 130R3, 130R22, 130R199*)

Property acquired after 25 February 1992 that

(*a*) meets the following conditions:

i. it is not included in Class 29, but would otherwise be included in that class if subparagraph *c* of the first paragraph of that class were disregarded and if the reference, in subparagraph *b* of that paragraph, to a property that is a powered industrial lift truck or a property described in subparagraph *f* or *g* of the first paragraph of Class 10 were disregarded, and

ii. it is not included in Class 12 under the second paragraph of that class; or

(*b*) is property that

i. would be included in Class 10 under subparagraph *e* of the second paragraph of that class, if this schedule were read without reference to this paragraph and subparagraph *e* of the first paragraph of Class 41, and

ii. at the time of its acquisition, may reasonably be expected to be used entirely in Canada and primarily for the purposes of processing ore extracted from a mineral resource located in a country other than Canada.

O.C. 1631-96, s. 59; O.C. 1466-98, s. 128; O.C. 1454-99, s. 71.

" **CLASS 43.1**
(30%)
(*ss. 96.2R1, 130R15, 130R16, 130R17, 130R18, 130R22, 130R50, 130R51, 130R143, 399.7R1, 399.7R2*)

Property, other than reconditioned or remanufactured equipment, that would otherwise be included in any of Classes 1, 2, 8 and 48 or in Class 17 under subparagraph i of subparagraph *b* of the first paragraph of that Class and that

(*a*) subject to the third paragraph, is

i. electrical generating equipment, including any heat generating equipment used primarily for the purpose of producing heat energy to operate the electrical generating equipment,

ii. equipment that generates both electrical and heat energy, except fuel cell equipment,

iii. fixed location fuel cell equipment that has a peak capacity of not less than 3 kilowatts of electrical output and uses hydrogen generated only from internal or ancillary fuel reformation equipment,

iv. heat recovery equipment used primarily for the purpose of conserving energy, or reducing the requirement to acquire energy, by extracting thermal waste that is generated by equipment referred to in subparagraph i or ii, and reusing the thermal waste to generate electrical energy from equipment referred to in subparagraph i or ii,

v. district energy equipment,

vi. control, feedwater and condensate systems and other equipment, where that property is ancillary to equipment referred to in any of subparagraphs i to iv, or

vii. an addition to a property described in any of subparagraphs i to v;

(*b*) is located in Canada, has not been used for any purpose whatever before it is acquired by the taxpayer, except in the case of property described in the fourth paragraph, and that is, as the case may be,

i. acquired by the taxpayer for use by the taxpayer for the purpose of gaining income from a business carried on in Canada or from property situated in Canada, or

ii. leased by the taxpayer to a lessee for use by the lessee for the purpose of gaining income from a business carried on in Canada or from property situated in Canada; and

(*c*) is part of

i. a system, other than an enhanced combined cycle system, that

(1) is used by the taxpayer, or by a lessee of the taxpayer, to generate electrical energy, or both electrical and heat energy, using only fuel that is fossil fuel, wood waste, spent pulping liquor, municipal waste, landfill gas, digester gas or bio-oil, or any combination of those fuels, and

(2) has a heat rate attributable to fossil fuel, other than solution gas, not exceeding 6,000 Btu per kilowatt-hour of electrical energy generated by the system, which heat rate is calculated as the fossil fuel, expressed as the high heat value of the fossil fuel, used by the system that is chargeable to gross electrical energy output on an annual basis, or

ii. an enhanced combined cycle system that

(1) is used by the taxpayer, or by a lessee of the taxpayer, to generate electrical energy using only a combination of natural gas and waste heat from one or more natural gas compressor systems located on a natural gas pipeline,

(2) has an incremental heat rate not exceeding 6,700 Btu per kilowatt-hour of electrical energy generated by the system, which heat rate is calculated as the natural gas, expressed as its high heat value, used by the system that is chargeable to gross electrical energy output on an annual basis, and

(3) does not have economically viable access to a steam host.

Property, other than reconditioned or remanufactured equipment, that would otherwise be included in another class and that

(*a*) is

i. active solar heating equipment used by the taxpayer, or by a lessee of the taxpayer, primarily for the purpose of heating

a liquid or gas used directly in an industrial process or in a greenhouse, including such equipment that consists of solar collectors, solar energy conversion equipment, solar water heaters, energy storage equipment, control equipment and equipment designed to interface solar heating equipment with other heating equipment, but not including buildings,

ii. a hydro-electric installation of a producer of hydro-electric energy, other than distribution equipment, property included in Class 10 and property that would be included in Class 17 without reference to subparagraph i of subparagraph *b* of the first paragraph of that Class, where that installation

(1) has, if acquired after 21 February 1994 and before 11 December 2001, an annual average generating capacity not exceeding 15 megawatts upon completion of the site development, or, if acquired after 10 December 2001, a rated capacity at the hydro-electric installation site that does not exceed 50 megawatts, and

(2) is the electrical generating equipment and plant, including structures, of that producer including a canal, a dam, a dyke, an overflow spillway, a penstock, fishways or fish bypasses, control equipment, transmission equipment and a powerhouse, complete with electrical generating equipment and other ancillary equipment,

iii. an addition or alteration, which is acquired after 21 February 1994 and before 11 December 2001, to a hydro-electric installation that is described in subparagraph ii or that would be so described if that installation were acquired by the taxpayer after 21 February 1994, and which results in an increase in generating capacity, if the resulting annual average generating capacity of the hydro-electric installation does not exceed 15 megawatts,

iv. an addition or alteration, which is acquired after 10 December 2001, to a hydro-electric installation that is described in subparagraph ii or that would be so described if that installation were acquired by the taxpayer after 21 February 1994, and which results in an increase in generating capacity, if the resulting rated capacity at the hydro-electric installation site does not exceed 50 megawatts,

v. heat recovery equipment, including such equipment that consists of heat exchange equipment, compressors used to upgrade low pressure steam, vapour or gas, waste heat boilers and other ancillary equipment such as control panels, fans, measuring instruments or pumps, but not including buildings, used by the taxpayer, or by a lessee of the taxpayer, primarily for the purpose of conserving energy, or reducing the requirement to acquire energy, by

(1) extracting thermal waste that is generated directly in an industrial process, other than in an industrial process that generates or processes electrical energy, and

(2) reusing the thermal waste directly in an industrial process, other than in an industrial process that generates or processes electrical energy,

vi. a fixed location device that is a wind energy conversion system that is used by the taxpayer, or by a lessee of the taxpayer, primarily for the purpose of generating electrical energy, and consists of a wind-driven turbine, electrical generating equipment and related equipment, including control, conditioning and battery storage equipment, support structures, a powerhouse complete with other ancillary equipment, and transmission equipment, other than distribution equipment, auxiliary electrical generating equipment or property included in Class 10 and property that would be included in Class 17 without reference to subparagraph i of subparagraph *b* of the first paragraph of that Class,

vii. fixed location photovoltaic equipment that has a peak capacity of not less than 3 kilowatts of electrical output, is used by the taxpayer, or by a lessee of the taxpayer, primarily for the purpose of generating electrical energy from solar energy, and consists of solar cells or modules and related equipment including control, conditioning and battery storage equipment, support structures, and transmission equipment, other than buildings, distribution equipment, auxiliary electrical generating equipment, property included in Class 10 and property that would be included in Class 17 without reference to subparagraph i of subparagraph *b* of the first paragraph of that Class,

viii. above-ground equipment used by the taxpayer, or by a lessee of the taxpayer, primarily for the purpose of generating electrical energy solely from geothermal energy, including such equipment that consists of pumps, heat exchangers, steam separators, electrical generating equipment and ancillary equipment used to collect the geothermal heat, but not including buildings, transmission equipment, distribution equipment, equipment designed to store electrical energy and property included in Class 10 and property that would be included in Class 17 without reference to subparagraph i of subparagraph *b* of the first paragraph of that Class,

ix. above-ground equipment used by the taxpayer, or by a lessee of the taxpayer, primarily for the purpose of collecting landfill gas or digester gas, including such equipment that consists of fans, compressors, storage tanks, heat exchangers and other ancillary equipment used to collect the gas, to remove non-combustibles and contaminants from the gas or to store the gas, but not including buildings or property included in Class 10 or 17,

x. equipment used by the taxpayer, or by a lessee of the taxpayer, primarily for the purpose of generating heat energy from the consumption of wood waste, municipal waste, landfill gas, digester gas or bio-oil and that is used directly in an industrial process, or in a greenhouse, of the taxpayer or lessee, including such equipment that consists of control, feedwater and condensate systems, and other ancillary equipment, and fuel handling equipment used to upgrade the combustible portion of the fuel, but not including other fuel handling equipment, buildings or other structures, heat rejection equipment such as condensers and cooling water systems, fuel storage facilities, electrical

generating equipment and property otherwise included in Class 10 or 17,

xi. an expansion engine with one or more cylinders, or turbines, that convert the compression energy in pressurized natural gas into shaft power that generates electricity, including the related electrical generating equipment and ancillary controls, if the expansion engine is used instead of a pressure reducing valve and is part of a system that is installed

(1) on a distribution line of a distributor of natural gas, or

(2) on a branch distribution line of a taxpayer primarily engaged in the manufacturing or processing of goods for sale or lease if the branch line is used to deliver natural gas directly to the taxpayer's manufacturing or processing facility,

xii. equipment used in a system of the taxpayer that converts wood waste or plant residue into bio-oil and that is used by the taxpayer, or by a lessee of the taxpayer, primarily for the purpose of generating electricity, or electricity and heat, other than equipment used for the collection, storage or transportation of wood waste or plant residue, buildings or other structures and property included in Class 10 or 17,

xiii. fixed location fuel cell equipment used by the taxpayer, or by a lessee of the taxpayer, that has a peak capacity of not less than 3 kilowatts of electrical output and uses hydrogen generated only from ancillary electrolysis equipment or, if the fuel cell is reversible, the fuel cell itself using electricity generated by photovoltaic, wind energy conversion or hydro-electric equipment, of the taxpayer or the lessee, and equipment ancillary to the fuel cell equipment other than buildings or other structures, transmission equipment, distribution equipment, auxiliary electrical generating equipment and property included in Class 10 or 17, or

xiv. property of a taxpayer that is part of a system that is used by the taxpayer or a lessee of the taxpayer primarily to produce, store and use biogas produced from manure by anaerobic digestion if that biogas is used primarily by the taxpayer or the lessee to produce electricity, or to produce heat that is used directly in an industrial process or in a greenhouse, which property

(1) includes equipment that is an anaerobic digester reactor, a buffer tank, a pre-treatment tank, biogas piping, a biogas storage tank, biogas scrubbing equipment and electrical generating equipment, and

(2) does not include property that is used to collect manure, store manure, other than a buffer tank, or move manure to the system, equipment used to process the residue after digestion or to treat recovered liquids, auxiliary electrical generating equipment, buildings or other structures, transmission equipment, distribution equipment, equipment designed to store electrical energy, property otherwise included in Class 10 and property that would be included in Class 17 if that Class were read without reference to subparagraph i of subparagraph *b* of the first paragraph of that Class; and

(*b*) is located in Canada, has not been used for any purpose whatever before it was acquired by the taxpayer, except in the case of property described in the fourth paragraph, and that is, as the case may be,

i. acquired by the taxpayer for use by the taxpayer for the purpose of gaining income from a business carried on in Canada or from property situated in Canada, or

ii. leased by the taxpayer to a lessee for use by the lessee for the purpose of gaining income from a business carried on in Canada or from property situated in Canada.

The property referred to in subparagraph *a* of the first paragraph does not include buildings or other structures, heat rejection equipment, such as condensers and cooling water systems, transmission equipment, distribution equipment, fuel storage facilities and fuel handling equipment.

The property to which subparagraph *b* of the first and second paragraphs refers is that which fulfils the following conditions:

(*a*) the property was depreciable property that was included in any of Classes 34, 43.1 and 43.2 of the person from whom it was acquired, or would have been included in any of Classes 34, 43.1 and 43.2 of that person if that person had made a valid election to include the property in that Class 43.1 or 43.2, as the case may be, pursuant to paragraph *b* of section 130R143; and

(*b*) the property was acquired by the taxpayer not later than five years after the time it is considered to have become available for use, for the purposes of section 93.6 of the Act, by the person from whom it was acquired, and it remains at the same site in Canada as that at which that person used the property.

O.C. 1454-99, s. 72; O.C. 1470-2002, s. 90; O.C. 1149-2006, s. 80; O.C. 1116-2007, s. 58.

" **CLASS 43.2**
(50%)
(*ss. 96.2R1, 130R15, 130R16, 130R18, 130R22, 130R50, 130R51, 130R143, 399.7R1, 399.7R2*)

Property acquired after 22 February 2005 and before 1 January 2012 that was not included, before it was acquired, in another Class by any taxpayer and that is property that would otherwise be included in Class 43.1

(*a*) if subparagraph 2 of subparagraph i of subparagraph *c* of the first paragraph of Class 43.1 were read with "6,000 BTU" replaced by "4,750 BTU"; or

(*b*) because of subparagraph *a* of the second paragraph of that Class.

O.C. 1116-2007, s. 59.

"**CLASS 44**
(25%)
(*ss. 130R22, 130R39, 130R134*)

Property that is a patent, or a right to use patented information for a limited or unlimited period, other than a property included in Class 12.

O.C. 1631-96, s. 59.

"**CLASS 45**
(45%)
(*ss. 130R3, 130R22, 130R71*)

Property acquired after 22 March 2004, other than property acquired before 1 January 2005 in respect of which an election was made under section 130R198, that is general-purpose electronic data processing equipment and systems software for that equipment, including ancillary data processing equipment, but not including property that is principally property described in any of paragraphs *a* to *d* or is used principally as

(*a*) electronic process control or monitor equipment;

(*b*) electronic communications control equipment;

(*c*) systems software for equipment referred to in paragraph *a* or *b*; or

(*d*) data handling equipment, unless it is ancillary to general-purpose electronic data processing equipment.

O.C. 1149-2006, s. 81.

"**CLASS 46**
(30%)
(*ss. 130R3, 130R22*)

Property acquired after 22 March 2004 that is data network infrastructure equipment and systems software for that equipment that would otherwise be included in Class 8 under paragraph *j* of that class.

O.C. 1149-2006, s. 81.

"**CLASS 47**
(8%)
(*ss. 130R22, 130R50, 130R51*)

Property acquired after 22 February 2005 that is transmission or distribution equipment, which may include for that purpose a structure, used for the transmission or distribution of electrical energy, other than

(*a*) property that is a building; and

(*b*) property that has been used or acquired for use for any purpose by any taxpayer before 23 February 2005.

O.C. 1116-2007, s. 60.

"**CLASS 48**
(15%)
(*ss. 130R22, 130R50, 130R51*)

Property acquired after 22 February 2005 that is a combustion turbine, including associated burners and compressors, that generates electrical energy, other than

(*a*) electrical generating equipment described in any of paragraphs *f* to *h* of Class 8;

(*b*) property acquired before 1 January 2006 in respect of which an election is made under section 130R98.12 of the preceding Regulation, within the meaning of section 2000R1, as it read before its revocation; and

(*c*) property that has been used or acquired for use for any purpose by any taxpayer before 23 February 2005.

O.C. 1116-2007, s. 60.

"**CLASS 49**
(8%)
(*ss. 130R22, 130R202*)

Property acquired after 22 February 2005 that is a pipeline, including control and monitoring devices, valves and other equipment ancillary to the pipeline, used for the transmission, but not the distribution, of petroleum, natural gas or related hydrocarbons, other than

(*a*) a pipeline described in subparagraph ii of paragraph *l* of Class 1;

(*b*) property that has been used or acquired for use for any purpose by any taxpayer before 23 February 2005;

(*c*) equipment included in Class 7 because of paragraph *j* of that Class; and

(*d*) a building or other structure.

O.C. 1116-2007, s. 60.

" **SCHEDULE C**
(s. 710R1)

" FOREIGN UNIVERSITIES

The foreign universities referred to in sections 710R1 and 752.0.10.1R1 are the following:

(*a*) In the **United States**:

Abilene Christian University, Abilene, Texas.

Academy of the New Church, The, Bryn Athyn, Pennsylvania.

Adams State College, Alamosa, Colorado.

Alfred University, Alfred, New York.

American Film Institute Center for Advanced Film and Television Studies, Los Angeles, California.

American Graduate School of International Management, Glendale, Arizona.

American International College, Springfield, Massachusetts.

American University, The, Washington, District of Columbia.

American University in Cairo, The, New York, New York.

Amherst College, Amherst, Massachusetts.

Anderson College, Anderson, South Carolina.

Andover Newton Theological School, Newton Centre, Massachusetts.

Andrews University, Berrien Springs, Michigan.

Antioch College, Yellow Springs, Ohio.

Arizona State University, Temple, Arizona.

Asbury Theological Seminary, Wilmore, Kentucky.

Associated Mennonite Biblical Seminary, Elkhart, Indiana.

Atlantic Union College, South Lancaster, Massachusetts.

Augsburg College, Minneapolis, Minnesota.

Aurora University, Aurora, Illinois.

Azusa Pacific College, Azusa, California.

Babson College, Babson Park, Massachusetts.

Bard College, Annandale-On-Hudson, New York.

Barnard College, New York, New York.

Bastyr University, Seattle, Washington.

Bates College, Lewiston, Maine.

Baylor College of Medicine, Houston, Texas.

Baylor University, Waco, Texas.

Beloit College, Beloit, Wisconsin.

Bennington College, Bennington, Vermont.

Bentley College, Waltham, Massachusetts.

Beth Medrash Govaha, Lakewood, New Jersey.

Bethel College, Mishawaka, Indiana.

Bethel College, North Newton, Kansas.

Bethel College and Seminary, Saint Paul, Minnesota.

Biola University, La Mirada, California.

Bob Jones University, Greenville, South Carolina.

Boston College, Chestnut Hill, Massachusetts.

Boston University, Boston, Massachusetts.

Bowdoin College, Brunswick, Maine.

Bowling Green State University, Bowling Green, Ohio.

Brandeis University, Waltham, Massachusetts.

Brigham Young University, Hawaii Campus, Laie, Hawaii.

Brigham Young University, Provo, Utah.

Brown University, Providence, Rhode Island.

Bryn Mawr College, Bryn Mawr, Pennsylvania.

Bucknell University, Lewisburg, Pennsylvania.

California Institute of Technology, Pasadena, California.

California Institute of the Arts, Valencia, California.

California Lutheran University, Thousand Oaks, California.

Calvin College, Grand Rapids, Michigan.

Calvin Theological Seminary, Grand Rapids, Michigan.

Canisius College, Buffalo, New York.

Carleton College, Northfield, Minnesota.

Carnegie-Mellon University, Pittsburgh, Pennsylvania.

Carroll College, Helena, Montana.

Case Western Reserve University, Cleveland, Ohio.

Catholic University of America, The, Washington, District of Columbia.

Cedarville College, Cedarville, Ohio.

Central Michigan University, Mount Pleasant, Michigan.

Central Yeshiva Tomchei Tmimim-Lubavitch, Brooklyn, New York.

Christendom College, Front Royal, Virginia.

City University, Bellevue, Washington.

City University of New York, The, John Jay College of Criminal Justice, New York, New York.

Claremont McKenna College, Claremont, California.

Clark University, Worcester, Massachusetts.

Clarkson University, Potsdam, New York.

Colby College, Waterville, Maine.

Colby-Sawyer College, New London, New Hampshire.

Colgate — Rochester Divinity School, The, Rochester, New York.

Colgate University, Hamilton, New York.

College of William and Mary, Williamsburg, Virginia.

Colorado College, The, Colorado Springs, Colorado.

Colorado School of Mines, Golden, Colorado.

Colorado State University, Fort Collins, Colorado.

Columbia International University, Columbia, South Carolina.

Columbia Union College, Takoma Park, Maryland.

Columbia University in the City of New York, New York, New York.

Concordia College, Moorhead, Minnesota.

Connecticut College, New London, Connecticut.

Conway School of Landscape Design, Conway, Massachusetts.

Cornell University, Ithaca, New York.

Cornerstone College and Grand Rapids Baptist Seminary, Grand Rapids, Michigan.

Covenant College, Lookout Mountain, Tennessee.

Creighton University, Omaha, Nebraska.

Curtis Institute of Music, The, Philadelphia, Pennsylvania.

Dallas Theological Seminary, Dallas, Texas.

Dartmouth College, Hanover, New Hampshire.

Denison University, Granville, Ohio.

De Paul University, Chicago, Illinois.

Detroit Bible College, Farmington Hills, Michigan.

Dordt College, Sioux Center, Iowa.

Drake University, Des Moines, Iowa.

Drew University, Madison, New Jersey.

Drury College, Springfield, Missouri.

Duke University, Durham, North Carolina.

Duquesne University, Pittsburgh, Pennsylvania.

D'Youville College, Buffalo, New York.

Eastern College, St. Davids, Pennsylvania.

Eastern Mennonite University, Harrisonburg, Virginia.

Eastern Washington University, Cheney, Washington.

Eckerd College, St. Petersburg, Florida.

Ecumenical Theological Center, Detroit, Michigan.

Elmira College, Elmira, New York.

Emerson College, Boston, Massachusetts.

Emmanuel School of Religion, Johnson City, Tennessee.

Emmaus Bible College, Dubuque, Iowa.

Emory University, Atlanta, Georgia.

Emporia State University, Emporia, Kansas.

Ferris State University, Big Rapids, Michigan.

Finlandia University, Hancock, Michigan.

Florida Atlantic University, Boca Raton, Florida.

Florida Gulf Coast University, Fort Myers, Florida.

Florida State University, Tallahassee, Florida.

Fordham University, New York, New York.

Franciscan University of Steubenville, Steubenville, Ohio.

Fresno Pacific College, Fresno, California.

Fuller Theological Seminary, Pasadena, California.

Gallaudet College, Washington, District of Columbia.

Geneva College, Beaver Falls, Pennsylvania.

George Washington University, The, Washington, District of Columbia.

Georgetown University, Washington, District of Columbia.

Georgia Institute of Technology, Atlanta, Georgia.

Goddard College, Plainfield, Vermont.

God's Bible School and College, Cincinnati, Ohio.

Gonzaga University, Spokane, Washington.

Gordon College, Venham, Massachusetts.

Gordon-Conwell Theological Seminary, South Hamilton, Massachusetts.

Goshen College, Goshen, Indiana.

Grace University, Omaha, Nebraska.

Graceland College, Lamoni, Iowa.

Greenville College, Greenville, Illinois.

Grinnell College, Grinnell, Iowa.

Hamilton College, Clinton, New York.

Hampshire College, Amherst, Massachusetts.

Harvard University, Cambridge, Massachusetts.

Hebrew Union College — Jewish Institute of Religion, Cincinnati, Ohio.

Hillsdale College, Hillsdale, Michigan.

Holy Trinity Orthodox Seminary, The, Jordanville, New York.

Hope College, Holland, Michigan.

Houghton College, Houghton, New York.

Huntington College, Huntington, Indiana.

Illinois Institute of Technology, Chicago, Illinois.

Illinois State University, Normal, Illinois.

Indiana University, Bloomington, Indiana.

Iowa State University of Science and Technology, Ames, Iowa.

Ithaca College, Ithaca, New York.

Jamestown College, Jamestown, North Dakota.

Jewish Theological Seminary of America, The, New York, New York.

Johns Hopkins University, The, Baltimore, Maryland.

Juilliard School, The, New York, New York.

Kansas State University, Manhattan, Kansas.

Kenyon College, Gambier, Ohio.

Kettering University, Flint, Michigan.

Lafayette College, Easton, Pennsylvania.

Lake Superior State University, Sault Ste-Marie, Michigan.

Lawrence Technological University, Southfield, Michigan.

Lehigh University, Bethlehem, Pennsylvania.

Leland Stanford Junior University (Stanford University), Stanford, California.

Le Moyne College, Syracuse, New York.

Le Tourneau College, Longview, Texas.

Liberty University, Lynchburg, Virginia.

Life Chiropractic College West, Hayward, California.

Life University, Marietta, Georgia.

Logan College of Chiropractic, Saint Louis, Missouri.

Loma Linda University, Loma Linda, California.

Louisiana State University and Agricultural and Mechanical College, Baton Rouge, Louisiana.

Loyola University, Chicago, Illinois.

Macalester College, St. Paul, Minnesota.

Magdalen College, Warner, New Hampshire.

Maharishi University of Management, Fairfield, Iowa.

Manhattanville College, Purchase, New York.

Mankato State University, Mankato, Minnesota.

Maranatha Baptist Bible College, Watertown, Wisconsin.

Marquette University, Milwaukee, Wisconsin.

Massachusetts Institute of Technology, Cambridge, Massachusetts.

Mayo Foundation, Rochester, Minnesota.

Mayo Graduate School of Medicine, Rochester, Minnesota.

Meadville-Lombard Theological School, Chicago, Illinois.

Medaille College, Buffalo, New York.

Medical College of Ohio, Toledo, Ohio.

Medical University of South Carolina, Charleston, South Carolina.

Mercyhurst College, Erie, Pennsylvania.

Messiah College, Grantham, Pennsylvania.

Messivta Yeshiva Rabbi Chaim Berlin, Brooklyn, New York.

Miami University, Oxford, Ohio.

Michigan State University, Detroit College of Law, East Lansing, Michigan.

Michigan State University, East Lansing, Michigan.

Michigan Technological University, Houghton, Michigan.

Middlebury College, Middlebury, Vermont.

Minot State University, Minot, North Dakota.

Mirrer Yeshiva Central Institute, Brooklyn, New York.

Montana State University, Bozeman, Montana.

Montana Tech of the University of Montana, Butte, Montana.

Moody Bible Institute, Chicago, Illinois.

Moravian College, Bethlehem, Pennsylvania.

Mount Holyoke College, South Hadley, Massachusetts.

Mount Ida College, Newton Centre, Massachusetts.

Multnomah Bible College, Portland, Oregon.

Naropa Institute, The, Boulder, Colorado.

National College of Chiropractic, The, Lambard, Illinois.

Nazarene Theological Seminary, Kansas City, Missouri.

Ner Israel Rabbinical College, Baltimore, Maryland.

New England College, Henniker, New Hampshire.

New School University, New York, New York.

New York University, New York, New York.

Niagara University, Niagara, New York.

North American Baptist Seminary, Sioux Falls, South Dakota.

North Carolina State University at Raleigh, Raleigh, North Carolina.

North Central College, Napierville, Illinois.

North Dakota State University of Agriculture and Applied Science, Fargo, North Dakota.

Northeastern University, Boston, Massachusetts.

Northern Michigan University, Marquette, Michigan.

Northwest College of The Assemblies of God, Kirkland, Washington.

Northwestern College, Orange City, Iowa.

Northwestern College, St. Paul, Minnesota.

Northwestern University, Evanston, Illinois.

Northwood University, Midland, Michigan.

Nova Southeastern University, Fort Lauderdale, Florida.

Nyack College, Nyack, New York.

Oakland University, Rochester, Michigan.

Oakwood College, Huntsville, Alabama.

Oberlin College, Oberlin, Ohio.

Ohio College of Pediatric Medicine, Cleveland, Ohio.

Ohio State University, The, Columbus, Ohio.

Ohio University, Athens, Ohio.

Old Dominion University, Norfolk, Virginia.

Oral Roberts University, Tulsa, Oklahoma.

Oregon State University, Corvallis, Oregon.

Pace University, New York, New York

Pacific Graduate School of Psychology, Menlo Park, California.

Pacific Lutheran University, Tacoma, Washington.

Pacific Union College, Angwin, California.

Pacific University, Forest Grove, Oregon.

Palm Beach Atlantic College, West Palm Beach, Florida.

Palmer College of Chiropractic, Davenport, Iowa.

Palmer College of Chiropractic — West, Sunnyvale, California.

Park College, Kansas City, Missouri.

Pennsylvania College of Podiatric Medicine, Philadelphia, Pennsylvania.

Pennsylvania State University, The, University Park, Pennsylvania.

Philadelphia College of Bible, Langhorne, Pennsylvania.

Philadelphia University, Philadelphia, Pennsylvania.

Pine Manor College, Chestnut Hill, Massachusetts.

Pomona College, Claremont, California.

Princeton Theological Seminary, Princeton, New Jersey.

Princeton University, Princeton, New Jersey.

Principia College, The, Elsah, Illinois.

Providence College, Providence, Rhode Island.

Purdue University, Lafayette, Indiana.

Rabbinical College of America Morristown, New Jersey.

Rabbinical College of Long Island, Long Beach, New York.

Rabbinical Seminary of America, Forest Hills, New York.

Reconstructionist Rabbinical College, Wyncote, Pennsylvania.

Reed College, Portland, Oregon.

Reformed Bible College, Grand Rapids, Michigan.

Reformed Theological Seminary, Jackson, Mississippi.

Rensselaer Polytechnic Institute, Troy, New York.

Rice University, Houston, Texas.

Roberts Wesleyan College, North Chili, New York.

Rochester Institute of Technology, Rochester, New York.

Rockefeller University, New York, New York.

Rush University, Chicago, Illinois.

Rutgers — The State University, New Brunswick, New Jersey.

Saint John's University, Collegeville, Minnesota.

Saint Louis University, Saint Louis, Missouri.

Saint Olaf College, Northfield, Minnesota.

San Francisco State College, San Francisco, California.

San Jose State University, San Jose, California.

Santa Clara University, Santa Clara, California.

Sarah Lawrence College, Bronxville, New York.

Scripps College, Claremont, California.

Scripps Research Institute, The, La Jolla, California.

Seattle Pacific University, Seattle, Washington.

Seattle University, Seattle, Washington.

Sherman College of Straight Chiropractic, Spartanburg, South Carolina.

Simmons College, Boston, Massachusetts.

Simpson College, Indianola, Iowa.

Simpson College, Redding, California.

Skidmore College, Saratoga Springs, New York.

Smith College, The, Northampton, Massachusetts.

South Dakota School of Mines and Technology, Rapid City, South Dakota.

Southern Adventist University, Collegedale, Tennessee.

Southern Illinois University of Carbondale, Carbondale, Illinois.

Southern Methodist University, Dallas, Texas.

Southwestern Adventist College, Keene, Texas.

Spring Arbor College, Spring Arbor, Michigan.

Springfield College, Springfield, Massachusetts.

State University College at Oswego, Oswego, New York.

State University College at Potsdam, Potsdam, New York.

State University of New York at Binghamton, Binghamton, New York.

State University of New York at Buffalo, Buffalo, New York.

State University of New York at Stony Brook, Stony Brook, New York.

State University of New York College of Arts and Science at Plattsburg, Plattsburg, New York.

Stephens College, Columbia, Missouri.

Stevens Institute of Technology, Hoboken, New Jersey.

St. Bonaventure University, St. Bonaventure, New York.

St. John's College, Annapolis, Maryland.

St. John's College, Santa Fe, New Mexico.

St. John's University, Jamaica, New York.

St. Lawrence University, Canton, New York.

St. Mary's University of San Antonio, San Antonio, Texas.

St. Vladimir's Orthodox Theological Seminary, Crestwood, New York.

Sunbridge College, Chestnut Ridge, New York.

Swarthmore College, Swarthmore, Pennsylvania.

Syracuse University, Syracuse, New York.

Tabor College, Hillsboro, Kansas.

Talmudic College of Florida, Miami Beach, Florida.

Talmudical Yeshiva of Philadelphia, Philadelphia, Pennsylvania.

Taylor University, Upland, Indiana.

Teachers College, Columbia University, New York, New York.

Telshe Yeshiva-Chicago, Rabbinical College of Telshe Chicago, Inc., Chicago, Illinois.

Telshe Yeshiva Rabbinical College of Telshe, Inc., Wickliffe, Ohio.

Temple University, Philadelphia, Pennsylvania.

Texas A&M University, College Station, Texas.

Texas Chiropractic College, Pasadena, Texas.

Texas Woman's University, Denton, Texas.

The Herman M. Finch University of Health Sciences/The Chicago Medical School, North Chicago, Illinois.

Thomas Aquinas College, Santa Paula, California.

Touro College, New York, New York.

Trinity Bible College, Ellendale, North Dakota.

Trinity College, Hartford, Connecticut.

Trinity Christian College, Palos Heights, Illinois.

Trinity Episcopal School for Ministry, Ambridge, Pennsylvania.

Trinity Evangelical Divinity School, Deerfield, Illinois.

Trinity Lutheran College, Issaquah, Washington.

Trinity University, San Antonio, Texas.

Tufts University, Medford, Massachusetts.

Tulane University, New Orleans, Louisiana.

Union College, Lincoln, Nebraska.

Union College, Schenectady, New York.

Union Institute, The, Cincinnati, Ohio.

Union Theological Seminary, New York, New York.

University of Akron, The, Akron, Ohio.

University of Alabama at Birmingham, The, Birmingham, Alabama.

University of Arizona, The, Tucson, Arizona.

University of Arkansas at Little Rock, Little Rock, Arkansas.

University of California, Berkeley, California.

University of California, Davis, California.

University of California, Irvine, California.

University of California, Los Angeles, California.

University of California, Riverside, California.

University of California, San Diego, California.

University of California, San Francisco, California.

University of California, Santa Barbara, California.

University of California, Santa Cruz, California.

University of Central Florida, Orlando, Florida.

University of Chicago, The, Chicago, Illinois.

University of Cincinnati, Cincinnati, Ohio.

University of Colorado, Boulder, Colorado.

University of Delaware, Newark, Delaware.

University of Denver, Denver, Colorado.

University of Detroit Mercy, Detroit, Michigan.

University of Florida, Gainesville, Florida.

University of Georgia, The, Athens, Georgia.

University of Hawaii, Honolulu, Hawaii.

University of Houston, Houston, Texas.

University of Idaho, Moscow, Idaho.

University of Illinois, Urbana, Illinois.

University of Iowa, Iowa City, Iowa.

University of Judaism, Los Angeles, California.

University of Kansas, Lawrence, Kansas.

University of Kentucky, Lexington, Kentucky.

University of Maine, Orono, Maine.

University of Maryland, College Park, Maryland.

University of Massachusetts at Amherst, Amherst, Massachusetts.

University of Miami, Coral Gables, Florida.

University of Michigan, The, Ann Arbor, Michigan.

University of Minnesota, Minneapolis, Minnesota.

University of Missouri, Columbia, Missouri.

University of Missouri, Saint-Louis, Missouri.

University of Montana-Missoula, The, Missoula, Montana.

University of Nebraska, The, Lincoln, Nebraska.

University of Nevada-Reno, Reno, Nevada.

University of North Carolina at Chapel Hill, Chapel Hill, North Carolina.

University of North Dakota, Grand Forks, North Dakota.

University of North Texas, Denton, Texas.

University of Notre Dame du Lac, Notre Dame, Indiana.

University of Oklahoma, Norman, Oklahoma.

University of Oregon, Eugene, Oregon.

University of Pennsylvania, Philadelphia, Pennsylvania.

University of Pittsburgh, Pittsburgh, Pennsylvania.

University of Portland, Portland, Oregon.

University of Rhode Island, Kingston, Rhode Island.

University of Rochester, Rochester, New York.

University of San Diego, San Diego, California.

University of Southern California, Los Angeles, California.

University of Southern Mississippi, The, Hattiesburg, Mississippi.

University of St. Thomas, Houston, Texas.

University of St. Thomas, St. Paul, Minnesota.

University of Tennessee, The, Knoxville, Tennessee.

University of Texas, Austin, Texas.

University of Texas Southwestern Medical Center at Dallas, The, Dallas, Texas.

University of the Pacific, Stockton, California.

University of Tulsa, Tulsa, Oklahoma.

University of Utah, Salt Lake City, Utah.

University of Vermont, Burlington, Vermont.

University of Virginia, Charlottesville, Virginia.

University of Washington, Seattle, Washington.

University of Wisconsin, Madison, Wisconsin.

University of Wyoming, The, Laramie, Wyoming.

Utah State University of Agriculture and Applied Science, Logan, Utah.

Valparaiso University, Valparaiso, Indiana.

Vanderbilt University, Nashville, Tennessee.

Vassar College, Poughkeepsie, New York.

Villanova University, Villanova, Pennsylvania.

Wake Forest University, Winston-Salem, North Carolina.

Walla Walla College, College Place, Washington.

Washington and Lee University, Lexington, Virginia.

Washington Bible College, Lanham, Maryland.

Washington State University, Pullman, Washington.

Washington University, Saint Louis, Missouri.

Wayne State University, Detroit, Michigan.

Wellesley College, Wellesley, Massachusetts.

Wesleyan University, Middletown, Connecticut.

Western Baptist College, Salem, Oregon.

Western Conservative Baptist Seminary, Portland, Oregon.

Western Michigan University, Kalamazoo, Michigan.

Western States Chiropractic College, Portland, Oregon.

Western University of Health Sciences, Pomona, California.

Western Washington University, Bellingham, Washington.

Westfield State College, Westfield, Massachusetts.

Westminster Theological Seminary in California, Escondido, California.

Westminster Theological Seminary, Philadelphia, Pennsylvania.

West Virginia University, Morgantown, West Virginia.

Wheaton College, Norton, Massachusetts.

Wheaton College, Wheaton, Illinois.

Wheelock College, Boston, Massachusetts.

Whitman College, Walla Walla, Washington.

Whittier College, Whittier, California.

William Tyndale College, Farmington Hills, Michigan.

Williams College, Williamstown, Massachusetts.

Withworth College, Spokane, Washington

Wittenberg University, Springfield, Ohio.

Wright State University, Dayton, Ohio.

Yale University, New Haven, Connecticut.

Yeshiva Ohr Elchonon Chabad/West Coast Talmudic Seminary, Los Angeles, California.

Yeshiva University, New York, New York.

(*b*) In the **United Kingdom**:

Aston University, Birmingham, England.

Cranfield University, Bedfordshire, England.

Gateshead Talmudical College, Gateshead, England.

Heriot-Watt University, Edinburgh, Scotland.

Imperial College of Science, Technology and Medicine, London, England.

King's College London, London, England.

London Business School, London, England.

Loughborough University, Leicestershire, England.

Queen's University of Belfast, The, Belfast, Northern Ireland.

University College London, London, England.

University of Aberdeen, Aberdeen, Scotland.

University of Bath, The, Bath, England.

University of Birmingham, Birmingham, England.

University of Bradford, Bradford, England.

University of Bristol, Bristol, England.

University of Cambridge, Cambridge, England.

University of Dundee, The, Dundee, Scotland.

University of Durham, Durham, England.

University of Edinburgh, Edinburgh, Scotland.

University of Exeter, Exeter, England.

University of Glasgow, Glasgow, Scotland.

University of Leeds, Leeds, England.

University of Liverpool, Liverpool, England.

University of London, London, England.

University of Manchester, The, Manchester, England.

University of Newcastle, The, Newcastle upon Tyne, England.

University of North London, London, England.

University of Nottingham, The, Nottingham, England.

University of Oxford, Oxford, England.

University of Reading, Reading, England

University of Sheffield, Sheffield, England.

University of Southampton, Southampton, England.

University of Strathclyde, Glasgow, Scotland.

University of St. Andrews, St.-Andrews, Scotland.

University of Surrey, Guildford, Surrey, England.

University of Sussex, Brighton, England.

University of Wales, Cardiff, Wales.

(*c*) In **Ireland**:

National University of Ireland, Dublin.

Royal College of Surgeons in Ireland, Dublin.

University of Dublin, The, Trinity College, Dublin.

(*d*) In **France**:

American University in Paris, Paris.

École Nationale des Ponts et Chaussées, Paris.

École Supérieure de Commerce de Paris, Paris.

Hautes Études Commerciales, Paris.

Institut Européen d'Administration des Affaires (INSEAD), Fontainebleau.

Les Facultés Catholiques de Lyon, Lyon.

L'Institut Catholique de Paris, Paris.

Université Catholique de Lille, Lille.

(*e*) In **Austria**:

University of Vienna, Vienna.

(*f*) In **Belgium**:

L'Université Catholique de Louvain, Louvain.

(*g*) In **Switzerland**:

Franklin College of Switzerland, Sorengo (Lugano).

University of Geneva, Geneva.

University of Lausanne, Lausanne.

(*h*) In **Vatican**:

Pontifical Gregorian University.

(*i*) In **Israël**:

Bar-Ilan University, Ramat-Gan.

Ben Gurion University of the Negev, Beersheba.

École biblique et archéologique française, Jerusalem.

Hebrew University of Jerusalem, Jerusalem.

Jerusalem College for Women, Bayit-Vegan, Jerusalem.

Jerusalem College of Technology, Jerusalem.

Technion-Israel Institute of Technology, Haïfa.

Tel-Aviv University, Tel-Aviv.

University of Haïfa, Haïfa.

Weizmann Institute of Science, Rehovat.

Yeshivat Aish Hatorah, Jerusalem.

(*j*) In **Lebanon**:

American University of Beirut, Riad El Solh, Beirut.

St. Joseph University, Beirut.

(*k*) In the **Federal Republic of Germany**:

Ukrainian Free University, Munich, Federal Republic of Germany.

University of Heidelberg, Heidelberg.

(*l*) In **Poland**:

Catholic University of Lublin, Lublin.

Jagiellonian University, Cracow.

(*m*) In **Spain**:

University of Navarra, Pamplona.

(*n*) In the **People's Republic of China**:

Nanjing University, Nanjing.

(*o*) In **Jamaica**:

University of the West Indies, Mona Campus, Kingston.

(*p*) In **Australia**:

Adelaide University, Adelaide.

Queensland University of Technology, Brisbane.

University of Melbourne, The, Parkville.

University of Queensland, The, Brisbane.

University of Sydney, The, Sydney.

University of Tasmania, Hobart.

(*q*) In **Croatia**:

University of Zagreb, Zagreb.

(*r*) In **South Africa**:

University of Cape Town, Rondebosch.

University of Natal, Durban.

University of the Witwatersrand, The, Johannesburg.

(*s*) In The **Netherlands**:

Leiden University, Leiden.

Nyenrode University, Breukelen.

University of Groningen, Groningen.

(*t*) In **Hong Kong**:

Hong Kong University of Science and Technology, The, Kowloon.

University of Hong Kong, The, Hong Kong.

(*u*) In **New Zealand**:

University of Auckland, The, Auckland.

University of Otago, Dunedin.

Victoria University of Wellington, Wellington.

(*v*) In **Hungary**:

Central European University, Budapest.

(*w*) In **India**:

Panjab University, Chandigarh.

(*x*) In **Estonia**:

University of Tartu, Tartu."

O.C. 1981-80, Sch. C; O.C. 1983-80, s. 52; O.C. 2456-80, s. 23; O.C. 1535-81, s. 23; R.R.Q., 1981, c. I-3, r.1, Sch. C; O.C. 2962-82, s. 90; O.C. 500-83, s. 90; O.C. 2727-84, s. 30; O.C. 544-86, s. 21; O.C. 615-88, s. 42; O.C. 1076-88, s. 34; O.C. 1471-91, s. 32; O.C. 1114-92, s. 42; O.C. 91-94, s. 102; O.C. 366-94, s. 28; O.C. 1660-94, s. 19; O.C. 473-95, s. 47; O.C. 67-96, s. 66; O.C. 1631-96, s. 60; O.C. 1466-98, s. 129; O.C. 1282-2003, s. 97; O.C. 1149-2006, s. 82; O.C. 1116-2007, s. 61.

2. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*. In addition,

(1) where subparagraph ii of subparagraph *b* of the second paragraph of section 143R5 of the Regulation, amended by section 1, applies to a taxation year ending after 31 December 2006, it is to be read with the word "only" replaced by the word "specifically";

(2) where section 487.0.2R1 of the Regulation, amended by section 1, applies after 31 December 2005, it is to be read with the following added after paragraph *n*:

"(*o*) for the 2006 calendar year:

i. in the Province of Ontario, the Territorial Districts of Algoma, Kenora, Manitoulin, Rainy River and Thunder Bay,

ii. in the Province of British Columbia, the Regional Districts of Bulkley-Nechako, Cariboo, Fraser-Fort George, Kitimat-Stikine and Peace River,

iii. in the Province of Saskatchewan, the Rural Municipalities of Arlington, Auvergne, Bengough, Big Stick, Bone Creek, Carmichael, Clinworth, Frontier, Glen McPherson, Grassy Creek, Gull Lake, Happy Valley, Hart Butte, Lac Pelletier, Lake Alma, Laurier, Lone Tree, Mankota, Maple Creek, Miry Creek, Old Post, Piapot, Pittville, Poplar Valley, Reno, Surprise Valley, The Gap, Val Marie, Waverley, Webb, Whiska Creek, White Valley, Willow Bunch and Wise Creek, and

iv. in the Province of Alberta, the Counties of Clear Hills, Grande Prairie and Saddle Hills and the Municipal Districts of Greenview and Northern Lights.";

(3) where section 488R1 of the Regulation, amended by section 1, applies as of the taxation year 2007, it is to be read with the following added after paragraph *z*:

"(*z*.1) an amount received as a working income tax benefit under the Income Tax Act.";

(4) where sections 716R1 and 752.0.10.12R1 of the Regulation, amended by section 1, apply in respect of gifts made after 2 May 2007, they are to be read as follows:

"**716R1.** For the purposes of section 716 of the Act, the following are prescribed donees:

(*a*) Friends of The Nature Conservancy of Canada, Inc., a charity established in the United States;

(*b*) The Nature Conservancy, a charity established in the United States.

"**752.0.10.12R1.** For the purposes of section 752.0.10.12 of the Act, the charities mentioned in section 716R1 are prescribed donees.";

(5) where paragraph *i* of section 752.0.11.1R1 of the Regulation, amended by section 1, applies in respect of property acquired after 22 February 2005, it is to be read with the words "that is designed to assist" replaced by the words "that is exclusively designed to assist";

(6) where paragraph *w* of section 752.0.11.1R1 of the Regulation, amended by section 1, applies as of the taxation year 2004, it is to be read as follows:

"(*w*) a talking textbook for use by an individual with a perceptual disability in connection with the individual's enrolment at an educational institution in Canada or at an educational institution described in section 358.0.2 of the Act;";

(7) where section 752.0.11.1R1 of the Regulation, amended by section 1, applies as of the taxation year 2005:

(*a*) it is to be read with the following inserted after paragraph *m*:

"(*m*.1) a device or software designed to be used by a blind person, or a person with a severe learning disability, to enable the person to read print;";

(*b*) it is to be read with the following paragraphs added after paragraph *w*:

"(*x*) a Bliss symbol board, or similar device, designed to be used to help an individual who has a speech impairment communicate by selecting the symbols or spelling out words;

(*y*) a Braille note-taker designed to be used by a blind person to allow the person to take notes that can be read back or printed, or displayed in Braille with the help of a keyboard; and

(*z*) a page turner, designed to be used by an individual who has a severe and prolonged impairment that markedly restricts the individual's ability to use arms or hands to turn the pages of a book or other bound document.";

(8) where the definition of "remuneration" in section 1015R1 of the Regulation, amended by section 1, applies as of the taxation year 2006, it is to be read without reference to paragraph *n*;

(9) where the Regulation, amended by section 1, applies as of the taxation year 2006, it is to be read with sections 1015R3.2 to 1015R3.4 struck out;

(10) where the Regulation, amended by section 1, applies in respect of expenditures incurred after 23 March 2006 for scientific research and experimental development undertaken after that date and, where applicable, pursuant to a contract entered into after that date:

(*a*) it is to be read with the following inserted after section 1027R9:

"**1029.7R1.** For the purposes of subparagraph 1 of subparagraph vii of subparagraph *b* of the third paragraph of section 1029.7 of the Act, an expenditure described in section 230R1 or 230R2 is a prescribed expenditure.

"**1029.8R1.** For the purposes of subparagraph 1 of subparagraph vi of subparagraph *b* of the third paragraph of section 1029.8 of the Act, an expenditure described in section 230R1 or 230R2 is a prescribed expenditure.

(*b*) it is to be read with the following inserted after section 1029.8.15.1R1:

"**1029.8.16.1.1R1.** For the purposes of the definition of "qualified expenditure" in the first paragraph of section 1029.8.16.1.1 of the Act, the prescribed proxy amount is that determined under sections 1029.8.9.1R1 to 1029.8.9.1R7.

"**1029.8.16.1.6R1.** For the purposes of subparagraph i of paragraph *a* of section 1029.8.16.1.6 of the Act, an expenditure described in section 230R1 or 230R2 is a prescribed expenditure.";

(11) where section 1029.8.1R0.2 of the Regulation, amended by section 1, applies in respect of scientific research and experimental development undertaken after 31 December 2006 pursuant to an eligible research contract entered into after that date, it is to be read with the following added after paragraph *x*:

"(*y*) MUSILAB inc.";

(12) where the Regulation, amended by section 1, applies as of the taxation year 2008, it is to be read with the following inserted after section 1086R23.18:

"**1086R23.19.** Every educational institution designated by the Minister of Education, Recreation and Sports for the purposes of the loans and bursaries program for full-time studies in vocational training at the secondary level and for full-time studies at the postsecondary level, established under the Act respecting financial assistance for education expenses (R.S.Q., c. A-13.3) and situated in Québec must for a calendar year file an information return in prescribed form in respect of each person pursuing studies on a full-time basis, or who is deemed to be pursuing studies on a full-time basis under section 752.0.2.2 of the Act, in the institution where the person is enrolled in an educational program described in paragraph *a* of section 752.0.2.1 of the Act and has completed at least one session of studies undertaken in the year.

The information return referred to in the first paragraph must be sent to each person in respect of whom such a return is filed or be otherwise available to the person on or before the last day of February of the following year. ".

Regulation to amend the Regulation respecting fiscal administration*

An Act respecting the Ministère du Revenu
(R.S.Q., c. M-31, ss. 94.7, 96, 1st par. and 97)

1. Section 7R3 of the Regulation respecting fiscal administration is amended by inserting the following after paragraph 1:

"(1.1) section 39 of the Act;".

2. Section 7R3.2 of the Regulation is amended by replacing "sections 39 and" in subparagraph 2 of the first paragraph by "section 39 in relation to a formal demand other than that sent to an advocate or notary and section".

3. Section 7R4 of the Regulation is amended by replacing "and sections," in paragraph 1 by "in relation to a formal demand other than that sent to an advocate or notary and sections".

4. Section 7R5 of the Regulation is amended by striking out ", 1029.6.0.5" in paragraph 2.

5. Section 7R10 of the Regulation is amended by inserting "of the Ministère du Revenu" after "Direction du contentieux" in the portion before paragraph 1.

6. Section 7R11 of the Regulation is amended by inserting "of the Ministère du Revenu" after "Direction du contentieux" in the portion before paragraph 1.

7. The Regulation is amended by inserting the following after section 7R13:

"**7R13.1.** A public servant who holds the position of Head of the Service des méthodes et des procédés at the Direction principale des enquêtes within the Direction générale de la legislation et des enquêtes is authorized to sign the documents required for the purposes of the provisions mentioned in sections 7R14, 7R15 and 7R15.2.".

8. Section 7R14 of the Regulation is amended

(1) by replacing "A public servant" in the part before paragraph 1 by "Subject to section 7R13.1, a public servant";

(2) by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "section 39" in paragraph 2.

9. Section 7R15.2 of the Regulation is amended by replacing "governed by the collective labour agreement for professionals who holds a position of collection agreement advisor" by "governed by the collective labour agreement for professionals who holds a position in the Service des méthodes et des procédés".

10. Section 7R16 of the Regulation is replaced by the following:

"**7R16.** A public servant who holds a position of Director, mail, or a position of Director, records management, at the Direction principale du traitement massif, or a public servant who holds a position of head of a service in a mail or records management directorate at the Direction principale du traitement massif within the Direction générale du traitement et des technologies is authorized to sign the documents required for the purposes of sections 42, 58.1, 71 and 86 of the Act.".

11. Section 7R18 of the Regulation is amended by replacing paragraph 1.1 by the following:

"(1.1) sections 17.1 and 39 of the Act;".

12. Section 7R20 of the Regulation is amended by replacing ", 17.9.1 and 39 of the Act" in paragraph 2 by "and 17.9.1 and section 39 of the Act in relation to a formal demand other than that sent to an advocate or notary".

* The Regulation respecting fiscal administration (R.R.Q., 1981, c. M-31, r.1) was last amended by the Regulation to amend the Regulation respecting fiscal administration made by Order in Council 1116-2007 dated 12 December 2007 (2007, *G.O.* 2, 4042). For previous amendsments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2008, updated to 1 September 2008.

13. Section 7R22 of the Regulation is amended by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "section 39" in subparagraph 2 of the first paragraph.

14. Section 7R23.3 of the Regulation is amended

(1) by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "section 39" in paragraph 2;

(2) by adding the following after paragraph 3:

"(4) sections 56, 75.1, 202, 415, 416, 417 and 418, subparagraph 3 of the second paragraph of section 434 and sections 458.1.2, 458.6, 473.3, 473.7, 475, 476 and 477 of the Act respecting the Québec sales tax (R.S.Q., c. T-0.1);

(5) section 442R4 of the Regulation respecting the Québec sales tax made by Order in Council 1607-92 dated 4 November 1992.".

15. Section 7R57.4 of the Regulation is amended by adding the following after subparagraph 2 of the first paragraph:

"(3) article 2631 of the Civil Code.".

16. Section 7R57.5 of the Regulation is amended by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "section 39" in the second paragraph.

17. Section 7R57.6 of the Regulation is amended

(1) by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "section 39" in subparagraph 1 of the first paragraph;

(2) by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "section 39" in the second paragraph.

18. Section 7R57.8 of the Regulation is amended by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "section 39" in paragraph 2.

19. Section 7R57.15 of the Regulation is amended by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "section 39" in subparagraph 2 of the first paragraph.

20. Section 7R78.2 of the Regulation is amended by replacing the first paragraph by the following:

"**7R78.2.** A public servant who holds the position of Director of the Direction de la cotisation des mandataires at the Direction principale de la cotisation des entreprises within the Direction générale des entreprises is authorized to sign the documents required for the purposes of

(1) the provisions mentioned in the first paragraph of section 7R78.3 and in section 7R78.4; and

(2) section 39 of the Act.".

21. Section 7R78.3 of the Regulation is amended

(1) by replacing ", 35.6, 39," in subparagraph 2 of the first paragraph by "and 35.6, section 39 in relation to a formal demand other than that sent to an advocate or notary and sections";

(2) by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "section 39 of the Act" in the second paragraph.

22. Section 7R78.6 of the Regulation is amended by inserting the following after subparagraph 1 of the first paragraph:

"(1.1) section 39 of the Act;".

23. Section 7R78.7 of the Regulation is amended by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "section 39 of the Act" in the second paragraph.

24. Section 7R78.8 of the Regulation is amended

(1) by replacing ", 35.6, 39," in subparagraph 2 of the first paragraph by "and 35.6, section 39 in relation to a formal demand other than that sent to an advocate or notary and sections";

(2) by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "section 39 of the Act" in the second paragraph.

25. Section 7R78.9 of the Regulation is amended

(1) by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "section 39" in subparagraph 1 of the first paragraph;

(2) by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "the Act" in the second paragraph.

26. Section 7R78.14 of the Regulation is amended

(1) by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "section 39" in subparagraph 2 of the first paragraph;

(2) by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "section 39 of the Act" in the second paragraph.

27. Section 7R78.19 of the Regulation is amended

(1) by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "section 39" in subparagraph 2 of the first paragraph;

(2) by inserting "in relation to a formal demand other than that sent to an advocate or notary" after "section 39 of the Act" in the second paragraph.

28. The Regulation is amended by inserting the following after section 7R78.20:

"*§§5.2. Direction de la lutte contre les planifications fiscales abusives*

7R78.21. A public servant who holds the position of Director, abusive tax planning control, within the Ministère du Revenu, is authorized to sign the documents required for the purposes of

(1) the provisions mentioned in sections 7R78.22 and 7R78.23;

(2) sections 34, 35, 35.5, 35.6, 36, 39 and 71 of the Act;

(3) article 2631 of the Civil Code;

(4) sections 56, 75.1, 202, 415, 416, 417 and 418, subparagraph 3 of the second paragraph of section 434 and sections 458.1.2, 458.6, 473.3, 473.7, 475, 476 and 477 of the Act respecting the Québec sales tax (R.S.Q., c. T-0.1); and

(5) section 442R4 of the Regulation respecting the Québec sales tax made by Order in Council 1607-92 dated 4 November 1992.

7R78.22. A public servant governed by the collective labour agreement for professionals who holds a position of financial management officer or a public servant governed by the collective labour agreement for public servants who holds a position of tax audit officer at the Direction de la lutte contre les planifications fiscales abusives within the Ministère du Revenu is authorized to sign the documents required for the purposes of

(1) the provision mentioned in section 7R78.23; and

(2) section 165.4, paragraph *f* of subsection 2 of section 1000 and section 1001 of the Income Tax Act (R.S.Q., c. I-3).

7R78.23. A public servant governed by the collective labour agreement for professionals who holds a position of socioeconomic research and planning officer or computer and administrative processes analyst at the Direction de la lutte contre les planifications fiscales abusives within the Ministère du Revenu is authorized to sign the documents required for the purposes of section 94.1 of the Act.".

29. Section 7R79 of the Regulation is amended by inserting the following after paragraph 1.1:

"(1.2) section 59 of the Act to facilitate the payment of support (R.S.Q., c. P-2.2);".

30. Section 7R79.2 of the Regulation is amended by replacing "7R79.3 to 7R79.14" by "7R79.2.1 to 7R79.14.4".

31. The Regulation is amended by inserting the following after section 7R79.2:

"**7R79.2.1.** A public servant who holds the position of Head of the projet BNR — volet utilisateur at the Direction principale des biens non réclamés within the Direction générale du centre de perception fiscale et des biens non réclamés is, to the extent that the public servant is under the immediate authority of the Senior Director, unclaimed property, authorized to sign any document relating to general disbursements, up to $100,000.".

32. Section 7R79.3 of the Regulation is amended by striking out "or a position of computer and administrative processes analyst" in the portion before paragraph 1.

33. Sections 7R79.4 and 7R79.5 of the Regulation are revoked.

34. Section 7R79.6 of the Regulation is amended

(1) by replacing "and partition" in paragraph 6 by "and a partition";

(2) by striking out "à" in the French text of paragraph 20;

(3) by striking out paragraph 22.

35. Section 7R79.7 of the Regulation is amended by striking out "governed by the collective labour agreement for advocates and notaries or a public servant" in the portion before paragraph 1.

36. Section 7R79.10 of the Regulation is amended

(1) by replacing "and partition" in paragraph 10 by "and a partition";

(2) by striking out "à" in the French text of paragraph 25.

37. Section 7R79.11 of the Regulation is amended by striking out "governed by the collective labour agreement for advocates and notaries or a public servant" in the portion before paragraph 1.

38. Section 7R79.12 of the Regulation is amended by replacing "or administration technician" in the portion before paragraph 1 by ", administration technician or law clerk".

39. The Regulation is amended by inserting the following after section 7R79.14:

"***§§§§1.1.1.1.3.*** *Direction du soutien aux opérations*

7R79.14.1. A public servant who holds the position of Director, operations support at the Direction principale des biens non réclamés within the Direction générale du centre de perception fiscale et des biens non réclamés is authorized to sign any document in connection with

(1) the obtaining of documents in order to take jurisdiction;

(2) general disbursements, up to $100,000;

(3) the notice of quality referred to in article 699 of the Civil Code or in section 32 of the Public Curator Act (R.S.Q., c. C-81);

(4) the discharge of any sum relating to a debt, release of security or approval of any claim against unclaimed property and their payment if the patrimony so allows;

(5) the discharge of any sum relating to a succession;

(6) a settlement and a partition or a transaction referred to in section 36 of the Public Curator Act, up to a value not in excess of $100,000;

(7) the approval of a claim against unclaimed property, up to $100,000;

(8) the sale, expropriation, creation of a servitude or hypothec or any other alienation concerning an immovable;

(9) the renewal of a debt secured by a hypothec;

(10) the correction or ratification of the title to an immovable;

(11) the sale of any movable property at auction, by agreement or through a third person, the disposition of such property by other means in accordance with the procedures in force and the moving and storage of such property;

(12) the valuation and safekeeping of unclaimed financial products;

(13) authorization to transfer a retirement savings plan to a registered retirement savings fund;

(14) authorization to convert an annuity contract or a pension plan into a locked-in retirement account or to convert that account into a life income fund;

(15) the opening, transfer or closing of an account with a broker or another third person;

(16) the management, conversion or transfer of personal or joint portfolios from one broker to another;

(17) the security deed in relation to securities, for the purpose of obtaining a duplicate of a lost or destroyed certificate;

(18) transactions relating to the management or liquidation of securities in registered form;

(19) the sitting on a board of directors of a legal person and the administration or dissolution of a legal person, including the signing of legal notices and any document relating to the rights attached to securities administered by the Minister of Revenue;

(20) fiscal laws;

(21) the redirection of mail or the termination of service by the postmaster;

(22) the rendering of accounts and the handing over of property to persons entitled to it on termination of the administration of the Minister of Revenue; and

(23) management of an advance of funds or a credit margin, up to $10,000 per file.

7R79.14.2. A public servant governed by the collective labour agreement for professionals who holds a position of financial management officer, socioeconomic research and planning officer, computer and administrative processes analyst or administrative attaché in the Direction du soutien aux opérations at the Direction principale des biens non réclamés within the Direction générale du centre de perception fiscale et des biens non réclamés is authorized to sign any document in connection with

(1) the obtaining of documents in order to take jurisdiction;

(2) general disbursements and advances of funds, up to $5,000;

(3) the notice of quality referred to in section 32 of the Public Curator Act (R.S.Q., c. C-81);

(4) the valuation and safekeeping of unclaimed property;

(5) the sale of any movable property at auction;

(6) the abandonment or destruction of any movable property in accordance with the procedures in force;

(7) the redirection of mail or the termination of service by the postmaster; and

(8) the rendering of accounts and the handing over of property of a value not in excess of $5,000 to persons entitled to it on termination of the administration of the Minister of Revenue.

7R79.14.3. A public servant governed by the collective labour agreement for public servants who holds a position of administration technician in the Direction du soutien aux opérations at the Direction principale des biens non réclamés within the Direction générale du centre de perception fiscale et des biens non réclamés is authorized to sign any document in connection with

(1) the obtaining of documents in order to take jurisdiction;

(2) general disbursements and advances of funds, up to $2,000;

(3) the valuation and safekeeping of unclaimed property;

(4) the sale of any security in registered form, up to a value not in excess of $2,000, and the opening, transfer or closing of an account with a broker;

(5) the sale of any movable property at auction;

(6) the redirection of mail or the termination of service by the postmaster; and

(7) the rendering of accounts and the handing over of property of a value not in excess of $2,000 to persons entitled to it on termination of the administration of the Minister of Revenue.

7R79.14.4. A public servant governed by the collective labour agreement for public servants who holds a position of office clerk or information officer in the Direction du soutien aux opérations at the Direction principale des biens non réclamés within the Direction générale du centre de perception fiscale et des biens non réclamés is authorized to sign any document in connection with

(1) the obtaining of documents in order to take jurisdiction;

(2) general disbursements, up to $500 and advances of funds, up to $2,000;

(3) the valuation and safekeeping of unclaimed property; and

(4) the redirection of mail or the termination of service by the postmaster.”.

40. (1) Section 7R80 of the Regulation is amended by inserting "at the Direction des solutions électroniques et du partenariat gouvernemental" after "documentaire".

(2) Subsection 1 has effect from 4 August 2008.

41. (1) Section 7R81 of the Regulation is replaced by the following:

"**7R81.** The Director General, planning, administration and research, is authorized to sign, in place of the Minister of Revenue, any purchase, typesetting and printing, leasing or services contract.".

(2) Subsection 1 has effect from 14 July 2008.

42. Section 7R81.1 of the Regulation is amended by replacing "$100,000" by "$200,000".

43. (1) Section 7R81.2 of the Regulation is amended

(1) by replacing "d'approvisionnement et de reprographie" by "d'acquisition de biens et de services;

(2) by replacing "$25,000" by "$50,000".

(2) Paragraph 1 of subsection 1 has effect from 30 April 2008.

44. (1) Section 7R87 of the Regulation is amended by replacing "des communications administratives, des traitements massifs et de l'intranet" by "de la conception des communications administratives".

(2) Subsection 1 has effect from 4 August 2008.

45. (1) Section 7R87.1 of the Regulation is amended by replacing "communications administratives, des traitements massifs et de l'intranet" by "solutions électroniques et du partenariat gouvernemental".

(2) Subsection 1 has effect from 4 August 2008.

46. Section 7R88.2 of the Regulation is amended by inserting "public curatorship" before "investigator".

47. (1) The Regulation is amended by inserting the following after section 7R89:

"*§3.1. Other contracts or agreements*

7R90. The Director General, planning, administration and research, is authorized to sign, in place of the Minister of Revenue, any contract or agreement referred to in section 9.0.7 of the Act or in sections 9 and 9.1 of the Act respecting the Centre de services partagés du Québec (R.S.Q., c. C-8.1.1).

7R91. Subject to section 7R90, the Assistant Deputy Ministers and Directors General and the public servants who hold a position of Director General are authorized to sign, in place of the Minister of Revenue but within the limits of their respective duties, any contract or agreement referred to in section 9.0.7 of the Act or in sections 9 and 9.1 of the Act respecting the Centre de services partagés du Québec (R.S.Q., c. C-8.1.1).".

(2) Subsection 1, where it enacts section 7R90 of the Regulation, has effect from 14 July 2008.

48. Section 40.1.1R1 of the Regulation is replaced by the following:

"**40.1.1R1.** For the purposes of section 40.1.1 of the Act, a public servant who is governed by the collective labour agreement for professionals who holds a position of financial management officer or computer and administrative processes analyst at the Direction principale des enquêtes within the Direction générale de la legislation et des enquêtes of the Ministère du Revenu is authorized to lay an information in writing and under oath.".

49. Section 94.5R1 of the Regulation is amended

(1) by replacing the period at the end of paragraph 5 by "; and";

(2) by adding the following after paragraph 5:

"(6) he shall not owe an amount exigible under the Act to facilitate the payment of support (R.S.Q., c. P-2.2).".

50. The Regulation is amended by replacing "immoveable " in the following provisions by "immovable":

— paragraphs 1 and 2 of section 10R3;

— paragraphs 7 and 10 of section 14R1;

— subparagraph i of paragraph *c* and paragraph *c*.1 of section 96R4.

51. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

Regulation to amend the Regulation respecting tax exemptions granted to certain international governmental organizations and to certain of their employees and members of their families*

An Act respecting the Ministère du Revenu
(R.S.Q., c. M-31, s. 96, 1st par., subpar. *b* and s. 97)

1. Section 4 of the Regulation respecting tax exemptions granted to certain international governmental organizations and to certain of their employees and members of their families is amended by replacing "An organization" in the portion of the first paragraph before subparagraph 1 by "Subject to the third paragraph, an organization".

2. (1) Section 4.1 of the Regulation is amended by replacing "in paragraphs *a* and *e* of subsection 8.1 of section 23 of Part III of the Excise Tax Act (Revised Statutes of Canada, 1985, c. E-15)" in the fourth paragraph by "in paragraph *h* of subsection 2 of section 32, paragraphs *b*, *c*, *d* and *h* of subsection 3 of section 32, paragraph *c* of subsection 4 and subsection 11 of section 50 and paragraph *b* of subsection 2 of section 51 of the Excise Act, 2001 (Statutes of Canada, 2002, chapter 22)".

(2) Subsection 1 has effect from 1 July 2003.

3. Section 8.5 of the Regulation is amended by replacing "fourth paragraph" in the portion before subparagraph 1 of the first paragraph by "third and fourth paragraphs".

4. (1) Section 8.6 of the Regulation is amended by replacing "in paragraphs *a* and *e* of subsection 8.1 of section 23 of Part III of the Excise Tax Act (Revised Statutes of Canada, 1985, c. E-15)" in the fourth paragraph by "in paragraph *h* of subsection 2 of section 32, paragraphs *b*, *c*, *d* and *h* of subsection 3 of section 32, paragraph *c* of subsection 4 and subsection 11 of section 50 and paragraph *b* of subsection 2 of section 51 of the Excise Act, 2001 (Statutes of Canada, 2002, chapter 22)".

(2) Subsection 1 has effect from 1 July 2003.

5. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

* The Regulation respecting tax exemptions granted to certain international governmental organizations and to certain of their employees and members of their families, made by Order in Council 1799-90 dated 19 December 1990 (1991, *G.O.* 2, 23), was last amended by the Regulation to amend the Regulation respecting tax exemptions granted to certain international governmental organizations and to certain of their employees and members of their families, made by Order in Council 1149-2006 dated 12 December 2006 (2006, *G.O.* 2, 4087). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2008, updated to 1 September 2008.

Regulation to amend the Regulation respecting the Québec sales tax*

An Act respecting the Québec sales tax
(R.S.Q., c. T-0.1, ss. 541.47, 1st par. and 677, 1st and 2nd pars.)

1. Section 201R3 of the Regulation respecting the Québec sales tax is amended in the French text by replacing "émise" in paragraphs 2 and 3 by "délivrée".

2. (1) Section 290R1 of the Regulation is amended by replacing "5.7%" by "5.3%".

(2) Subsection 1 has effect from the taxation year 2007.

(3) In addition, for the taxation year 2006, subsection 1 is to be read with "5.3%" replaced by "5.5%".

3. (1) Section 434R0.5 of the Regulation is amended by replacing paragraph 2 of the definition of "specified registrant" by the following:

"(2) at that time, is not a charity or selected public service body within the meaning of section 383 of the Act, a municipality or a public institution;".

(2) Subsection 1 applies for the purposes of computing a registrant's net tax for a reporting period that begins after 31 December 1996.

4. (1) Section 434R7 of the Regulation is amended by replacing subparagraph *b* of subparagraph 3 of the second paragraph by the following:

"(*b*) the amounts, in respect of specified supplies that may be deducted under Chapter VIII of Title I in computing the net tax for the particular reporting period and that the registrant applies for in the return filed under that chapter for that period.".

* The Regulation respecting the Québec sales tax, made by Order in Council 1607-92 dated 4 November 1992 (1992, *G.O.* 2, 4952), was last amended by the Regulation to amend the Regulation respecting the Québec sales tax made by Order in Council 74-2009 dated 28 January 2009 (2009, *G.O.* 2, 71). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2008, updated to 1 September 2008.

(2) Subsection 1 applies for the purposes of computing net tax for a reporting period that ends after 20 December 2002.

5. (1) Section 434R0.13 of the Regulation is amended

(1) by striking out "made by the registrant" in subparagraph *b* of subparagraph 2 of the second paragraph;

(2) by striking out "made by the registrant" in subparagraph *b* of subparagraph 3 of the second paragraph.

(2) Subsection 1 applies for the purposes of computing net tax for a reporting period that ends after 20 December 2002.

6. (1) Section 434R1 of the Regulation is replaced by the following:

"**434R1.** For the purposes of sections 434R2 to 434R8, "external supplier", "facility operator" and "selected public service body" have the meaning assigned by section 383 of the Act and "qualifying non-profit organization" has the meaning assigned by section 385 of the Act.".

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

7. Section 541.47R2 of the Regulation is amended in the French text by replacing "émis" in subparagraph *a* of paragraph 2 by "délivré".

8. The Regulation is amended by replacing "siège social" in the French text of the following provisions by "siège":

— section 279R28;

— the first paragraph and subparagraph 3 of the third paragraph of section 279R29.

9. (1) Schedule II.0.1 to the Regulation is amended by adding the following vehicles to the 2008 models after "— 2008 two-wheel drive Ford Escape Hybrid (HEV)":

"— 2008 Honda Civic Hybrid

— 2008 Nissan Altima Hybrid

— 2008 Toyota Camry Hybrid

— 2008 Toyota Prius".

(2) Subsection 1 applies in respect of the supply or the bringing into Québec of a vehicle after 23 March 2006 and before 1 January 2009.

10. (1) Schedule II.2 to the Regulation is amended

(1) in Class 1:

(a) by striking out the Gaspésie tourist region and the territorial entities included in the region;

(b) by inserting in alphabetical order the following tourist regions and the territorial entities included in the regions:

"**Duplessis**

Aguanish; Baie-Johan-Beetz; Blanc-Sablon; Bonne-Espérance; Caniapiscau;

Côte-Nord-du-Golfe-du-Saint-Laurent; Fermont; Gros-Mécatina; Havre-Saint-Pierre; Kawawachikamach (Naskapi Reserved Land (1-AN)); Lac-Jérôme; Lac-John; Lac-Juillet; Lac-Vacher; Lac-Walker; La Romaine; L'Île-d'Anticosti; Longue-Pointe-de-Mingan; Maliotenam; Matimekosh; Mingan; Natashquan (Township); Natashquan (Indian Reserve); Pakuashipi; Petit-Mécatina; Port-Cartier; Rivière-au-Tonnerre; Rivière-Mouchalagane; Rivière-Nipissis; Rivière-Saint-Jean; Saint-Augustin; Schefferville; Sept-Îles; Uashat.

Îles-de-la-Madeleine

Les Îles-de-la-Madeleine; Grosse-Île.";

(2) in Class 2, by inserting in alphabetical order the following tourist region and the territorial entities included in the region:

"**Gaspésie**

Albertville; Amqui; Baie-des-Sables; Bonaventure; Cap-Chat; Caplan; Carleton-sur-Mer; Cascapédia-Saint-Jules; Causapscal; Chandler; Cloridorme; Collines-du-Basque; Coulée-des-Adolphe; Escuminac; Gaspé; Gesgapegiag; Grand-Métis; Grande-Rivière; Grande-Vallée; Grosses-Roches; Hope; Hope Town; Lac-à-la-Croix; Lac-Alfred; Lac-au-Saumon; Lac-Casault; Lac-des-Eaux-Mortes; Lac-Matapédia; La Martre; La Rédemption; L'Ascension-de-Patapédia; Les Méchins; Listuguj; Maria; Marsoui; Matane; Matapédia; Métis-sur-Mer; Mont-Albert; Mont-Alexandre; Mont-Joli; Mont-Saint-Pierre; Murdochville; New Carlisle; New Richmond; Nouvelle; Padoue; Paspébiac; Percé; Petite-Vallée; Pointe-à-la-Croix; Port-Daniel–Gascons; Price; Ristigouche-Partie-Sud-Est; Rivière-à-Claude; Rivière-Bonaventure; Rivière-Bonjour; Rivière-Nouvelle; Rivière-Patapédia-Est; Rivière-Saint-Jean; Rivière-Vaseuse; Routhierville; Ruisseau-des-Mineurs; Ruisseau-Ferguson; Saint-Adelme; Saint-Alexandre-des-Lacs; Saint-Alexis-de-Matapédia; Saint-Alphonse; Saint-André-de-Restigouche; Saint-Cléophas; Saint-Damase; Saint-Elzéar; Saint-François-d'Assise; Saint-Godefroi;

Saint-Jean-de-Cherbourg; Saint-Joseph-de-Lepage; Saint-Léandre; Saint-Léon-le-Grand; Saint-Maxime-du-Mont-Louis; Saint-Moïse; Saint-Noël; Saint-Octave-de-Métis; Saint-René-de-Matane; Saint-Siméon; Saint-Tharcisius; Saint-Ulric; Saint-Vianney; Saint-Zénon-du-Lac-Humqui; Sainte-Angèle-de-Mérici; Sainte-Anne-des-Monts; Sainte-Félicité; Sainte-Flavie; Sainte-Florence; Sainte-Irène; Sainte-Jeanne-d'Arc; Sainte-Madeleine-de-la-Rivière-Madeleine; Sainte-Marguerite; Sainte-Paule; Sainte-Thérèse-de-Gaspé; Sayabec; Shigawake; Val-Brillant.".

(2) Subsection 1 applies

(1) in relation to subparagraph *a* of paragraph 1, in respect of the supply of a sleeping-accommodation unit that is invoiced after 30 June 2008 by the operator of a sleeping-accommodation establishment for occupancy after that date, except if the price of the unit was fixed pursuant to an agreement entered into before 1 July 2008 between the operator of the establishment and a travel agent within the meaning of section 2 of the Travel Agents Act (R.S.Q., c. A-10), a foreign tour operator or a convention organizer that supplies the sleeping-accommodation units to the attendees and the occupancy of the unit occurs between 30 June 2008 and 1 April 2009;

(2) in relation to subparagraph *b* of paragraph 1,

(a) with respect to the Duplessis tourist region and the territorial entities included in the region, in respect of the supply of a sleeping-accommodation unit that is invoiced after 31 December 2007 by the operator of a sleeping-accommodation establishment for occupancy after that date, except if the price of the unit was fixed pursuant to an agreement entered into before 1 January 2008 between the operator of the establishment and a travel agent within the meaning of section 2 of the Travel Agents Act (R.S.Q., c. A-10), a foreign tour operator or a convention organizer that supplies the sleeping-accommodation units to the attendees and the occupancy of the unit occurs between 31 December 2007 and 1 October 2008;

(b) with respect to the Îles-de-la-Madelaine tourist region and the territorial entities included in the region, in respect of the supply of a sleeping-accommodation unit that is invoiced after 30 June 2008 by the operator of a sleeping-accommodation establishment for occupancy after that date, except if the price of the unit was fixed pursuant to an agreement entered into before 1 July 2008 between the operator of the establishment and a travel agent within the meaning of section 2 of the Travel Agents Act (R.S.Q., c. A-10), a foreign tour operator or a convention organizer that supplies the sleeping-accommodation units to the attendees and the occupancy of the unit occurs between 30 June 2008 and 1 April 2009;

(3) in relation to paragraph 2, in respect of the supply of a sleeping-accommodation unit that is invoiced after 30 June 2008 by the operator of a sleeping-accommodation establishment for occupancy after that date, except if the price of the unit was fixed pursuant to an agreement entered into before 1 July 2008 between the operator of the establishment and a travel agent within the meaning of section 2 of the Travel Agents Act (R.S.Q., c. A-10), a foreign tour operator or a convention organizer that supplies the sleeping-accommodation units to the attendees and the occupancy of the unit occurs between 30 June 2008 and 1 April 2009.

11. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

Regulation to amend the Regulation respecting the application of the Fuel Tax Act*

Fuel Tax Act
(R.S.Q., c. T-1, ss. 1, 1st par., subpar. *q* and 56)

1. Section 27.1R1 of the Regulation respecting the application of the Fuel Tax Act is amended in the French text by replacing "émise" and "émis" in paragraph *c* by "délivrée" and "délivré" respectively.

2. Section 32R3 of the Regulation is amended in the French text by replacing "émises" in paragraph *c* by "délivrées".

3. Section 50.0.9R3 of the Regulation is amended in the French text by replacing "émis" by "délivré".

4. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

9123

* The Regulation respecting the application of the Fuel Tax Act (R.R.Q. 1981, c. T-1, r.1) was last amended by the Regulation to amend the Regulation respecting the application of the Fuel Tax Act made by Order in Council 1116-2007 dated 12 December 2007 (2007, *G.O.* 2, 4042). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2008, updated to 1 September 2008.

Draft Regulations

Draft Regulation

An Act respecting the Société des alcools du Québec (R.S.Q., c. S-13)

Alcoholic beverages made with beer

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting alcoholic beverages made with beer, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation governs alcoholic beverages made by blending beer with non-alcoholic beverages, as well as beverages made by blending beer with other alcoholic beverages. It establishes minimum manufacturing standards as to the percentage of alcohol by volume of those blends so that they comply with the recent amendments respecting federal taxation.

The draft Regulation also governs the labelling, packaging and containers of those new alcoholic beverages, including conventional beer. It determines the specifications of containers and packages, and the inscriptions that must appear on them. Finally, compliance of alcoholic beverages derived from those blends, including labels, containers and any packaging, will be certified by the Société des alcools du Québec.

The draft Regulation will have a positive impact on the public, who will know the true nature of alcoholic beverages offered for sale. As for enterprises, the manufacturing standards for those new beverages will have an impact on a minority of producers who had already begun to market such beverages by advertising them as spirits.

Further information may be obtained by contacting Pierre A. Forgues, Director, Direction du commerce et de la construction, Ministère du Développement économique, de l'Innovation et de l'Exportation, 380, rue St-Antoine Ouest, 4e étage, Montréal (Québec) H2Y 3X7; telephone: 514 499-2199, extension 3184; fax: 514 873-7408; e-mail: PierreA.Forgues@mdeie.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments to Pierre A. Forgues at the above address within the 45-day period.

RAYMOND BACHAND,
Minister of Economic Development, Innovation and Export Trade

JACQUES P. DUPUIS,
Minister of Public Security

Regulation respecting alcoholic beverages made with beer

An Act respecting the Société des alcools du Québec (R.S.Q., c. S-13, s. 37, 1st par., subpars. 1, 2, 3 and 5)

DIVISION I
INTERPRETATION

1. In this Regulation,

"acquired alcoholic content" means the number of volumes of ethylic alcohol at a temperature of 20° Celsius contained in 100 volumes of the product considered at that temperature, expressed in percentage of alcohol by volume; (*titre alcoométrique acquis*)

"aromatic substance" means herbs, spices, fruit, plants or other aromatic vegetal substances, extract or essence thereof, as well as honey and maple syrup; (*substance aromatique*)

"beer blend" means an alcoholic beverage referred to in subparagraph 2 of the first paragraph of sections 24.2 and 25 of the Act respecting the Société des alcools du Québec (R.S.Q., c. S-13), obtained by blending exclusively beer with fruit juice, water, carbon dioxide or flavouring, and that as a finished product is not beer, cider, wine, alcohol or spirits; (*mélange à la bière*)

"blend of beer and other alcoholic beverages" means an alcoholic beverage referred to in subparagraph 3 of the first paragraph of section 25 of the Act respecting the Société des alcools du Québec, obtained by blending a product made by the holder of a brewer's permit with at least one of the alcoholic beverages provided for in section 4 of this Regulation or with an alcoholic aromatic substance, and that as a finished product is not beer, cider, wine, alcohol or spirits; (*mélange de bière avec d'autres boissons alcooliques*)

"permit holder" means the holder of a brewer's permit, of a beer distributor permit or of a small-scale beer producer's permit. (*titulaire*)

DIVISION II
MANUFACTURING CONDITIONS

§1. Beer blend

2. The ingredients used in making a beer blend must not contain alcohol and must be added to the beer after fermentation.

3. The acquired alcoholic content of a beer blend must be at least 1.5% and no more than 11.9% of alcohol by volume and must be derived from the fermentation of the beer.

§2. Blend of beer and other alcoholic beverages

4. The alcoholic beverages that may be used in making a blend of beer and other alcoholic beverages are beer, weak cider, wine and alcohol.

The holder of a brewer's permit must purchase the alcoholic beverages from the holder of an industrial permit issued pursuant to the Act respecting the Société des alcools du Québec who authorizes the making of the alcoholic beverages.

5. The acquired alcoholic content of a blend of beer and other alcoholic beverages must be at least 1.5% by volume.

6. When a blend of beer and other alcoholic beverages is being made, the alcoholic beverages purchased by the holder of a brewer's permit and the aromatic substances used by the permit holder may contribute to the acquired alcoholic content of the finished product in a maximum proportion of 49%.

DIVISION III
INSCRIPTIONS ON CONTAINERS

7. A beer blend container must, by means of a label or otherwise, provide the following inscriptions in bold, indelible, legible and contrasting characters:

(1) the words "beer blend", "beer-based alcoholic beverage", "beer cooler" or "shandy";

(2) the name and address of the permit holder and the number of the permit under which the permit holder made the alcoholic beverage;

(3) the acquired alcoholic content;

(4) the net volume;

(5) the words "made in Québec", "product of Québec" or, where applicable, "product of (name of country of origin)" where the product comes solely from the county specified;

(6) the alphanumeric code identifying the production lot of the alcoholic beverage; and

(7) a list of ingredients.

The inscriptions required under subparagraphs 1 to 5 must appear on the principal visible surface of the container.

8. The container of a blend of beer and other alcoholic beverages must, by means of a label or otherwise, provide the following inscriptions in bold, indelible, legible and contrasting characters:

(1) the words "blend of beer and other alcoholic beverages", "malt-based alcoholic beverage", "malt alcoholic beverage" or "malt cocktail", in addition to the name of the alcoholic beverage or alcoholic aromatic substance used in the blend;

(2) the name and address of the holder of a brewer's permit and the number of the permit under which the permit holder made that alcoholic beverage;

(3) the acquired alcoholic content;

(4) the net volume;

(5) the words "made in Québec" or "made in Canada", or "product of Québec" or "product of Canada";

(6) the alphanumeric code identifying the production lot of the alcoholic beverage; and

(7) a list of ingredients.

The inscriptions required under subparagraphs 1 to 5 must appear on the principal visible surface of the container.

9. Any inscription or picture appearing on a beer or beer blend container or the container of a blend of beer and other alcoholic beverages, including any mark used to distinguish the alcoholic beverage, must be true and accurate and create no risk of confusion or error in the consumer's mind particularly as regards the nature or composition of the alcoholic beverage.

In particular, it may not refer to any other alcoholic beverage or known alcoholic beverage-based cocktail, so as to avoid any risk of confusion between the product concerned and such beverage or cocktail.

10. A beer or beer blend container or the container of a blend of beer and other alcoholic beverages, as well as any packaging, must not create in the consumer's mind any risk of confusion with the container or other packaging associated with another alcoholic beverage.

DIVISION IV
CERTIFICATION

11. A beer blend or a blend of beer and other alcoholic beverages covered by this Regulation may not be marketed in Québec unless it has been the subject of a certificate of compliance with this Regulation issued by the Société des alcools du Québec. The foregoing also applies to the label, container and any packaging for those alcoholic beverages.

At least 3 months before the date planned for the marketing of the alcoholic beverage concerned, the permit holder must provide the Société with a sample of the beverage, its composition, the method used in making the alcoholic beverage, as well as the label, container and any packaging.

DIVISION V
TRANSITIONAL, MISCELLANEOUS AND FINAL PROVISIONS

12. A beer blend or a blend of beer and other alcoholic beverages, made or being made on the date of coming into force of this Regulation and not complying with this Regulation, may be marketed by the permit holder for 3 months from that date.

Labels, containers and packages for beer blends and blends of beer and other alcoholic beverages that do not comply with this Regulation on the date of its coming into force may be used for 3 months from that date.

13. Where a beer blend or a blend of beer and other alcoholic beverages is made with a view to being shipped outside Québec, the provisions of this Regulation that are incompatible with the legislation of the place of destination do not apply.

14. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

9125

Draft Regulation

Health Insurance Act
(R.S.Q., c. A-29)

Health Insurance Act — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the Regulation respecting the application of the Health Insurance Act, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The purpose of the proposed amendments is to replace months by calendar years to express the period during which an insured service may not be rendered more than once by an optometrist. Their purpose is also to consider as insured services for the purposes of the Health Insurance Act an emergency examination and a posterior segment examination with pupil dilation by an optometrist, as well as the second dental examination by a dentist for oncological purposes, within 12 months of the first examination, in an institution which operates a hospital centre referred to in a Schedule to the Regulation.

Expressing the waiting period to obtain the same insured service rendered by an optometrist in calendar years rather than in months will make it easier to ascertain the eligibility of an insured person for that service and will shorten the waiting period to obtain the next service accordingly for a person to whom the initial service was rendered late during a calendar year.

Including the emergency examination by an optometrist in the insured services will make it fully recognized as a primary service where an insured person's eye condition requires immediate intervention, whereas a partial vision examination is currently used for that purpose.

Including the posterior segment examination with pupil dilation rendered by an optometrist in the insured services for insured persons with a known diagnosis of diabetes and treated by medication, or with myopia of 5 diopters or more, will favour early detection of pathologies likely to seriously affect the integrity of the retina and therefore prevent vision loss.

Including a second dental examination by a dentist for oncological purposes, within 12 months of the first examination, in an institution which operates a hospital centre referred to in a Schedule to the Regulation in the insured services will ensure better follow-up for the persons concerned, as well as fair remuneration for the professionals who have to deal with those complex cases.

Further information may be obtained by contacting Daniel Dansereau, Régie de l'assurance maladie du Québec, 1125, Grande Allée Ouest, dépôt 84, Québec (Québec) G1S 1E7; telephone: 418 682-5172; fax: 418 643-7312.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the undersigned, 1075, chemin Sainte-Foy, 15e étage, Québec (Québec) G1S 2M1.

YVES BOLDUC,
Minister of Health and Social Services

Regulation to amend the Regulation respecting the application of the Health Insurance Act*

Health Insurance Act
(R.S.Q., c. A-29, s. 69, 1st par., subpars. *b*, *d* and *g*)

1. The Regulation respecting the application of the Health Insurance Act is amended in section 22

(1) by replacing "a 24-month period" in paragraph *j* by "2 consecutive calendar years" and by replacing "a 12-month period" by "a calendar year";

(2) by adding the following at the end of subparagraph *i* of paragraph *k.1*: "or where a second examination is done for oncological purposes in an institution which operates a hospital centre referred to in Schedule E".

2. Section 34 is amended by replacing "a partial vision examination, as defined" in the second paragraph by "a partial vision examination and an emergency examination, as defined" and by replacing "is considered an insured service" by "are considered insured services".

3. The following is inserted after section 34.1:

"**34.1.1.** The posterior segment examination with pupil dilation is to be considered an insured service, for the purposes of subparagraph *c* of the first paragraph of section 3 of the Act, for insured persons with a known diagnosis of diabetes and treated by medication, and for insured persons with myopia of 5 diopters or more.".

4. Schedule E in Schedule I to this Regulation is inserted after Schedule D.

5. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

SCHEDULE I
(s. 5)

"**SCHEDULE E**
(s. 22, par. *k.1*)

INSTITUTIONS WHICH OPERATE A HOSPITAL CENTRE WHERE A SECOND DENTAL EXAMINATION DURING A 12-MONTH PERIOD FOR ONCOLOGICAL PURPOSES IS CONSIDERED AN INSURED SERVICE

(1) Hôpital Notre-Dame (CHUM)

(2) Montreal General Hospital

(3) Sir Mortimer B. Davis General Jewish Hospital

(4) Hôpital Maisonneuve-Rosemont

(5) Pavillon L'Hôtel-Dieu de Québec (CHUQ)

(6) C.H.U. de Sherbrooke – Hôpital Fleurimont

(7) Hôpital de Chicoutimi

(8) Centre hospitalier régional de Trois-Rivières – Pavillon Sainte-Marie

(9) Hôpital de Gatineau

(10) Hôpital régional de Rimouski"

9124

* The Regulation respecting the application of the Health Insurance Act (R.R.Q., 1981, c. A-29, r.1) was last amended by the regulation made by Order in Council 329-2007 dated 2 May 2007 (2007, *G.O.* 2, 1405). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2008, updated to 1 September 2008.

Index

Abbreviations: **A**: Abrogated, **N**: New, **M**: Modified