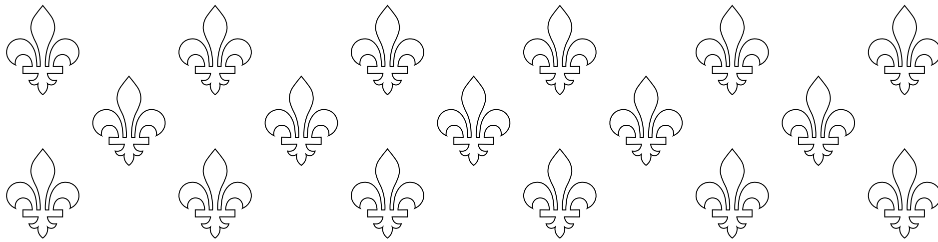

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 36

(2004, chapter 8)

An Act to amend the Taxation Act and other legislative provisions

Introduced 17 December 2003
Passage in principle 10 March 2004
Passage 3 June 2004
Assented to 7 June 2004

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EXPLANATORY NOTES

The main object of this bill is to harmonize certain provisions of the fiscal legislation of Québec with those of the fiscal legislation of Canada. It gives effect to harmonization measures announced in the Budget Speeches delivered on 9 March 1999, 14 March 2000, 1 November 2001 and 12 June 2003, and in Information Bulletins 99-1 dated 30 June 1999, 99-6 dated 22 December 1999, 2000-7 dated 27 October 2000, 2001-6 dated 5 July 2001 and 2001-13 dated 20 December 2001.

The bill amends the Taxation Act primarily to make amendments similar to amendments made to the Canada Income Tax Act by Bill C-22 (S.C., 2001, chapter 17), assented to on 14 June 2001, and by Bill C-49 (S.C., 2002, chapter 9), assented to on 27 March 2002. In particular, the amendments concern

(1) the establishment of a body of rules to protect the tax base in the case of taxpayer migration;

(2) the implementation of a deduction for the tool costs of apprentice mechanics;

(3) the computation of the deduction of the costs of meals provided to employees residing in a temporary work camp for construction workers;

(4) the relaxation of rollover rules for farming businesses in order to promote the sustainable development of woodlots;

(5) restrictions to the rules concerning foreign exploration and development expenses;

(6) the introduction of specific rules for the application of the Act in respect of a debt denominated in a weak currency that is owed by a taxpayer;

(7) the establishment of a body of rules concerning foreign bank branches in particular to facilitate the conversion of foreign bank affiliates;

(8) the introduction of rules permitting a tax deferral for distributions or exchanges of shares of a foreign corporation; and

(9) the introduction of rules governing the taxation of certain incomes relating to a foreign affiliate where shares of the foreign affiliate are held by a partnership.

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

LEGISLATION AMENDED BY THIS BILL:

– Act respecting international financial centres (R.S.Q., chapter C-8.3);

– Taxation Act (R.S.Q., chapter I-3);

– Act respecting the application of the Taxation Act (R.S.Q., chapter I-4);

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

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

– Act to again amend the Taxation Act and other fiscal legislation (1988, chapter 18);

– Act to amend the Taxation Act and other legislative provisions (2001, chapter 7);

– Act giving effect to the Budget Speech delivered on 1 November 2001, to the supplementary statement of 19 March 2002 and to certain other budget statements (2003, chapter 9).

Bill 36

AN ACT TO AMEND THE TAXATION ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING INTERNATIONAL FINANCIAL CENTRES

1. (1) Section 57 of the Act respecting international financial centres (R.S.Q., chapter C-8.3) is amended by replacing "A corporation that" and "of the Taxation Act (chapter I-3)" by "A corporation, other than an authorized foreign bank, within the meaning assigned by section 1 of the Taxation Act (chapter I-3), that" and "of that Act", respectively.

(2) Subsection 1 applies to taxation years that begin after 20 December 1999.

2. (1) The said Act is amended by inserting the following section after section 57:

"**57.1.** An authorized foreign bank, within the meaning assigned by section 1 of the Taxation Act (chapter I-3), that, in a taxation year, operates an international financial centre, may deduct in computing its paid-up capital for the year, for the purposes of Part IV of that Act, the proportion of any amount attributable to the operations of that international financial centre that the authorized foreign bank included in that computation that the total of its business carried on in Canada or in Québec and elsewhere in the year is of its business carried on in Québec in the year.

For the purposes of the first paragraph, the computation of the business carried on in Canada, in Québec and in Québec and elsewhere by a corporation is computed in the manner prescribed in the regulations made under subsection 2 of section 771 of the Taxation Act, with the necessary modifications."

(2) Subsection 1 applies to taxation years that begin after 20 December 1999. However, where it applies to taxation years that end before 1 January 2001, section 57.1 of the said Act shall be read as follows:

"**57.1.** An authorized foreign bank, within the meaning assigned by section 1 of the Taxation Act (chapter I-3), that, in a taxation year, operates an international financial centre, may deduct in computing its paid-up capital for the year, for the purposes of Part IV of that Act, the aggregate of all amounts

attributable to the operations of that international financial centre that the authorized foreign bank included in that computation."

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

"**60.0.1.** An authorized foreign bank, within the meaning assigned by section 1 of the Taxation Act (chapter I-3), may not, in computing its paid-up capital for a taxation year for the purposes of Part IV of that Act, deduct the part of the amount provided for in section 1141.2.1.1.1 of that Act, except an amount referred to in section 57.1, that is attributable to the operations of an international financial centre it operated in the year."

(2) Subsection 1 applies to taxation years that begin after 20 December 1999.

TAXATION ACT

4. (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 517 of chapter 45 of the statutes of 2002, by section 2 of chapter 2 of the statutes of 2003, by section 6 of chapter 8 of the statutes of 2003 and by section 10 of chapter 9 of the statutes of 2003, is again amended

(1) by replacing the definition of "bank" by the following definition:

""bank" means a bank within the meaning of section 2 of the Bank Act or an authorized foreign bank;";

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

""authorized foreign bank" has the meaning assigned by section 2 of the Bank Act (Statutes of Canada, 1991, chapter 46);";

(3) by replacing the portion of the definition of "taxable Canadian property" before paragraph *a* by the following:

""taxable Canadian property" has the meaning assigned by Part II and, for the purposes of section 688.0.0.1, Chapter I of Title I.1 of Book VI and sections 1000 to 1003, and for the purpose of applying section 521 and subparagraph *c* of the second paragraph of section 614 in respect of a disposition made by a person not resident in Canada, includes";

(4) by replacing the portion of the definition of "taxable Québec property" before paragraph *a* by the following:

""taxable Québec property" has the meaning assigned by Part II and, for the purposes of sections 26 and 27, and for the purpose of applying section 521 and subparagraph *c* of the second paragraph of section 614 in respect of a disposition made by a person not resident in Canada, includes";

(5) by striking out "et" at the end of the French text of paragraph *d* of the definition of "bien québécois imposable";

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

""Canadian banking business" means the business carried on by an authorized foreign bank through an establishment in Canada, other than business conducted through a representative office registered or required to be registered under section 509 of the Bank Act;";

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

""foreign resource expense" has the meaning assigned by sections 418.1.1 and 418.1.2;

""foreign resource pool expenses" of a taxpayer means the taxpayer's foreign resource expenses in relation to all countries and the taxpayer's foreign exploration and development expenses;";

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

""foreign currency" means currency of a foreign country;".

(2) Paragraphs 1, 2, 6 and 8 of subsection 1 have effect from 28 June 1999.

(3) Paragraphs 3 to 5 of subsection 1 have effect from 2 October 1996.

(4) Paragraph 7 of subsection 1 has effect from 1 January 2001.

5. (1) Section 6.2 of the said Act is amended by replacing "sections 779, 785.1 and 785.2" in paragraph *c* by "section 779, Chapter I of Title I.1 of Book VI".

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

6. (1) Section 7 of the said Act is amended by replacing the portion of subparagraph *b* of the second paragraph before subparagraph i by the following:

"(*b*) in any of the following cases, after the end of the calendar year in which the period began unless, in the case of a business, the business is not carried on in Canada, is a prescribed business or is carried on by a prescribed person or partnership:".

(2) Subsection 1 applies to fiscal periods that begin after 31 December 1994. However, where it applies to fiscal periods that begin before 16 December 1997, the portion of subparagraph *b* of the second paragraph of section 7 of the said Act before subparagraph i shall be read as follows:

"(*b*) in the case of one of the following persons or of the following partnership, after the end of the calendar year in which the period began unless, in the case of a business, the business is not carried on in Canada, is a prescribed business or is carried on by a prescribed person or partnership:".

7. Section 7.9 of the said Act, amended by section 11 of chapter 9 of the statutes of 2003, is again amended by replacing "In this Part and the regulations" in the portion before paragraph *a* by "For the purposes of this Part and the regulations".

8. Section 7.10 of the said Act is amended by replacing "In this Part and the regulations" in the portion before paragraph *a* by "For the purposes of this Part and the regulations".

9. (1) Section 7.11 of the said Act is replaced by the following section:

"**7.11.** For the purposes of this Part and the regulations, the following rules apply:

(*a*) a person who has a right, whether immediate or future and whether absolute or contingent, to receive all or any part of the income or capital in respect of property referred to in section 7.9 or 7.10 is deemed to be beneficially interested in the trust referred to in that section; and

(*b*) a person who at any particular time and in relation to a property, has a right of ownership, a right in an emphyteutic lease or a beneficial interest in a trust is deemed, even if the property is subject to a servitude, to have beneficial ownership of the property at that time."

(2) Subsection 1 has effect from 24 December 1998.

10. (1) The said Act is amended by inserting the following section after section 7.18:

"**7.18.1.** For the purposes of subparagraph ii of paragraph *b* of section 649, subparagraphs i to iv of paragraph *c*.2 of section 998, paragraph *b* of sections 1117 and 1120 and any regulations made under paragraphs *c*.3 and *c*.4 of section 998 and under section 1108, where a trust or corporation holds an interest as a member of a partnership and, by operation of any law governing the arrangement in respect of the partnership, the liability of the member as a member of the partnership is limited, the member shall not, solely because of its acquisition and holding of that interest, be considered to carry on any business or other activity of the partnership."

(2) Subsection 1 applies from 1 January 1993. However, where section 7.18.1 of the said Act applies to taxation years that end after 16 December 1999 and before 1 January 2003, it shall be read as follows:

"**7.18.1.** For the purposes of subparagraph ii of paragraph *b* of section 649, subparagraphs i to iv of paragraph *c*.2 of section 998, paragraph *b* of sections 1117 and 1120 and any regulations made under paragraphs *c*.3 and *c*.4 of section 998 and under section 1108, where a trust or corporation is a member of a partnership and, by operation of any law governing the arrangement in respect of the partnership, the liability of the member as a member of the partnership is limited, the member is deemed to undertake an investing of its funds because of its acquisition and holding of an interest as a member of the partnership and not to carry on any business or other activity of the partnership."

11. (1) Section 11.1 of the said Act is replaced by the following section:

"**11.1.** Notwithstanding section 11, for the purposes of this Part, other than paragraph *a* of section 772.6.1, a corporation is deemed not to be resident in Canada at any time if it is deemed not to be resident in Canada at that time under subsection 5 of section 250 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement)."

(2) Subsection 1 has effect from 28 June 1999.

12. (1) Section 16.1.2 of the said Act is replaced by the following section:

"**16.1.2.** For the purposes of subparagraph *a* of the first paragraph of section 21.32, section 125.1, the second paragraph of section 171, sections 217.15 and 740 and paragraph *b*.1 of section 1029.8.17, where a person is not resident in Canada but is resident in a country with which a tax agreement was entered into and in which the expression "permanent establishment" is defined, the establishment of the person means, notwithstanding sections 12 to 16.1, the permanent establishment of the person, within the meaning assigned by the tax agreement."

(2) Subsection 1, where it amends section 16.1.2 of the said Act to add

(1) a reference to the second paragraph of section 171 of the said Act, applies from the taxation year 1995;

(2) a reference to section 217.15 of the said Act, has effect from 1 January 1995;

(3) a reference to paragraph *b*.1 of section 1029.8.17 of the said Act, applies to taxation years that begin after 31 December 1995.

13. (1) Section 23 of the said Act is amended by replacing the second and third paragraphs by the following paragraphs:

"The taxable income, for the taxation year, of an individual referred to in the first paragraph who was resident in Québec on that day is the amount by which the amount determined under the third paragraph exceeds the aggregate of

(*a*) the deductions permitted by sections 727, 728.1, 729 and 733.0.0.1 and, to the extent that they relate to amounts included in computing an amount referred to in the third paragraph, the deductions permitted by sections 725, 725.1.2 and 725.2 to 725.4; and

(*b*) any other deduction permitted by Book IV, to the extent that

i. the deduction can reasonably be considered to be attributable to the part of the year throughout which the individual was resident in Canada, or

ii. if all or substantially all of the individual's income for the part of the year throughout which the individual was not resident in Canada is included in the amount referred to in the third paragraph, the deduction can reasonably be considered to be attributable to that part of the year.

"The amount to which the second paragraph refers is the amount that would be the individual's income for the year if, for the part of the year throughout which the individual was not resident in Canada, only the following elements were taken into account:

(*a*) the elements described in section 1090; and

(*b*) the income that would be included in computing the individual's income earned in Canada for the year under subparagraph *g* of the first paragraph of section 1090 if the part of the year throughout which the individual was not resident in Canada were a whole taxation year."

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

14. (1) Section 58.2 of the said Act is amended

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

"**58.2.** Where an amount in respect of a particular outlay or particular expense is deducted under Chapter III in computing the income of a taxpayer for a taxation year from an office or employment, or an amount is included in the capital cost to the taxpayer of a particular property described in section 64 or 78.4, and a particular amount is paid to the taxpayer in a particular taxation year as a rebate under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of any goods and services tax included in the amount of the particular outlay or particular expense or the capital cost of the particular property, as the case may be, the particular amount,

(*a*) to the extent that it relates to the particular outlay or particular expense, shall be included in computing the taxpayer's income from an office or employment for the particular year; and";

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

(2) Subsection 1 applies from the taxation year 2002.

15. (1) Section 58.3 of the said Act is amended

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

“**58.3.** Where an amount in respect of a particular outlay or particular expense is deducted under Chapter III in computing the income of a taxpayer for a taxation year from an office or employment, or an amount is included in the capital cost to the taxpayer of a particular property described in section 64 or 78.4, and a particular amount is paid to the taxpayer in a particular taxation year as a rebate under the Act respecting the Québec sales tax (chapter T-0.1) in respect of any Québec sales tax included in the amount of the particular outlay or particular expense or the capital cost of the particular property, as the case may be, the particular amount,

(*a*) to the extent that it relates to the particular outlay or particular expense, shall be included in computing the taxpayer’s income from an office or employment for the particular year; and”;

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

(2) Subsection 1 applies from the taxation year 2002.

16. (1) The said Act is amended by inserting the following after section 75.1:

“DIVISION V.2

“APPRENTICE MECHANICS

“**75.2.** In this division,

“eligible apprentice mechanic”, at any time in a taxation year, means an individual who, at that time,

(*a*) is registered in a program established in accordance with the laws of a province that leads to designation under those laws as a mechanic licensed to repair self-propelled motorized vehicles; and

(*b*) is employed as an apprentice mechanic;

“eligible tool” of an individual means a tool, including ancillary equipment, that

(*a*) is acquired by the individual for use in connection with the individual’s employment as an eligible apprentice mechanic;

(*b*) has not been used for any purpose before it is acquired by the individual; and

(*c*) is certified in a prescribed form signed by the individual's employer to be required to be provided by the individual as a condition of, and for use in, the individual's employment as an eligible apprentice mechanic.

For the purposes of paragraph *a* of the definition of "eligible apprentice mechanic" in the first paragraph, an individual is considered to be registered in a program established in accordance with the laws of a province that leads to designation under those laws as a mechanic licensed to repair self-propelled motorized vehicles if the individual holds an apprenticeship card issued by a parity committee of the automobile industry formed pursuant to the laws of a province, to obtain from that committee designation as a mechanic licensed to repair self-propelled motorized vehicles.

"**75.3.** An individual who is an eligible apprentice mechanic at any time in the year after 31 December 2001 may deduct an amount not exceeding the lesser of

(*a*) the individual's income for the year computed without reference to this section; and

(*b*) the amount determined by the formula

(A – B) + C.

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

(*a*) A is the aggregate of all amounts each of which is the cost to the individual of an eligible tool acquired in the year by the individual or, if the individual first becomes employed as an eligible apprentice mechanic in the year, the cost to the individual of an eligible tool acquired by the individual in the last three months of the preceding taxation year;

(*b*) B is the lesser of

i. the aggregate determined for the year under subparagraph *a* in respect of the individual, and

ii. the greater of $1,000 and 5% of the aggregate of all amounts, each of which is the individual's income from employment for the year as an eligible apprentice mechanic, computed without reference to this section; and

(*c*) C is the amount by which the amount determined under subparagraph *b* of the first paragraph for the preceding taxation year in respect of the individual exceeds the amount deducted under this section for that preceding taxation year by the individual.

No amount may be deducted for the year by an individual under the first paragraph, unless the individual files with the Minister, together with the individual's fiscal return for the year under this Part, the prescribed form referred to in paragraph *c* of the definition of "eligible tool" in the first paragraph of section 75.2.

"**75.4.** An individual who, at any time in the year, is not an eligible apprentice mechanic and has an excess amount determined under subparagraph *c* of the second paragraph of section 75.3 is, for that year, entitled to deduct an amount under section 75.3 as if that excess amount were wholly applicable to an employment of the individual.

"**75.5.** Except for the purposes of subparagraph *a* of the second paragraph of section 75.3, the cost to an individual of an eligible tool the cost of which was included in computing the aggregate determined under that subparagraph in respect of the individual for a taxation year is the amount determined by the formula

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

In the formula provided for in the first paragraph,

(*a*) A is the cost to the individual of the eligible tool, computed without reference to this section;

(*b*) B is the amount that would be determined under subparagraph *b* of the first paragraph of section 75.3 in respect of the individual for the year if the excess amount determined under subparagraph *c* of the second paragraph of that section were nil; and

(*c*) C is the aggregate determined under subparagraph *a* of the second paragraph of section 75.3 in respect of the individual for the year."

(2) Subsection 1 applies in respect of eligible tools acquired after 31 December 2001.

17. (1) The said Act is amended by inserting the following sections after section 83.0.3:

"**83.0.4.** Where at a particular time a taxpayer not resident in Canada ceases to use, in relation to a business or part of a business carried on by the taxpayer in Canada immediately before that time, a property that was immediately before that time described in the inventory of the business or the part of the business, other than a property that was disposed of by the taxpayer at that time, the following rules apply:

(*a*) the taxpayer is deemed to have disposed of the property immediately before that time for proceeds of disposition equal to its fair market value at that time; and

(*b*) the taxpayer is deemed to have received those proceeds immediately before that time in the course of carrying on the business or the part of the business.

"**83.0.5.** Where at a particular time a property becomes described in the inventory of a business or part of a business that a taxpayer not resident in Canada carries on in Canada after that time, other than a property that was, otherwise than because of this section, acquired by the taxpayer at that time, the taxpayer is deemed to have acquired the property at that time at a cost equal to its fair market value at that time.

"**83.0.6.** For the purposes of sections 83.0.4 and 83.0.5, property that is described in the inventory of a business includes property that would be so described if section 215 did not apply."

(2) Subsection 1 has effect from 24 December 1998.

18. (1) Section 93.3.1 of the said Act is amended

(1) by replacing "corporation, trust" in subparagraph *a* of the first paragraph by "person";

(2) by replacing "section 785.1, 785.2 or" in subparagraph 3 of subparagraph iii of subparagraph *b* of the second paragraph by "Chapter I of Title I.1 of Book VI or section".

(2) Paragraph 1 of subsection 1 has effect from 1 December 1999. However, it does not apply in respect of the disposition of a property before 1 July 2000 by an individual, other than a trust, if the individual so elects by notifying the Minister of Revenue in writing on or before the individual's filing-due date for the individual's taxation year that includes 14 June 2001, and the disposition was made

(1) to a person who was obliged on 30 November 1999 to acquire the property pursuant to an agreement in writing made on or before that day; or

(2) in a transaction, or as part of a series of transactions, the arrangements for which, evidenced in writing, were substantially advanced before 1 December 1999, other than a transaction or series of transactions a main purpose of which can reasonably be considered to have been to enable an unrelated person to obtain the benefit, for the purposes of Part I of this Act, of any deduction in computing income, taxable income, taxable income earned in Canada or tax payable under that Part I, or any balance of undeducted outlays, expenses or other amounts.

(3) Paragraph 2 of subsection 1 has effect from 1 January 1996.

19. The said Act is amended by inserting the following section after section 93.13:

“**93.14.** Notwithstanding paragraph *a* of section 130R101 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1), the classes of property prescribed for the purposes of any regulations made under paragraph *a* of section 130 or section 130.1 are deemed to include, for taxation years that end after 31 December 1987 and before 6 December 1996, property of a taxpayer that, if the Act were read without reference to Divisions I to IV.1 of Chapter X of Title VI, would be included in one of the classes.”

20. (1) Section 106.4 of the said Act is amended by replacing “section 785.1, 785.2 or” in subparagraph iii of subparagraph *a* of the second paragraph by “Chapter I of Title I.1 of Book VI or section”.

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

21. (1) The said Act is amended by inserting the following sections after section 106.4:

“**106.5.** Where at a particular time a taxpayer not resident in Canada ceases to use, in connection with a business or part of a business carried on by the taxpayer in Canada immediately before the particular time, a property that was immediately before the particular time intangible capital property of the taxpayer, other than a property that was disposed of by the taxpayer at the particular time, the taxpayer is deemed to have disposed of the property immediately before the particular time for proceeds of disposition equal to the amount determined by the formula

A – B.

In the formula provided for in the first paragraph,

(*a*) A is the fair market value of the property immediately before the particular time; and

(*b*) B is

i. where at a previous time before the particular time the taxpayer ceased to use the property in connection with a business or part of a business carried on by the taxpayer outside Canada and began to use it in connection with a business or part of a business carried on by the taxpayer in Canada, the amount by which the fair market value of the property at the previous time exceeded its cost to the taxpayer at the previous time, and

ii. in any other case, an amount equal to zero.

“**106.6.** Where at a particular time a taxpayer not resident in Canada ceases to use, in connection with a business or part of a business carried on by the taxpayer outside Canada immediately before the particular time, and begins to use, in connection with a business or part of a business carried on by the taxpayer in Canada, a property that is an intangible capital property of the

taxpayer, the taxpayer is deemed to have disposed of the property immediately before the particular time and to have reacquired the property at the particular time for consideration equal to the lesser of the cost to the taxpayer of the property immediately before the particular time and its fair market value immediately before the particular time."

(2) Subsection 1 has effect from 28 June 1999 in respect of authorized foreign banks, and from 9 August 2000 in any other case.

22. (1) Section 127.1 of the said Act is amended by replacing the definition of "exempt loan or transfer" by the following definition:

""exempt loan or transfer" means

(*a*) a loan made by a corporation resident in Canada where the interest rate charged on the loan is not less than the interest rate that a lender and a borrower would have been willing to agree to if they were dealing with each other at arm's length at the time the loan was made;

(*b*) a transfer of property by a corporation resident in Canada, other than a transfer of property made for the purpose of acquiring shares of the capital stock of a foreign affiliate of a corporation or a foreign affiliate of a person resident in Canada with whom the corporation was not dealing at arm's length, or payment of an amount by a corporation resident in Canada pursuant to an agreement made on terms and conditions that persons who were dealing with each other at arm's length at the time the agreement was entered into would have been willing to agree to;

(*c*) a dividend paid by a corporation resident in Canada on shares of a class of its capital stock; or

(*d*) a payment made by a corporation resident in Canada on a reduction of the paid-up capital in respect of shares of a class of its capital stock, not exceeding the total amount of the reduction;".

(2) Subsection 1 applies to taxation years that begin after 23 February 1998.

23. (1) The said Act is amended by inserting the following sections after section 127.3:

"**127.3.1.** For the purposes of this division, in determining whether persons are related to each other at any time, any rights referred to in paragraph *b* of section 20 that exist at that time are deemed not to exist at that time to the extent that the exercise of those rights is prohibited at that time under a law of the country under the jurisdiction of which the corporation was formed or last continued and is governed, that restricts the foreign ownership or control of the corporation.

"**127.3.2.** For the purposes of section 127.7 and paragraph *b* of section 127.8, where an intermediate lender makes a loan to an intended borrower, and that loan arises out of another loan which the intermediate lender received from an initial lender, the following rules apply:

(*a*) the loan made by the intermediate lender to the intended borrower is deemed to have been made by the initial lender to the intended borrower, to the extent of the lesser of the amount of that loan and the amount of the loan made by the initial lender to the intermediate lender, under the same terms and conditions and at the same time as it was made by the intermediate lender; and

(*b*) the loan made by the initial lender to the intermediate lender and the loan made by the intermediate lender to the intended borrower are deemed not to have been made to the extent of the amount of the loan deemed to have been made under subparagraph *a*.

For the purposes of the first paragraph, the expressions "intermediate lender", "intended borrower" and "initial lender" refer to a person not resident in Canada or a partnership each member of which is not resident in Canada.

"**127.3.3.** For the purpose of applying paragraph *b* of section 127.8 in respect of a corporation resident in Canada, in determining whether persons described in subparagraph i of that paragraph *b* are related to each other at any time, any rights referred to in paragraph *b* of section 20 that otherwise exist at that time are deemed not to exist at that time where, if the rights were exercised immediately before that time,

(*a*) all of those persons would at that time be controlled foreign affiliates of the corporation resident in Canada; and

(*b*) because of section 127.13, section 127.6 would not apply to the corporation in respect of the amount that would, but for this section, have been deemed to have been owing at that time to the corporation by the person not resident in Canada described in subparagraph i of paragraph *b* of section 127.8."

(2) Subsection 1 applies to taxation years that begin after 23 February 1998.

24. (1) The said Act is amended by inserting the following section after section 133.5:

"**133.6.** A taxpayer that is an authorized foreign bank, shall not deduct an amount in respect of interest that would otherwise be deductible in computing the taxpayer's income from a business the taxpayer carries on in Canada, except as provided in sections 175.2.8 to 175.2.11."

(2) Subsection 1 has effect from 28 June 1999.

25. (1) Section 135.5 of the said Act is replaced by the following section:

"**135.5.** The amount referred to in section 135.4 shall, to the extent that it would, but for section 135.4, be deductible in computing the taxpayer's income for the year, be included in the cost or the capital cost, as the case may be, of the building to the taxpayer, to a person with whom the taxpayer does not deal at arm's length, to a corporation of which the taxpayer is a specified shareholder or to a partnership of which the taxpayer's share of any income or loss is 10% or more, as the case may be."

(2) Subsection 1 applies in respect of outlays and expenses made or incurred after 21 December 2000.

26. (1) Section 146.1 of the said Act, amended by section 47 of chapter 2 of the statutes of 2003, is again amended by replacing "A taxpayer may deduct" by "Subject to section 772.6.1, a taxpayer may deduct".

(2) Subsection 1 has effect from 28 June 1999.

27. (1) Section 146.2 of the said Act is amended by replacing "A taxpayer may deduct" by "Subject to section 772.6.1, a taxpayer may deduct".

(2) Subsection 1 has effect from 28 June 1999.

28. (1) Section 157.2.1 of the said Act is replaced by the following section:

"**157.2.1.** For the purposes of subparagraph ii of paragraph *o* of section 157, an outlay or expense does not include an outlay or expense that is in respect of the cost of property of the taxpayer or that is deductible under any of Divisions II to IV.1 of Chapter X of Title VI, except sections 360 and 361, or would be deductible if the amount so deductible by the taxpayer were not limited by reason of paragraph *b* of section 371, section 400, subparagraph ii of subparagraph *a* of the first paragraph of section 413, the percentage of 30% provided for in subparagraph 2 of subparagraph ii of paragraph *a* of section 418.1.10, subparagraph 3 or 4 of subparagraph ii of paragraph *a* of section 418.1.10 or subparagraph ii of paragraph *a* of section 418.7."

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

29. (1) Section 158.9 of the said Act is amended by replacing "by Title I.1" in subparagraph i of paragraph *b* by "by Chapter I of Title I.1".

(2) Subsection 1 has effect from 18 November 1996.

30. (1) Section 171 of the said Act is amended by replacing the second paragraph by the following paragraph:

"However, the outstanding debts referred to in sections 169 and 170 do not include an amount outstanding at the particular time in relation to a debt or other obligation to pay an amount to

(*a*) an insurance corporation not resident in Canada to the extent that the amount outstanding was, for the insurance corporation's taxation year that included the particular time, designated insurance property in relation to an insurance business carried on in Canada through an establishment; or

(*b*) an authorized foreign bank, if the bank uses or holds the amount outstanding at the particular time in its Canadian banking business."

(2) Subsection 1 has effect from 28 June 1999.

31. (1) Section 175.1 of the said Act is amended

(1) by replacing subsection 1 by the following subsection:

"(1) Notwithstanding any other provision of this Act, a taxpayer shall not, in computing the taxpayer's income for a taxation year from a business or property other than income from a business computed in accordance with the method authorized by section 194, make any deduction in respect of an outlay or expense to the extent that it can reasonably be regarded as having been made or incurred

(*a*) as consideration for services to be rendered after the end of the year;

(*b*) as consideration for insurance in respect of a period after the end of the year, other than, where the taxpayer is an insurer, consideration for reinsurance; or

(*c*) as, or in lieu of, full or partial payment of interest, tax or taxes other than taxes payable by an insurer in relation to the insurance premiums of a policy referred to in paragraph *a* or *b* of subsection 4, rent or royalty in respect of a period that is after the end of the year.";

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

"(4) For the purposes of this section, an outlay or expense made or incurred by an insurer on account of the acquisition of an insurance policy, other than the following policies, is deemed to be an expense incurred as consideration for services rendered consistently throughout the period of coverage of the policy:

(*a*) a non-cancellable or guaranteed renewable accident and sickness insurance policy; or

(*b*) a life insurance policy other than a group term life insurance policy that provides coverage for a period of 12 months or less."

(2) Subsection 1 applies to a taxpayer's taxation years that begin after 31 December 1999, except that, where a taxpayer so elects in writing and files the election with the Minister of Revenue on or before the taxpayer's filing-

due date for the taxpayer's taxation year that includes 7 June 2004, subsection 1 applies to the taxpayer's taxation years that end after 31 December 1997.

32. (1) The said Act is amended by inserting the following sections after section 175.2.7:

"**175.2.8.** For the purposes of this section and sections 175.2.9 to 175.2.11,

"branch advance" of an authorized foreign bank means an amount allocated or provided by, or on behalf of, the bank to, or for the benefit of, its Canadian banking business under terms that were documented, before the amount was so allocated or provided, to the same extent as, and in a form similar to the form in which, the bank would ordinarily document a loan by it to a person with whom it deals at arm's length;

"branch financial statements" of an authorized foreign bank for a taxation year means the unconsolidated statements of assets and liabilities and of income and expenses, in relation to its Canadian banking business,

(*a*) that form part of the bank's annual report for the year filed with the Superintendent of Financial Institutions of Canada as required under section 601 of the Bank Act (Statutes of Canada, 1991, chapter 46), and accepted by the Superintendent; and

(*b*) if such a report is not required to be filed for the year, that are prepared in a manner consistent with the statements in the annual report or reports so filed and accepted for the period or periods in which the year falls;

"calculation period" of an authorized foreign bank for a taxation year means any one of a series of regular periods into which the year is divided in a designation by the bank in its fiscal return for the year or, in the absence of such a designation, by the Minister,

(*a*) none of which is longer than 31 days;

(*b*) the first of which commences at the beginning of the year and the last of which ends at the end of the year; and

(*c*) that are, unless the Minister otherwise agrees in writing, consistent with the calculation periods designated by the bank for its preceding taxation year.

If the Minister demonstrates that the statements referred to in the definition of "branch financial statements" in the first paragraph are not prepared in accordance with generally accepted accounting principles in Canada as modified by any specifications applicable to the bank made by the Superintendent of Financial Institutions of Canada under subsection 4 of section 308 of the Bank Act, in this paragraph referred to as "modified accounting principles", the expression "branch financial statements" means the statements subject to such

modifications as are required to make them comply with modified accounting principles.

"**175.2.9.** In computing the income of an authorized foreign bank from its Canadian banking business for a taxation year, there may be deducted on account of interest for each calculation period of the bank for the year,

(*a*) where the total amount at the end of the period of its branch advances and debts to other persons and partnerships is 95% or more of the amount of its assets at that time, an amount not exceeding

i. if the amount of debts to other persons and partnerships at that time is less than 95% of the amount of its assets at that time, the amount determined by the formula

$E + D \times (0.95 \times A - C) / B$, and

ii. if the amount of debts to other persons and partnerships at that time is equal to or greater than 95% of the amount of its assets at that time, the amount determined by the formula

$E \times (0.95 \times A) / C$; and

(*b*) in any other case, the aggregate of

i. the amount determined by the formula

$D + E$, and

ii. the product obtained by multiplying the average, based on daily observations, of the Bank of Canada bank rate for the period by the lesser of the amount claimed by the authorized foreign bank in its fiscal return it is required to file for the year under section 1000 and the amount determined by the formula

$(0.95 \times A) - (B + C)$.

In the formulas provided for in the first paragraph,

(*a*) A is the amount of the bank's assets at the end of the period;

(*b*) B is the amount of the bank's branch advances at the end of the period;

(*c*) C is the amount of the bank's debts to other persons and partnerships at the end of the period;

(*d*) D is the aggregate of all amounts each of which is a reasonable amount on account of notional interest for the period, in respect of a branch advance, that would be deductible in computing the bank's income for the year if it were interest payable by, and the advance were indebtedness of, the bank to

another person and if this Act were read without reference to sections 133.6 and 175.2.8 to 175.2.11; and

(*e*) E is the aggregate of all amounts each of which is an amount on account of interest for the period in respect of a debt of the bank to another person or partnership that would be deductible in computing the bank's income for the year if this Act were read without reference to sections 133.6 and 175.2.8 to 175.2.11.

"**175.2.10.** Only amounts that are in respect of an authorized foreign bank's Canadian banking business, and that are entered in the accounting records of the business in a manner consistent with the manner in which they are required to be treated for the purposes of the branch financial statements, shall be used to determine the amounts referred to in the first paragraph of section 175.2.9 of an authorized foreign bank's assets, debts to other persons and partnerships, and branch advances, and the amounts in the second paragraph of section 175.2.9.

"**175.2.11.** For the purposes of subparagraph *d* of the second paragraph of section 175.2.9, a reasonable amount on account of notional interest for a calculation period in respect of a branch advance is the amount that would be payable on account of interest for the period by a notional borrower, having regard to the duration of the advance, the currency in which repayment is required and all other terms, as determined with reference to paragraph *c*, of the advance, if

(*a*) the borrower were a person that carried on the bank's Canadian banking business, that dealt at arm's length with the bank and that had the same credit-worthiness and borrowing capacity as the bank;

(*b*) the advance were a loan by the bank to the borrower; and

(*c*) any of the terms of the advance, excluding the rate of interest, but including the structure of the interest calculation, such as whether the rate is fixed or floating and the choice of any reference rate referred to, that are not terms that would be made between the bank as lender and the borrower, having regard to all the circumstances, including the nature of the Canadian banking business, the use of the advanced funds in the business and normal risk management practices for banks, were instead terms that would be agreed to by the bank and the borrower.

"**175.2.12.** For the purposes of this section and sections 175.2.13 to 175.2.15,

"exchange date" in respect of a debt of a taxpayer that is at any time a weak currency debt means,

(*a*) if the debt is incurred or assumed by the taxpayer in relation to borrowed money that is denominated in the final currency, the day that the debt is incurred or assumed by the taxpayer; and

(*b*) if the debt is incurred or assumed by the taxpayer in relation to borrowed money that is not denominated in the final currency, or in relation to the acquisition of property, the day on which the taxpayer uses the borrowed money or the acquired property, directly or indirectly, to acquire funds that are, or to settle an obligation that is, denominated in the final currency;

"hedge" in respect of a debt of a taxpayer that is at any time a weak currency debt means any agreement entered into by the taxpayer

(*a*) that can reasonably be regarded as having been entered into by the taxpayer primarily to reduce the taxpayer's risk, in relation to payments of principal or interest in respect of the debt, of fluctuations in the value of the weak currency; and

(*b*) that is designated by the taxpayer as a hedge in respect of the debt in prescribed form filed with the Minister on or before the 30th day after the day on which the taxpayer entered into the agreement;

"weak currency debt" of a taxpayer at a particular time means a particular debt in a foreign currency, in this section and sections 175.2.13 to 175.2.15 referred to as the "weak currency", incurred or assumed by the taxpayer at a time, in this section and sections 175.2.13 to 175.2.15 referred to as the "commitment time", after 27 February 2000, in relation to borrowed money or an acquisition of property, where

(*a*) any of the following applies, namely,

i. the borrowed money is denominated in a currency, in this section and sections 175.2.13 to 175.2.15 referred to as the "final currency", other than the weak currency, is used for the purpose of earning income from a business or property and is not used to acquire funds in a currency other than the final currency,

ii. the borrowed money or the acquired property is used, directly or indirectly, to acquire funds that are denominated in a currency, in this section and sections 175.2.13 to 175.2.15 also referred to as the "final currency", other than the weak currency, that are used for the purpose of earning income from a business or property and that are not used to acquire funds in a currency other than the final currency,

iii. the borrowed money or the acquired property is used, directly or indirectly, to settle an obligation that is denominated in a currency, in this section and sections 175.2.13 to 175.2.15 also referred to as the "final currency", other than the weak currency, that is incurred or assumed for the purpose of

earning income from a business or property and that is not incurred or assumed to acquire funds in a currency other than the final currency, or

iv. the borrowed money or the acquired property is used, directly or indirectly, to settle another debt of the taxpayer that is at any time a weak currency debt in respect of which the final currency is a currency other than the currency of the particular debt and is deemed to be the final currency in respect of the particular debt;

(*b*) the amount of the particular debt together with any other debt that would, but for this paragraph, be at any time a weak currency debt, and that can reasonably be regarded as having been incurred or assumed by the taxpayer as part of a series of transactions that includes the incurring or assumption of the particular debt, exceeds $500,000; and

(*c*) either of the following applies, namely,

i. if the rate at which interest is payable at the particular time in the weak currency in respect of the particular debt is determined under a formula based on the value from time to time of a reference rate, other than a reference rate the value of which is established or materially influenced by the taxpayer, the interest rate at the commitment time, as determined under the formula as though interest were then payable, exceeds by more than two percentage points the rate at which interest would have been payable at the commitment time in the final currency if

(1) the taxpayer had, at the commitment time, instead incurred or assumed an equivalent amount of debt in the final currency on the same terms as the particular debt, excluding the rate of interest but including the structure of the interest calculation, such as whether the rate is fixed or floating, with those modifications that the difference in currency requires, and

(2) interest on the equivalent amount of debt referred to in subparagraph 1 was payable at the commitment time, and

ii. in any other case, the rate at which interest is payable at the particular time in the weak currency in respect of the particular debt exceeds by more than two percentage points the rate at which interest would have been payable at the particular time in the final currency if at the commitment time the taxpayer had instead incurred or assumed an equivalent amount of debt in the final currency on the same terms as the particular debt, excluding the rate of interest but including the structure of the interest calculation, such as whether the rate is fixed or floating, with those modifications that the difference in currency requires.

"**175.2.13.** Notwithstanding any other provision of this Act, the following rules apply in respect of a particular debt of a taxpayer, other than a corporation described in any of paragraphs *a*, *b*, *c* and *e* of the definition of

"specified financial institution" in section 1, that is at any time a weak currency debt:

(*a*) no deduction on account of interest that accrues on the debt for any period that begins after the day that is the later of 30 June 2000 and the exchange date during which it is a weak currency debt shall exceed the amount of interest that would, if at the commitment time the taxpayer had instead incurred or assumed an equivalent amount of debt in the final currency on the same terms as the particular debt, excluding the rate of interest but including the structure of the interest calculation, such as whether the rate is fixed or floating, have accrued on the equivalent debt during that period, with those modifications that the difference in currency requires;

(*b*) the amount of the taxpayer's gain or loss, in this section and section 175.2.14 referred to as a "foreign exchange gain" or "foreign exchange loss", for a taxation year on the settlement or extinguishment of the debt that is due to the fluctuation in the value of any currency shall be included or deducted, as the case may be, in computing the taxpayer's income from the business or the property to which the debt relates; and

(*c*) the amount of any interest on the debt that is, because of this section, not deductible is deemed, for the purpose of computing the taxpayer's foreign exchange gain or foreign exchange loss on the settlement or extinguishment of the debt, to be an amount paid by the taxpayer to settle or extinguish the debt.

"**175.2.14.** In applying section 175.2.13 in circumstances where a taxpayer has entered into a hedge in respect of a debt of the taxpayer that is at any time a weak currency debt, the amount paid or payable in the weak currency for a taxation year on account of interest on the debt, or paid in the weak currency for a taxation year on account of the debt's principal, shall be decreased by the amount of any foreign exchange gain, or increased by the amount of any foreign exchange loss, on the hedge in respect of the amount so paid or payable.

"**175.2.15.** Where the amount, expressed in the weak currency, outstanding on account of principal in respect of a debt that is at any time a weak currency debt is reduced before maturity, whether by repayment or otherwise, the amount, expressed in the weak currency, of the reduction is deemed, except for the purpose of determining the rate of interest that would have been charged on an equivalent debt in the final currency and applying paragraph *b* of the definition of "weak currency debt" in section 175.2.12, to have been a separate debt from the commitment time."

(2) Subsection 1, where it enacts sections 175.2.8 to 175.2.11 of the said Act, has effect from 28 June 1999. However, where the definition of "branch advance" in the first paragraph of section 175.2.8 of the said Act applies in respect of amounts allocated or provided before 22 August 2000, it shall be read as follows:

““branch advance” of an authorized foreign bank at a particular time means an amount allocated or provided by, or on behalf of, the bank to, or for the benefit of, its Canadian banking business under terms that were documented on or before 31 December 2000, to the same extent as, and in a form similar to the form in which, the bank would ordinarily document a loan by it to a person with whom it deals at arm's length;”.

(3) Subsection 1, where it enacts sections 175.2.12 to 175.2.15 of the said Act, applies to taxation years that end after 27 February 2000. In addition, the prescribed form referred to in paragraph *b* of the definition of “hedge” in section 175.2.12 of the said Act is deemed to have been filed with the Minister of Revenue within the time prescribed in that paragraph if it is filed before 1 August 2000.

33. (1) Section 175.8 of the said Act is amended by replacing “, 653, 785.1 and 785.2” in paragraph *c* by “and 653, Chapter I of Title I.1 of Book VI”.

(2) Subsection 1 has effect from 21 June 1996.

34. (1) Section 175.9 of the said Act is amended by replacing “section 785.1, 785.2 or” in subparagraph ii of subparagraph *b* of the first paragraph by “Chapter I of Title I.1 of Book VI or section”.

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

35. (1) Section 181 of the said Act is replaced by the following section:

“**181.** Where in a taxation year a taxpayer has used borrowed money for the purpose of exploration, development or the acquisition of property and the expenses incurred by the taxpayer in respect of those activities are Canadian exploration and development expenses, foreign exploration and development expenses, Canadian exploration expenses, Canadian development expenses, foreign resource expenses in relation to a country or Canadian oil and gas property expenses, as the case may be, the taxpayer may elect in the taxpayer's fiscal return filed under this Part for the year, to have the following rules apply:

(*a*) in computing the taxpayer's income for the year and for such of the three immediately preceding taxation years as the taxpayer had, sections 160, 163, 176 and 176.4 do not apply to the amount specified in the taxpayer's election that, but for that election, would be deductible in computing the taxpayer's income, other than exempt income or income that is exempt from tax under this Part, for any such year in respect of the borrowed money used for the exploration, development or acquisition of property, as the case may be; and

(*b*) the amount described in paragraph *a* is deemed to be Canadian exploration and development expenses, foreign exploration and development expenses, Canadian exploration expenses, Canadian development expenses,

foreign resource expenses in relation to a country or Canadian oil and gas property expenses, as the case may be, incurred by the taxpayer in the year."

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

36. (1) Section 182 of the said Act is amended

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

"**182.** A taxpayer described in the second paragraph may elect, in the taxpayer's fiscal return filed under this Part for a particular taxation year, to have rules similar to those provided by paragraphs *a* and *b* of section 180 or of section 181, as the case may be, apply for the purpose of computing the taxpayer's income for the particular year in respect of an amount that, but for this section, would be deductible in computing the taxpayer's income, other than exempt income or, if subparagraph iii of subparagraph *a* of the second paragraph applies to the taxpayer, income that is exempt from tax under this Part, for the particular year, in respect of the borrowed money or payable amount referred to in the second paragraph.";

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

"(*b*) in each taxation year, if any, after the preceding taxation year referred to in subparagraph *a* and before the particular year, made an election under this section covering the total amount that, but for this section, would have been deductible in computing the taxpayer's income, other than exempt income or, if subparagraph iii of subparagraph *a* applies to the taxpayer, income that is exempt from tax under this Part, for each such year in respect of the borrowed money used to acquire the depreciable property, the amount payable for the depreciable property or the borrowed money used for the exploration, development or acquisition of property."

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

37. (1) Section 196 of the said Act is replaced by the following section:

"**196.** Notwithstanding sections 194 and 197, where at the end of a taxation year a taxpayer who carried on a business the income from which was computed in accordance with the cash method is not resident in Canada and does not carry on that business in Canada, an amount equal to the aggregate of all amounts each of which is the fair market value of an amount outstanding in the year on account of a debt owing to the taxpayer that resulted from the carrying on of the business and that would have been included in computing the taxpayer's income for the year if the amount had been received by the taxpayer during the year, shall, to the extent that the amount was not otherwise included in computing the taxpayer's income for the year or a preceding

taxation year, be included in computing the taxpayer's income from the business for the year or, if the taxpayer was resident in Canada at any time in the year, for the part of the year throughout which the taxpayer was resident in Canada."

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

38. (1) Section 196.1 of the said Act is repealed.

(2) Subsection 1 has effect from 24 December 1998.

39. (1) Section 219 of the said Act is amended

(1) by replacing "For the purposes of this division:" in the portion before paragraph *a* by "In this division,";

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

"(*b*) a mining property means

i. a right, licence or privilege to prospect, explore, drill or mine for minerals in a mineral resource in Canada, or

ii. immovable property in Canada, other than depreciable property, the principal value of which depends on its mineral resource content."

(2) Paragraph 2 of subsection 1 applies in respect of shares received after 21 December 2000.

40. Section 231.0.11 of the said Act, enacted by section 67 of chapter 2 of the statutes of 2003, is amended by replacing "section 231.1 or 231.2" in paragraph *c* by "section 231.1, as it read before being repealed, or section 231.2".

41. Section 231.1 of the said Act is repealed.

42. (1) Section 231.2 of the said Act, enacted by section 69 of chapter 2 of the statutes of 2003, is amended by replacing the portion before paragraph *b* by the following:

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

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

i. a property described, in respect of the taxpayer, in section 710.0.1 or in the definition of "qualified property" in the first paragraph of section 752.0.10.1,

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

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

iv. a unit of a mutual fund trust,

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

vi. a bond, debenture, note, obligation secured by mortgage or similar obligation, either issued or guaranteed by the Government of Canada, or issued by the government of a province or its mandatary; or".

(2) Subsection 1 applies in respect of dispositions that occur after 31 December 2001.

43. Section 231.3 of the said Act, enacted by section 69 of chapter 2 of the statutes of 2003, is amended by replacing "of sections 231.1 and 231.2" by "of section 231.1, as it read before being repealed, and section 231.2".

44. Section 234.1 of the said Act is amended

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

"**234.1.** In computing the amount that a taxpayer may claim as a reserve under subparagraph *b* of the first paragraph of section 234, that subparagraph shall be read as if the references therein to "1/5" and "4" were references to "1/10" and "9" respectively where the property referred to in that section is property that the taxpayer disposed of to the taxpayer's child, who was resident in Canada immediately before the disposition, and was";

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

"(*b*) immediately before the disposition, a share of the capital stock of a family farm corporation of the taxpayer within the meaning of subparagraph *a* of the first paragraph of section 451 or an interest in a family farm partnership of the taxpayer within the meaning of subparagraph *f* of that paragraph; or".

45. (1) Section 238 of the said Act is amended by replacing ", 653, 785.1 and 785.2" in paragraph *a* by "and 653, Chapter I of Title I.1 of Book VI".

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

46. (1) Section 238.1 of the said Act is amended by replacing "section 785.1, 785.2 or" in subparagraph ii of subparagraph *b* of the second paragraph by "Chapter I of Title I.1 of Book VI or section".

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

47. (1) The said Act is amended by inserting the following section after section 238.3:

"**238.4.** For the application of sections 638.1, 686, 741 to 742.3 and 745 in computing the individual's loss from the disposition of property after having ceased to be resident in Canada, the following rules apply:

(*a*) the individual is deemed to be a corporation in respect of dividends received by the individual at a particular time that is after the time at which the individual last acquired the property and at which the individual was not resident in Canada; and

(*b*) each taxable dividend received by the individual at a particular time described in paragraph *a* is deemed to be a taxable dividend that was received by the individual and that was deductible in computing the individual's taxable income or taxable income earned in Canada under sections 738 to 745 for the taxation year that includes the particular time."

(2) Subsection 1 applies in respect of dispositions that occur after 23 December 1998 by individuals who cease to be resident in Canada after 1 October 1996.

48. (1) Section 248 of the said Act, replaced by section 77 of chapter 2 of the statutes of 2003, is amended by replacing "obligation secured by hypothec or mortgage, agreement of sale, debt" in subparagraph i of subparagraph *b* of the first paragraph by "mortgage created under the jurisdiction of a province other than Québec, agreement of sale".

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

49. Section 255 of the said Act, amended by section 86 of chapter 2 of the statutes of 2003, is again amended by replacing "231.1" in subparagraph 1 of subparagraph i of paragraph *i* by "231.1, as it read before being repealed".

50. (1) Section 257 of the said Act, amended by section 88 of chapter 2 of the statutes of 2003, is again amended

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

"(*c*) that part of the cost of the property which is deductible in computing the income, otherwise than because of this Title or section 75.3, for any taxation year beginning before the particular time and ending after 31 December 1971;";

(2) by replacing "foreign exploration and development expenses" in subparagraph ii of paragraph *l* by "foreign resource pool expenses".

(2) Paragraph 1 of subsection 1 has effect from 1 January 2002.

(3) Paragraph 2 of subsection 1 applies to taxation years that begin after 31 December 2000.

51. (1) Section 259.1 of the said Act, amended by section 92 of chapter 2 of the statutes of 2003, is again amended by replacing "section 785.1 or 785.2" in the portion before paragraph *a* by "Chapter I of Title I.1 of Book VI".

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

52. (1) Section 274 of the said Act is amended, in the second paragraph,

(1) by replacing subparagraphs *a* and *b* by the following subparagraphs:

"(*a*) where the year is before 1982, the individual; or

"(*b*) where the year is after 1981,

i. the individual,

ii. a person who was throughout the year the individual's spouse, other than a spouse who was throughout the year living separate and apart from the individual pursuant to a judicial separation or a written separation agreement,

iii. a person who was the individual's child, other than a child who was at any time in the year a married person or a person 18 years of age or over, or

iv. where the individual was not at any time in the year a married person or a person 18 years of age or over, a person who was the individual's father or mother, or brother or sister, where that brother or sister was not at any time in the year a married person or a person 18 years of age or over.";

(2) by striking out subparagraphs *c* and *d*.

(2) Subsection 1 applies in respect of dispositions that occur after 31 December 1990.

53. (1) Section 274.4 of the said Act is amended by replacing the portion before the formula in the first paragraph by the following:

"**274.4.** Where a person not resident in Canada disposes of a taxable Québec property that the person last acquired before 27 April 1995, that would not be a taxable Québec property immediately before the disposition if sections 1087 to 1096.2 were read as they applied in respect of dispositions that occurred on 26 April 1995 and that would be a taxable Québec property immediately before the disposition if those sections were read as they applied in respect of dispositions that occurred on 1 January 1996, the person's gain or loss from the disposition is deemed to be the amount determined by the formula".

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

54. (1) Sections 277 and 278 of the said Act are replaced by the following sections:

"**277.** The principal residence of an individual is deemed to include the land subjacent to it and such portion of any contiguous land as can reasonably be regarded as contributing to the use and enjoyment of the housing unit as a residence.

However, where the total area of the land subjacent to the principal residence and the portion of contiguous land exceeds one-half hectare, the excess shall be deemed not to have contributed to the use and enjoyment of the housing unit as a residence unless the individual establishes that it was necessary to such use and enjoyment.

"**278.** Notwithstanding section 234, this division applies where, at any time in a taxation year, an amount becomes receivable by a taxpayer as proceeds of disposition of a capital property, in this division referred to as "former property", that is not a share of the capital stock of a corporation but that is either property the proceeds of disposition of which are described in section 280 or a property that was, immediately before the disposition, a former business property of the taxpayer, and the taxpayer acquires, where the former property is property the proceeds of disposition of which are described in section 280, before the end of the second taxation year following the end of the year or, in any other case, before the end of the first taxation year following the end of the year, a capital property that is a replacement property for the taxpayer's former property and the replacement property has not been disposed of by the taxpayer before the time the taxpayer has disposed of the former property."

(2) Subsection 1, where it replaces section 278 of the said Act, applies in respect of dispositions of shares that occur after 15 April 1999, other than such dispositions that occur after a public takeover bid or offer filed with a public authority before 16 April 1999.

55. (1) The said Act is amended by inserting the following section after section 283:

"**283.1.** Where a taxpayer referred to in any of sections 281 to 283 is not resident in Canada, the reference therein to "gaining or producing income" or "gaining income" shall be read as a reference to "gaining or producing income from a source in Canada"."

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

56. (1) Section 308.0.1 of the said Act is amended

(1) by adding the following definitions in the first paragraph:

"“specified corporation” in respect of a distribution means a distributing corporation

(*a*) that is a public corporation or a specified wholly-owned corporation of a public corporation;

(*b*) shares of the capital stock of which are exchanged for shares of the capital stock of another corporation, in this definition and the second paragraph referred to as an “acquiror”, in an exchange to which the definition of “permitted exchange” would apply if that definition were read without reference to paragraph *a* thereof and subparagraph i of paragraph *b* thereof and if the portion of that paragraph *b* before subparagraph i were read without reference to “either”;

(*c*) that does not make a distribution, to a corporation that is not an acquiror, after 31 December 1998 and before the day that is three years after the day on which the shares of the capital stock of the distributing corporation are exchanged in a transaction described in paragraph *b*; and

(*d*) in respect of which no acquiror, in relation to shares of the capital stock of the distributing corporation, makes a distribution after 31 December 1998 and before the day that is three years after the day on which the shares of the capital stock of the distributing corporation are exchanged in a transaction described in paragraph *b*;

"“specified wholly-owned corporation” of a public corporation means a corporation all of the outstanding shares of the capital stock of which, other than directors’ qualifying shares or shares of a specified class, are held by

(*a*) the public corporation;

(*b*) a specified wholly-owned corporation of the public corporation; or

(*c*) corporations described in paragraph *a* or *b*.”;

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

“Where the transfer referred to in the definition of “distribution” in the first paragraph is by a specified corporation to an acquiror, in relation to shares of the capital stock of the specified corporation, the definition of “distribution” shall be read with “each type of property” replaced by “property” and with “of that type”, wherever it appears, struck out.”;

(3) by adding the following paragraph:

“For the purposes of paragraphs *c* and *d* of the definition of “specified corporation” in the first paragraph, a corporation that is formed by an

amalgamation of two or more other corporations is deemed to be a continuation of each of the other corporations."

(2) Subsection 1 applies in respect of transfers that occur after 31 December 1998.

57. (1) Section 308.6 of the said Act, amended by section 107 of chapter 2 of the statutes of 2003, is again amended by replacing subparagraph iv of subparagraph *e* of the first paragraph by the following subparagraph:

"iv. this Act shall be read without reference to subsection 2 of section 19 and paragraph *b* of section 20; and".

(2) Subsection 1 applies in respect of dividends that are received after 30 November 1999, other than dividends received as part of a transaction or event, or a series of transactions or events, that was required before 1 December 1999 to be carried out pursuant to a written agreement made before that day.

58. (1) The said Act is amended by inserting the following section after section 313.8:

"**313.9.** A taxpayer shall also include the aggregate of all amounts received in the year as consideration for the disposition by the taxpayer of a property, other than property acquired by the taxpayer in circumstances to which sections 527.3 and 617.1 applied, the cost of which was included in computing an amount determined under section 75.3 in respect of the taxpayer or in respect of a person with whom the taxpayer does not deal at arm's length, to the extent that the aggregate of those amounts received as consideration for the disposition of the property in the year or in a preceding taxation year exceeds the total of

i. the cost to the taxpayer of the property immediately before its disposition; and

ii. the aggregate of all amounts included in respect of the disposition of the property under this section in computing the taxpayer's income for a preceding taxation year."

(2) Subsection 1 applies from the taxation year 2002.

59. (1) Section 330 of the said Act is amended

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

"(*a*) the amount by which the portion of the proceeds from the disposition by the taxpayer of a foreign resource property that became receivable in the year exceeds the total of

i. the aggregate of all amounts each of which is an outlay or expense made or incurred by the taxpayer for the purpose of making the disposition and that was not otherwise deductible for the purposes of this Part, and

ii. where the property is a foreign resource property in relation to a country, the amount designated by the taxpayer in respect of the disposition in prescribed form filed with the taxpayer's fiscal return under this Part for the year;";

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

"(*c*) the amount by which the amount described in section 388 exceeds the total of

i. the portion of the taxpayer's foreign exploration and development expenses incurred before the time referred to in section 388, that was not deductible or was not deducted, as the case may be, in computing the taxpayer's income for a preceding taxation year, and

ii. the amount designated by the taxpayer in prescribed form filed with the taxpayer's fiscal return under this Part for the year, not exceeding the portion of the amount described in section 388 for which the consideration given by the taxpayer was services rendered or property, other than a foreign resource property, transferred by the taxpayer, the original cost of which to the taxpayer having been primarily specified foreign exploration and development expenses in relation to a country, within the meaning of section 372.2, or foreign resource expenses in relation to a country;";

(3) by inserting the following paragraph after paragraph *e*:

"(*e*.1) the amount by which the aggregate of the amounts deducted under section 418.1.4 in computing the taxpayer's cumulative foreign resource expense at the end of the year in relation to a country exceeds the total of

i. the aggregate of the amounts included under section 418.1.3 in computing the taxpayer's cumulative foreign resource expense at the end of the year in relation to that country, and

ii. the aggregate determined for the year under paragraph *a* of section 418.32.2 in respect of the taxpayer and that country;".

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

60. (1) The said Act is amended by inserting the following section after section 330:

"**330.1.** The share of a member of a partnership of the amount that would, but for subparagraph ii of paragraph *a* of section 330 and paragraph *d* of section 600, be included under that paragraph *a*, in relation to the disposition

of a foreign resource property, in computing the partnership's income for a fiscal period of the partnership, is deemed to be the proceeds from the disposition by the member of the foreign resource property that became receivable by the member at the end of that fiscal period."

(2) Subsection 1 applies to fiscal periods that begin after 31 December 2000.

61. (1) Section 359.18 of the said Act is replaced by the following section:

"**359.18.** For the purposes of this division, section 181, paragraphs *c* to *g* of section 330, sections 333.1 to 333.3, 359 and 362 to 418.36, Division V, sections 600.1 and 600.2, subparagraph iv of subparagraph *a*.2 of the first paragraph of section 726.6 and subparagraph *b* of the second paragraph of section 1129.60, where a person's share of an outlay or expense made or incurred by a partnership in a fiscal period of the partnership is referred to in respect of the person under paragraph *d* of any of sections 372, 395 and 408, under paragraph *e* of section 418.1.1, or under paragraph *b* of section 418.2, the portion of the outlay or expense so referred to is deemed, except for the purpose of applying sections 372, 372.1, 395 to 397, 408 to 410, 418.1.1, 418.1.2 and 418.2 to 418.4 in respect of the person, to have been made or incurred by the person at the end of that fiscal period."

(2) Subsection 1 applies to fiscal periods that begin after 31 December 2000. However, where section 359.18 of the said Act applies in respect of expenses incurred in such a fiscal period and according to a written agreement entered into before 22 December 2000, the reference therein to "under paragraph *d* of any of sections 372, 395 and 408" shall be read as a reference to "under section 372, to the extent that it refers to paragraph *d* of section 364, under paragraph *d* of section 395 or 408".

(3) In addition, where section 359.18 of the said Act applies in respect of expenses incurred after 21 December 2000 in a fiscal period that begins before 1 January 2001, other than expenses incurred pursuant to a written agreement entered into before 22 December 2000, the reference therein to "under section 372, to the extent that it refers to paragraph *d* of section 364, under paragraph *d* of section 395 or 408" shall be read as a reference to "under paragraph *d* of any of sections 372, 395 and 408".

62. (1) Section 370 of the said Act is amended

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

"**370.** In this chapter, a Canadian resource property of a taxpayer is any property of the taxpayer which is";

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

"(*c*) any oil or gas well in Canada or any immovable property in Canada the principal value of which depends primarily upon its petroleum or natural gas content, except any depreciable property;";

(3) by replacing paragraph *e* by the following paragraph:

"(*e*) any immovable property in Canada the principal value of which depends primarily upon its mineral resource content, except any depreciable property; or".

(2) Paragraphs 2 and 3 of subsection 1 apply to taxation years that begin after 31 December 2000.

63. (1) Section 371 of the said Act is amended by replacing paragraph *a* by the following paragraph:

"(*a*) the amount by which the aggregate of all amounts by which the amount determined under this paragraph in respect of the taxpayer is required, because of section 485.8, to be reduced at or before the end of the year is exceeded by the aggregate of the foreign exploration and development expenses, to the extent that they were not deductible in computing the taxpayer's income for a previous taxation year, incurred by the taxpayer

i. before the end of the year,

ii. at a time at which the taxpayer was resident in Canada, and

iii. where the taxpayer became resident in Canada before the end of the year, after the last time, before the end of the year, that the taxpayer became resident in Canada; and".

(2) Subsection 1 applies from the taxation year 1999. However, where paragraph *a* of section 371 of the said Act applies to the taxation year 1999, it shall be read without reference to subparagraph iii thereof.

64. (1) Section 372 of the said Act is replaced by the following section:

"**372.** In this chapter, the foreign exploration and development expenses of a taxpayer means

(*a*) any exploration or drilling expense, including any general geological or geophysical expense, incurred by the taxpayer on or in respect of exploring or drilling for petroleum or natural gas outside Canada;

(*b*) any expense incurred by the taxpayer for the purpose of determining the existence, location, extent or quality of a mineral resource outside Canada, including any expense incurred in the course of prospecting, carrying out geological, geophysical or geochemical surveys, drilling, trenching, digging test pits or preliminary sampling;

(*c*) the cost to the taxpayer of any foreign resource property acquired by the taxpayer;

(*d*) subject to section 418.37, the taxpayer's share of the foreign exploration and development expenses incurred by a partnership in a fiscal period of the partnership, where the taxpayer was a member of the partnership at the end of that fiscal period; and

(*e*) any annual payment made by the taxpayer for the preservation of a foreign resource property."

(2) Subsection 1 applies in respect of expenses incurred after 21 December 2000, other than expenses incurred pursuant to an agreement in writing entered into before 22 December 2000.

65. (1) Section 372.1 of the said Act is amended by adding the following paragraphs after paragraph *d*:

"(*e*) an expenditure that is the cost, or any part of the cost, to the taxpayer of any depreciable property of a prescribed class that was acquired after 21 December 2000;

"(*f*) foreign resource expenses in relation to a country; or

"(*g*) an expenditure incurred after 27 February 2000, unless the expenditure was incurred

i. pursuant to an agreement in writing entered into by the taxpayer before 28 February 2000,

ii. for the purpose of enabling the taxpayer to acquire foreign resource property,

iii. for the purpose of enhancing the value of foreign resource property that the taxpayer owned at the time the expenditure was incurred or that the taxpayer had a reasonable expectation of owning after that time, or

iv. for the purpose of assisting in evaluating whether a foreign resource property is to be acquired by the taxpayer."

(2) Subsection 1, where it enacts paragraph *e* of section 372.1 of the said Act, has effect from 1 January 2001.

(3) Subsection 1, where it enacts paragraph *f* of section 372.1 of the said Act, applies to taxation years that begin after 31 December 2000.

(4) Subsection 1, where it enacts paragraph *g* of section 372.1 of the said Act, has effect from 28 February 2000.

66. (1) The said Act is amended by inserting the following section after section 372.1:

"**372.2.** In this chapter, the specified foreign exploration and development expense of a taxpayer in relation to a country other than Canada means the following expenses that are foreign exploration and development expenses of the taxpayer:

(*a*) any exploration or drilling expense, including any general geological or geophysical expense, incurred by the taxpayer on or in respect of exploring or drilling for petroleum or natural gas in that country;

(*b*) any expense incurred by the taxpayer after 21 December 2000, otherwise than pursuant to an agreement in writing entered into before 22 December 2000, for the purpose of determining the existence, location, extent or quality of a mineral resource in that country, including any expense incurred in the course of prospecting, carrying out geological, geophysical or geochemical surveys, drilling, trenching, digging test pits or preliminary samplings;

(*c*) any prospecting, exploration or development expense incurred by the taxpayer before 22 December 2000, or after 21 December 2000 pursuant to an agreement in writing entered into before 22 December 2000, in searching for minerals in that country;

(*d*) the cost to the taxpayer of any of the taxpayer's foreign resource properties in relation to that country;

(*e*) any annual payment made by the taxpayer in a taxation year of the taxpayer for the preservation of a foreign resource property in relation to that country;

(*f*) an amount deemed by section 181 or 182 to be a foreign exploration and development expense incurred by the taxpayer, to the extent that it can reasonably be considered to relate to an amount that, without reference to this paragraph and paragraph *g*, would be a specified foreign exploration and development expense in relation to that country; and

(*g*) subject to section 418.37, the taxpayer's share of the specified foreign exploration and development expenses of a partnership incurred in a fiscal period of the partnership in relation to that country, where the taxpayer was a member of the partnership at the end of that fiscal period."

(2) Subsection 1 has effect from 1 January 1995.

67. (1) Sections 373 and 374 of the said Act are replaced by the following sections:

"**373.** In this chapter, a foreign resource property means a property that would be referred to in section 370, if

(*a*) in the case of a foreign resource property in relation to a country, the references in that section to "Canadian resource property of a taxpayer" in the portion before paragraph *a* and "in Canada" wherever it appears in paragraphs *a* to *e* were read as references to "foreign resource property of a taxpayer in relation to a country" and "in that country", respectively; and

(*b*) in any other case, the references in that section to "Canadian" in the portion before paragraph *a* and "in Canada" wherever it appears in paragraphs *a* to *e* were read as references to "foreign" and "outside Canada", respectively.

"**374.** The amount to which paragraph *b* of section 371 refers is the greater of

(*a*) the amount claimed by the taxpayer not exceeding 10% of the amount determined under paragraph *a* of section 371 in respect of the taxpayer for the year; and

(*b*) the total of

i. that part of the taxpayer's income for the year, determined without reference to sections 371 and 418.1.10, that can reasonably be attributed to the production of petroleum or natural gas from a natural accumulation of petroleum or natural gas outside Canada or from oil or gas wells outside Canada, or to the production of minerals from mines outside Canada,

ii. the taxpayer's income for the year from royalties in respect of a natural accumulation of petroleum or natural gas outside Canada, an oil or gas well outside Canada or a mine outside Canada, determined without reference to sections 371 and 418.1.10, and

iii. the aggregate of all amounts each of which is an amount, in respect of a foreign resource property that has been disposed of by the taxpayer, equal to the amount by which the amount included in computing the taxpayer's income for the year by reason of paragraph *a* of section 330 in respect of that disposition exceeds the aggregate of all amounts each of which is that portion of an amount deducted under section 418.17 in computing the taxpayer's income for the year that can reasonably be considered to be in respect of the foreign resource property, but cannot reasonably be considered to have reduced the amount otherwise determined under subparagraph i or ii in respect of the taxpayer for the year."

(2) Subsection 1, where it replaces section 373 of the said Act, has effect from 1 January 2001.

(3) Subsection 1, where it replaces the portion of section 374 of the said Act before paragraph *b*, applies from the taxation year 1995. In addition, where section 374 of the said Act applies to taxation years, subsequent to the taxation year 1994, of a taxpayer who ceased to be resident in Canada before 28 February 2000, it shall be read with the following paragraph inserted after paragraph *a*:

"(*a*.1) if the taxpayer ceased to be resident in Canada immediately after the end of the year, the amount claimed by the taxpayer not exceeding the amount determined in respect of the taxpayer for the year under paragraph *a* of section 371; and".

(4) Subsection 1, where it replaces paragraph *b* of section 374 of the said Act, applies to taxation years that begin after 31 December 2000.

68. (1) The said Act is amended by inserting the following sections after section 374:

"**374.1.** The portion of an amount deducted under section 371 in computing a taxpayer's income for a taxation year that can reasonably be considered to be in respect of specified foreign exploration and development expenses of the taxpayer in relation to a country is considered as being attributable to a source in that country.

"**374.2.** For the purposes of section 374.1, where a taxpayer has incurred specified foreign exploration and development expenses in relation to two or more countries, an allocation to each of those countries for a taxation year shall be determined in a manner that is

(*a*) reasonable having regard to all the circumstances, including the level and timing of

i. the taxpayer's specified foreign exploration and development expenses in relation to that country, and

ii. the profits or gains to which those expenses relate; and

(*b*) not inconsistent with the allocation made under section 374.1 for the preceding taxation year.

"**374.3.** Where at any time in a taxation year an individual becomes or ceases to be resident in Canada, the following rules apply:

(*a*) sections 371 and 374 apply to the individual as if the year were the period or periods in the year throughout which the individual was resident in Canada; and

(*b*) for the purposes of sections 371 and 374, section 393.1 does not apply to the individual for the year."

(2) Subsection 1, where it enacts sections 374.1 and 374.2 of the said Act, applies to taxation years of a taxpayer that begin after the earlier of

(1) 31 December 1999; and

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

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

(*b*) 31 December 1994.

(3) Subsection 1, where it enacts section 374.3 of the said Act, applies from the taxation year 1998.

69. (1) Section 388 of the said Act is replaced by the following section:

"**388.** A taxpayer shall, in computing the taxpayer's foreign exploration and development expenses, deduct the amount that, at a particular time in a taxation year and as a result of a transaction that occurs after 6 May 1974, becomes receivable by the taxpayer as consideration for services rendered or property transferred by the taxpayer, if the original cost of the services or property can reasonably be regarded as having been primarily foreign exploration and development expenses of the taxpayer, or would have been so regarded if they had been incurred by the taxpayer after 1971 and section 372.1 were read without reference to paragraph *f* thereof."

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

70. (1) The said Act is amended by inserting the following sections after section 390:

"**390.1.** Where an amount described in section 388 becomes receivable by a taxpayer at a particular time, there shall at that particular time be included in computing the amount determined under paragraph *c* of section 418.1.4 in respect of the taxpayer and a country the amount designated under subparagraph ii of paragraph *c* of section 330 by the taxpayer in respect of that amount and that country.

"**390.2.** Where an amount described in section 388 becomes receivable by a partnership in a fiscal period of the partnership, the share of a member of the partnership of that amount is deemed, for the purposes of paragraph *c* of section 330 and sections 388 and 390.1, to be an amount that became receivable by the member at the end of that fiscal period, that is described in section 388 in respect of the member and that has the same attributes for the member as it did for the partnership."

(2) Subsection 1, where it enacts section 390.1 of the said Act, applies to taxation years that begin after 31 December 2000.

(3) Subsection 1, where it enacts section 390.2 of the said Act, applies to fiscal periods that begin after 31 December 2000.

71. (1) Section 393.1 of the said Act is replaced by the following section:

“**393.1.** Where a taxpayer has a taxation year that is less than 51 weeks, the amount determined for the year under any of the following provisions or first under subparagraph *c* of the first paragraph of section 418.20, shall not exceed the proportion of the amount otherwise determined under that provision or first under that subparagraph *c*, as the case may be, that the number of days in the year is of 365:

(*a*) paragraph *a* of section 374;

(*b*) subparagraph *c* of the first paragraph of section 413;

(*c*) paragraph *b* of section 418.1.9, without reference to the aggregate last referred to in that paragraph;

(*d*) subparagraph i of paragraph *a* of section 418.1.10;

(*e*) subparagraph 2 of subparagraph ii of paragraph *a* of section 418.1.10;

(*f*) paragraph *b* of section 418.7;

(*g*) the second paragraph of section 418.17.3;

(*h*) subparagraph i of subparagraph *a* of the first paragraph of section 418.20;

(*i*) subparagraph *b* of the first paragraph of section 418.20; and

(*j*) the second paragraph of section 418.21.”

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

72. (1) Section 395 of the said Act is amended by replacing subparagraph i of paragraph *b*.1 by the following subparagraph:

“i. the drilling or completing of the well resulted in the discovery of a natural underground reservoir containing petroleum or natural gas, where

(1) before the time of the discovery, no person or partnership had discovered that the reservoir contained either petroleum or natural gas, and

(2) the discovery occurred at any time before six months after the end of the year;".

(2) Subsection 1 applies in respect of expenses incurred after 31 March 1987.

73. (1) Section 396 of the said Act is amended by inserting the following paragraph after paragraph *c*:

"(*c*.1) an expense that is the cost, or any part of the cost, to the taxpayer of any depreciable property of a prescribed class that was acquired after 31 December 1987;".

(2) Subsection 1 applies from the taxation year 1988. However, where section 396 of the said Act applies to taxation years that end before 6 December 1996, it shall be read as follows:

"**396.** A taxpayer's Canadian exploration expenses do not include, however, any consideration given by the taxpayer for a share, or for any interest therein or right thereto, except as provided in paragraph *e* of section 395, any expense described in that paragraph *e* incurred by another taxpayer to the extent that the expense is, for that other taxpayer, a Canadian exploration expense under that paragraph, a Canadian development expense under paragraph *e* of section 408 or a Canadian oil and gas property expense under paragraph *c* of section 418.2, nor any expense that is the cost, or any part of the cost, to the taxpayer of any depreciable property of a prescribed class that was acquired after 31 December 1987."

74. (1) Section 398 of the said Act is amended

(1) by replacing "For the purposes of" in the portion before paragraph *a* by "In";

(2) by replacing "the expenses referred to in section 395 and" in paragraph *a* by "the Canadian exploration expenses".

(2) Paragraph 2 of subsection 1 applies to taxation years that begin after 31 December 2000.

75. (1) Section 399.3 of the said Act is amended by replacing subparagraph *a* of the second paragraph by the following subparagraph:

"(*a*) the drilling or completing of an oil or gas well resulted in the discovery of a natural underground reservoir containing petroleum or natural gas and, before the time of the discovery, no person or partnership had discovered that the reservoir contained either petroleum or natural gas;".

(2) Subsection 1 applies in respect of expenses incurred after 31 March 1987.

76. (1) Section 409 of the said Act is amended by inserting the following paragraph after paragraph *c*:

"(*c*.1) an expense that is the cost, or any part of the cost, to the taxpayer of any depreciable property of a prescribed class that was acquired after 31 December 1987; or".

(2) Subsection 1 applies from the taxation year 1988. However, where section 409 of the said Act applies to taxation years that end before 6 December 1996, it shall be read as follows:

"**409.** A taxpayer's Canadian development expenses do not include, however, any consideration given by the taxpayer for a share, or for any interest therein or right thereto, except as provided in paragraph *e* of section 408, any expense described in that paragraph *e* incurred by another taxpayer to the extent that the expense is, for that other taxpayer, a Canadian development expense under that paragraph, a Canadian exploration expense under paragraph *e* of section 395 or a Canadian oil and gas property expense under paragraph *c* of section 418.2, nor any expense that is the cost, or any part of the cost, to the taxpayer of any depreciable property of a prescribed class that was acquired after 31 December 1987."

77. (1) Section 411 of the said Act is amended

(1) by replacing "For the purposes of" in the portion before paragraph *a* by "In";

(2) by replacing "the expenses referred to in section 408" in paragraph *a* by "the Canadian development expenses".

(2) Paragraph 2 of subsection 1 applies to taxation years that begin after 31 December 2000.

78. Section 412 of the said Act is amended by replacing subparagraph i of paragraph *b* by the following subparagraph:

"i. the amount by which the proceeds of disposition in respect of the property that became receivable by the taxpayer before that time but after 6 May 1974 in the case of an oil business or after 31 March 1975 in the case of a mining business, exceed the aggregate of the outlays or expenses that the taxpayer made or incurred before that time but after 6 May 1974 in the case of an oil business or after 31 March 1975 in the case of a mining business for the purpose of making the disposition and that were not otherwise deductible for the purposes of this Part, exceeds".

79. (1) The said Act is amended by inserting the following after section 418.1:

“DIVISION IV.0.1

“FOREIGN RESOURCE EXPENSE

“**418.1.1.** In this chapter, the foreign resource expense of a taxpayer, in relation to a country other than Canada, means

(*a*) any exploration or drilling expense, including any general geological or geophysical expense, incurred by the taxpayer on or in respect of exploring or drilling for petroleum or natural gas in that country;

(*b*) any expense incurred by the taxpayer for the purpose of determining the existence, location, extent or quality of a mineral resource in that country, including any expense incurred in the course of prospecting, carrying out geological, geophysical or geochemical surveys, drilling, trenching, digging test pits or preliminary sampling;

(*c*) the cost to the taxpayer of any of the taxpayer’s foreign resource properties in relation to that country;

(*d*) any annual payment made by the taxpayer for the preservation of a foreign resource property in relation to that country; and

(*e*) subject to section 418.37, the taxpayer’s share of an expense, cost or payment described in any of paragraphs *a* to *d* that is incurred or made by a partnership in a fiscal period of the partnership that begins after 31 December 2000, where the taxpayer was a member of the partnership at the end of that fiscal period.

“**418.1.2.** A taxpayer’s foreign resource expense, in relation to a country other than Canada, does not however include

(*a*) an expenditure that is the cost, or any part of the cost, to the taxpayer of any depreciable property of a prescribed class;

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

(*c*) an expenditure, other than a drilling expense, incurred at any time after the commencement of production from a foreign resource property of the taxpayer in order to assist in the recovery of petroleum, natural gas or related hydrocarbons from the portion of a natural reservoir to which the foreign resource property relates;

(*d*) an expenditure incurred in relation to the injection of any substance to assist in the recovery of petroleum, natural gas or related hydrocarbons from a natural reservoir;

(*e*) an expenditure incurred by the taxpayer, unless the expenditure was made

i. for the purpose of enabling the taxpayer to acquire foreign resource property,

ii. for the purpose of enhancing the value of foreign resource property that the taxpayer owned at the time the expenditure was incurred or that the taxpayer had a reasonable expectation of owning after that time, or

iii. for the purpose of assisting the taxpayer in evaluating whether a foreign resource property is to be acquired by the taxpayer;

(*f*) the taxpayer's share of any expenditure or cost described in any of paragraphs *a* to *e* that is incurred by a partnership; or

(*g*) an expenditure incurred by the taxpayer in a taxation year of the taxpayer that begins before 1 January 2001.

"**418.1.3.** In this chapter, the cumulative foreign resource expense of a taxpayer at a particular time, in relation to a country other than Canada, in this section and sections 418.1.4 and 418.1.5 referred to as the "foreign country", means the amount by which the aggregate of the following expenses and other amounts exceeds the aggregate determined under section 418.1.4:

(*a*) the foreign resource expenses, in relation to the foreign country, incurred by the taxpayer

i. before the particular time, and

ii. at a time, in this section and section 418.1.4 referred to as a "resident time", at which the taxpayer was resident in Canada and, where the taxpayer became resident in Canada before the particular time, that is after the last time before the particular time, that the taxpayer became resident in Canada;

(*b*) each amount required under paragraph *e*.1 of section 330 to be included, in relation to the foreign country, in computing the taxpayer's income for a taxation year ending before the particular time and at a resident time;

(*c*) each amount referred to in paragraph *b* or *c* of section 418.1.4 that, in accordance with the evidence submitted by the taxpayer, has become a bad debt before the particular time and at a resident time; and

(*d*) each particular amount determined under section 418.32.2, in respect of the taxpayer and the foreign country, for a taxation year ending before the particular time and at a resident time.

“**418.1.4.** The aggregate which, for the purposes of section 418.1.3, must be determined under this section, is the aggregate of

(*a*) each amount deducted in computing the taxpayer’s income for a taxation year ending before the particular time and at a resident time, in respect of the taxpayer’s cumulative foreign resource expense in relation to the foreign country;

(*b*) each amount in respect of a foreign resource property, in relation to the foreign country, in section 418.1.5 referred to as the “particular property”, disposed of by the taxpayer equal to the amount by which the amount designated under subparagraph ii of paragraph *a* of section 330 by the taxpayer in respect of the portion of the proceeds of that disposition that became receivable before the particular time and at a resident time exceeds the excess amount determined under section 418.1.5;

(*c*) each amount in respect of the foreign country that is included in the amount determined under this paragraph by reason of section 390.1 that became receivable by the taxpayer before the particular time and at a resident time;

(*d*) each amount received by the taxpayer before the particular time and at a resident time in respect of a debt referred to in paragraph *c* of section 418.1.3;

(*e*) each amount by which the cumulative foreign resource expense of the taxpayer, in relation to the foreign country, is required, by reason of section 485.8, to be reduced at or before the particular time and at a resident time; and

(*f*) each amount that is required to be deducted, before the particular time and at a resident time, under paragraph *a* of section 418.32.1 in computing the taxpayer’s cumulative foreign resource expense, in relation to the foreign country.

“**418.1.5.** The excess amount which, for the purposes of paragraph *b* of section 418.1.4, must be determined under this section, is the amount by which the amount determined under the second paragraph exceeds the amount determined under the third paragraph.

The first amount referred to in the first paragraph is the aggregate of all amounts each of which is an amount that would be determined under the second paragraph of section 418.17.3, immediately before the time, in this section referred to as the “relevant time”, when such proceeds of disposition became receivable, in respect of the taxpayer, the foreign country and an original owner of the particular property, or of any other property acquired by the taxpayer with the particular property in circumstances to which section 418.17.3 applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time, if

(*a*) amounts that became receivable at or after the relevant time were not taken into account;

(*b*) the second paragraph of section 418.17.3 were read without reference to "30% of"; and

(*c*) no reduction under section 485.8 at or after the relevant time were taken into account.

The second amount referred to in the first paragraph is the total of

(*a*) the aggregate of all amounts each of which is an amount that would be determined under the second paragraph of section 418.17.3 at the relevant time in respect of the taxpayer, the foreign country and an original owner of the particular property, or of any other property acquired by the taxpayer with the particular property in circumstances to which section 418.17.3 applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time, if

i. amounts that became receivable after the relevant time were not taken into account,

ii. the second paragraph of section 418.17.3 were read without reference to "30% of", and

iii. no reduction under section 485.8 at or after the relevant time were taken into account; and

(*b*) the portion of the amount otherwise determined under this section that was applied to reduce the amount otherwise determined under paragraph *b* of section 418.1.4.

"**418.1.6.** In this chapter, the adjusted cumulative foreign resource expense of a taxpayer at the end of a taxation year, in relation to a country, means the aggregate of the cumulative foreign resource expense of the taxpayer, in relation to that country, at the end of the year, and the amount by which the aggregate determined for the year under paragraph *a* of section 418.32.2 in respect of the taxpayer and that country exceeds the amount that would, but for subparagraph ii of paragraph *e*.1 of section 330, be determined for the year under that paragraph *e*.1 in respect of the taxpayer and that country.

"**418.1.7.** In this division, the foreign resource income of a taxpayer for a taxation year, in relation to a country other than Canada, means the total of

(*a*) that part of the taxpayer's income for the year, determined without reference to sections 371 and 418.1.10, that can reasonably be attributed to the production of petroleum or natural gas from a natural accumulation of petroleum

or natural gas in that country or from oil or gas wells in that country, or to the production of minerals from mines in that country;

(*b*) the taxpayer's income for the year from royalties in respect of a natural accumulation of petroleum or natural gas in that country, an oil or gas well in that country or a mine in that country, determined without reference to sections 371 and 418.1.10; and

(*c*) the aggregate of all amounts each of which is an amount, in respect of a foreign resource property in relation to that country that has been disposed of by the taxpayer, equal to the amount by which the amount included in computing the taxpayer's income for the year by reason of paragraph *a* of section 330 in respect of that disposition exceeds the aggregate of all amounts each of which is that portion of an amount deducted under section 418.17 in computing the taxpayer's income for the year that can reasonably be considered to be in respect of the foreign resource property, but cannot reasonably be considered to have reduced the amount otherwise determined under paragraph *a* or *b* in respect of the taxpayer for the year.

"**418.1.8.** In this division, the foreign resource loss of a taxpayer for a taxation year in relation to a country other than Canada means the amount of that loss computed, with the necessary modifications, in accordance with section 418.1.7.

"**418.1.9.** In this division, the global foreign resource limit of a taxpayer for a taxation year means the amount that is the lesser of

(*a*) the amount by which the amount determined under paragraph *b* of section 374 in respect of the taxpayer for the year exceeds the total of

i. the aggregate of all amounts each of which is the maximum amount that the taxpayer would be permitted to deduct, in relation to a country, under section 418.1.10 in computing the taxpayer's income for the year if, in its application to the year, that section were read without reference to paragraph *b* thereof, and

ii. the amount deducted under section 371 in computing the taxpayer's income for the year; and

(*b*) the amount by which 30% of the aggregate of all amounts each of which is, at the end of the year, the taxpayer's adjusted cumulative foreign resource expense in relation to a country exceeds the aggregate described in subparagraph i of paragraph *a*.

"**418.1.10.** In computing a taxpayer's income for a taxation year throughout which the taxpayer is resident in Canada, the taxpayer may deduct an amount claimed by the taxpayer, in respect of a country other than Canada, not exceeding the total of

(*a*) the greater of

i. 10% of an amount, in this section referred to as a "particular amount", equal to the taxpayer's adjusted cumulative foreign resource expense in relation to that country at the end of the year, and

ii. the least of

(1) if the taxpayer ceases to be resident in Canada immediately after the end of the year, the particular amount,

(2) if subparagraph 1 does not apply, 30% of the particular amount,

(3) the amount by which the taxpayer's foreign resource income for the year in relation to that country exceeds the portion of the amount, deducted under section 371 in computing the taxpayer's income for the year, that is attributable to a source in that country, and

(4) the amount by which the aggregate of all amounts each of which is the taxpayer's foreign resource income for the year in relation to a country exceeds the total of the aggregate of all amounts each of which is the taxpayer's foreign resource loss for the year in relation to a country and the amount deducted under section 371 in computing the taxpayer's income for the year; and

(*b*) the lesser of

i. the amount by which the particular amount exceeds the amount determined for the year under paragraph *a* in respect of the taxpayer, and

ii. that portion of the taxpayer's global foreign resource limit for the year that is designated for the year by the taxpayer, in relation to that country and no other country, in prescribed form filed with the Minister with the taxpayer's fiscal return filed under this Part for the year.

"**418.1.11.** Where at any time in a taxation year an individual becomes or ceases to be resident in Canada, the following rules apply:

(*a*) section 418.1.10 applies to the individual as if the taxation year were the period or periods in the year throughout which the individual was resident in Canada; and

(*b*) for the purposes of this chapter, section 393.1 does not apply to the individual for the year."

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

80. (1) Section 418.5 of the said Act is amended

(1) by replacing "For the purposes of" in the portion before paragraph *a* by "In";

(2) by replacing "of the expenses contemplated in section 418.2" in paragraph *a* by "of the Canadian oil and gas property expense".

(2) Paragraph 2 of subsection 1 applies to taxation years that begin after 31 December 2000.

81. Section 418.6 of the said Act is amended by replacing subparagraph i of paragraph *b* by the following subparagraph:

"i. the amount by which the proceeds of disposition in respect of the property that became receivable by the taxpayer before that time exceed the aggregate of any outlays or expenses that the taxpayer made or incurred before that time for the purpose of making the disposition and that were not otherwise deductible for the purposes of this Part, exceeds".

82. (1) Section 418.15 of the said Act is amended, in the first paragraph,

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

"iii. that would, but for section 418.33, 418.34, 418.34.1 or 418.36, as the case may be, be entitled in computing its income for a taxation year ending after it disposed of the property to a deduction under any of sections 418.16 to 418.21 or 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, in respect of expenses incurred by an original owner of the property;";

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

"ii. who would, but for section 418.31, 418.32, 418.32.1 or 418.36, as the case may be, be entitled in respect of expenses described in section 88.5 of the Act respecting the application of the Taxation Act, to the extent that section 88.4 of that Act refers to expenses described in subparagraph i or ii of paragraph *c* of subsection 25 of section 29 of the Income Tax Application Rules, Canadian exploration and development expenses, foreign resource pool expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses incurred by the person before the person disposed of the property to a deduction, in computing the person's income for a taxation year ending after the person disposed of the property, under that section 88.4, to the extent that it refers to section 29 of the Income Tax Application Rules, or under any of sections 367, 368, 371, 400, 401, 413, 414, 418.1.10 and 418.7."

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

83. (1) Section 418.17 of the said Act is amended by replacing subparagraph *a* of the second paragraph by the following subparagraph:

"(*a*) the amount of foreign exploration and development expenses incurred by the original owner before the disposition of the particular property by the original owner, to the extent that those expenses were incurred when the original owner was resident in Canada, were not otherwise deducted in computing the income of the corporation for the year, were not deducted in computing the income of the corporation for any preceding taxation year or in computing the income of any predecessor owner of the particular property for any taxation year and were not deductible in computing the income of the original owner for any taxation year, exceeds".

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

84. (1) The said Act is amended by inserting the following sections after section 418.17:

"**418.17.1.** The portion of an amount deducted under section 418.17 in computing a taxpayer's income for a taxation year that can reasonably be considered to be in respect of specified foreign exploration and development expenses of the taxpayer in relation to a country is considered as being attributable to a source in that country.

"**418.17.2.** For the purposes of section 418.17.1, where a taxpayer has incurred specified foreign exploration and development expenses in relation to two or more countries, an allocation to each of those countries for a taxation year shall be determined in a manner that is

(*a*) reasonable having regard to all the circumstances, including the level and timing of

i. the taxpayer's specified foreign exploration and development expenses in relation to that country, and

ii. the profits or gains to which those expenses relate; and

(*b*) not inconsistent with the allocation made under section 418.17.1 for the preceding taxation year.

"**418.17.3.** Subject to sections 418.22 and 418.24, where a corporation acquires, in any manner whatever, a particular foreign resource property, in this section referred to as the "particular property", in relation to a particular country, there may be deducted by the corporation in computing its income for a taxation year an amount not exceeding the aggregate of all amounts each of which is an amount equal to the lesser of the amount described in the second

paragraph and the amount described in the third paragraph determined in respect of an original owner of the particular property.

The first amount to which the first paragraph refers is equal to 30% of the amount by which the cumulative foreign resource expense, in relation to the particular country, of the original owner determined immediately after the disposition of the particular property by the original owner to the extent that it has not been otherwise deducted in computing the corporation's income for the year, has not been deducted in computing the corporation's income for any preceding taxation year and has not been deducted in computing the income of the original owner or any predecessor owner of the particular property for any taxation year, exceeds the aggregate of

(*a*) the aggregate of all amounts each of which is a particular amount, reduced by the portion of that amount provided for in the fifth paragraph, that became receivable by a predecessor owner of the particular property, or by the corporation in the year or a preceding taxation year, and that

i. was included by the predecessor owner or the corporation in computing an amount determined, without reference to section 418.1.5, under paragraph *b* of section 418.1.4 at the end of the year, and

ii. can reasonably be attributed to the disposition of a property, in the fifth paragraph referred to as the "particular resource property", that is the particular property or another foreign resource property, in relation to the particular country, that was acquired from the original owner with the particular property by the corporation or a predecessor owner of the particular property; and

(*b*) the aggregate of all amounts each of which is an amount by which the amount determined under this paragraph is required by reason of section 485.8 to be reduced at or before the end of the year.

The last amount to which the first paragraph refers is equal to the amount by which the amount determined under the fourth paragraph is exceeded by the aggregate of

(*a*) the lesser of

i. the part of the corporation's income for the year, determined before any deduction under section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4) or any of sections 359 to 419.6, that can reasonably be attributed to the production from the particular property, and

ii. where the corporation acquires the particular property from the original owner at any time in the year, otherwise than as a result of an amalgamation or merger or solely by reason of the application of paragraph *a* of section 418.26 and did not deal with the original owner at arm's length at that time, nil; and

(*b*) unless the amount determined under subparagraph *a* is nil by reason of subparagraph ii of that subparagraph, the lesser of

i. the aggregate of all amounts each of which is the amount designated by the corporation for the year in respect of a Canadian resource property owned by the original owner immediately before being acquired with the particular property by the corporation or a predecessor owner of the particular property, not exceeding the amount included in computing the corporation's income for the year, determined before any deduction under section 88.4 of the Act respecting the application of the Taxation Act or any of sections 359 to 419.6, that can reasonably be attributed to the production from the Canadian resource property, and

ii. the amount by which 10% of the amount described in the second paragraph for the year, in respect of the original owner, exceeds the aggregate of all amounts each of which would, but for this subparagraph, subparagraph ii of subparagraph *b* of the third paragraph of section 418.17 and subparagraph ii of paragraph *f* of section 418.26, be determined under this paragraph for the year in respect of the particular property or other foreign resource property, in relation to the particular country, owned by the original owner immediately before being acquired with the particular property by the corporation or a predecessor owner of the particular property.

The amount that, for the purposes of the third paragraph, is required to be determined under this paragraph is the aggregate of

(*a*) any other amount deducted for the year under this section, section 418.17 or section 418.19 as a consequence of the application of subparagraph *c* of the first paragraph of section 418.20, that can reasonably be attributed to the part of the corporation's income for the year, described in subparagraph *a* of the third paragraph, in relation to the particular property;

(*b*) any other amount deducted for the year under this section or section 418.17, that can reasonably be attributed to a part of the corporation's income for the year, described in subparagraph i of subparagraph *b* of the third paragraph, in respect of which an amount is designated by the corporation under that subparagraph; and

(*c*) any amount added, by reason of section 485.13, in computing the amount determined under subparagraph *a* of the third paragraph.

The particular amount referred to in subparagraph *a* of the second paragraph shall be reduced by the portion thereof that can reasonably be considered to result in a reduction of the amount otherwise determined under that paragraph in relation to another original owner of a particular resource property who is not a predecessor owner of a particular resource property or who became such a predecessor owner before the original owner became a predecessor owner of a particular resource property.

The income in respect of which an amount is designated under subparagraph i of subparagraph *b* of the third paragraph is deemed, for the purposes of the following provisions, not to be attributable to the production from a Canadian resource property:

(*a*) subparagraph iii of subparagraph *a* of the third paragraph of sections 418.16 and 418.18;

(*b*) subparagraph 2 of subparagraph i of subparagraph *a* of the third paragraph of section 418.19;

(*c*) subparagraph i of subparagraph *c* of the first paragraph of section 418.20;

(*d*) subparagraph 2 of subparagraph i of subparagraph *a* of the third paragraph of section 418.21;

(*e*) paragraph *a* of section 418.28; and

(*f*) section 88.4 of the Act respecting the application of the Taxation Act, to the extent that that section refers to clause B 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)."

(2) Subsection 1, where it enacts sections 418.17.1 and 418.17.2 of the said Act, applies to taxation years of a taxpayer that begin after the earlier of

(1) 31 December 1999; and

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

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

(*b*) 31 December 1994.

(3) Subsection 1, where it enacts section 418.17.3 of the said Act, applies to taxation years that begin after 31 December 2000.

85. (1) Section 418.24 of the said Act is amended by replacing "Section 418.17 applies" in the portion before paragraph *a* by "Sections 418.17 and 418.17.3 apply".

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

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

(1) by replacing "foreign exploration and development expenses" in the portion before paragraph *a* by "foreign resource pool expenses";

(2) by inserting the following paragraph after paragraph *c*:

"(*c*.1) the original owner is deemed to have been resident in Canada before that time while the corporation was resident in Canada;";

(3) by replacing "for the purposes of computing an amount under the third paragraph of section 418.17 and" in subparagraphs i and ii of paragraph *f* by "for the purpose of computing an amount under the third paragraph of section 418.17 or 418.17.3 or";

(4) by inserting "subparagraph *a* of the third paragraph of section 418.17.3," after "418.17," in the portion of paragraph *h* before subparagraph i.

(2) Paragraphs 1, 3 and 4 of subsection 1 apply to taxation years that begin after 31 December 2000.

(3) Paragraph 2 of subsection 1 applies from the taxation year 1999.

87. (1) The said Act is amended by inserting the following sections after section 418.32:

"**418.32.1.** Where in a taxation year an original owner of foreign resource properties in relation to a country disposes of all or substantially all of the original owner's foreign resource properties in circumstances to which section 418.17.3 applies, the following rules apply:

(*a*) in determining the cumulative foreign resource expense of the original owner in relation to that country at any time after the time referred to in the portion of the second paragraph of section 418.17.3 before subparagraph *a*, there shall be deducted the amount of that cumulative foreign resource expense determined immediately after the disposition; and

(*b*) for the purposes of the second paragraph of section 418.17.3, the cumulative foreign resource expense of the original owner in relation to that country determined immediately after the disposition that was deducted under section 418.1.10 in computing the original owner's income for the year is deemed to be equal to the lesser of

i. the amount deducted under paragraph *a* in respect of the disposition, and

ii. the amount by which the particular amount determined for the year under section 418.32.2 in respect of the original owner and that country exceeds the aggregate of all amounts each of which is an amount determined under this paragraph in respect of a previous disposition of foreign resource property, in relation to that country, made by the original owner in the year.

"**418.32.2.** Where in a taxation year an original owner of foreign resource properties in relation to a country disposes of all or substantially all of the original owner's foreign resource properties in circumstances to which

section 418.17.3 applies, the particular amount for the year in respect of the original owner and that country for the purposes of paragraph *d* of section 418.1.3 and subparagraph ii of paragraph *b* of section 418.32.1 is the lesser of

(*a*) the aggregate of all amounts each of which is the amount by which an amount deducted under paragraph *a* of section 418.32.1 in respect of a disposition in the year by the original owner of foreign resource property in relation to that country, exceeds the amount designated by the original owner in the prescribed form filed with the Minister within six months after the end of the year in respect of the amount deducted under paragraph *a* of section 418.32.1; and

(*b*) the aggregate of

i. the amount deducted under section 418.1.10 for the year by the original owner in relation to that country, and

ii. the amount that would, but for subparagraph ii of paragraph *e*.1 of section 330, be determined for the year under that paragraph *e*.1 in respect of the original owner and that country."

(2) Subsection 1 applies to taxation years that begin after 31 December 2000. However, where section 418.32.2 of the said Act applies to taxation years that end before 7 June 2004, the reference to "within six months after the end of the year" in paragraph *a* of that section shall be read as a reference to "on or before the day that is six months after 7 June 2004".

88. (1) The said Act is amended by inserting the following section after section 418.34:

"**418.34.1.** Where in a taxation year a predecessor owner of foreign resource properties disposes of foreign resource properties to a corporation in circumstances to which section 418.17.3 applies, the following rules apply:

(*a*) for the purpose of applying section 418.17.3 to the predecessor owner in respect of its acquisition of any foreign resource properties owned by it immediately before the disposition, it is deemed, after the disposition, never to have acquired any such properties except for the purpose of determining,

i. where the predecessor owner and the corporation dealt with each other at arm's length at the time of the disposition or the disposition occurred after an amalgamation or merger, an amount deductible under section 418.17.3 for the year, and

ii. an amount determined under paragraph *b* of section 418.1.4; and

(*b*) where the corporation or another corporation acquires any of the properties on or after the disposition in circumstances to which section 418.17.3 applies, amounts that become receivable by the predecessor owner after the

disposition in respect of foreign resource properties retained by it at the time of the disposition are, for the purpose of applying section 418.17.3 to the corporation or the other corporation in respect of the acquisition, deemed not to have become receivable by the predecessor owner."

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

89. (1) Section 418.37 of the said Act is amended

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

"**418.37.** Where a taxpayer is a limited partner of a partnership at the end of a fiscal period of the partnership, the excess amount described in the second paragraph shall reduce, first, the taxpayer's share of the Canadian oil and gas property expenses, then, the taxpayer's share of Canadian development expenses, then, the taxpayer's share of Canadian exploration expenses, then, the taxpayer's share of foreign resource expenses in relation to a country, and then, the taxpayer's share of foreign exploration and development expenses, incurred by the partnership in that fiscal period.";

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

"For the purposes of the first paragraph, a taxpayer's share of foreign resource expenses in relation to a country, shall be reduced in the order specified by the taxpayer in a written document filed with the Minister on or before the taxpayer's filing-due date for the taxpayer's taxation year in which the fiscal period of the partnership ends or, where no such order is specified, in the order determined by the Minister."

(2) Subsection 1 applies to fiscal periods that begin after 31 December 2000. However, for the application of the third paragraph of section 418.37 of the said Act, enacted by paragraph 2 of subsection 1, to fiscal periods that end in a taxation year ending before 7 June 2004, the document referred to in that third paragraph is deemed to have been filed with the Minister of Revenue in a timely manner if it is filed on or before 4 December 2004.

90. (1) Section 421.2 of the said Act, amended by section 28 of chapter 9 of the statutes of 2003, is again amended

(1) by replacing "payable" in the French text of subparagraph i of subparagraph *d*.1 of the first paragraph and the portion of subparagraph iii of that subparagraph *d*.1 before subparagraph 1 by "à payer";

(2) by inserting the following subparagraph after subparagraph *d*.1 of the first paragraph:

"(*d*.2) is an amount that

i. is not paid or payable in respect of entertainment or of a conference, convention, seminar or similar event,

ii. would, but for subparagraph i of paragraph *a* of section 42, be required to be included in computing an individual's income for a taxation year because of the application of Chapters I and II of Title II of Book III in respect of food or beverages consumed by the individual or by a person with whom the individual does not deal at arm's length,

iii. is paid or payable in respect of the individual's duties performed at a site in Canada at which the person carries on a construction activity or at a construction work camp referred to in subparagraph iv in respect of the site, and

iv. is paid or payable for food or beverages provided at a construction work camp, at which the individual is lodged, that was constructed or installed at or near the site to provide board and lodging to employees while they are engaged in construction services at the site;";

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

"For the purpose of determining whether the conditions set out in any of subparagraphs *d* to *d*.2 of the first paragraph are met in respect of an amount referred to in section 42, paragraph *g* of section 39 shall not be taken into account."

(2) Paragraph 2 of subsection 1 applies in respect of amounts paid or payable for food or beverages provided after 31 December 2001.

(3) Paragraph 3 of subsection 1 applies from the taxation year 1998. However, the second paragraph of section 421.2 of the said Act, enacted by that paragraph 3, shall be read

(1) where it applies before 24 February 1998, with "in any of subparagraphs *d* to *d*.2" replaced by "in subparagraph *d*", and

(2) where it applies after 23 February 1998 and before 1 January 2002, with "in any of subparagraphs *d* to *d*.2" replaced by "in subparagraph *d* or *d*.1".

91. (1) Section 421.8 of the said Act is amended by replacing the first paragraph by the following paragraph:

"**421.8.** In computing income, no amount may be deducted in respect of an outlay made or expense incurred for the purpose of doing anything that is an offence or an indictable offence under section 3 of the Corruption of Foreign Public Officials Act (Statutes of Canada, 1998, chapter 34) or under any of sections 119 to 121, 123 to 125, 393 and 426 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or an offence or indictable

offence under section 465 of the Criminal Code as it relates to an offence or indictable offence described in any of those sections."

(2) Subsection 1 has effect from 14 February 1999.

92. (1) Section 444 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

"**444.** Notwithstanding section 436, where property referred to in that section is, immediately before the death of an individual, a share of the capital stock of a family farm corporation of the individual or an interest in a family farm partnership of the individual or is land or depreciable property of a prescribed class situated in Canada which was, before the death, used principally in the business of farming in which the individual, the individual's spouse or any of the individual's children was actively engaged on a regular and continuous basis or, in the case of property used in the operation of a woodlot, was engaged to the extent required by a prescribed forest management plan in respect of that woodlot, and the property is, by reason of the death, transferred or distributed to a child of the individual who was resident in Canada immediately before the death and it can be shown, within the period ending 36 months after the death of the individual or, where written application therefor has been made to the Minister by the individual's legal representative before the expiry of that period, within such longer period as the Minister considers reasonable, that the property has become vested indefeasibly in the child,".

(2) Subsection 1 applies in respect of property transferred by reason of deaths that occur after 10 December 2001.

93. (1) Section 450 of the said Act, amended by section 120 of chapter 2 of the statutes of 2003, is again amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

"**450.** Where property of an individual has been transferred or distributed to a trust referred to in section 440 or in section 454, as that section applied in respect of a transfer that occurred before 1 January 2000, or a trust to which subparagraph i of paragraph *c* of section 454.1 applies, and the property was, immediately before that transfer or distribution, a share of the capital stock of a family farm corporation of the individual, an interest in a family farm partnership of the individual, land situated in Canada or depreciable property of a prescribed class situated in Canada and the property or, if the property is such land or such depreciable property, a property that is a capital replacement property therefor in respect of which the trust has made an election under section 96 or 279, was, immediately before the death of the individual's spouse who was a beneficiary under the trust, in the case of such a share, a share of the capital stock of a Canadian corporation that would be a share of the capital stock of a family farm corporation if subparagraph i of subparagraph *a* of the first paragraph of section 451 were read without reference to "in which the individual or a spouse, a child or the father or mother of the

individual was actively engaged on a regular and continuous basis or, in the case of property used in the operation of a woodlot, was engaged to the extent required by a prescribed forest management plan in respect of that woodlot", or, in the case of such an interest, an interest in a partnership that carried on the business of farming in Canada in which it used all or substantially all of its property in carrying on that business, or, in the case of such land, such depreciable property or such capital replacement property, property used in carrying on the business of farming, the following rules apply if the property, on the death of the spouse and by reason thereof, is transferred or distributed and indefeasibly vested in a child of the individual who was resident in Canada immediately before the death:".

(2) Subsection 1 applies in respect of transfers or distributions of property that occur after 10 December 2001.

94. (1) Section 450.2 of the said Act, replaced by section 121 of chapter 2 of the statutes of 2003, is amended by replacing ", 653, 785.1 and 785.2" by "and 653 and Chapter I of Title I.1 of Book VI".

(2) Subsection 1 applies in respect of dispositions that occur after 1 October 1996.

95. (1) Section 451 of the said Act is amended, in the first paragraph,

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

"i. property that has been used, principally in the course of carrying on the business of farming in Canada in which the individual or a spouse, a child or the father or mother of the individual was actively engaged on a regular and continuous basis or, in the case of property used in the operation of a woodlot, was engaged to the extent required by a prescribed forest management plan in respect of that woodlot, by any of the following persons or partnerships:";

(2) by replacing the portion of subparagraph i of subparagraph *f* before subparagraph 1 by the following:

"i. property that has been used, principally in the course of carrying on the business of farming in Canada in which the individual or a spouse, a child or the father or mother of the individual was actively engaged on a regular and continuous basis or, in the case of property used in the operation of a woodlot, was engaged to the extent required by a prescribed forest management plan in respect of that woodlot, by the partnership or any of the following persons:".

(2) Subsection 1 applies in respect of transfers of property that occur after 10 December 2001.

96. (1) Section 459 of the said Act is replaced by the following section:

“**459.** Where an individual transfers to one of the individual’s children who was resident in Canada immediately before the transfer, property which is described in the second paragraph, the individual is deemed to dispose of that property at the time of that transfer for proceeds of disposition which, except in the cases described in sections 460 and 461, are equal to the proceeds of disposition otherwise determined.

The property to which the first paragraph refers is

(*a*) property that was, immediately before the transfer, a share of the capital stock of a family farm corporation of the individual or an interest in a family farm partnership of the individual; or

(*b*) property that is land situated in Canada, depreciable property of a prescribed class situated in Canada or intangible capital property in respect of a business carried on by the individual in Canada, and which was, before the transfer, used principally in the business of farming in which the individual, the individual’s spouse or any of the individual’s children was actively engaged on a regular and continuous basis or, in the case of property used in the operation of a woodlot, was engaged to the extent required by a prescribed forest management plan in respect of that woodlot.”

(2) Subsection 1 applies in respect of transfers of property that occur after 10 December 2001.

97. (1) The said Act is amended by inserting the following sections after section 462.6:

“**462.6.1.** Section 462.5 does not apply to a disposition of property at any particular time, in this section referred to as the “emigration disposition”, to which paragraph *b* of section 785.2 applies, by a taxpayer who is a recipient referred to in section 462.5, unless the recipient and the individual referred to in section 462.5, in their fiscal returns for the taxation year that includes the first time, after the particular time, at which the recipient disposes of the property, jointly elect that section 462.5 apply to the emigration disposition.

“**462.6.2.** For the purposes of section 462.6.1 and notwithstanding sections 1010 to 1011, any assessment of tax payable under this Part by the recipient or the individual referred to in section 462.5 shall be made by the Minister as is necessary to give effect to an election under section 462.6.1, except that no such assessment shall affect the computation of

(*a*) interest payable under this Part to or by a taxpayer in respect of any period that is before the taxpayer’s filing-due date for the taxation year that includes the first time, after the particular time referred to in section 462.6.1, at which the recipient disposes of the property referred to in that section; or

(*b*) any penalty payable under this Part.”

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

98. (1) The said Act is amended by inserting the following after section 483.1:

"DIVISION I.1

"TRANSFER OF ASSUMPTION OF AN OBLIGATION IN RELATION TO A BUSINESS CARRIED ON IN CANADA

"**483.2.** Where, at any time, an obligation of a taxpayer not resident in Canada that is denominated in a foreign currency, other than an obligation in respect of which the taxpayer ceased to be indebted at that time, ceases to be an obligation of the taxpayer in respect of a business or part of a business carried on by the taxpayer in Canada immediately before that time, for the purpose of determining the amount of any income, loss, capital gain or capital loss due to the fluctuation in the value of the foreign currency relative to Canadian currency, the taxpayer is deemed to have settled the obligation immediately before that time at the amount outstanding on account of its principal amount.

"**483.3.** Where, at any time, an obligation of a taxpayer not resident in Canada that is denominated in a foreign currency, other than an obligation in respect of which the taxpayer became indebted at that time, becomes an obligation of the taxpayer in respect of a business or part of a business that the taxpayer carries on in Canada immediately after that time, the amount of any income, loss, capital gain or capital loss in respect of the obligation due to the fluctuation in the value of the foreign currency relative to Canadian currency shall be determined based on the amount of the obligation in Canadian currency at that time."

(2) Subsection 1 has effect from 28 June 1999 in respect of authorized foreign banks, and from 9 August 2000 in any other case.

99. (1) Section 484.8 of the said Act is amended by inserting "and subject to section 484.8.1" after "this subdivision".

(2) Subsection 1 applies in respect of property acquired or reacquired after 27 February 2000.

100. (1) The said Act is amended by inserting the following section after section 484.8:

"**484.8.1.** For the purposes of this subdivision, foreign resource property of an individual, a corporation or a partnership is deemed not to be seized at any time, where the individual, the corporation or at least one of the members of the partnership, as the case may be, is not resident in Canada at that time."

(2) Subsection 1 applies in respect of property acquired or reacquired after 27 February 2000.

101. (1) Section 485 of the said Act is amended, in the definition of "successor pool",

(1) by inserting "418.17.3," after "418.17," in the portion before paragraph *a*;

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

"(*d*) the second paragraph of section 418.17.3 and the first paragraph of section 418.20 were read without reference to "30% of" wherever it appears and the second paragraph of section 418.21 were read without reference to "10% of";".

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

102. (1) Section 485.1 of the said Act is amended by replacing "section 418.17, 418.18, 418.19 or" in paragraph *a* by "any of sections 418.17, 418.17.3, 418.18, 418.19 and".

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

103. (1) Section 485.8 of the said Act is amended

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

"(*a*) where the debtor is a corporation resident in Canada throughout that year, each particular amount determined in respect of the debtor under the second paragraph of any of sections 418.17, 418.18 and 418.19, or that would be so determined under the second paragraph of section 418.17.3 or 418.21 if that second paragraph were read without reference to "30% of" or "10% of", as the case may be, as a consequence of the acquisition of control of the debtor by a person or group of persons, the debtor ceasing to be exempt from tax under this Part on its taxable income or the acquisition of properties by the debtor as a result of an amalgamation or merger, where the amount so applied does not exceed the successor pool immediately after that time for the obligation and in respect of the particular amount;";

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

"(*f*) the cumulative foreign resource expense of the debtor, in relation to a country, within the meaning of section 418.1.3."

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

104. (1) Section 517 of the said Act is amended by replacing "section 785.1" by "Chapter I of Title I.1 of Book VI".

(2) Subsection 1 has effect from 24 February 1998.

105. Section 517.5.1 of the said Act is amended by replacing the portion before subparagraph *b* of the first paragraph by the following:

"**517.5.1.** For the purpose of determining whether or not a taxpayer referred to in section 517.5 is a member, at any time, of a group referred to in that section, that taxpayer is deemed to be the owner at that time of any share owned by any of the following persons:

(*a*) the taxpayer's child, within the meaning of subparagraph *d* of the first paragraph of section 451, who is under 18 years of age, or the taxpayer's spouse;".

106. (1) The said Act is amended by inserting the following section before section 528:

"**527.3.** Where Divisions I and II have applied in respect of the disposition of any property by an individual to a corporation, the cost of the property to the individual was included in computing an amount determined under section 75.3 in respect of the individual, the property is depreciable property of the corporation, and the amount, in this section referred to as the "individual's original cost", that would be the cost of the property to the individual immediately before its disposition if this Act were read without reference to section 75.5 exceeds the individual's proceeds of disposition of the property, the following rules apply:

(*a*) the capital cost to the corporation of the property is deemed to be equal to the individual's original cost; and

(*b*) the amount by which the individual's original cost exceeds the individual's proceeds of disposition of the property is deemed to have been allowed to the corporation as depreciation in respect of the property for taxation years that end before the time of disposition."

(2) Subsection 1 applies in respect of dispositions that occur after 31 December 2001.

107. (1) Sections 536 to 538 of the said Act are replaced by the following sections:

"**536.** The rules set out in sections 537 to 539 apply where a Canadian corporation, in this division referred to as the "particular corporation", issues a share of any particular class of its capital stock to a taxpayer in exchange for capital property owned by the taxpayer that is a share, in this division referred

to as the "exchanged share", of a particular class of the capital stock of a second corporation which is a taxable Canadian corporation.

However, they do not apply where

(*a*) the taxpayer and the particular corporation were, immediately before the exchange, not dealing with each other at arm's length, otherwise than by reason of a right referred to in paragraph *b* of section 20 that is a right of the particular corporation to acquire the exchanged share, or the taxpayer and the corporation made an election under section 518 or 529 in respect of the exchanged share;

(*b*) immediately after the exchange, the taxpayer or persons with whom the taxpayer is not dealing at arm's length, separately or together, controlled the particular corporation or owned shares of the capital stock thereof having a fair market value of more than 50% of that of all of the outstanding shares of its capital stock;

(*c*) the taxpayer receives a consideration other than a share of the particular class of the capital stock of the particular corporation in exchange for the exchanged share, except where such other consideration results from the disposition to the particular corporation of a share of the capital stock of the second corporation other than the exchanged share; or

(*d*) the taxpayer is a foreign affiliate of another taxpayer resident in Canada at the end of the taxation year of the taxpayer in which the exchange occurred and the taxpayer has included any portion of the gain or loss, otherwise determined, from the disposition of the exchanged share in computing the taxpayer's foreign accrual property income, within the meaning of section 579, for that taxation year.

"**537.** Unless the taxpayer has included any portion of the gain or loss, otherwise determined, from the disposition of the exchanged share in computing the taxpayer's income for the taxation year in which the exchange occurred, the taxpayer is deemed to have disposed of the exchanged share for proceeds of disposition equal to the adjusted cost base of the share to the taxpayer immediately before the exchange and to have acquired the share issued in exchange at a cost equal to such adjusted cost base.

"**538.** Where the exchanged share is taxable Québec property or taxable Canadian property of the taxpayer, the share issued in exchange is also deemed, as the case may be, to be taxable Québec property or taxable Canadian property of the taxpayer."

(2) Subsection 1 applies in respect of exchanges of shares that occur after 31 December 1995.

108. (1) Section 539 of the said Act is amended by replacing "to the Canadian corporation contemplated in section 536" in the portion before paragraph *a* by "to the particular corporation".

(2) Subsection 1 applies in respect of exchanges of shares that occur after 31 December 1995.

109. (1) The said Act is amended by inserting the following sections after section 540.1:

"**540.2.** Subject to section 540, and subsection 2 of section 95 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) where it has effect for the purposes of section 579, the rules set out in sections 540.3 and 540.4 apply where a corporation not resident in Canada, in this section referred to as the "foreign corporation", issues a share of its capital stock to a taxpayer in exchange for capital property owned by the taxpayer that is a share, in this division referred to as the "exchanged foreign share", of the capital stock of a second corporation not resident in Canada.

However, they do not apply where

(*a*) the taxpayer and the foreign corporation were, immediately before the exchange, not dealing with each other at arm's length, otherwise than by reason of a right referred to in paragraph *b* of section 20 that is a right of the foreign corporation to acquire the exchanged foreign share;

(*b*) immediately after the exchange, the taxpayer or persons with whom the taxpayer is not dealing at arm's length, separately or together, controlled the foreign corporation or owned shares of the capital stock thereof having a fair market value of more than 50% of that of all of the outstanding shares of its capital stock;

(*c*) the taxpayer receives a consideration other than the issued share in exchange for the exchanged foreign share, except where such consideration results from the disposition to the foreign corporation of a share of the capital stock of the second corporation other than the exchanged foreign share; or

(*d*) the taxpayer is a foreign affiliate of another taxpayer resident in Canada at the end of the taxation year of the taxpayer in which the exchange occurred and

i. the taxpayer has included any portion of the gain or loss, otherwise determined, from the disposition of the exchanged foreign share in computing the taxpayer's foreign accrual property income, within the meaning of section 579, for that taxation year, or

ii. the exchanged foreign share is excluded property, within the meaning of section 576.1, of the taxpayer.

"**540.3.** Unless the taxpayer has included any portion of the gain or loss, otherwise determined, from the disposition of the exchanged foreign share in computing the taxpayer's income for the taxation year in which the exchange occurred, the taxpayer is deemed to have disposed of the exchanged foreign share for proceeds of disposition equal to the adjusted cost base of the share to the taxpayer immediately before the exchange and to have acquired the share issued in exchange at a cost equal to such adjusted cost base.

"**540.4.** Where the exchanged foreign share is taxable Québec property or taxable Canadian property of the taxpayer, the share issued in exchange is also deemed to be taxable Québec property or taxable Canadian property of the taxpayer, as the case may be."

(2) Subsection 1 applies in respect of exchanges of shares that occur after 31 December 1995.

110. (1) Section 555 of the said Act is amended by replacing the first paragraph by the following paragraph:

"**555.** Subject to subsection 2 of section 95 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) where it has effect for the purposes of section 579, this division applies, with the necessary modifications, to a taxpayer in respect of a share or an option to acquire a share of the capital stock of a corporation where there is a foreign merger under which a share owned by the taxpayer or an option owned by the taxpayer to acquire such a share of the capital stock of a corporation that was a predecessor foreign corporation immediately before the merger is exchanged for or becomes a share or an option to acquire a share of the capital stock of a new foreign corporation or a foreign parent corporation."

(2) Subsection 1 applies in respect of mergers or combinations that occur after 31 December 1995. In addition, a taxpayer may validly make the election referred to in the second paragraph of section 555 of the said Act, in respect of mergers or combinations that occur after 31 December 1995 but before 26 March 1997, by notifying the Minister of Revenue in writing before the taxpayer's filing-due date for the taxation year that includes 7 June 2004.

(3) Notwithstanding sections 1010 to 1011 of the said Act, the Minister of Revenue shall make such assessments, reassessments or additional assessments of tax, interest and penalties to be paid by a taxpayer under Part I of the said Act, as are necessary for any taxation year, to give effect to subsection 2 or to the second paragraph of section 555 of the said Act, if, following the election made by the taxpayer in accordance with subsection 8 of section 65 of the Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act (Statutes of Canada, 2001, chapter 17), it applies in respect of mergers or combinations that occur after 25 March 1997 but before 1 January 1999. Sections 93.1.8 and 93.1.12 of the Act

respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such assessments.

111. (1) Section 555.0.1 of the said Act is amended

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

"**555.0.1.** In this chapter, "foreign merger" means a merger or combination of corporations each of which was, immediately before the merger or combination, resident in a country other than Canada, each of which is in this chapter referred to as a "predecessor foreign corporation", to form one corporate entity resident in a country other than Canada, in this chapter referred to as the "new foreign corporation", in such a manner that, by reason of the merger or combination and otherwise than as a result of the distribution of property to one corporation on the winding-up of another corporation,";

(2) by striking out "et" at the end of the French text of paragraph *b*;

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

"(*c*) all or substantially all of the shares of the capital stock of the predecessor foreign corporations, except any shares or options owned by any predecessor foreign corporation, are exchanged for or become shares of the capital stock of

i. the new foreign corporation, or

ii. another corporation resident in a country other than Canada, in this chapter referred to as the "foreign parent corporation", if, immediately after the merger, the new foreign corporation was controlled by the foreign parent corporation."

(2) Subsection 1 applies in respect of mergers or combinations that occur after 31 December 1995.

112. (1) Section 559 of the said Act is amended by inserting "or the subsidiary" after "other than a specified person" in subparagraph 3 of subparagraph ii of subparagraph *d* of the third paragraph.

(2) Subsection 1 applies in respect of windings-up that begin after 30 November 1994.

113. (1) Section 560.1.1 of the said Act is amended by replacing subparagraph i of paragraph *c* by the following subparagraph:

"i. the reference in section 21.17 to "the issued shares of any class of the capital stock of the corporation or of any other corporation that is related to the corporation" shall be read as a reference to "the issued shares of any class, other than a specified class, of the capital stock of the corporation or of any

other corporation that is related to the corporation and that has a significant direct or indirect interest in any issued shares of the capital stock of the corporation", and".

(2) Subsection 1 applies in respect of windings-up that begin after 30 November 1994.

114. (1) The said Act is amended by inserting the following section after section 560.1.2:

"**560.1.2.1.** For the purposes of subparagraph i of paragraph *c* of section 560.1.1 and this section, a specified class of the capital stock of a corporation is a class of shares of the capital stock of the corporation where

(*a*) the paid-up capital in respect of the class was not, at any time, less than the fair market value of the consideration for which the shares of that class then outstanding were issued;

(*b*) the shares are non-voting in respect of the election of the board of directors, except in the event of a failure or default under the terms or conditions of the shares;

(*c*) under neither the terms and conditions of the shares nor any agreement in respect of the shares are the shares convertible into or exchangeable for shares other than shares of a specified class of the capital stock of the corporation; and

(*d*) under neither the terms and conditions of the shares nor any agreement in respect of the shares is any holder of the shares entitled to receive on the redemption, cancellation or acquisition of the shares by the corporation or by any person with whom the corporation does not deal at arm's length an amount, excluding any premium for early redemption, greater than the aggregate of the fair market value of the consideration for which the shares were issued and the amount of any unpaid dividends on the shares."

(2) Subsection 1 applies in respect of windings-up that begin after 30 November 1994.

115. (1) Section 560.2 of the said Act is amended by replacing the portion of the third paragraph before subparagraph *a* by the following:

"For the purposes of the first and second paragraphs and sections 559, 560 and 560.1.1 to 560.1.4, the following rules apply:".

(2) Subsection 1 applies in respect of windings-up that begin after 30 November 1994.

116. (1) The said Act is amended by inserting the following after section 578:

"CHAPTER II.1

"FOREIGN CORPORATION SPIN-OFFS

"DIVISION I

"ELIGIBLE DISTRIBUTION

"**578.1.** In this chapter, an eligible distribution is a distribution of property to a taxpayer by a particular corporation if

(*a*) the distribution is made in relation to all of the taxpayer's common shares of the capital stock of the particular corporation, in this chapter referred to as the "original shares";

(*b*) the property distributed consists solely of common shares of the capital stock of another corporation that were owned by the particular corporation immediately before their distribution to the taxpayer, in this chapter referred to as the "spin-off shares";

(*c*) where the distribution is a prescribed distribution, the conditions set out in the first paragraph of section 578.2 are satisfied;

(*d*) where the distribution is not a prescribed distribution, the conditions set out in the second paragraph of section 578.2 are satisfied;

(*e*) the particular corporation provides to the Minister information satisfactory to the Minister establishing the elements described in the first paragraph of section 578.3, before the end of the sixth month following the day on which the particular corporation first distributes a spin-off share in respect of the distribution; and

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

"**578.2.** The conditions to which paragraph *c* of section 578.1 refers are as follows:

(*a*) at the time of the distribution, the particular corporation and the other corporation are resident in the same country, other than the United States, with which a tax agreement was entered into, in this paragraph referred to as the "foreign country", and were never resident in Canada;

(*b*) at the time of the distribution, the shares of the class that includes the original shares are widely held and actively traded on a foreign stock exchange;

(*c*) under the law of the foreign country, no shareholder of the particular corporation who is resident in that country is taxable in relation to the distribution; and

(*d*) the distribution is a prescribed distribution subject to such terms and conditions as are considered appropriate in the circumstances.

The conditions to which paragraph *d* of section 578.1 refers are as follows:

(*a*) at the time of the distribution, the particular corporation and the other corporation are resident in the United States and were never resident in Canada;

(*b*) at the time of the distribution, the shares of the class that includes the original shares are widely held and actively traded on a foreign stock exchange in the United States; and

(*c*) under the United States Internal Revenue Code applicable to the distribution, no shareholder of the particular corporation who is resident in the United States is taxable in relation to the distribution.

"**578.3.** The elements that the particular corporation must establish in accordance with paragraph *e* of section 578.1 are as follows:

(*a*) compliance with the conditions set out in subparagraphs *b* and *c* of the first or second paragraph of section 578.2, according to whether or not the distribution is a prescribed distribution;

(*b*) the fact that the particular corporation and the other corporation were never resident in Canada;

(*c*) the date of the distribution;

(*d*) the type and fair market value of each property distributed to a person resident in Canada;

(*e*) the name and address of each person resident in Canada who received property with respect to the distribution; and

(*f*) such other element as is required by the prescribed form.

The elements that the taxpayer must establish in accordance with paragraph *f* of section 578.1 are as follows:

(*a*) the number, cost amount, determined without reference to this chapter, and the fair market value of the taxpayer's original shares immediately before the distribution;

(*b*) the number, and fair market value, of the taxpayer's original shares and spin-off shares immediately after the distribution;

(*c*) except where the taxpayer makes the election under subsection 2 of section 86.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in the taxpayer's fiscal return filed by the taxpayer under that Act for the year in which the distribution occurs, the amount of the distribution, the manner in which the distribution was reported by the taxpayer and the details of any subsequent disposition of an original share or spin-off share that are required for the purpose of determining any gain or loss from that disposition; and

(*d*) such other element as is required by the prescribed form.

"DIVISION II

"APPLICABLE RULES

"**578.4.** Notwithstanding any other provision of this Part, where an eligible distribution is made to a taxpayer, the following rules apply:

(*a*) the amount of the eligible distribution shall not be included in computing the income of the taxpayer; and

(*b*) section 304 does not apply to the eligible distribution.

"**578.5.** Where a spin-off share is distributed by a corporation to a taxpayer pursuant to an eligible distribution in relation to an original share of the taxpayer, the following rules apply:

(*a*) there shall be deducted in computing the cost amount to the taxpayer of the original share at any time the amount determined by the formula

$A \times (B / C)$; and

(*b*) the cost to the taxpayer of the spin-off share is the amount by which the cost amount of the taxpayer's original share was reduced under subparagraph *a*.

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

(*a*) A is the cost amount, determined without reference to this chapter, to the taxpayer of the original share immediately before the distribution or, if the original share is disposed of by the taxpayer before the distribution, immediately before its disposition;

(*b*) B is the fair market value of the spin-off share immediately after its distribution to the taxpayer; and

(*c*) C is the aggregate of

i. the fair market value of the original share immediately after the distribution of the spin-off share to the taxpayer, and

ii. the fair market value of the spin-off share immediately after its distribution to the taxpayer.

"**578.6.** For the purpose of determining the value of property described in the inventory of a taxpayer's business, the following rules apply:

(*a*) the distribution to the taxpayer of a spin-off share that is property described in the inventory, in respect of an eligible distribution, is deemed not to be an acquisition of property in the fiscal period of the business in which the distribution occurs; and

(*b*) the value of the spin-off share must be included in computing the value of the property described in the inventory at the end of that fiscal period.

"**578.7.** Notwithstanding the expiry of the time limits provided for in section 1010, the Minister may, where the Minister obtains information according to which the condition in subparagraph *c* of the first or second paragraph of section 578.2 is not, or is no longer, satisfied, make under this Part, for any taxation year, such assessments or reassessments of tax, interest and penalties or such determinations or redeterminations as are necessary,

(*a*) within three years after the day on which the Minister obtains the information; or

(*b*) within four years after the day referred to in paragraph *a* if, at the end of the taxation year concerned, the taxpayer is a mutual fund trust or a corporation other than a Canadian-controlled private corporation."

(2) Subsection 1 applies in respect of distributions of property made after 31 December 1997. In addition, the information referred to in paragraph *e* of section 578.1 of the said Act is deemed to be provided to the Minister of Revenue within the time prescribed in that paragraph if it is provided before 12 September 2001.

117. (1) The said Act is amended by inserting the following section after section 584.1:

"**584.2.** For the purposes of section 584, where a taxpayer resident in Canada acquires a share of the capital stock of a corporation that is immediately after the acquisition a foreign affiliate of the taxpayer from a partnership of which the taxpayer, or a corporation resident in Canada with which the taxpayer was not dealing at arm's length at the time the share was acquired, was a member at any time during any fiscal period of the partnership that began before the acquisition, the following rules apply:

(*a*) that portion of any amount that the partnership was required by section 587 to add to the adjusted cost base of the share of the foreign affiliate equal to the amount included in computing the income of the member of the partnership because of section 600 in relation to the amount that was included

in computing the income of the partnership under section 580 or 582 in respect of the foreign affiliate and added to that adjusted cost base, is deemed to be an amount that the taxpayer was required by section 587 to add in computing the adjusted cost base of the share; and

(*b*) that portion of any amount that the partnership was required by section 587 to deduct from the adjusted cost base of the share of the foreign affiliate equal to the amount by which the income of the member of the partnership was reduced because of section 600 in relation to the amount deducted in computing the income of the partnership, in respect of the foreign affiliate, under any of sections 581, 583 and 584 and deducted from that adjusted cost base, is deemed to be an amount that the taxpayer was required by section 587 to deduct in computing the adjusted cost base of the share."

(2) Subsection 1 applies in respect of shares acquired after 30 November 1999.

118. (1) The said Act is amended by inserting the following sections after section 588:

"**588.1.** A corporation resident in Canada or a foreign affiliate of such a corporation that disposes at any particular time of all or a portion of an interest in a partnership of which it is a member, shall add, in computing the proceeds of disposition of that interest, an amount equal to the amount determined by the formula

$[(A - B) - (C + D)] \times (E / F)$.

In the formula provided for in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is an amount that was deductible under paragraph *d* of section 746 in computing the taxable income of the member for any taxation year that began before the particular time in relation to any portion of a dividend received by the partnership, or that would have been so deductible if the member were a corporation resident in Canada;

(*b*) B is the aggregate of all amounts each of which is the portion of any income or profits tax paid by the partnership or the member to a government of a country other than Canada that can reasonably be attributed to the member's share of the dividend described in paragraph *a*;

(*c*) C is the aggregate of all amounts each of which is an amount added under this section in computing the member's proceeds of a disposition before the particular time of another interest in the partnership;

(*d*) D is the aggregate of all amounts each of which is an amount deemed by section 588.2 to be a gain of the member from a disposition before the particular time of a share of the capital stock of a corporation by the partnership;

(*e*) E is the adjusted cost base, immediately before the particular time, of the portion of the member's interest in the partnership disposed of by the member at the particular time; and

(*f*) F is the adjusted cost base, immediately before the particular time, of the member's interest in the partnership.

"**588.2.** Where a partnership disposes of a share of the capital stock of a corporation, at any particular time in a fiscal period of the partnership at the end of which a corporation resident in Canada or a foreign affiliate of a corporation resident in Canada is a member of the partnership, the amount determined by the following formula is deemed to be a gain of the member from the disposition of the share by the partnership for the member's taxation year in which that fiscal period ends:

(A – B) – C.

In the formula provided for in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is an amount that was deductible under paragraph *d* of section 746 in computing the member's taxable income for a taxation year in relation to any portion of a dividend received by the partnership on the share in a fiscal period that began before the particular time and ended in the member's taxation year, or would have been so deductible if the member were a corporation resident in Canada;

(*b*) B is the aggregate of all amounts each of which is the portion of any income or profits tax paid by the partnership or the member to a government of a country other than Canada that can reasonably be attributed to the member's share of the dividend described in paragraph *a*; and

(*c*) C is the aggregate of all amounts each of which is an amount added under section 588.1 in computing the member's proceeds of a disposition before the particular time of an interest in the partnership."

(2) Subsection 1 applies in respect of dispositions that occur after 30 November 1999.

119. (1) The said Act is amended by inserting the following sections after section 589.1:

"**589.2.** Where the disposition of shares of a class of the capital stock of a foreign affiliate of a particular corporation resident in Canada by a partnership would, but for this section, result in a taxable capital gain for a corporation, in this section referred to as the "disposing corporation", that is the particular corporation or a foreign affiliate of the particular corporation, the following rules apply if the particular corporation so elects in prescribed form and prescribed manner:

(*a*) the amount determined in accordance with the second paragraph in respect of those shares is deemed to be a dividend received immediately before the disposition on the number of those shares that is the amount by which the number of those shares that the disposing corporation is deemed to own under section 592.1 immediately before the disposition exceeds the number of those shares that the disposing corporation is deemed to own under that section immediately after the disposition;

(*b*) notwithstanding Title XI, the disposing corporation's taxable capital gain from the disposition of those shares is deemed to be the amount by which the disposing corporation's taxable capital gain from the disposition of the shares otherwise determined exceeds the amount designated by the particular corporation in relation to those shares;

(*c*) for the purposes of any regulation made under this section, the disposing corporation is deemed to have disposed of the number of shares of the capital stock of the foreign affiliate that is the amount by which the number of those shares that the disposing corporation is deemed to own under section 592.1 immediately before the disposition exceeds the number of those shares that the disposing corporation is deemed to own under that section immediately after the disposition;

(*d*) for the purposes of sections 746 to 749 in relation to the dividend referred to in subparagraph *a*, the shares of the capital stock of the foreign affiliate on which that dividend was received are deemed to have been owned by the disposing corporation; and

(*e*) where the application of section 261 in respect of the partnership, in relation to those shares, results in a taxable capital gain for the disposing corporation, the partnership is deemed, for the purposes of this section, to have disposed of those shares.

The amount to which subparagraph *a* of the first paragraph refers in respect of shares is, subject to the third paragraph, twice

(*a*) the amount designated in the election by the particular corporation, which amount shall not exceed the proportion of the taxable capital gain of the partnership that the amount by which the number of shares of that class of the capital stock of the foreign affiliate that are deemed to be owned by the disposing corporation under section 592.1 immediately before the disposition exceeds the number of those shares that are deemed to be owned by the disposing corporation under that section immediately after the disposition, is of the number of shares of that class of the capital stock of the foreign affiliate that are owned by the partnership immediately before the disposition; or

(*b*) where section 589.3 applies, the amount prescribed for the purposes of this section.

For the purposes of the second paragraph in respect of a disposing corporation for any of the following taxation years, the reference to "twice" in that

paragraph shall be replaced, with the necessary modifications, by the following fraction, as the case may be:

(*a*) in the case of a taxation year that ends before 28 February 2000, 4/3; and

(*b*) in the case of a taxation year that includes 28 February 2000 or 17 October 2000 or that begins after 28 February 2000 and ends before 17 October 2000, the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies in respect of the disposing corporation for the year.

"**589.3.** Where a partnership disposes at a particular time of excluded property that are shares of a class of the capital stock of a foreign affiliate of a particular corporation resident in Canada and the disposition results in a taxable capital gain for a foreign affiliate, in this section referred to as the "disposing corporation", of the particular corporation, the particular corporation is deemed to have made an election under section 589.2 in relation to the number of shares of that class of the capital stock of the foreign affiliate that is the amount by which the number of those shares that are deemed to be owned by the disposing corporation under section 592.1 immediately before the disposition exceeds the number of those shares that are deemed to be owned by the disposing corporation under that section immediately after the disposition."

(2) Subsection 1 applies in respect of dispositions that occur after 30 November 1999.

120. (1) Section 591 of the said Act is replaced by the following section:

"**591.** Where a corporation resident in Canada has a loss from the disposition by it at any time of a share of the capital stock of a corporation that is a foreign affiliate of the corporation, in this section referred to as the "affiliate share", or a foreign affiliate of a corporation resident in Canada has a loss from the disposition by it at any time of a share of the capital stock of another foreign affiliate of the corporation resident in Canada that is not excluded property, in this section also referred to as the "affiliate share", the amount of the loss is deemed to be the amount determined by the formula

$A - (B - C)$.

In the formula provided for in the first paragraph,

(*a*) A is the amount of the loss determined without reference to this section;

(*b*) B is the aggregate of all amounts each of which is an amount received before that time, in respect of a tax-exempt dividend on the affiliate share or on a share for which the affiliate share was substituted, by

i. the corporation resident in Canada,

ii. a corporation related to the corporation resident in Canada,

iii. a foreign affiliate of the corporation resident in Canada, or

iv. a foreign affiliate of a corporation related to the corporation resident in Canada; and

(*c*) C is the aggregate of

i. the aggregate of all amounts each of which is the amount by which a loss, determined without reference to this chapter, from another disposition at or before that time by a corporation or foreign affiliate described in subparagraph *b* of the affiliate share or a share for which the affiliate share was substituted, was reduced under this section in respect of the tax-exempt dividends referred to in subparagraph *b*,

ii. 4/3 of the aggregate of all amounts each of which is the amount by which an allowable capital loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that ended before 28 February 2000, from a previous disposition by a partnership of the affiliate share or a share for which the affiliate share was substituted, was reduced under section 591.1 in respect of the tax-exempt dividends referred to in subparagraph *b*,

iii. the product obtained by multiplying the aggregate of all amounts each of which is the amount by which an allowable capital loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that includes 28 February 2000 or 17 October 2000 or that began after 28 February 2000 and ended before 17 October 2000, from a previous disposition by a partnership of the affiliate share or a share for which the affiliate share was substituted, was reduced under section 591.1 in respect of the tax-exempt dividends referred to in subparagraph *b*, by the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the corporation or foreign affiliate for the year,

iv. twice the aggregate of all amounts each of which is the amount by which an allowable capital loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that began after 17 October 2000, from a previous disposition by a partnership of the affiliate share or a share for which the affiliate share was substituted, was reduced under section 591.1 in respect of the tax-exempt dividends referred to in subparagraph *b*,

v. the aggregate of all amounts each of which is the amount by which a loss, determined without reference to this chapter, from a disposition at or before that time by a corporation or foreign affiliate described in subparagraph *b* of an interest in a partnership, was reduced under section 591.2 in respect of the tax-exempt dividends referred to in subparagraph *b*,

vi. 4/3 of the aggregate of all amounts each of which is the amount by which an allowable capital loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that ended before 28 February 2000, from a disposition at or before that time by a partnership of an interest in another partnership, was reduced under section 591.3 in respect of the tax-exempt dividends referred to in subparagraph *b*,

vii. the product obtained by multiplying the aggregate of all amounts each of which is the amount by which an allowable capital loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that includes 28 February 2000 or 17 October 2000 or that began after 28 February 2000 and ended before 17 October 2000, from a disposition at or before that time by a partnership of an interest in another partnership, was reduced under section 591.3 in respect of the tax-exempt dividends referred to in subparagraph *b*, by the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the corporation or foreign affiliate for the year, and

viii. twice the aggregate of all amounts each of which is the amount by which an allowable capital loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that began after 17 October 2000, from a disposition at or before that time by a partnership of an interest in another partnership, was reduced under section 591.3 in respect of the tax-exempt dividends referred to in subparagraph *b*."

(2) Subsection 1 applies in respect of dispositions that occur after 30 November 1999.

121. (1) The said Act is amended by inserting the following sections after section 591:

"**591.1.** Where a corporation resident in Canada has an allowable capital loss from a disposition at any time by a partnership of a share of the capital stock of a corporation that is a foreign affiliate of the corporation, in this section referred to as the "affiliate share", or a foreign affiliate of a corporation resident in Canada has an allowable capital loss from a disposition at any time by a partnership of a share of the capital stock of another foreign affiliate of the corporation resident in Canada that would not be excluded property of the affiliate if the affiliate owned the share immediately before it was disposed of, in this section also referred to as the "affiliate share", the amount of the allowable capital loss is deemed to be the amount determined by the formula

A – (B – C).

In the formula provided for in the first paragraph,

(*a*) A is the amount of the allowable capital loss determined without reference to this section;

(*b*) B is the product obtained by multiplying the appropriate fraction described in the third paragraph by the aggregate of all amounts each of which is an amount received before that time, in respect of a tax-exempt dividend on the affiliate share or on a share for which the affiliate share was substituted, by

i. the corporation resident in Canada,

ii. a corporation related to the corporation resident in Canada,

iii. a foreign affiliate of the corporation resident in Canada, or

iv. a foreign affiliate of a corporation related to the corporation resident in Canada; and

(*c*) C is the aggregate of

i. the aggregate of all amounts each of which is the amount by which an allowable capital loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b*, from a disposition at or before that time by a partnership of the affiliate share or a share for which the affiliate share was substituted, was reduced under this section in respect of the tax-exempt dividends referred to in subparagraph *b*,

ii. 3/4 of the aggregate of all amounts each of which is the amount by which a loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that ended before 28 February 2000, from another disposition at or before that time of the affiliate share or a share for which the affiliate share was substituted, was reduced under section 591 in respect of the tax-exempt dividends referred to in subparagraph *b*,

iii. the product obtained by multiplying the aggregate of all amounts each of which is the amount by which the loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that includes 28 February 2000 or 17 October 2000 or that began after 28 February 2000 and ended before 17 October 2000, from another disposition at or before that time of the affiliate share or a share for which the affiliate share was substituted, was reduced under section 591 in respect of the tax-exempt dividends referred to in subparagraph *b*, by the fraction that is the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the corporation or foreign affiliate for the year,

iv. 1/2 of the aggregate of all amounts each of which is the amount by which the loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that began after 17 October 2000, from another disposition at or before that time of the affiliate share or a share for which the affiliate share was substituted, was

reduced under section 591 in respect of the tax-exempt dividends referred to in subparagraph *b*,

v. 3/4 of the aggregate of all amounts each of which is the amount by which a loss, determined without reference to this chapter, for a taxation year that ended before 28 February 2000, from a disposition at or before that time by a corporation or foreign affiliate described in subparagraph *b* of an interest in a partnership, was reduced under section 591.2 in respect of the tax-exempt dividends referred to in subparagraph *b*,

vi. the product obtained by multiplying the aggregate of all amounts each of which is the amount by which a loss, determined without reference to this chapter, for a taxation year that includes 28 February 2000 or 17 October 2000 or that began after 28 February 2000 and ended before 17 October 2000, from a disposition at or before that time by a corporation or foreign affiliate described in subparagraph *b* of an interest in a partnership, was reduced under section 591.2 in respect of the tax-exempt dividends referred to in subparagraph *b*, by the fraction that is the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the corporation or foreign affiliate for the year,

vii. 1/2 of the aggregate of all amounts each of which is the amount by which a loss, determined without reference to this chapter, for a taxation year that began after 17 October 2000, from a disposition at or before that time by a corporation or foreign affiliate described in subparagraph *b* of an interest in a partnership, was reduced under section 591.2 in respect of the tax-exempt dividends referred to in subparagraph *b*, and

viii. the aggregate of all amounts each of which is the amount by which an allowable capital loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b*, from a disposition at or before that time by a partnership of an interest in another partnership, was reduced under section 591.3 in respect of the tax-exempt dividends referred to in subparagraph *b*.

The appropriate fraction to which subparagraph *b* of the second paragraph refers is

(*a*) where this section applies to a taxation year that ended before 28 February 2000, 3/4;

(*b*) where this section applies to a taxation year that includes 28 February 2000 or 17 October 2000 or that began after 28 February 2000 and ended before 17 October 2000, the fraction that is the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the corporation or foreign affiliate described in that subparagraph *b* for the year; or

(*c*) where this section applies to a taxation year that began after 17 October 2000, 1/2.

"**591.2.** Where a corporation resident in Canada has a loss from the disposition by it at any time of an interest in a partnership which has a direct or indirect interest in shares of the capital stock of a corporation that is a foreign affiliate of the corporation resident in Canada, in this section referred to as "affiliate shares", or a foreign affiliate of a corporation resident in Canada has a loss from the disposition by it at any time of an interest in a partnership which has a direct or indirect interest in shares of the capital stock of another foreign affiliate of the corporation resident in Canada that would not be excluded property if the shares were owned by the affiliate, in this section also referred to as "affiliate shares", the amount of the loss is deemed to be the amount determined by the formula

A – (B – C).

In the formula provided for in the first paragraph,

(*a*) A is the amount of the loss determined without reference to this section;

(*b*) B is the aggregate of all amounts each of which is an amount received before that time in respect of a tax-exempt dividend on affiliate shares or on shares for which affiliate shares were substituted, by

i. the corporation resident in Canada,

ii. a corporation related to the corporation resident in Canada,

iii. a foreign affiliate of the corporation resident in Canada, or

iv. a foreign affiliate of a corporation related to the corporation resident in Canada; and

(*c*) C is the aggregate of

i. the aggregate of all amounts each of which is the amount by which a loss, determined without reference to this chapter, from another disposition at or before that time by a corporation or foreign affiliate described in subparagraph *b* of affiliate shares or shares for which affiliate shares were substituted, was reduced under section 591 in respect of the tax-exempt dividends referred to in subparagraph *b*,

ii. 4/3 of the aggregate of all amounts each of which is the amount by which an allowable capital loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that ended before 28 February 2000, from another disposition at or before that time by a partnership of affiliate shares or shares for which affiliate shares were substituted, was reduced under section 591.1 in respect of the tax-exempt dividends referred to in subparagraph *b*,

iii. the product obtained by multiplying the aggregate of all amounts each of which is the amount by which an allowable capital loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that includes 28 February 2000 or 17 October 2000 or that began after 28 February 2000 and ended before 17 October 2000, from another disposition at or before that time by a partnership of affiliate shares or shares for which affiliate shares were substituted, was reduced under section 591.1 in respect of the tax-exempt dividends referred to in subparagraph *b*, by the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the corporation or foreign affiliate for the year,

iv. twice the aggregate of all amounts each of which is the amount by which an allowable capital loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that began after 17 October 2000, from another disposition at or before that time by a partnership of affiliate shares or shares for which affiliate shares were substituted, was reduced under section 591.1 in respect of the tax-exempt dividends referred to in subparagraph *b*,

v. the aggregate of all amounts each of which is the amount by which a loss, determined without reference to this chapter, from the disposition at or before that time by a corporation or foreign affiliate described in subparagraph *b* of an interest in a partnership, was reduced under this section in respect of the tax-exempt dividends referred to in subparagraph *b*,

vi. 4/3 of the aggregate of all amounts each of which is the amount by which an allowable capital loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that ended before 28 February 2000, from a disposition at or before that time by a partnership of an interest in another partnership, was reduced under section 591.3 in respect of the tax-exempt dividends referred to in subparagraph *b*,

vii. the product obtained by multiplying the aggregate of all amounts each of which is the amount by which an allowable capital loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that includes 28 February 2000 or 17 October 2000 or that began after 28 February 2000 and ended before 17 October 2000, from a disposition at or before that time by a partnership of an interest in another partnership, was reduced under section 591.3 in respect of the tax-exempt dividends referred to in subparagraph *b*, by the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the corporation or foreign affiliate for the year, and

viii. twice the aggregate of all amounts each of which is the amount by which an allowable capital loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that began after 17 October 2000 from the disposition at or before that time by a partnership of an interest in another partnership, was reduced under

section 591.3 in respect of the tax-exempt dividends referred to in subparagraph *b*.

“**591.3.** Where a corporation resident in Canada has an allowable capital loss from a disposition at any time by a partnership of an interest in another partnership which has a direct or indirect interest in shares of the capital stock of a corporation that is a foreign affiliate of the corporation resident in Canada, in this section referred to as “affiliate shares”, or a foreign affiliate of a corporation resident in Canada has an allowable capital loss from a disposition at any time by a partnership of an interest in another partnership that has a direct or indirect interest in shares of the capital stock of a foreign affiliate of the corporation resident in Canada that would not be excluded property of the affiliate if the affiliate owned the shares immediately before the disposition, in this section also referred to as “affiliate shares”, the amount of the allowable capital loss is deemed to be the amount determined by the formula

A – (B – C).

In the formula provided for in the first paragraph,

(*a*) A is the amount of the allowable capital loss determined without reference to this section;

(*b*) B is the product obtained by multiplying the appropriate fraction described in the third paragraph by the aggregate of all amounts each of which is an amount received before that time in respect of a tax-exempt dividend on affiliate shares or on shares for which affiliate shares were substituted, by

i. the corporation resident in Canada,

ii. a corporation related to the corporation resident in Canada,

iii. a foreign affiliate of the corporation resident in Canada, or

iv. a foreign affiliate of a corporation related to the corporation resident in Canada; and

(*c*) C is the aggregate of

i. 3/4 of the aggregate of all amounts each of which is the amount by which a loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that ended before 28 February 2000, from another disposition at or before that time of affiliate shares or shares for which affiliate shares were substituted, was reduced under section 591 in respect of the tax-exempt dividends referred to in subparagraph *b*,

ii. the product obtained by multiplying the aggregate of all amounts each of which is the amount by which the loss, determined without reference to this

chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that includes 28 February 2000 or 17 October 2000 or that began after 28 February 2000 and ended before 17 October 2000, from another disposition at or before that time of affiliate shares or shares for which affiliate shares were substituted, was reduced under section 591 in respect of the tax-exempt dividends referred to in subparagraph *b*, by the fraction that is the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the corporation or foreign affiliate for the year,

iii. 1/2 of the aggregate of all amounts each of which is the amount by which the loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b* for a taxation year that began after 17 October 2000, from another disposition at or before that time of affiliate shares or shares for which affiliate shares were substituted, was reduced under section 591 in respect of the tax-exempt dividends referred to in subparagraph *b*,

iv. the aggregate of all amounts each of which is the amount by which an allowable capital loss, determined without reference to this chapter, of a corporation or foreign affiliate described in subparagraph *b*, from a disposition at or before that time by a partnership of affiliate shares or shares for which affiliate shares were substituted, was reduced under section 591.1 in respect of the tax-exempt dividends referred to in subparagraph *b*,

v. 3/4 of the aggregate of all amounts each of which is the amount by which a loss, determined without reference to this chapter, for a taxation year that ended before 28 February 2000, from a disposition at or before that time by a corporation or foreign affiliate described in subparagraph *b* of an interest in a partnership, was reduced under section 591.2 in respect of the tax-exempt dividends referred to in subparagraph *b*,

vi. the product obtained by multiplying the aggregate of all amounts each of which is the amount by which a loss, determined without reference to this chapter, for a taxation year that includes 28 February 2000 or 17 October 2000 or that began after 28 February 2000 and ended before 17 October 2000, from a disposition at or before that time by a corporation or foreign affiliate described in subparagraph *b* of an interest in a partnership, was reduced under section 591.2 in respect of the tax-exempt dividends referred to in subparagraph *b*, by the fraction that is the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the corporation or foreign affiliate for the year,

vii. 1/2 of the aggregate of all amounts each of which is the amount by which a loss, determined without reference to this chapter, for a taxation year that began after 17 October 2000, from a disposition at or before that time by a corporation or foreign affiliate described in subparagraph *b* of an interest in a partnership, was reduced under section 591.2 in respect of the tax-exempt dividends referred to in subparagraph *b*, and

viii. the aggregate of all amounts each of which is the amount by which an allowable capital loss, determined without reference to this chapter, of a

corporation or foreign affiliate described in subparagraph *b*, from a disposition at or before that time by a partnership of an interest in another partnership, was reduced under this section in respect of the tax-exempt dividends referred to in subparagraph *b*.

The appropriate fraction to which subparagraph *b* of the second paragraph refers is

(*a*) where this section applies to a taxation year that ended before 28 February 2000, 3/4;

(*b*) where this section applies to a taxation year that includes 28 February 2000 or 17 October 2000 or that began after 28 February 2000 and ended before 17 October 2000, the fraction that is the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the corporation or foreign affiliate described in that subparagraph *b* for the year; or

(*c*) where this section applies to a taxation year that began after 17 October 2000, 1/2."

(2) Subsection 1 applies in respect of dispositions that occur after 30 November 1999.

122. (1) Section 592 of the said Act is replaced by the following section:

"**592.** For the purposes of sections 591 to 591.3, the following rules apply:

(*a*) a dividend received by a corporation resident in Canada is a tax-exempt dividend to the extent of the portion of the dividend that is deductible in computing its taxable income under any of paragraphs *a*, *b* and *c* of section 746; and

(*b*) a dividend received by a particular foreign affiliate of a corporation resident in Canada from another foreign affiliate of the corporation is a tax-exempt dividend to the extent of the amount by which the portion of the dividend that was not prescribed to have been paid out of the pre-acquisition surplus of the other affiliate exceeds the aggregate of such portion of the income or profits tax that can reasonably be considered to have been paid in relation to that portion of the dividend by the particular affiliate or by a partnership in which the particular affiliate had, at the time of the payment of the income or profits tax, a partnership interest, either directly or indirectly."

(2) Subsection 1 applies in respect of dispositions that occur after 30 November 1999.

123. (1) The said Act is amended by inserting the following after section 592:

"CHAPTER V.1

"SHARES HELD BY A PARTNERSHIP

"**592.1.** For the purpose of determining whether a corporation not resident in Canada is a foreign affiliate of a corporation resident in Canada for the purposes of sections 146.1, 589 to 592, 592.2 and 746 to 749, paragraph *d* of section 785.1, any regulations made under those provisions, sections 571 to 576.1, 578 and 579, where those sections applied for the purposes of those provisions, and sections 772.2 to 772.13, the shares of a class of the capital stock of a corporation that, based on the assumptions contained in paragraph *c* of section 600 are owned at a particular time by a partnership or are deemed under this section to be owned by the partnership at a particular time, are deemed to be owned at that time by each member of the partnership in proportion to the number of all of those shares that the fair market value of the member's interest in the partnership at that time is of the fair market value of the aggregate of all members' interests in the partnership at that time.

"**592.2.** Where shares of a class of the capital stock of a foreign affiliate of a particular corporation resident in Canada are owned, based on the assumptions contained in paragraph *c* of section 600, by a partnership at the time when the foreign affiliate pays a dividend on those shares to the partnership, the following rules apply:

(*a*) for the purposes of sections 589 to 592 and 746 to 749 and any regulations made under those sections,

i. each member of the partnership is deemed to have received a portion of the dividend equal to the proportion of the dividend that the fair market value of the member's interest in the partnership at that time is of the fair market value of the aggregate of all members' interests in the partnership at that time, and

ii. the portion of the dividend that is deemed to have been received by a member of the partnership at that time, under subparagraph i, is deemed to have been received by the member in equal proportions on each share of the foreign affiliate that is property of the partnership at that time; and

(*b*) for the purpose of applying sections 746 to 749, in relation to the dividend referred to in subparagraph i of subparagraph *a*, each share of the foreign affiliate referred to in subparagraph ii of subparagraph *a* is deemed to be owned by each member of the partnership.

In addition, notwithstanding subparagraphs *a* and *b* of the first paragraph, the following rules apply:

(*a*) where the particular corporation is a member of the partnership, the amount deductible under sections 746 to 749, in relation to the dividend referred to in subparagraph i of subparagraph *a* of the first paragraph shall not exceed the portion of the amount of the dividend included in computing its income pursuant to section 600; and

(*b*) where another foreign affiliate of the particular corporation is a member of the partnership, the amount included in computing the income of that other foreign affiliate, in relation to the dividend referred to in subparagraph i of subparagraph *a* of the first paragraph shall not exceed the amount that would be included in computing its income pursuant to section 600, in relation to that dividend, but for this section and if the foreign accrual property income of that other foreign affiliate were determined without reference to the value of H of the formula provided for 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)."

(2) Subsection 1, where it enacts section 592.1 of the said Act, has effect from 1 December 1999. In addition, if a taxpayer so elects in writing filed with the Minister of Revenue on or before 4 December 2004, it has effect, except in the case of determining whether a corporation is a foreign affiliate of a taxpayer for the purposes of sections 146.1, 772 and 772.2 to 772.13 of the said Act, after 31 December 1972 and before 1 December 1999.

(3) Subsection 1, where it enacts section 592.2 of the said Act, applies in respect of dividends received after 30 November 1999.

124. (1) Section 598 of the said Act is amended by replacing paragraphs *a* and *b* by the following paragraphs:

"(*a*) any person or partnership having a right under a contract or otherwise, either immediately or in the future and either absolutely or contingently, to shares of the capital stock of a corporation or interests in a partnership, is deemed to own those shares or interests, if it can reasonably be considered that the principal purpose for the existence of the right is to permit any person to avoid, reduce or defer the payment of tax or any other amount that would otherwise be payable under this Act; and

"(*b*) where a person or partnership acquires or disposes of shares of the capital stock of a corporation or interests in a partnership, either directly or indirectly, and it can reasonably be considered that the principal purpose for the acquisition or disposition of the shares or interests is to permit a person to avoid, reduce or defer the payment of tax or any other amount that would otherwise be payable under this Act, those shares or interests are deemed not to have been acquired or disposed of, as the case may be, and not to have been issued if the corporation or partnership had not issued them immediately prior to the acquisition."

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

125. (1) Section 600 of the said Act is amended by replacing "paragraphs *d* and *e*" in paragraph *d* by "paragraphs *a*, *d*, *e* and *e*.1".

(2) Subsection 1 applies to fiscal periods that begin after 31 December 2000.

126. (1) Section 600.0.3 of the said Act, amended by section 137 of chapter 2 of the statutes of 2003, is again amended by striking out ", 231.1" in the following provisions:

— the portion of the first paragraph before the formula;

— subparagraphs *b* and *c* of the second paragraph.

(2) Subsection 1 applies in respect of dispositions that occur after 31 December 2001.

127. (1) Section 613.1 of the said Act is amended

(1) by replacing "second" in the French text of the first paragraph by "deuxième";

(2) by replacing "foreign exploration and development expenses" in subparagraph *c* of the second paragraph by "foreign resource pool expenses".

(2) Paragraph 2 of subsection 1 applies to fiscal periods that begin after 31 December 2000.

128. (1) Section 614 of the said Act, amended by section 40 of chapter 9 of the statutes of 2003, is again amended by replacing subparagraph *c* of the second paragraph by the following subparagraph:

"(*c*) where the taxpayer so disposes of any taxable Canadian property or any taxable Québec property as consideration for an interest in the partnership, the interest is deemed to be also a taxable Canadian property or a taxable Québec property, as the case may be."

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

129. (1) The said Act is amended by inserting the following section after section 617:

"**617.1.** Where the second paragraph of section 614 has applied in respect of the disposition of any property by an individual to a partnership, the cost of the property to the individual was included in computing an amount determined under section 75.3 in respect of the individual, the property is depreciable property of the partnership, and the amount, in this section referred to as the "individual's original cost", that would be the cost of the property to the individual immediately before its disposition if this Act were read without reference to section 75.5 exceeds the individual's proceeds of disposition of the property, the following rules apply:

(*a*) the capital cost to the partnership of the property is deemed to be equal to the individual's original cost; and

(*b*) the amount by which the individual's original cost exceeds the individual's proceeds of disposition of the property is deemed to have been allowed to the partnership as depreciation in respect of the property for taxation years that end before the time of disposition."

(2) Subsection 1 applies in respect of dispositions that occur after 31 December 2001.

130. (1) Section 640 of the said Act is amended by replacing "785.1 and 785.2 and to Title VI.5 of Book IV" in the first paragraph by "Title VI.5 of Book IV and Chapter I of Title I.1 of Book VI".

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

131. (1) Section 651.2 of the said Act, enacted by section 154 of chapter 2 of the statutes of 2003, is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

"(*b*) for the purposes of the definition of "personal trust" in section 1, paragraph *n* of section 257, section 686 and the definition of "excluded right or interest" in section 785.0.1, no interest of a beneficiary under the trust before its terms were varied is considered to be consideration for the interest of the beneficiary in that trust whose terms were varied."

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

132. (1) Section 651.3 of the said Act, enacted by section 154 of chapter 2 of the statutes of 2003, is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

"**651.3.** For the purposes of the definition of "personal trust" in section 1, paragraph *n* of section 257, section 686 and the definition of "excluded right or interest" in section 785.0.1, the following rules apply:".

(2) Subsection 1 has effect from 24 December 1998.

133. (1) Section 656.2 of the said Act is amended

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

"**656.2.** Where a trust owns a Canadian resource property or a foreign resource property, other than an exempt property, at the end of a day determined under section 653 in respect of the trust, the following rules apply:

(*a*) for the purpose of determining the amounts under paragraphs *a*, *e* and *e*.1 of section 330 and sections 371, 374, 411, 412, 418.1.3 to 418.1.5, 418.5, 418.6 and 418.12, the trust is deemed

i. to have a taxation year that ends at the end of that day and a new taxation year that begins immediately after that day, and

ii. to have disposed, immediately before the end of the taxation year so deemed to end, of each of those Canadian resource properties and foreign resource properties for proceeds that became receivable at that time equal to its fair market value at that time and to have reacquired, at the beginning of the new taxation year, each such property for an amount equal to that fair market value; and";

(2) by replacing "aux fins" in the French text of subparagraph i of paragraph *b* by "pour l'application";

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

"i.1. include in computing its income for the particular taxation year any amount determined under paragraph *e*.1 of section 330 in respect of the taxation year deemed to end in accordance with subparagraph i of paragraph *a* and the amount so included is, for the purposes of paragraph *b* of section 418.1.3, deemed to have been included in computing its income for a preceding taxation year, and";

(4) by replacing "purposes of section 371" in subparagraph ii of paragraph *b* by "purposes of paragraph *a* of section 371".

(2) Paragraph 1 of subsection 1 applies to days after 23 December 1998 that are determined under section 653 of the said Act. However, in applying paragraph *a* of section 656.2 of the said Act to days that are in taxation years that begin before 1 January 2001, the reference to ", *e* and *e*.1" in the portion of that paragraph *a* before subparagraph i shall be read as a reference to "and *e*" and the portion of that paragraph *a* before subparagraph i shall be read without reference to "418.1.3 to 418.1.5,".

(3) Paragraph 3 of subsection 1 applies to taxation years that begin after 31 December 2000.

134. (1) Section 692 of the said Act, replaced by section 183 of chapter 2 of the statutes of 2003, is amended, in the second paragraph,

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

"(*b*) a property referred to in any of subparagraphs i to iii of paragraph *b* of section 785.2;";

(2) by striking out subparagraphs *c* to *h*.

(2) Subsection 1 applies in respect of distributions that occur after 1 October 1996.

135. (1) Section 692.8 of the said Act, enacted by section 185 of chapter 2 of the statutes of 2003, is amended by replacing subparagraph *g* of the first paragraph by the following subparagraph:

"(*g*) if the transferor is a trust to which property was transferred by an individual, other than a trust, the following rules apply:

i. where section 454 applied in respect of the property so transferred and it is reasonable to consider that the property was so transferred in anticipation of the individual ceasing to be resident in Canada, for the application of subparagraph *a*.3 of the first paragraph of section 653 and this subparagraph to a disposition by the transferee trust after the particular time, the transferee trust is deemed after the particular time to be a trust to which the individual had transferred property in anticipation of the individual ceasing to be resident in Canada and in circumstances to which section 454 applied, and

ii. for the purposes of paragraph *j* of the definition of "excluded right or interest" in section 785.0.1 and the application of this subparagraph to a disposition by the transferee trust after the particular time, where the property so transferred was transferred in circumstances to which this section would apply if section 692.5 were read without reference to paragraphs *h* and *i* thereof, the transferee trust is deemed after the particular time to be a trust an interest in which was acquired by the individual as a consequence of a qualifying disposition;".

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

136. (1) Section 725 of the said Act is amended by inserting the following paragraph after paragraph *c*.1:

"(*c*.2) an amount received by the individual under a program referred to in paragraph *e*.3 or *e*.4 of section 311, a program established under the Department of Human Resources Development Act (Statutes of Canada, 1996, chapter 11) or a prescribed program, if the amount

i. is financial assistance for the payment of tuition fees of the individual, that are not included in computing an amount deductible under section 752.0.18.10 in computing the individual's tax payable under this Part for any taxation year, and

ii. is not otherwise deductible in computing the individual's taxable income for the year;".

(2) Subsection 1 applies from the taxation year 1997. Notwithstanding sections 1010 to 1011 of the said Act, the Minister of Revenue shall, under Part I of the said Act, make such assessments of tax, interest and penalties as are necessary for any taxation year to give effect to this section. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such assessments.

137. (1) Section 725.2.2 of the said Act, enacted by section 196 of chapter 2 of the statutes of 2003, is amended

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

"(*a*) the security is a security described in any of subparagraphs ii to vi of paragraph *a* of section 231.2;";

(2) by striking out paragraph *b*.

(2) Subsection 1 applies in respect of dispositions that occur after 31 December 2001.

138. (1) Section 726.4.10 of the said Act is amended by replacing subparagraph ii of paragraph *a* by the following subparagraph:

"ii. the aggregate of all amounts of assistance, within the meaning of paragraph *c*.0.1 of section 359, which a person, including a partnership, has received, is entitled to receive or becomes, at any time, entitled to receive in respect of an expense referred to in subparagraph i, to the extent that the assistance has not reduced the Canadian exploration expenses of the individual by reason of subparagraph *a* of the first paragraph of section 359.2, or, by reason of paragraph *a* of section 359.2.1, the Canadian development expenses deemed to be Canadian exploration expenses of the individual and is not an amount received, receivable or that became, at any time, entitled to be received under subsection 5 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of a flow-through mining expenditure, within the meaning of subsection 9 of that section; and".

(2) Subsection 1 has effect from 18 October 2000.

139. (1) Section 726.4.17.2 of the said Act is amended

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

"**726.4.17.2.** In this Title, the exploration base relating to certain Québec surface mining exploration expenses or oil and gas exploration expenses of an individual, at any time, means an amount equal to the amount by which the amount computed under section 726.4.17.3 is exceeded by 33 1/3% of the amount by which";

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

"(*b*) the aggregate of all amounts of assistance, within the meaning of paragraph *c*.0.1 of section 359, which a person, including a partnership, has received, is entitled to receive or becomes, at any time, entitled to receive in respect of an expense referred to in paragraph *a*, to the extent that the assistance has not reduced the Canadian exploration expenses of the individual

by reason of subparagraph *a* of the first paragraph of section 359.2 and is not an amount received, receivable or that became, at any time, entitled to be received under subsection 5 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of a flow-through mining expenditure, within the meaning of subsection 9 of that section."

(2) Subsection 1 has effect from 18 October 2000.

140. (1) Section 726.6 of the said Act is amended, in the first paragraph,

(1) by replacing "of paragraph *d* of section 451" in subparagraph *a*.1 by "of subparagraph *d* of the first paragraph of section 451";

(2) by replacing "414" in subparagraph 2 of subparagraph i of subparagraph *a*.2 and in subparagraph iv of that subparagraph *a*.2 by "414, 418.1.10".

(2) Paragraph 2 of subsection 1 applies to taxation years that begin after 31 December 2000.

141. (1) Section 733.0.0.1 of the said Act is amended by replacing "foreign exploration and development expenses" in paragraph *c* by "foreign resource pool expenses".

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

142. (1) Section 733.1 of the said Act is amended by replacing "throughout the period referred to in subparagraph *b* of the second paragraph of section 23, in the case of an individual referred to in section 23, 24 or 25 in respect of whom such a period applies" by "in the part of the year throughout which the individual was not resident in Canada, in the case of an individual referred to in any of sections 23, 24 and 25 for the year".

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

143. (1) Section 740.2 of the said Act is replaced by the following section:

"**740.2.** Subject to section 740.3, sections 738, 740 and 845 do not apply in respect of a dividend received by a particular corporation on a share of the capital stock of a corporation that was issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 where,

(*a*) at or immediately before the time the dividend was paid, a person or partnership, other than the issuer of the share or an individual other than a trust, that is a specified financial institution or a specified person in relation to any such institution, that person or partnership referred to in section 740.3 as the "guarantor", was obligated, either absolutely or contingently and either

immediately or in the future, to effect any guarantee agreement, including any guarantee, covenant or agreement to purchase or repurchase the share and including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the particular corporation or any specified person in relation to it

i. to ensure that any loss that the particular corporation or a specified person in relation to it may sustain by reason of the ownership, holding or disposition of the share or any other property is limited, or

ii. to allow the particular corporation or a specified person in relation to it to derive earnings by reason of the ownership, holding or disposition of the share or any other property; and

(*b*) the guarantee agreement was given as part of a transaction or event or a series of transactions or events that included the issuance of the share."

(2) Subsection 1 applies in respect of dividends received after 31 December 1998.

144. (1) Section 740.3 of the said Act is amended

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

"**740.3.** Section 740.2 does not apply in respect of a dividend received by a particular corporation

(*a*) on a share that is at the time the dividend is received a share described in section 21.6.1;

(*b*) a taxable preferred share of a class of the capital stock of a corporation that is listed on a Canadian stock exchange, issued after 15 December 1987, where all the guarantee agreements described in section 740.2 are given by the corporation that issued the share, by one or more persons that are related to it, otherwise than because of a right referred to in paragraph *b* of section 20, or by that corporation and such persons, unless at the time the dividend is paid to the particular corporation, dividends in respect of more than 10% of the issued and outstanding shares to which the guarantee agreements described in section 740.2 apply are paid to the particular corporation or the particular corporation and specified persons in relation to it;";

(2) by adding the following paragraph:

"(*e*) on a share

i. that was not acquired by the particular corporation in the ordinary course of its business,

ii. in respect of which the guarantee agreement, referred to in section 740.2, was not given in the ordinary course of the guarantor's business, and

iii. the corporation issuer of which is, at the time the dividend is paid, related, otherwise than because of a right referred to in paragraph *b* of section 20, to both the particular corporation and the guarantor."

(2) Subsection 1 applies in respect of dividends received after 31 December 1998. However, where it has effect before 26 November 1999, the reference to "on a Canadian stock exchange" in paragraph *b* of section 740.3 of the said Act shall be read as a reference to "on a prescribed stock exchange".

145. Section 752.0.11.1 of the said Act, amended by section 222 of chapter 2 of the statutes of 2003, is again amended by replacing "épinière" in the portion of the French text of paragraph *q* before subparagraph i by "osseuse".

146. (1) Section 772.5.4 of the said Act is amended by replacing paragraph *a* by the following paragraph:

"(*a*) sections 83.0.4, 83.0.5, 106.5, 106.6, 281 to 283 and 428 to 451, Chapter I of Title I.1 of Book IV, paragraph *f* of section 785.5, sections 832.1 and 851.22.15, paragraph *b* of section 851.22.23 and sections 851.22.23.1, 851.22.23.2 and 999.1 do not apply to deem a disposition or acquisition of property to have been made;".

(2) Subsection 1 applies from the taxation year 1998. However, where paragraph *a* of section 772.5.4 of the said Act applies before 28 June 1999, it shall be read as follows:

"(*a*) sections 281 to 283 and 428 to 451, Chapter I of Title I.1 of Book IV, paragraph *f* of section 785.5, sections 832.1 and 851.22.15, paragraph *b* of section 851.22.23 and section 999.1 do not apply to deem a disposition or acquisition of property to have been made;".

147. (1) The said Act is amended by inserting the following section after section 772.6:

"**772.6.1.** For the purposes of sections 146.1 and 146.2 and this chapter, in respect of an authorized foreign bank, the following rules apply:

(*a*) the bank is deemed, for the purposes of sections 772.2, 772.4 and 772.5.1 to 772.7, to be a corporation resident in Canada in respect of its Canadian banking business;

(*b*) the reference in the portion of section 146.1 before paragraph *a* to "foreign country" shall be read as a reference to "country that is neither Canada nor a country in which the taxpayer is resident at any time in the year";

(*c*) the definition of "tax-exempt income" in section 772.2 shall be read as follows:

"“tax-exempt income” means income of a taxpayer from a source in a particular country in respect of which

(*a*) the taxpayer is, under a comprehensive agreement or convention for the elimination of double taxation on income, which has the force of law in the particular country and to which a country in which the taxpayer is resident is a party, entitled to an exemption from all income or profits taxes, imposed in the particular country, to which the agreement or convention applies; and

(*b*) no income or profits tax to which the agreement or convention does not apply is imposed in the particular country;";

(*d*) the references in the portion of the second paragraph of section 772.7 before subparagraph *a* to "in relation to a foreign country" and "from sources situated in a foreign country" shall be read as references to "in relation to a country that is neither Canada nor a country in which the corporation is resident at any time in the year" and "in respect of its Canadian banking business from sources in that country", respectively;

(*e*) the reference in subparagraphs *a* and *d* of the second paragraph of section 772.7 to "in the foreign country" shall be read as a reference to "in that country"; and

(*f*) the bank shall include in computing its non-business income tax paid for a taxation year to the government of a foreign country, only taxes that relate to amounts that are included in computing the bank's taxable income from its Canadian banking business."

(2) Subsection 1 has effect from 28 June 1999.

148. (1) Section 772.7 of the said Act, amended by section 103 of chapter 9 of the statutes of 2003, is again amended, in the first paragraph,

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

"(*a*) the amount for the year, if the individual is resident in Canada throughout the year, or, where the individual is not resident in Canada at any time in the year, for the part of the year throughout which the individual is resident in Canada, by which the total of the individual's incomes exceeds the total of the individual's losses from sources situated in a foreign country, computed";

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

"i. either, where the individual is resident in Canada throughout the year, the aggregate of the individual's income for the year and the amount included in computing the individual's taxable income for the year under section 737.17 or, where the individual is not resident in Canada at any time in the year, the amount determined for the year in respect of the individual under the third paragraph of section 23, exceeds

"ii. the aggregate of all amounts each of which is an amount deductible under any of sections 725, 725.2 to 725.6, 726.26, 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, 737.22.0.10, 737.25 and 737.28, or deducted under any of sections 725.9, 726.7 to 726.9, 726.20.2 and 729, in computing the individual's taxable income for the year."

(2) Paragraph 1 of subsection 1 applies to taxation years that begin after 24 February 1998. In addition, where subparagraph i of subparagraph *a* of the first paragraph of section 772.7 of the said Act applies to taxation years that begin before 25 February 1998 and end after 31 December 1997, it shall be read as follows:

"i. the individual's income for the year or for the part of the year throughout which the individual is resident in Canada where the individual is not resident in Canada at any time in the year, in respect of which the deduction is granted, exceeds".

(3) Paragraph 2 of subsection 1 applies from the taxation year 1998. However, where subparagraph ii of subparagraph *b* of the first paragraph of section 772.7 of the said Act applies

(1) to the taxation year 1998, it shall be read without reference to "737.18.10, 737.18.28, 737.18.34,", "737.22.0.0.7," and "737.22.0.7, 737.22.0.10,";

(2) to the taxation year 1999, it shall be read without reference to "737.18.28, 737.18.34," and "737.22.0.7, 737.22.0.10,";

(3) to the taxation year 2000, it shall be read without reference to "737.18.28," and "737.22.0.10,".

149. (1) Section 772.9 of the said Act, amended by section 104 of chapter 9 of the statutes of 2003, is again amended, in paragraph *a*,

(1) by replacing the portion of subparagraph i before subparagraph 1 by the following:

"i. the amount for the year, if the individual is resident in Canada throughout the year, or, where the individual is not resident in Canada at any time in the year, for the part of the year throughout which the individual is resident in Canada, by which the total of the individual's incomes exceeds the total of the individual's losses, from businesses carried on by the individual in that country

and attributable to an establishment situated therein, computed without taking into account";

(2) by adding "et" at the end of the French text of subparagraph 2 of subparagraph i;

(3) by replacing subparagraphs 1 and 2 of subparagraph ii by the following subparagraphs:

"(1) either, where the individual is resident in Canada throughout the year, the aggregate of the individual's income for the year and the amount included in computing the individual's taxable income for the year under section 737.17 or, where the individual is not resident in Canada at any time in the year, the amount determined for the year in respect of the individual under subparagraph *a* of the third paragraph of section 23, exceeds

"(2) the aggregate of all amounts each of which is an amount deductible under any of sections 725, 725.2 to 725.6, 726.26, 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, 737.22.0.10, 737.25 and 737.28, or deducted under any of sections 725.9, 726.7 to 726.9, 726.20.2 and 729, in computing the individual's taxable income for the year; and".

(2) Paragraphs 1 and 2 of subsection 1 apply to taxation years that begin after 24 February 1998. In addition, where subparagraph i of paragraph *a* of section 772.9 of the said Act applies to taxation years that begin before 25 February 1998 and end after 31 December 1997, it shall be read as follows:

"i. the individual's income for the year or for the part of the year throughout which the individual is resident in Canada where the individual is not resident in Canada at any time in the year, from any business carried on by the individual in that country and attributable to an establishment situated therein, other than the portion of that income deductible under paragraph *a* of section 725 or any of sections 726.26, 737.16 and, if the year ends after 31 December 1998, 737.18.10, in computing the individual's taxable income for the year, is of".

(3) Paragraph 3 of subsection 1 applies from the taxation year 1998. However, where subparagraph 2 of subparagraph ii of paragraph *a* of section 772.9 of the said Act applies

(1) to the taxation year 1998, it shall be read without reference to "737.18.10, 737.18.28, 737.18.34,", "737.22.0.0.7," and "737.22.0.7, 737.22.0.10,";

(2) to the taxation year 1999, it shall be read without reference to "737.18.28, 737.18.34," and "737.22.0.7, 737.22.0.10,";

(3) to the taxation year 2000, it shall be read without reference to "737.18.28," and "737.22.0.10,".

150. (1) The said Act is amended by inserting the following section after section 772.9:

"**772.9.1.** For the purposes of subparagraph *a* of the first paragraph of section 772.7, the second paragraph of that section and subparagraph i of paragraph *a* of section 772.9, the incomes and losses for a taxation year of a taxpayer from sources in a foreign country shall also be computed as if, where applicable, the aggregate of all amounts each of which is that portion of an amount deducted in computing those incomes or losses for the year under any of sections 371, 418.1.10, 418.17 and 418.17.3 that is attributable to those sources were the greater of

(*a*) the aggregate of all amounts each of which is that portion of an amount deducted in computing the taxpayer's income for the year under any of sections 371, 418.1.10, 418.17 and 418.17.3 that is attributable to those sources; and

(*b*) the aggregate of

i. the portion of the maximum amount that would be deductible by the taxpayer in computing the taxpayer's income for the year under section 371 that is attributable to those sources if the amount determined under paragraph *b* of section 374 for the taxpayer in respect of the year were equal to the amount by which the amount determined under the second paragraph exceeds the aggregate of all amounts each of which is the portion of an amount, other than a portion that results in a reduction of the amount otherwise determined under subparagraph *a* of the second paragraph, that is attributable to those sources and that would be deducted under section 418.17 in computing the taxpayer's income for the year if the maximum amounts deductible for the year under section 418.17 were deducted,

ii. the maximum amount that would be deductible by the taxpayer in computing the taxpayer's income for the year under section 418.1.10 in relation to those sources if

(1) the amount deducted in computing the taxpayer's income for the year under section 371 in relation to those sources were the amount determined under subparagraph i,

(2) the amounts deducted in computing the taxpayer's income for the year under sections 418.17 and 418.17.3 in relation to those sources were the maximum amounts deductible under those sections,

(3) for the purposes of sections 418.1.3 to 418.1.5, the total of the amounts designated for the year under subparagraph ii of paragraph *a* of section 330 in respect of a disposition in the year by the taxpayer of foreign resource properties in relation to the foreign country were the maximum total that could be so designated without any reduction in the maximum amount that would be determined for the year under subparagraph i in respect of the taxpayer and

the foreign country if subparagraph *b* of the second paragraph were read without reference to the assumption made therein in relation to designations made under subparagraph ii of paragraph *a* of section 330, and

(4) the amount determined under paragraph *b* of section 418.1.10 were nil; and

iii. the aggregate of all amounts each of which is the maximum amount attributable to one of those sources that the taxpayer may deduct in computing the taxpayer's income for the year under section 418.17 or 418.17.3.

The amount that, for the purposes of subparagraph i of subparagraph *b* of the first paragraph, must be determined under this paragraph is the aggregate of

(*a*) the taxpayer's foreign resource income, within the meaning assigned by section 418.1.7, for the year in relation to the foreign country, determined as if the taxpayer had deducted the maximum amounts deductible for the year under sections 418.17 and 418.17.3; and

(*b*) the aggregate of all amounts each of which is an amount that, but for any designation under subparagraph ii of paragraph *a* of section 330, would have been included in computing the taxpayer's income for the year under that paragraph *a* in respect of a disposition of foreign resource property in relation to the foreign country."

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

(1) 31 December 1999; and

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

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

(*b*) 31 December 1994.

151. (1) Section 772.11 of the said Act, amended by section 235 of chapter 2 of the statutes of 2003 and by section 105 of chapter 9 of the statutes of 2003, is again amended, in subparagraph *a* of the second paragraph,

(1) by replacing subparagraph i by the following subparagraph:

"i. the individual's income for the year or, if the individual's taxable income is computed in the manner prescribed in section 23, for the part of the year throughout which the individual was resident in Canada, from employment with that organization, except the portion of that income that is deductible under section 725 in computing the individual's taxable income for the year, is of";

(2) by replacing subparagraphs 1 and 2 of subparagraph ii by the following subparagraphs:

"(1) either, where the individual is resident in Canada throughout the year, the aggregate of the individual's income for the year and the amount included in computing the individual's taxable income for the year under section 737.17 or, where the individual is not resident in Canada at any time in the year, the amount determined for the year in respect of the individual under the third paragraph of section 23, exceeds

"(2) the aggregate of all amounts each of which is an amount deductible under any of sections 725, 725.2 to 725.6, 726.26, 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, 737.22.0.10, 737.25 and 737.28, or deducted under any of sections 725.9, 726.7 to 726.9, 726.20.2 and 729, in computing the individual's taxable income for the year; and".

(2) Subsection 1 applies from the taxation year 1998. However, where subparagraph 2 of subparagraph ii of subparagraph *a* of the second paragraph of section 772.11 of the said Act applies

(1) to the taxation year 1998, it shall be read without reference to "737.18.10, 737.18.28, 737.18.34,", "737.22.0.0.7," and "737.22.0.7, 737.22.0.10,";

(2) to the taxation year 1999, it shall be read without reference to "737.18.28, 737.18.34," and "737.22.0.7, 737.22.0.10,";

(3) to the taxation year 2000, it shall be read without reference to "737.18.28," and "737.22.0.10,".

152. (1) Section 776.74 of the said Act, replaced by section 115 of chapter 9 of the statutes of 2003, is amended by replacing "and *e* of section 725" by ", *c*.2 and *e* of section 725".

(2) Subsection 1 applies from the taxation year 1998. Notwithstanding sections 1010 to 1011 of the said Act, the Minister of Revenue shall, under Part I of the said Act, make such assessments of tax, interest and penalties as are necessary for any taxation year to give effect to this section. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such assessments.

153. (1) The said Act is amended by inserting the following after the heading of Title I.1 of Book VI of Part I:

“CHAPTER I

“GENERAL RULES

“**785.0.1.** In this chapter,

“excluded right or interest” of an individual means

(*a*) a right of the individual under, or an interest of the individual in a trust governed by,

i. a registered retirement savings plan or a new plan referred to in section 914,

ii. a registered retirement income fund,

iii. a registered education savings plan,

iv. a deferred profit sharing plan or a revoked plan referred to in section 879,

v. a profit sharing plan,

vi. an employee benefit plan, other than a plan described in subparagraph i or ii of paragraph *b*,

vii. a plan or arrangement, other than an employee benefit plan, under which the individual has a right to receive in a year remuneration in respect of services rendered by the individual in the year or a prior year,

viii. a pension plan, other than an employee benefit plan,

ix. a retirement compensation arrangement,

x. a foreign retirement arrangement, or

xi. a registered supplementary unemployment benefit plan;

(*b*) a right of the individual to a benefit under an employee benefit plan, to the extent that the benefit can reasonably be considered to be attributable to services rendered in Canada, that is

i. a plan or arrangement described in paragraph *j* of section 47.16 that would, but for paragraphs *j* and *k* of that section, be a salary deferral arrangement, or

ii. a plan or arrangement that would, but for paragraph *c* of section 47.16R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1), be a salary deferral arrangement;

(*c*) a right of the individual under an agreement referred to in section 48;

(*d*) a right of the individual to a retiring allowance;

(*e*) a right of the individual under, or an interest of the individual in, a trust that is

i. an employee trust,

ii. an amateur athlete trust,

iii. a cemetery care trust, or

iv. a trust governed by an eligible funeral arrangement;

(*f*) a right of the individual to receive a payment under an annuity contract or an income-averaging annuity contract;

(*g*) a right of the individual to a benefit under

i. the Act respecting the Québec Pension Plan (chapter R-9) or any similar plan, within the meaning of that Act,

ii. the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9),

iii. a provincial pension plan prescribed by regulation for the purposes of paragraph *v* of section 60 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), or

iv. 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;

(*h*) a right of the individual to a benefit described in any of paragraphs *b* to *e* of section 311;

(*i*) a right of the individual to a payment out of the NISA Fund No. 2;

(*j*) an interest of the individual in a personal trust resident in Canada if the interest was never acquired for consideration and did not arise as a consequence of a qualifying disposition by the individual, within the meaning that would be assigned by section 692.5 if that section were read without reference to paragraphs *h* and *i* thereof;

(*k*) an interest of the individual in a testamentary trust not resident in Canada if the interest was never acquired for consideration; or

(*l*) an interest of the individual in a life insurance policy in Canada, except for that part of the policy in respect of which the individual is deemed by section 851.11 to have an interest in a related segregated fund trust relating to that policy;

"reportable property" of an individual at a particular time means any property other than

(*a*) money that is legal tender in Canada and deposits of such money;

(*b*) property that would be an excluded right or interest of the individual if the definition of "excluded right or interest" were read without reference to paragraphs *c*, *j* and *l* of that definition;

(*c*) if the individual is not a trust and was not, during the 120-month period that ends at the particular time, resident in Canada for more than 60 months, property described in subparagraph iv of paragraph *b* of section 785.2 that is not taxable Canadian property; and

(*d*) any item of personal-use property the fair market value of which, at the particular time, is less than $10,000."

(2) Subsection 1 applies in respect of changes in residence that occur after 31 December 1995. However, where section 785.0.1 of the said Act applies in respect of changes in residence that occur before 2 October 1996, it shall be read without reference to the definition of "excluded right or interest".

154. (1) Section 785.1 of the said Act, amended by section 250 of chapter 2 of the statutes of 2003, is again amended, in paragraph *b*,

(1) by replacing subparagraph i by the following subparagraph:

"i. property that is a taxable Canadian property,";

(2) by replacing subparagraph iv by the following subparagraph:

"iv. an excluded right or interest of the taxpayer, other than an interest in a testamentary trust not resident in Canada that was never acquired for consideration;";

(3) by striking out subparagraph v.

(2) Subsection 1 applies in respect of changes in residence that occur after 1 October 1996.

155. (1) Section 785.2 of the said Act, amended by section 251 of chapter 2 of the statutes of 2003, is again amended

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

"(*a*.1) if the taxpayer is an individual, other than a trust, and carries on a business at the particular time, otherwise than through an establishment in Canada,

i. the fiscal period of the business that would otherwise have included the particular time is deemed to end immediately before that time and a new fiscal period is deemed to begin at that time, and

ii. for the purpose of determining the fiscal period of the business after the particular time, the taxpayer is deemed not to have established a fiscal period for the business before the particular time;";

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

"(*b*) the taxpayer is deemed to have disposed, at the time, in this paragraph and paragraph *d* referred to as the "time of disposition", that is immediately before the time that is immediately before the particular time, of each property then owned by the taxpayer for proceeds equal to its fair market value at the time of disposition, which proceeds are deemed to have been received by the taxpayer at the time of disposition, other than, if the taxpayer is an individual,

i. immovable property situated in Canada, a Canadian resource property or a timber resource property,

ii. capital property used in, intangible capital property in respect of or property included in the inventory of, a business carried on by the taxpayer through an establishment in Canada at the particular time,

iii. an excluded right or interest of the taxpayer,

iv. if the taxpayer is not a trust and was not, during the 120-month period that ends at the particular time, resident in Canada for more than 60 months, property that was owned by the taxpayer at the time the taxpayer last became resident in Canada or that was acquired by the taxpayer by inheritance or bequest after the taxpayer last became resident in Canada, and

v. any property in respect of which the taxpayer elects under paragraph *a* of section 785.2.2 for the taxation year that includes the first time, after the particular time, at which the taxpayer becomes resident in Canada;";

(3) by replacing paragraph *d* by the following paragraph:

"(*d*) notwithstanding paragraphs *b* and *c,* where the taxpayer is an individual, other than a trust, and so elects in prescribed form and manner in respect of a property described in subparagraph i or ii of paragraph *b*,

i. the taxpayer is deemed to have disposed of the property at the time of disposition for proceeds equal to its fair market value at that time and to have reacquired the property at the particular time at a cost equal to those proceeds,

ii. the taxpayer's income for the taxation year that includes the particular time is deemed to be the greater of that income determined without reference to this subparagraph and the lesser of

(1) that income determined without reference to this section, and

(2) that income determined without reference to subparagraph i, and

iii. each of the taxpayer's non-capital loss, net capital loss, restricted farm loss, farm loss and limited partnership loss for the taxation year that includes the particular time is deemed to be the lesser of that amount determined without reference to this subparagraph and the greater of

(1) that amount determined without reference to this section, and

(2) that amount determined without reference to subparagraph i; and";

(4) by striking out paragraphs *e* and *f*.

(2) Subsection 1 applies in respect of changes in residence that occur after 1 October 1996.

(3) In addition, if an individual ceases at any time after 31 December 1992 and before 2 October 1996 to be resident in Canada and so elects by notifying the Minister of Revenue in writing before the end of the sixth month following the month that includes 7 June 2004, subparagraph 1 of subparagraph i of paragraph *b* of section 785.2 of the said Act, as it read at that time shall, in relation to the cessation of residence, be read as if the reference to a prescribed property in that subparagraph 1 were a reference to a property described in subparagraph iii of paragraph *b* of that section, as replaced by paragraph 2 of subsection 1, and as if section 785.0.1 of the said Act, enacted by subsection 1 of section 153, applied.

(4) Where an individual makes the election provided for in subsection 3, notwithstanding sections 1010 to 1011 of the said Act, the Minister of Revenue shall make, for any year, such reassessments of tax, interest and penalties payable by the individual as is necessary to give effect to the election.

156. (1) The said Act is amended by inserting the following after section 785.2:

"**785.2.1.** For the purposes of sections 1025, 1026, 1026.0.2 to 1026.2, any of the first, second and third paragraphs of section 1038 and any regulations thereunder, where an individual is deemed to have disposed of a property in a taxation year under section 785.2, the individual's tax payable under this Part for the year is deemed to be the lesser of

(*a*) the individual's tax payable under this Part for the year, determined without reference to the specified tax consequences for the year; and

(*b*) the amount that would be determined under paragraph *a* if section 785.2 did not apply to the individual for the year.

"**785.2.2.** Where an individual, other than a trust, becomes resident in Canada at a particular time in a taxation year and the time, in this section referred to as the "emigration time", before the particular time, at which the individual last ceased to be resident in Canada was after 1 October 1996, the following rules apply:

(*a*) subject to paragraph *b*, if the individual so elects by notifying the Minister in writing on or before the individual's filing-due date for the year, paragraphs *b* and *c* of section 785.2 do not apply to the individual's cessation of residence at the emigration time in respect of all properties that were taxable Canadian properties of the individual throughout the period that began at the emigration time and that ends at the particular time;

(*b*) where, if a property in respect of which an election under paragraph *a* is made had been acquired by the individual at the emigration time at a cost equal to its fair market value at the emigration time and had been disposed of by the individual immediately before the particular time for proceeds of disposition equal to its fair market value immediately before the particular time, the application of section 238.4 would reduce the amount that would, but for that section and this section, be the individual's loss from the disposition, the individual is deemed

i. to have disposed of the property at the time of disposition, within the meaning assigned by paragraph *b* of section 785.2, in respect of the emigration time for proceeds of disposition equal to the aggregate of

(1) the adjusted cost base to the individual of the property immediately before the time of disposition, and

(2) the amount, if any, by which that reduction exceeds the lesser of the adjusted cost base to the individual of the property immediately before the time of disposition and the amount, if any, that the individual specifies for the purposes of this paragraph in the election under paragraph *a* in respect of the property, and

ii. to have reacquired the property at the emigration time at a cost equal to the amount, if any, by which the amount determined under subparagraph 1 of subparagraph i exceeds the lesser of that reduction and the amount specified by the individual in accordance with subparagraph 2 of that subparagraph i;

(*c*) notwithstanding paragraph *c* of section 785.1 and paragraph *b* of section 785.2, if the individual so elects by notifying the Minister in writing on or before the individual's filing-due date for the year, in respect of each

property that the individual owned throughout the period that began at the emigration time and that ends at the particular time and that is deemed by paragraph *b* of section 785.1 to have been disposed of because the individual became resident in Canada, the individual's proceeds of disposition at the time of disposition, within the meaning assigned by paragraph *b* of section 785.2, and the individual's cost of acquiring the property at the particular time, are deemed to be those proceeds and that cost, determined without reference to this paragraph, minus the least of

i. the amount that would, but for this paragraph, have been the individual's gain from the disposition of the property deemed by paragraph *b* of section 785.2 to have occurred,

ii. the fair market value of the property at the particular time, and

iii. the amount that the individual specifies for the purposes of this paragraph in the election; and

(*d*) notwithstanding sections 1010 to 1011, any assessment of tax that is payable under this Part by the individual for a taxation year that is before the year that includes the particular time and that is not before the year that includes the emigration time shall be made by the Minister as is necessary to give effect to an election under this section, except that no such assessment shall affect the computation of

i. interest payable under this Part to or by a taxpayer in respect of any period that is before the day on which the taxpayer's fiscal return for the taxation year that includes the particular time is filed, or

ii. any penalty payable under this Part.

"**785.2.3.** Where an individual, other than a trust, becomes resident in Canada at a particular time in a taxation year, owns at the particular time a property that the individual last acquired on a trust distribution to which section 688 would, but for section 692, have applied and at a time, in this section referred to as the "distribution time", that was after 1 October 1996 and before the particular time, and was a beneficiary of the trust at the last time, before the particular time, at which the individual ceased to be resident in Canada, the following rules apply:

(*a*) subject to paragraphs *b* and *c*, if the individual and the trust jointly so elect by notifying the Minister in writing on or before the earlier of their filing-due dates for their taxation years that include the particular time, section 688.1 does not apply to the distribution in relation to all properties acquired by the individual at the distribution time that were taxable Canadian properties of the individual throughout the period that began at the distribution time and that ends at the particular time;

(*b*) where the application of section 238.4 would reduce the amount that would, but for that section and this section, have been the individual's loss from the disposition of a property in respect of which an election under paragraph *a* is made, paragraph *c* applies in respect of the individual, the trust and the property, if the individual

i. had been resident in Canada at the distribution time,

ii. had acquired the property at the distribution time at a cost equal to its fair market value at that time,

iii. had ceased to be resident in Canada immediately after the distribution time, and

iv. had, immediately before the particular time, disposed of the property for proceeds of disposition equal to its fair market value immediately before that time;

(*c*) where this paragraph applies in respect of an individual, a trust and a property, the following rules apply:

i. notwithstanding paragraph *a* of section 688.1, the trust is deemed to have disposed of the property at the distribution time for proceeds of disposition equal to the aggregate of

(1) the cost amount to the trust of the property immediately before the distribution time, and

(2) the amount, if any, by which the reduction under section 238.4 described in paragraph *b* exceeds the lesser of the cost amount to the trust of the property immediately before the distribution time and the amount, if any, which the individual and the trust specify for the purposes of this paragraph in the joint election made in respect of the property under paragraph *a*, and

ii. notwithstanding paragraph *b* of section 688.1, the individual is deemed to have acquired the property at the distribution time at a cost equal to the amount, if any, by which the amount otherwise determined under paragraph *b* of section 688 exceeds the lesser of the reduction under section 238.4 described in paragraph *b* and the amount specified in accordance with subparagraph 2 of subparagraph i;

(*d*) notwithstanding paragraphs *a* and *b* of section 688.1, if the individual and the trust jointly so elect by notifying the Minister in writing on or before the earlier of their filing-due dates for their taxation years that include the particular time, in respect of each property that the individual owned throughout the period that began at the distribution time and that ends at the particular time and that is deemed by paragraph *b* of section 785.1 to have been disposed of because the individual became resident in Canada, the trust's proceeds of disposition of the property under paragraph *a* of section 688.1 at the distribution time, and the individual's cost of acquiring the property at the particular time,

are deemed to be those proceeds and that cost, determined without reference to this paragraph, minus the least of

i. the amount that would, but for this paragraph, have been the trust's gain from the disposition of the property deemed by paragraph *a* of section 688.1 to have occurred,

ii. the fair market value of the property at the particular time, and

iii. the amount that the individual and the trust specify in the joint election made for the purposes of this paragraph;

(*e*) if the trust ceases to exist before the individual's filing-due date for the individual's taxation year that includes the particular time,

i. an election or specification described in this section may be made by the individual alone by notifying the Minister in writing on or before that filing-due date, and

ii. if the individual alone makes such an election or specification, the individual and the trust are solidarily liable for any amount payable under this Part by the trust as a result of the election or specification; and

(*f*) notwithstanding sections 1010 to 1011, such assessment of tax payable under this Part by the trust or the individual for any year that is before the year that includes the particular time and that is not before the year that includes the distribution time shall be made by the Minister as is necessary to give effect to an election under this section, except that no such assessment shall affect the computation of

i. interest payable under this Part to or by the trust or the individual in respect of any period that is before the individual's filing-due date for the taxation year that includes the particular time, or

ii. any penalty payable under this Part.

"**785.2.4.** Except for the purposes of paragraph *c* of section 785.2, where an individual, other than a trust, was deemed by paragraph *b* of that section to have disposed of a capital property at any particular time after 1 October 1996, has disposed of the property at a later time at which the capital property was a taxable Canadian property of the individual, and so elects in writing in the individual's fiscal return for the taxation year that includes the later time, there shall be deducted from the individual's proceeds of disposition of the capital property at the particular time, and added to the individual's proceeds of disposition of the capital property at the later time, an amount equal to the least of

(*a*) the amount specified in the election made in respect of the capital property;

(*b*) the amount that would, but for the election, be the individual's gain from the disposition of the capital property at the particular time; and

(*c*) the amount that would be the individual's loss from the disposition of the capital property at the later time, if the loss were determined having reference to every other provision of this Part including sections 238.4 and 738 to 745, but without reference to the election.

"**785.2.5.** An individual who ceases at a particular time in a taxation year to be resident in Canada, and who owns immediately after the particular time one or more reportable properties the fair market value of which at that time is greater than $25,000, shall file with the Minister in prescribed form, on or before the individual's filing-due date for the year, a list of all the reportable properties that the individual owned immediately after the particular time.

"CHAPTER II

"CROSS-BORDER MERGERS".

(2) Subsection 1, where it enacts sections 785.2.1 to 785.2.4 of the said Act, applies in respect of changes in residence that occur after 1 October 1996. However, an election made under paragraph *a* or *c* of section 785.2.2 of the said Act, paragraph *a* or *d* of section 785.2.3 of the said Act or section 785.2.4 of the said Act, by an individual who ceased to be resident in Canada before 7 June 2004, is deemed to have been made in a timely manner if it is made on or before the individual's filing-due date for the taxation year that includes 7 June 2004.

(3) Subsection 1, except where it enacts sections 785.2.1 to 785.2.4 of the said Act, applies in respect of changes in residence that occur after 31 December 1995. However, a form described in section 785.2.5 of the said Act, filed by an individual who ceased to be resident in Canada before 7 June 2004, is deemed to have been filed in a timely manner if it is filed on or before the individual's filing-due date for the taxation year that includes 7 June 2004.

157. (1) The said Act is amended by inserting the following after section 785.3:

"CHAPTER III

"REPLACED SHARES

"**785.3.1.** For the purposes of sections 785.2.2 to 785.2.4, 1033.2 and 1033.7, where, in a transaction to which any of sections 301 to 301.2, 537 and 541 to 555.4 apply, a person acquires a share, in this section referred to as the "new share", in exchange for another share, in this section referred to as the "old share", the person is deemed not to have disposed of the old share, and the new share is deemed to be the same share as the old share."

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

158. (1) Section 818 of the said Act is amended by replacing the second paragraph by the following paragraph:

"However, in its application to any taxation year, "designated insurance property" for the taxation year 1998 or a preceding taxation year means property that was, under this section as it read in its application to any taxation year that ended in 1996, property used or held by an insurer in the year in the course of carrying on an insurance business in Canada."

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

159. (1) Section 832.1 of the said Act is amended by replacing the first paragraph by the following paragraph:

"**832.1.** Subject to section 832.1.1, where a property of a life insurer resident in Canada that carries on an insurance business in Canada and elsewhere or of an insurer not resident in Canada is described in the second paragraph for a taxation year, the following rules apply:

(*a*) the insurer is deemed to have disposed of the property at the beginning of the year for proceeds of disposition equal to its fair market value at that time and to have reacquired the property immediately after that time at a cost equal to that fair market value;

(*b*) in the case of property referred to in subparagraph *a* of the second paragraph, any gain or loss arising from the disposition is deemed not to be a gain or loss from designated insurance property of the insurer for the year; and

(*c*) in the case of property referred to in subparagraph *b* of the second paragraph, any gain or loss arising from the disposition is deemed to be a gain or loss from designated insurance property of the insurer for the year."

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

160. (1) Section 832.3 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

"(*b*) the transferor has, at the time referred to in subparagraph *a* or within 60 days after that time, transferred all or substantially all of the property, in this section referred to as the "transferred property", that is owned by it at that time and that was designated insurance property in relation to the business for the taxation year that, because of subparagraph *d* of the second paragraph, ended immediately before that time, to a corporation, in this section referred to as the "transferee", that is a prescribed corporation which, immediately after that time, began to carry on that insurance business in Canada, and the consideration for the transfer includes shares of the capital stock of the transferee;".

(2) Subsection 1 applies from the taxation year 1999 of a taxpayer, except where the taxpayer or the taxpayer's legal representative made, in respect of paragraph *b* of subsection 11.5 of section 138 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), an election in accordance with subsection 9 of section 133 of the Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act (Statutes of Canada, 2001, chapter 17), in which case subsection 1 applies from the taxation year 1997 of the taxpayer.

161. (1) Section 832.6 of the said Act is amended by replacing paragraph *c* by the following paragraph:

"(*c*) the insurer is deemed to have disposed, immediately before the beginning of the particular taxation year, of each property owned by it at that time that is designated insurance property in relation to the insurance business in Canada for the particular taxation year, for proceeds of disposition equal to the fair market value of the property at that time and to have reacquired, at the beginning of the particular taxation year, the property at a cost equal to that fair market value; and".

(2) Subsection 1 applies from the taxation year 1999 of a taxpayer, except where the taxpayer or the taxpayer's legal representative made, in respect of paragraph *e* of subsection 11.91 of section 138 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), an election in accordance with subsection 9 of section 133 of the Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act (Statutes of Canada, 2001, chapter 17), in which case subsection 1 applies from the taxation year 1997 of the taxpayer.

162. (1) Section 832.9 of the said Act is amended, in the first paragraph,

(1) by replacing the portion before subparagraph *a* of the English text by the following:

"**832.9.** Subparagraphs *a* to *i* of the second paragraph of section 832.3 and sections 832.4 and 832.5 apply in respect of the transfer referred to in subparagraph *b*, where";

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

"(*b*) the transferor has, at that time or within 60 days after that time, transferred to a corporation resident in Canada, in this section referred to as the "transferee", that is a subsidiary wholly-owned corporation of the transferor that, immediately after that time, began to carry on the insurance business in Canada referred to in subparagraph *a* for consideration that includes shares of

the capital stock of the transferee, all or substantially all of the property, in section 832.3 referred to as the “transferred property”, that is,

i. where the transferor is a life insurer that carries on an insurance business in Canada and elsewhere in the year, property that is owned by it at that time and that was designated insurance property in relation to the business for the taxation year that, because of subparagraph *d* of the second paragraph of section 832.3, ended immediately before that time, or

ii. in any other case, property owned by the transferor at that time and used or held by it in the year in the course of carrying on that insurance business in Canada in the year;”;

(3) by replacing subparagraph *c* of the English text by the following subparagraph:

“(*c*) the transferee has, at that time or within 60 days after that time, assumed or reinsured all or substantially all of the obligations of the transferor that arose in the course of carrying on the insurance business in Canada referred to in subparagraph *a*; and”.

(2) Paragraph 2 of subsection 1 applies from the taxation year 1999 of a taxpayer, except where the taxpayer or the taxpayer’s legal representative made, in respect of paragraph *b* of subsection 11.94 of section 138 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), an election in accordance with subsection 9 of section 133 of the Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act (Statutes of Canada, 2001, chapter 17), in which case subsection 1 applies from the taxation year 1997 of the taxpayer.

163. (1) Section 832.14 of the said Act, amended by section 122 of chapter 9 of the statutes of 2003, is again amended by replacing “, 653, 785.1 and 785.2” in paragraph *h* by “and 653 and Chapter I of Title I.1”.

(2) Subsection 1 has effect from 16 December 1998.

164. (1) Section 832.15 of the said Act is amended by replacing “, 653, 785.1 and 785.2” by “and 653 and Chapter I of Title I.1”.

(2) Subsection 1 has effect from 16 December 1998.

165. (1) Section 842.1 of the said Act is amended

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

"(*a*) interest on borrowed money used to acquire designated insurance property for the year, or to acquire property for which designated insurance property for the year was substituted property, for the period in the year during which the designated insurance property was held by the insurer in relation to the business;";

(2) by striking out paragraph *d*.

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

166. (1) The said Act is amended by inserting the following sections after section 851.22.23:

"**851.22.23.1.** Where, at a particular time in a taxation year, a taxpayer that is a financial institution not resident in Canada, other than a life insurance corporation, ceases to use, in connection with a business or part of a business carried on by the taxpayer in Canada immediately before the particular time, a property that is a mark-to-market property of the taxpayer for the year or a specified debt obligation, but that is not a property that was disposed of by the taxpayer at the particular time, the following rules apply:

(*a*) the taxpayer is deemed

i. to have disposed of the property immediately before the time that was immediately before the particular time for proceeds of disposition equal to its fair market value at the time of disposition and to have received those proceeds at the time of disposition in the course of carrying on the business or the part of the business, as the case may be, and

ii. to have reacquired the property at the particular time at a cost equal to those proceeds; and

(*b*) for the purpose of determining the consequences of the disposition referred to in subparagraph i of paragraph *a*, section 851.22.13.2 does not apply to any payment received by the taxpayer after the particular time.

"**851.22.23.2.** Where, at a particular time in a taxation year, a taxpayer that is a financial institution not resident in Canada, other than a life insurance corporation, begins to use, in connection with a business or part of a business carried on by the taxpayer in Canada immediately before the particular time, a property that is a mark-to-market property of the taxpayer for the year that includes the particular time or a specified debt obligation, but that is not a property that was acquired by the taxpayer at the particular time, the taxpayer is deemed

(*a*) to have disposed of the property immediately before the time that was immediately before the particular time for proceeds of disposition equal to its fair market value at the time of disposition; and

(*b*) to have reacquired the property at the particular time at a cost equal to those proceeds.

"**851.22.23.3.** For the application of section 851.22.23.1 to a taxpayer in relation to a property in a taxation year, the definition of "mark-to-market property" in the first paragraph of section 851.22.1 shall

(*a*) be applied as if the taxation year ended immediately before the particular time referred to in section 851.22.23.1; and

(*b*) if the taxpayer does not have financial statements for the period ending immediately before the particular time referred to in section 851.22.23.1, the reference in subparagraphs i and ii of paragraph *b* to "the taxpayer's financial statements for the year" shall be read as a reference to "the taxpayer's financial statements that it is reasonable to expect would have been prepared if the year had ended immediately before the particular time referred to in section 851.22.23.1"."

(2) Subsection 1 has effect from 28 June 1999 in respect of authorized foreign banks, and from 9 August 2000 in any other case.

167. (1) Section 851.22.24 of the said Act is amended by replacing "section 851.22.15 or 851.22.23" by "any of sections 851.22.15 and 851.22.23 to 851.22.23.2".

(2) Subsection 1 has effect from 28 June 1999 in respect of authorized foreign banks, and from 9 August 2000 in any other case.

168. Section 851.22.30 of the said Act is amended, in the French text,

(1) by replacing "pertes en capital déductibles" in paragraph *a* by "pertes en capital admissibles";

(2) by replacing "pertes en capital nettes" in paragraph *b* by "pertes nettes en capital";

(3) by replacing "pertes en capital déductibles" in subparagraph i of paragraph *c* by "pertes en capital admissibles";

(4) by replacing "pertes en capital nettes" in subparagraph ii of paragraph *c* by "pertes nettes en capital".

169. Section 851.22.31 of the said Act is amended by replacing "perte en capital déductible" in the French text of paragraph *b* by "perte en capital admissible".

170. (1) The said Act is amended by inserting the following after section 851.22.31:

“CHAPTER V

“CONVERSION OF FOREIGN BANK AFFILIATE TO BRANCH

“**851.22.32.** In this chapter,

“Canadian affiliate” of an entrant bank at any particular time means a Canadian corporation that was, immediately before the particular time, affiliated with the entrant bank and that was, at all times during the period that began on 11 February 1999 and ended immediately before the particular time,

(*a*) affiliated with either the entrant bank or a foreign bank, within the meaning assigned by section 2 of the Bank Act (Statutes of Canada, 1991, chapter 46) that is affiliated with the entrant bank at the particular time; and

(*b*) either

i. a bank,

ii. a corporation authorized under the Trust and Loan Companies Act (Statutes of Canada, 1991, chapter 45) to offer services as trustee, or

iii. a corporation of which the principal activity in Canada consists of any of the activities referred to in subparagraphs i to v of paragraph *a* of subsection 3 of section 518 of the Bank Act, as they read for that period and in which the entrant bank or a person not resident in Canada affiliated with the entrant bank holds shares under the authority, directly or indirectly, of an order issued by the Minister of Finance of Canada or the Governor in Council under subsection 1 of section 521 of that Act, as it read for that period;

“entrant bank” means a corporation not resident in Canada that is, or has applied to the Superintendent of Financial Institutions of Canada to become, an authorized foreign bank;

“qualifying foreign merger” means a merger or combination of corporations that would be a foreign merger within the meaning assigned by section 555.0.1, if the portion of that section before paragraph *a* were read without reference to “and otherwise than as a result of the distribution of property to one corporation on the winding-up of another corporation”.

“**851.22.33.** For the purposes of the definition of “Canadian affiliate” in section 851.22.32, where an entrant bank was formed because of a qualifying foreign merger, after 11 February 1999 of two or more corporations, in this section referred to as “predecessors”, and at the time immediately before the merger, there were one or more Canadian corporations, in this section referred to as “predecessor affiliates”, each of which at that time would have been a Canadian affiliate of a predecessor if the predecessor were an entrant bank at that time, the following rules apply:

(*a*) each predecessor affiliate is deemed to have been affiliated with the entrant bank throughout the period that began on 11 February 1999 and ended at the time of the merger;

(*b*) the expression "entrant bank" in subparagraph iii of paragraph *b* of the definition of "Canadian affiliate" is deemed to include a predecessor; and

(*c*) if two or more of the predecessor affiliates are amalgamated or merged after 11 February 1999 to form a new corporation, the new corporation is deemed to have been affiliated with the entrant bank throughout the period that began on 11 February 1999 and ended at the time of the amalgamation or merger of the predecessor affiliates.

"**851.22.34.** Where a Canadian affiliate of an entrant bank transfers a property to the entrant bank, the entrant bank begins immediately after the transfer to use or hold the transferred property in its Canadian banking business and the Canadian affiliate and the entrant bank make a valid election for the purposes of subsection 3 of section 142.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the transfer, Chapter IV of Title IX of Book III, except sections 520.1, 522 to 524 and 526, applies with the necessary modifications.

However, for the purposes of the first paragraph,

(*a*) section 518 shall be read as follows:

"**518.** The rules provided for in this division and in Divisions II and III apply where a taxpayer that is a Canadian affiliate of an entrant bank, within the meanings assigned by section 851.22.32, disposes of any of the taxpayer's property to the entrant bank, and the taxpayer and the entrant bank make a valid election for the purposes of subsection 3 of section 142.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement)."; and

(*b*) the reference to "first election mentioned in" in section 521.2 shall be read as a reference to "election referred to in".

"**851.22.35.** Where a Canadian affiliate of an entrant bank and the entrant bank have made a valid election under section 851.22.34, in respect of a transfer of property by the Canadian affiliate to the entrant bank, for the purposes of sections 111, 304, 422, 424, 1082.1 and 1082.4 in respect of the transfer, the fair market value of the property is deemed to be the amount agreed by the Canadian affiliate and the entrant bank in the election.

"**851.22.36.** Where a Canadian affiliate of an entrant bank transfers a specified debt obligation to the entrant bank in a transaction in respect of which they made a valid election under section 851.22.34, the Canadian affiliate is a financial institution in its taxation year in which the transfer is made, and the amount that the Canadian affiliate and the entrant bank agree on in respect of the obligation is equal to the tax basis of the obligation within the

meaning assigned by section 851.22.7, the entrant bank is deemed, for the purposes of Chapters I, II and IV in respect of the obligation, to be the same corporation as, and a continuation of, the Canadian affiliate.

"**851.22.37.** Where, at any time within a period described in paragraph *c* of subsection 11 of section 142.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), a Canadian affiliate of an entrant bank described in paragraph *a* of that subsection 11 transfers to the entrant bank a property that is, for the Canadian affiliate's taxation year in which the property is transferred, a mark-to-market property of the Canadian affiliate, the following rules apply:

(*a*) for the purposes of sections 744.4 to 744.6.1 and 744.8, the definition of "mark-to-market property" in the first paragraph of section 851.22.1 and section 851.22.22, the entrant bank is deemed, in respect of the property, to be the same corporation as, and a continuation of, the Canadian affiliate; and

(*b*) for the purpose of applying section 851.22.15 in respect of the property, the Canadian affiliate's taxation year in which the property is transferred is deemed to have ended immediately before the time the property was transferred.

"**851.22.38.** The rules in the second paragraph apply where

(*a*) at a particular time, a Canadian affiliate of an entrant bank transfers to the entrant bank property that is a loan, lending asset or a right to receive an unpaid amount in relation to a disposition before the particular time of property by the affiliate, or the entrant bank assumes an obligation of the Canadian affiliate that is an instrument or commitment described in section 140.2 or an obligation in respect of goods, services, lands or movable property described in paragraph *a* or *b* of section 150;

(*b*) the property is transferred or the obligation is assumed for an amount equal to its fair market value at the particular time;

(*c*) the entrant bank begins immediately after the particular time to use or hold the property or owe the obligation in its Canadian banking business; and

(*d*) the Canadian affiliate and the entrant bank make a valid election for the purposes of subsection 7 of section 142.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the transfer or assumption.

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

(*a*) for the purposes of sections 140, 140.2, 141 and 150 and the first paragraph of section 153 in relation to the obligation or property, the taxation year of the Canadian affiliate that would, but for this section, include the particular time is deemed to end immediately before the particular time; and

(*b*) for the purpose of computing the income of the Canadian affiliate and the entrant bank for taxation years that end on or after the particular time,

i. any amount deducted under sections 140, 140.2 and 150 and the first paragraph of section 153 by the Canadian affiliate in relation to the obligation or property in computing its income for its taxation year that ended immediately before the particular time, or under section 141 in computing its income for that year or for a preceding taxation year, to the extent that the amount has not been included in computing the affiliate's income under paragraph *i* of section 87, is deemed to have been so deducted by the entrant bank in computing its income for its last taxation year that ended before the particular time and not to have been deducted by the Canadian affiliate,

ii. for the purposes of section 150, an amount in respect of the goods, services, land or movable property that was included in computing the Canadian affiliate's income from a business under paragraph *a* of section 87 is deemed to have been so included in computing the entrant bank's income from its Canadian banking business for a preceding taxation year,

iii. for the purposes of the first paragraph of section 153 in respect of a property described in the first paragraph sold by the Canadian affiliate in the course of a business, the property is deemed to have been disposed of by the entrant bank, and not by the Canadian affiliate, at the time it was disposed of by the Canadian affiliate, and the amount in respect of the sale that was included in computing the Canadian affiliate's income from a business is deemed to have been included in computing the entrant bank's income from its Canadian banking business for its taxation year that includes the time at which the property was disposed of, and

iv. for the purposes of sections 234 and 279 in respect of a property described in the first paragraph disposed of by the Canadian affiliate,

(1) the property is deemed to have been disposed of by the entrant bank, and not by the Canadian affiliate, at the time it was disposed of by the Canadian affiliate,

(2) the amount determined under the portion of the first paragraph of section 234 before subparagraph *b* or subparagraph i of paragraph *a* of section 279, in respect of the Canadian affiliate is deemed to be the amount determined under that provision in respect of the entrant bank, and

(3) any amount claimed as a reserve by the Canadian affiliate under subparagraph *b* of the first paragraph of section 234 or the portion of paragraph *a* of section 279 before subparagraph i, in computing its gain from the disposition of the property for its last taxation year that ended before the particular time is deemed to have been so claimed by the entrant bank for its last taxation year that ended before the particular time.

"**851.22.39.** Where, at any time within the period described in paragraph *c* of subsection 11 of section 142.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), a Canadian affiliate of an entrant bank described in paragraph *a* of that subsection 11 transfers property to the entrant bank, and any part of the consideration for the transfer is the assumption by the entrant bank in respect of its Canadian banking business of a debt obligation of the Canadian affiliate, the following rules apply:

(*a*) if the Canadian affiliate and the entrant bank make a valid election for the purposes of paragraph *a* of subsection 8 of section 142.7 of the Income Tax Act,

i. both the value of that part of the consideration for the transfer of the property and, for the purpose of determining the consequences of the assumption of the obligation and any subsequent settlement or extinguishment of that obligation, the value of the consideration given to the foreign bank for the assumption of the obligation are deemed to be an amount, in this paragraph referred to as the "assumption amount", equal to the amount outstanding on account of the principal amount of the obligation at that time, and

ii. the assumption amount shall not be considered a term of the transaction that differs from that which would have been made between persons dealing at arm's length solely because it is not equal to the fair market value of the obligation at that time;

(*b*) where the obligation is denominated in a foreign currency, and the foreign affiliate and the entrant bank make a valid election for the purposes of paragraph *b* of subsection 8 of section 142.7 of the Income Tax Act,

i. the amount of any income, loss, capital gain or capital loss in respect of the obligation due to the fluctuation in the value of the foreign currency relative to Canadian currency realized by

(1) the Canadian affiliate on the assumption of the obligation is deemed to be nil, and

(2) the entrant bank on the settlement or extinguishment of the obligation shall be determined based on the amount of the obligation in Canadian currency at the time it became an obligation of the Canadian affiliate, and

ii. for the purposes of an election made in respect of the obligation under paragraph *a*, the amount outstanding on account of the principal amount of the obligation at that time is the aggregate of all amounts each of which is an amount that was advanced to the Canadian affiliate on account of principal, that remains outstanding at that time, and that is determined using the exchange rate that applied between the foreign currency and Canadian currency at the time of the advance; and

(*c*) for the purposes of sections 176 to 176.2 and 179 in respect of the debt obligation, the obligation is deemed not to have been settled or extinguished by virtue of its assumption by the entrant bank and the entrant bank is deemed to be the same corporation as, and a continuation of, the Canadian affiliate.

"**851.22.40.** Notwithstanding any other provision of this Act, where a dividend is paid or is deemed to be paid by a Canadian affiliate of an entrant bank to the entrant bank or to a person that is affiliated with the entrant bank and that is resident in the country in which the entrant bank is resident, and the Canadian affiliate and the entrant bank make the election under subsection 9 of section 142.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) to have subsection 10 of that section 142.7 apply in respect of the dividend, the dividend is deemed, except for the purposes of sections 739 and 741 to 745, not to be a taxable dividend.

"**851.22.41.** For the purposes of the provisions of Title VII of Book IV for the purpose of computing the taxable income of an entrant bank for any taxation year that begins after the issue of the dissolution order described in subparagraph i of paragraph *a* of subsection 12 of section 142.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or after the commencement of the winding-up of a Canadian affiliate of the entrant bank, as the case may be, the rules in the second paragraph apply where

(*a*) the affiliate has been wound up or the dissolution order has been issued, within the period referred to in paragraph *c* of subsection 11 of section 142.7 of the Income Tax Act in relation to the entrant bank;

(*b*) the entrant bank carries on all or part of the business in Canada that was formerly carried on by the Canadian affiliate; and

(*c*) the Canadian affiliate and the entrant bank make a valid election for the purposes of subsection 12 of section 142.7 of the Income Tax Act.

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

(*a*) subject to subparagraphs *b* and *e*, the portion of a non-capital loss of the Canadian affiliate for a taxation year, in this subparagraph referred to as the "Canadian affiliate's non-capital loss year", that can reasonably be regarded as being its loss from carrying on a business in Canada, in this subparagraph referred to as the "loss business", is deemed, for the taxation year of the entrant bank in which the Canadian affiliate's non-capital loss year ended, to be a non-capital loss of the entrant bank from carrying on the loss business that was not deductible by the entrant bank in computing its taxable income for any taxation year that began before the date of the dissolution order or the commencement of the winding-up, as the case may be, to the extent that

i. the portion of the non-capital loss of the Canadian affiliate was not deducted in computing the taxable income of the Canadian affiliate or any other entrant bank for any taxation year, and

ii. the portion of the non-capital loss of the Canadian affiliate would have been deductible in computing the taxable income of the Canadian affiliate for any taxation year that begins after the date of the dissolution order or the commencement of the winding-up, as the case may be, if it had such a taxation year and if it had sufficient income for that year;

(*b*) if at any time control of the Canadian affiliate or entrant bank has been acquired by a person or group of persons, no amount in respect of the Canadian affiliate's non-capital loss for a taxation year that ends before that time is deductible in computing the taxable income of the entrant bank for a particular taxation year that ends after that time, except that the portion of the loss that can reasonably be regarded as the Canadian affiliate's loss from carrying on a business in Canada and, where a business was carried on by the Canadian affiliate in Canada in the preceding year, the portion of the loss that can reasonably be regarded as being attributable to an amount deductible under section 725.1.1 in computing its taxable income for the year are deductible only if that business is carried on by the Canadian affiliate or the entrant bank for profit or with a reasonable expectation of profit throughout the particular year, and to the extent of the aggregate of the entrant bank's income for the particular year from that business, and where properties were sold, leased, rented or developed or services rendered in the course of carrying on that business before that time, from any other business substantially all the income of which was derived from the sale, leasing, rental or development, as the case may be, of similar properties or the rendering of similar services;

(*c*) subject to subparagraphs *d* and *e*, a net capital loss of the Canadian affiliate for a taxation year, in this subparagraph referred to as the "Canadian affiliate's loss year", is deemed to be a net capital loss of the entrant bank for its taxation year in which the Canadian affiliate's loss year ended to the extent that the loss

i. was not deducted in computing the taxable income of the Canadian affiliate or any other entrant bank for any taxation year, and

ii. would have been deductible in computing the taxable income of the Canadian affiliate for any taxation year beginning after the date of the dissolution order or the commencement of the winding-up, as the case may be, if the Canadian affiliate had such a taxation year and if it had sufficient income and taxable capital gains for the year;

(*d*) if at any time control of the Canadian affiliate or the entrant bank has been acquired by a person or group of persons, no amount in respect of the Canadian affiliate's net capital loss for a taxation year that ended before that time is deductible in computing the entrant bank's taxable income for a taxation year that ends after that time; and

(*e*) any loss of the Canadian affiliate that would otherwise be deemed by subparagraph *a* or *c* to be a loss of the entrant bank for a particular taxation year that begins after the date of the dissolution order or the commencement of the winding-up, as the case may be, is deemed, for the purpose of computing the entrant bank's taxable income for taxation years that begin after that date, to be such a loss of the entrant bank for its preceding taxation year and not for the particular year, if the entrant bank makes the election under paragraph *h* of subsection 12 of section 142.7 of the Income Tax Act for the particular year.

For the purposes of subparagraph *b* of the second paragraph, where sections 564.2 to 564.4.4 applied to the winding-up of another corporation in respect of which the Canadian affiliate was the parent and sections 564.4.1 to 564.4.3 applied in respect of losses of that other corporation, the Canadian affiliate is deemed to be the same corporation as, and a continuation of, that other corporation with respect to those losses.

"**851.22.42.** Where an entrant bank and its Canadian affiliate have at any time made a joint election under section 851.22.34 or 851.22.41, the following rules apply:

(*a*) in respect of any transfer of property, directly or indirectly, by the Canadian affiliate to the entrant bank or a person with whom the entrant bank does not deal at arm's length,

i. subparagraph iii of subparagraph *b* of the second paragraph of section 93.3.1 shall be read without reference to subparagraph 5 thereof,

ii. subparagraph *a* of the second paragraph of section 106.4 shall be read without reference to subparagraph v thereof,

iii. subparagraph *b* of the first paragraph of section 175.9 shall be read without reference to subparagraph iv thereof, and

iv. subparagraph *b* of the second paragraph of section 238.1 shall be read without reference to subparagraph v thereof;

(*b*) in respect of any property of the Canadian affiliate appropriated to or for the benefit of the entrant bank or any person with whom the entrant bank does not deal at arm's length, section 424 shall be read without reference to subsection 2 thereof; and

(*c*) for the purposes of sections 93.3.1, 106.4, 175.9 and 238.1 in relation to any property that was disposed of by the affiliate, after the dissolution or winding-up of the affiliate, the entrant bank is deemed to be the same corporation as, and a continuation of, the affiliate.

"**851.22.43.** Where a Canadian affiliate of an entrant bank and the entrant bank meet the conditions set out in subparagraphs *a* and *b* of the first paragraph of section 851.22.41 and make a valid election under subsection 14

of section 142.7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and the Canadian affiliate has not made an election under that section with any other entrant bank, the entrant bank is deemed to be the same corporation as, and a continuation of, the Canadian affiliate for the purposes of paragraphs *c* and *d* of section 851.22.11 in respect of any specified debt obligation disposed of by the Canadian affiliate.

"**851.22.44.** Where an election to which any of sections 851.22.34, 851.22.40 and 851.22.43 or subparagraph *d* of the first paragraph of section 851.22.38, subparagraph *a* or *b* of the first paragraph of section 851.22.39 or subparagraph *c* of the first paragraph or subparagraph *e* of the second paragraph of section 851.22.41, has been made, the prescribed form, with a copy of every document sent to the Minister of Revenue of Canada in connection with that election, shall be sent to the Minister."

(2) Subsection 1 has effect from 28 June 1999.

171. (1) Section 908 of the said Act is amended

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

"(*b*) any amount paid out of or under a registered retirement savings plan of the annuitant, other than any part of the amount that is a tax-paid amount in respect of the plan, after the death to a child or grandchild of the annuitant, who was, at the time of the death, financially dependent on the annuitant for support within the meaning of paragraph *b* of the definition of "refund of premiums" in subsection 1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).";

(2) by striking out "(Revised Statutes of Canada, 1985, chapter 1, 5th Supplement)" in the second paragraph;

(3) by striking out the third paragraph.

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

172. Section 966 of the said Act, amended by section 260 of chapter 2 of the statutes of 2003, is again amended by replacing "paragraph *d* of section 451" in paragraph *a*.2 by "subparagraph *d* of the first paragraph of section 451".

173. (1) Section 985 of the said Act is amended

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

"(*a*) a corporation, commission or association all of the capital, property or shares, other than directors' qualifying shares, of which is owned by one or more persons each of which is the State, Her Majesty in right of Canada or Her Majesty in right of a province, other than Québec;

"(*b*) a corporation, commission or association not less than 90% of the capital, property or shares, other than directors' qualifying shares, of which is owned by one or more persons each of which is the State, Her Majesty in right of Canada or Her Majesty in right of a province, other than Québec;

"(*c*) a corporation all of the capital, property or shares, other than directors' qualifying shares, of which is owned by one or more persons each of which is another corporation, a commission or an association to which this subparagraph or subparagraph *a* applies for the period;";

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

"i. one or more persons each of which is the State, Her Majesty in right of Canada, Her Majesty in right of a province, other than Québec, or a person to which subparagraph *a* or *c* applies for the period, or";

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

"(*e*) a corporation all of the capital, property or shares, other than directors' qualifying shares, of which is owned by one or more persons each of which is another corporation, a commission or an association to which this subparagraph or any of subparagraphs *a* to *d* applies for the period;";

(4) by replacing the portion of subparagraph *g* of the first paragraph before subparagraph i by the following:

"(*g*) subject to sections 985.0.1 and 985.0.2, a corporation all of the capital, property or shares, other than directors' qualifying shares, of which is owned by one or more persons each of which is another corporation, a commission or an association to which this subparagraph or subparagraph *f* applies for the period, where not more than 10% of the corporation's income for the period is derived from";

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

"Where at a particular time a corporation, commission or association, in this paragraph referred to as the "entity", would, but for this paragraph, be described in any of subparagraphs *a* to *g* of the first paragraph, the entity is deemed not to be, at the particular time, a person described in that subparagraph if

(*a*) one or more persons, other than the State, Her Majesty in right of Canada, Her Majesty in right of a province, other than Québec, a municipality in Canada or a person which, at the particular time, is a person described in any of subparagraphs *a* to *g* of the first paragraph, have at the particular time a right to the capital, property or shares of that entity, or a right to acquire them; and

(*b*) the exercise of the rights referred to in subparagraph *a* would result in the entity not being a person described in any of subparagraphs *a* to *g* of the first paragraph at the particular time."

(2) Subsection 1 applies to taxation years or fiscal periods that begin after 31 December 1998. However, where a corporation, commission or association so elects in writing and files the election with the Minister of Revenue on or before 31 December 2004, the reference to "at a particular time" in the second paragraph of section 985 of the said Act shall be read as a reference to "at a particular time after 30 November 1999".

174. (1) The said Act is amended by inserting the following section after section 985:

"**985.0.0.1.** Section 985 does not apply in respect of a person's taxable income for a particular taxation year that begins after 31 December 1998 where

(*a*) subparagraph *a* of the first paragraph of section 985 does not apply in respect of the person's taxable income for the person's last taxation year that began before 1 January 1999;

(*b*) any of subparagraphs *c*, *d* and *e* of the first paragraph of section 985 would, but for this section, have applied in respect of the person's taxable income for the person's last taxation year that began after 31 December 1998;

(*c*) there has been no change in the direct or indirect control of the person during the period that began at the beginning of the person's first taxation year that began after 31 December 1998 and ends at the end of the particular year;

(*d*) the person elects in writing before 1 January 2002 to have this section apply; and

(*e*) the person has not notified the Minister in writing before the beginning of the particular year that the election has been revoked."

(2) Subsection 1 applies to taxation years or fiscal periods that begin after 31 December 1998. However, where the election referred to in section 985.0.0.1 of the said Act is filed with the Minister of Revenue on or before 31 December 2004, the election is deemed to have been made in accordance with section 985.0.0.1.

175. (1) Section 985.0.1 of the said Act is amended by adding the following paragraph after paragraph *c*:

"(*d*) the corporation, commission or association, as the case may be, in a province as a producer of electrical energy or natural gas or as a distributor of electrical energy, heat, natural gas or water, where the activity is regulated under the laws of the province."

(2) Subsection 1 applies to taxation years or fiscal periods that begin after 31 December 1998.

176. (1) Section 998 of the said Act, amended by section 520 of chapter 45 of the statutes of 2002, is again amended by replacing subparagraph ii of paragraph *c*.2 by the following subparagraph:

"ii. has, without interruption since the later of the date on which it was incorporated and 16 November 1978,

(1) limited its activities to acquiring, holding, maintaining, improving, leasing or managing capital property that is immovable property or an interest therein owned by the corporation, a registered pension plan or another corporation described in this paragraph, other than a corporation without share capital, and investing its funds in a partnership that limits its activities to acquiring, holding, maintaining, improving, leasing or managing capital property that is immovable property or an interest therein owned by the partnership,

(2) borrowed money solely for the purpose of earning income from immovable property or an interest therein, and

(3) made no investments other than investments in immovable property or in an interest in such property or that is a qualified investment of a pension plan under the Pension Benefits Standards Act, 1985 (Revised Statutes of Canada, 1985, chapter 32, 2nd Supplement) or a similar law of a province;".

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

177. (1) Section 1010 of the said Act, amended by section 9 of chapter 4 of the statutes of 2004, is again amended by adding the following subparagraph after subparagraph vi of paragraph *a*.1 of subsection 2:

"vii. a reassessment of the taxpayer's tax is required to be made, if the taxpayer is not resident in Canada and carries on a business in Canada, as a consequence of an allocation by the taxpayer of revenues or expenses as amounts in respect of the Canadian business, other than revenues or expenses that relate solely to the Canadian business, that are recorded in the books of account of the Canadian business, and the documentation in support of which is kept in Canada, or a notional transaction between the taxpayer and its Canadian banking business, where the transaction is recognized for the purposes of the computation of an amount under this Act or an applicable tax treaty; and".

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

178. (1) Section 1012.1 of the said Act is amended

(1) by replacing "Aux fins" in the portion of the French text before paragraph *a* by "Pour l'application";

(2) by inserting the following paragraph after paragraph *d*.1:

"(*d*.1.0.1) section 785.2.4 as a result of a disposition in a subsequent taxation year;".

(2) Paragraph 2 of subsection 1 applies to taxation years that end after 1 October 1996.

179. (1) The said Act is amended by inserting the following section after section 1012.1:

"**1012.2.** Where a taxpayer has filed for a particular taxation year the fiscal return required by section 1000 and the amount included in computing the taxpayer's income for the particular taxation year under section 580 is subsequently reduced because of a reduction described in the second paragraph, the Minister shall, if the taxpayer files with the Minister, on or before the filing-due date for the taxpayer's subsequent taxation year in respect of the reduction, a request in prescribed form to amend the fiscal return for the particular taxation year, reassess the taxpayer's tax for any relevant taxation year other than a taxation year preceding the particular taxation year in order to take into account the reduction in the amount included in computing the income of the taxpayer for the particular taxation year under section 580.

The reduction to which the first paragraph refers is the reduction in the foreign accrual property income of a foreign affiliate of the taxpayer, within the meaning of section 579, for a taxation year of the foreign affiliate that ends in the particular taxation year and is

(*a*) attributable to the amount, determined under the regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), that is the deductible loss of the foreign affiliate for the taxation year that it sustained in a subsequent taxation year that ended in a subsequent taxation year of the taxpayer; and

(*b*) included in the value of F of the formula provided for in the definition of "foreign accrual property income" in subsection 1 of section 95 of the Income Tax Act in relation to the foreign affiliate for the taxation year."

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

180. (1) The said Act is amended by inserting the following after section 1033.1:

“CHAPTER IV.1

“SECURITY FOR DEPARTURE FROM CANADA

“**1033.2.** Where, at any particular time in a taxation year, in this section and sections 1033.3 and 1033.4 referred to as the “emigration year”, an individual is deemed by section 785.2 to have disposed of a property, other than a right to a benefit under, or an interest in a trust governed by, an employee benefit plan, and the individual elects, in prescribed manner on or before the individual’s balance-due day for the emigration year, that this section and sections 1033.3 to 1033.6 apply to the emigration year, the following rules apply:

(*a*) the Minister shall, until the individual’s balance-due day for a particular taxation year that begins after the particular time, accept security satisfactory to the Minister and furnished by or on behalf of the individual on or before the individual’s balance-due day for the emigration year for the lesser of

i. the amount determined by the formula

$A - B - \{[(A - B) / A] \times C\}$, and

ii. if the particular year is the year that follows the emigration year, the amount determined under subparagraph i, and in any other case, the amount determined under this subparagraph in respect of the individual for the taxation year that precedes the particular year; and

(*b*) except for the purposes of the first, second and third paragraphs of section 1038, the following interest and penalties shall be computed as if the particular amount for which security satisfactory to the Minister has been accepted under this section were an amount paid by the individual on account of the particular amount:

i. interest payable under this Part for any period that ends on the individual’s balance-due day for the particular year and throughout which security is accepted by the Minister, and

ii. penalties payable under this Part computed with reference to an individual’s tax payable for the year that was, without reference to this subparagraph, unpaid.

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

(*a*) A is the amount of tax that would be payable by the individual under this Part for the emigration year if the exclusion from income or deduction of an amount referred to in the first paragraph of section 1044 were not taken into account;

(*b*) B is the amount of tax that would have been so payable by the individual under this Part if each property, other than a right to a benefit under, or an interest in a trust governed by, an employee benefit plan, deemed by section 785.2 to have been disposed of at the particular time, and that has not been subsequently disposed of before the beginning of the particular year, were not deemed by that section to have been disposed of by the individual at the particular time; and

(*c*) C is the aggregate of all amounts deemed under this or any other Act to have been paid on account of the individual's tax payable under this Part for the emigration year.

"**1033.3.** For the purposes of section 1033.2, this section and sections 1033.4 to 1033.6, where an individual, other than a trust, elects under section 1033.2 that that section apply in respect of a taxation year, the Minister is deemed to have accepted at any time after the election was made security satisfactory to the Minister for a total amount of tax payable under this Part by the individual for the emigration year equal to the lesser of

(*a*) the amount of tax that would be payable for the year by an *inter vivos* trust resident in Canada, other than a trust described in section 769, the taxable income of which for the year is $50,000; and

(*b*) the greatest amount for which the Minister is required to accept security furnished by or on behalf of the individual under section 1033.2 at the particular time in respect of the emigration year.

The security referred to in the first paragraph is deemed to have been furnished by the individual before the individual's balance-due day for the emigration year.

"**1033.4.** Notwithstanding sections 1033.2 and 1033.3, the Minister is deemed at any time not to have accepted security under section 1033.2 in respect of an individual's emigration year for any amount greater than the amount by which the particular tax that would be payable by the individual under this Part for the year if the exclusion from income or deduction of an amount referred to in the first paragraph of section 1044, in respect of which the date determined in accordance with the second paragraph of that section is after that time, were not taken into account, exceeds the amount determined under the second paragraph.

The amount to which the first paragraph refers is equal to the particular tax that would be determined under that paragraph if this Act were read without reference to section 785.2.

"**1033.5.** Subject to section 1033.11, if it is determined at any particular time that security accepted by the Minister under section 1033.2 is not

adequate to secure the particular amount for which it was furnished by or on behalf of an individual, the following rules apply:

(*a*) subject to a subsequent application of this section, the security shall be considered after the particular time to secure only the amount for which it is security considered satisfactory at the particular time;

(*b*) the Minister shall notify the individual in writing of the determination and shall accept security satisfactory to the Minister, for all or any part of the particular amount, furnished by or on behalf of the individual within 90 days after the day of notification; and

(*c*) any security accepted in accordance with paragraph *b* is deemed to have been accepted by the Minister under section 1033.2 on account of the particular amount at the particular time.

"**1033.6.** If in the opinion of the Minister it would be just and equitable to do so, the Minister may at any time extend

(*a*) the time for making an election under section 1033.2;

(*b*) the time for furnishing and accepting security under section 1033.2; or

(*c*) the 90-day period for the acceptance of security under paragraph *b* of section 1033.5.

"**1033.7.** The rules in the second paragraph apply where

(*a*) solely because of the application of section 692, subparagraphs *a* to *c* of the first paragraph of section 688 do not apply to a distribution by a trust in a particular taxation year, in this section and section 1033.8 referred to as the "distribution year", of taxable Canadian property; and

(*b*) the trust elects, in prescribed manner on or before the trust's balance-due day for the distribution year, that this section and sections 1033.8 to 1033.10 apply in respect of the distribution year.

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

(*a*) the Minister shall, until the trust's balance-due day for a subsequent taxation year, accept security satisfactory to the Minister and furnished by or on behalf of the trust on or before the trust's balance-due day for the distribution year for the lesser of

i. the amount determined by the formula

$A - B - \{[(A - B) / A] \times C\}$, and

ii. if the subsequent year is the year that follows the distribution year, the amount determined under subparagraph i, and in any other case, the amount determined under this subparagraph in respect of the trust for the taxation year that precedes the subsequent year; and

(*b*) except for the purposes of the first, second and third paragraphs of section 1038, the following interest and penalties shall be computed as if the particular amount for which security satisfactory to the Minister has been accepted under this section were an amount paid by the trust on account of the particular amount:

i. interest payable under this Part for any period that ends on the trust's balance-due day for the subsequent year and throughout which security is accepted by the Minister, and

ii. penalties payable under this Part computed with reference to the trust's tax payable for the year that was, without reference to this subparagraph, unpaid.

In the formula provided for in subparagraph i of subparagraph *a* of the second paragraph,

(*a*) A is the amount of tax that would be payable by the trust under this Part for the distribution year if the exclusion from income or deduction of an amount referred to in the first paragraph of section 1044 were not taken into account;

(*b*) B is the amount of tax that would be so payable by the individual under this Part if the rules in section 688, other than the election referred to in that section, had applied to each distribution by the trust in the distribution year of property, other than property subsequently disposed of before the beginning of the subsequent year, to which subparagraph *a* of the first paragraph applies; and

(*c*) C is the aggregate of all amounts deemed under this or any other Act to have been paid on account of the trust's tax payable under this Part for the distribution year.

"**1033.8.** Notwithstanding section 1033.7, the Minister is deemed at any time not to have accepted security under that section in respect of a trust's distribution year for any amount greater than the amount by which the particular tax that would be payable by the trust under this Part for the year if the exclusion from income or deduction of an amount referred to in the first paragraph of section 1044 in respect of which the date determined in accordance with the second paragraph of that section is after that time, were not taken into account, exceeds the amount determined under the second paragraph.

The amount to which the first paragraph refers is equal to the particular tax that would be determined under that paragraph if subparagraphs *a* to *c* of the

first paragraph of section 688 had applied to each distribution by the trust in the year of property to which subparagraph *a* of the first paragraph of section 1033.7 applies.

"**1033.9.** Subject to section 1033.11, if it is determined at any particular time that security accepted by the Minister under section 1033.7 is not adequate to secure the particular amount for which it was furnished by or on behalf of a trust, the following rules apply:

(*a*) subject to a subsequent application of this section, the security shall be considered after the particular time to secure only the amount for which it is security considered satisfactory at the particular time;

(*b*) the Minister shall notify the trust in writing of the determination and shall accept security satisfactory to the Minister, for all or any part of the particular amount, furnished by or on behalf of the trust within 90 days after the notification; and

(*c*) any security accepted in accordance with paragraph *b* is deemed to have been accepted by the Minister under section 1033.7 on account of the particular amount at the particular time.

"**1033.10.** If in the opinion of the Minister it would be just and equitable to do so, the Minister may at any time extend

(*a*) the time for making an election under section 1033.7;

(*b*) the time for furnishing and accepting security under section 1033.7; or

(*c*) the 90-day period for the acceptance of security under paragraph *b* of section 1033.9.

"**1033.11.** The Minister may, in respect of an election made by an individual under section 1033.2 or 1033.7, accept for any particular period of time security different from, or of lesser value than, that which the Minister would otherwise accept under that section, if, in respect of that period, the Minister determines that the individual cannot, without undue hardship, pay or reasonably arrange to have paid on the individual's behalf, an amount of tax to which security under that section would relate, and cannot, without undue hardship, furnish or reasonably arrange to have furnished on the individual's behalf, adequate security under that section.

"**1033.12.** In making a determination under section 1033.11, the Minister shall ignore any transaction that is a disposition, lease, encumbrance, hypothec, or other voluntary restriction by a person or partnership of the person's or partnership's rights in respect of a property, if the transaction can reasonably be considered to have been entered into for the purpose of influencing the determination.

"**1033.13.** The prescription provided for in the first paragraph of section 27.3 of the Act respecting the Ministère du Revenu (chapter M-31) is suspended for the time during which a security is accepted or is deemed to be accepted by the Minister under this chapter."

(2) Subsection 1 applies in respect of dispositions and distributions that occur after 1 October 1996. However,

(1) where sections 1033.2 to 1033.4, 1033.7 and 1033.8 of the said Act apply to emigration years or distribution years, as the case may be, that are before 1 January 2000, the reference therein to "this Part" shall be read, wherever it appears, as a reference to "this Act";

(2) where subparagraph *a* of the first paragraph of section 1033.3 of the said Act applies to emigration years that are before 1 January 2001, the reference therein to "$50,000" shall be read as a reference to "$75,000"; and

(3) in the case of an individual who ceased to be resident in Canada before 7 June 2004, or of a distribution by a trust before that date and to which subparagraph *a* of the first paragraph of section 1033.7 of the said Act applies in relation to the trust, the following rules apply:

(*a*) an election by the individual under section 1033.2 of the said Act, or by the trust under section 1033.7 of the said Act, as the case may be, in respect of the taxation year that includes the time of disposition or attribution is deemed to have been made in a timely manner if it is made on or before the individual's filing-due date for the individual's taxation year that includes 7 June 2004, and

(*b*) security furnished by or on behalf of the individual under section 1033.2 of the said Act, or by or on behalf of the trust under section 1033.7 of the said Act, as the case may be, is deemed to have been furnished in a timely manner if it is furnished on or before the individual's filing-due date for the individual's taxation year that includes 7 June 2004.

181. (1) Section 1044 of the said Act is amended by replacing the first paragraph by the following paragraph:

"**1044.** Where, for a particular taxation year, a taxpayer is entitled to exclude from the taxpayer's income under sections 294 to 298 an amount in respect of the exercise of an option in a subsequent taxation year, to exclude from the taxpayer's income or to deduct an amount by reason of the disposition in a subsequent taxation year of a work of art referred to in section 714.1 or 752.0.10.11.1 by a donee referred to in that section, to deduct an amount relating to a subsequent taxation year, or because of an event in a subsequent taxation year, and referred to in any of paragraphs *b*, *b*.1, *c* to *d*.1 and *d*.1.1 to *f* of section 1012.1, or to deduct an amount under any of sections 785.2.2 to 785.2.4 from the proceeds of disposition of a property because of an election made in a fiscal return for a subsequent taxation year, the tax payable under

this Part by the taxpayer for the taxation year is deemed, for the purpose of computing interest payable under sections 1037 to 1040, to be equal to the tax that the taxpayer would have been required to pay if the consequences of the deduction or exclusion of those amounts were not taken into account."

(2) Subsection 1 applies to taxation years that end after 1 October 1996. However, where the first paragraph of section 1044 of the said Act applies in respect of applications for loss carry-over made before 15 May 2002, it shall be read as follows:

"**1044.** Where, for a particular taxation year, a taxpayer is entitled to exclude from the taxpayer's income under sections 294 to 298 an amount in respect of the exercise of an option in a subsequent taxation year, to exclude from the taxpayer's income or to deduct an amount by reason of the disposition in a subsequent taxation year of a work of art referred to in section 714.1 or 752.0.10.11.1 by a donee referred to in that section, to deduct an amount relating to a subsequent taxation year, or because of an event in a subsequent taxation year, and referred to in any of paragraphs *b*, *b*.1, *c* to *d*.1 and *d*.1.1 to *f* of section 1012.1, to deduct an amount relating to a preceding taxation year and referred to in any of sections 727 to 737 where the deduction is claimed after the expiry of the time limit provided for in section 1000 applicable to the particular taxation year or to deduct an amount under any of sections 785.2.2 to 785.2.4 from the proceeds of disposition of a property because of an election made in a fiscal return for a subsequent taxation year, the tax payable under this Part by the taxpayer for the taxation year is deemed, for the purpose of computing interest payable under sections 1037 to 1040, to be equal to the tax that the taxpayer would have been required to pay if the consequences of the deduction or exclusion of those amounts were not taken into account."

182. (1) Section 1053 of the said Act is amended by replacing the portion before paragraph *a* by the following:

"**1053.** For the purposes of section 1052, the portion of any overpayment of the tax payable by a taxpayer for a taxation year that arose as a consequence of the exclusion of an amount from the taxpayer's income under sections 294 to 298 in respect of the exercise of an option in a subsequent taxation year, as a consequence of the exclusion of an amount from the taxpayer's income, or of the deduction of an amount, by reason of the disposition, in a subsequent taxation year, of a work of art referred to in section 714.1 or 752.0.10.11.1 by a donee referred to in that section, as a consequence of the deduction of an amount relating to a subsequent taxation year, or because of an event in a subsequent taxation year, and referred to in any of paragraphs *b*, *b*.1, *c* to *d*.1 and *d*.1.1 to *f* of section 1012.1, as a consequence of the deduction of an amount under any of sections 785.2.2 to 785.2.4 from the proceeds of disposition of a property, because of an election made in a fiscal return for a subsequent taxation year, or as a consequence of the deduction of an amount relating to a preceding taxation year and referred to in any of sections 727 to 737 where that deduction is claimed after the expiry of the time limit provided for in section 1000 applicable to the taxation year, is deemed to have been paid to the Minister on the latest of".

(2) Subsection 1 applies to taxation years that end after 1 October 1996.

183. (1) Section 1082.3 of the said Act, amended by section 284 of chapter 2 of the statutes of 2003, is again amended

(1) by striking out the definitions of "arm's length allocation", "arm's length transfer price", "documentation-due date", "qualifying cost contribution arrangement", "transfer price", "transfer pricing capital setoff adjustment" and "transfer pricing income setoff adjustment" in the first paragraph;

(2) by replacing the definitions of "transfer pricing capital adjustment" and "transfer pricing income adjustment" in the first paragraph by the following definitions:

""transfer pricing capital adjustment" of a taxpayer for a taxation year means

(*a*) an amount by which the adjusted cost base to the taxpayer of a capital property, other than a depreciable property, or an intangible capital amount of the taxpayer in respect of a business is reduced in the year because of an adjustment made under section 1082.4, or an amount by which the capital cost to the taxpayer of a depreciable property is reduced in the year because of an adjustment made under section 1082.4; or

(*b*) the product obtained when the proportion that the taxpayer's share of the income or loss of a partnership for a fiscal period that ends in the year is of the income or loss of the partnership for that fiscal period is multiplied by the amount by which the adjusted cost base to the partnership of a capital property, other than a depreciable property, or an intangible capital amount of the partnership in respect of a business is reduced in the fiscal period because of an adjustment made under section 1082.4, or by the amount by which the capital cost to the partnership of a depreciable property is reduced in the fiscal period because of an adjustment made under section 1082.4;

""transfer pricing income adjustment" of a taxpayer for a taxation year means the amount by which an adjustment made under section 1082.4, other than an adjustment included in determining a transfer pricing capital adjustment of the taxpayer for a taxation year, would result in an increase in the taxpayer's income for the year or a decrease in a loss of the taxpayer for the year from a source if that adjustment were the only adjustment made under section 1082.4.";

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

"For the purposes of the definition of "transfer pricing capital adjustment" in the first paragraph, where the income and loss of a partnership for a fiscal period are nil, it shall be assumed that the income of the partnership for that fiscal period is equal to $1,000,000."

(2) Paragraphs 1 and 2 of subsection 1 apply to taxation years or fiscal periods that begin after 31 December 1997. However, where paragraph *b* of

the definition of "transfer pricing capital adjustment" in the first paragraph of section 1082.3 of the said Act applies to taxation years or fiscal periods that end before 28 February 2000, it shall be read as follows:

"(*b*) the product obtained when the proportion that the taxpayer's share of the income or loss of a partnership for a fiscal period that ends in the year is of the income or loss of the partnership for that fiscal period is multiplied by the amount by which the adjusted cost base to the partnership of a capital property, other than a depreciable property, or an intangible capital amount of the partnership in respect of a business is reduced in the fiscal period because of an adjustment made under section 1082.4, or by the amount by which the capital cost to the partnership of a depreciable property is reduced in the fiscal period because of an adjustment made under section 1082.4, on the assumption that, if the income or loss of the partnership for that fiscal period were nil, the partnership's income for that fiscal period is equal to $1,000,000;".

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

184. (1) Sections 1082.5 to 1082.8 and 1082.12 of the said Act are repealed.

(2) Subsection 1 applies in respect of adjustments made under section 1082.4 of the said Act for taxation years or fiscal periods that begin after 31 December 1998.

185. (1) Section 1089 of the said Act, amended by section 385 of chapter 9 of the statutes of 2003, is again amended, in the first paragraph,

(1) by replacing "the amount by which the income from the duties of offices or employments performed by the individual in Québec" in subparagraph *a* by "the amount by which the aggregate of the income from the duties of offices or employments performed by the individual in Québec and the income from the duties of offices or employments performed by the individual outside Canada if the individual was resident in Québec at the time the individual performed the duties";

(2) by replacing "*c* to *i*" in subparagraph i of subparagraph *c* by "*c* to *h*.1".

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

(3) In addition, where an individual ceased at any time after 31 December 1992 and before 2 October 1996 to be resident in Canada and elects under subsection 3 of section 155 in respect of that cessation of residence, subparagraph *a* of the first paragraph of section 1089 of the said Act shall, in relation to income received by the individual after that cessation of residence, be read

(1) for the taxation year 1993, with "the amount by which the income from an office or employment that is reasonably attributable to the duties performed by him in Québec" replaced by "the amount by which the aggregate of the income from the duties of offices or employments performed by the individual in Québec and the income from the duties of offices or employments performed by the individual outside Canada if the individual was resident in Québec at the time the individual performed the duties";

(2) for the taxation year 1994, with "the amount, calculated without reference to section 36.1, by which the income from an office or employment that is reasonably attributable to the duties performed by him in Québec" replaced by "the amount by which the aggregate, calculated without reference to section 36.1, of the income from the duties of offices or employments performed by the individual in Québec and the income from the duties of offices or employments performed by the individual outside Canada if the individual was resident in Québec at the time the individual performed the duties";

(3) for the taxation years 1995 and 1996, with "the amount, calculated without reference to section 36.1, by which the income from the duties of offices or employments performed by him in Québec" replaced by "the amount by which the aggregate, calculated without reference to section 36.1, of the income from the duties of offices or employments performed by the individual in Québec and the income from the duties of offices or employments performed by the individual outside Canada if the individual was resident in Québec at the time the individual performed the duties";

(4) for the taxation year 1997, with "the amount by which the income from the duties of offices or employments performed by the individual in Québec" replaced by "the amount by which the aggregate of the income from the duties of offices or employments performed by the individual in Québec and the income from the duties of offices or employments performed by the individual outside Canada if the individual was resident in Québec at the time the individual performed the duties".

186. (1) Section 1090 of the said Act, amended by section 386 of chapter 9 of the statutes of 2003, is again amended by replacing "the amount by which the income from the duties of offices or employments performed by the individual in Canada" in subparagraph *a* of the first paragraph by "the amount by which the aggregate of the income from the duties of offices or employments performed by the individual in Canada and the income from the duties of offices or employments performed by the individual outside Canada if the individual was resident in Canada at the time the individual performed the duties".

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

(3) In addition, where an individual ceased at any time after 31 December 1992 and before 2 October 1996 to be resident in Canada and elects under subsection 3 of section 155 in respect of that cessation of residence, subparagraph *a* of the first paragraph of section 1090 of the said Act shall, in

relation to income received by the individual after that cessation of residence, be read

(1) for the taxation year 1993, with "the amount by which the income from an office or employment that is reasonably attributable to the duties performed by him in Canada" replaced by "the amount by which the aggregate of the income from the duties of offices or employments performed by the individual in Canada and the income from the duties of offices or employments performed by the individual outside Canada if the individual was resident in Canada at the time the individual performed the duties";

(2) for the taxation year 1994, with "the amount, calculated without reference to section 36.1, by which the income from an office or employment that is reasonably attributable to the duties performed by him in Canada" replaced by "the amount by which the aggregate, calculated without reference to section 36.1, of the income from the duties of offices or employments performed by the individual in Canada and the income from the duties of offices or employments performed by the individual outside Canada if the individual was resident in Canada at the time the individual performed the duties";

(3) for the taxation years 1995 and 1996, with "the amount, calculated without reference to section 36.1, by which the income from the duties of offices or employments performed by him in Canada" replaced by "the amount by which the aggregate, calculated without reference to section 36.1, of the income from the duties of offices or employments performed by the individual in Canada and the income from the duties of offices or employments performed by the individual outside Canada if the individual was resident in Canada at the time the individual performed the duties";

(4) for the taxation year 1997, with "the amount by which the income from the duties of offices or employments performed by the individual in Canada" replaced by "the amount by which the aggregate of the income from the duties of offices or employments performed by the individual in Canada and the income from the duties of offices or employments performed by the individual outside Canada if the individual was resident in Canada at the time the individual performed the duties".

187. (1) Section 1091 of the said Act, amended by section 387 of chapter 9 of the statutes of 2003, is again amended

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

"**1091.** The taxable income earned in Canada by an individual referred to in section 26 is equal to the amount by which the aggregate of the income referred to in section 1090 and the amount that, had the individual been resident in Québec throughout the year, would be included under section 313.8 in computing the individual's income for the year, exceeds the aggregate of";

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

"(*b*.1) the deduction permitted by section 1091.0.1; and".

(2) Paragraph 1 of subsection 1 applies from the taxation year 1997.

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

188. (1) The said Act is amended by inserting the following section after section 1091:

"**1091.0.1.** Where an individual ceases at any time after 27 February 2000 to be resident in Canada, a taxation year, in this section referred to as the "particular year", of the individual ends after that time and the individual was not resident in Canada throughout the period that begins at that time and ends at the end of the particular year, the following rules apply:

(*a*) in computing the individual's taxable income earned in Canada for the particular year, the individual may deduct each amount that would be permitted to be deducted in computing the individual's income for the particular year under section 371 or 418.1.10 if

i. section 371 were read with the reference to "who is resident in Canada throughout a taxation year may deduct, in computing the taxpayer's income for that year" in the portion before paragraph *a* thereof replaced by "may deduct, in computing the taxpayer's income for a taxation year",

ii. the amount determined under paragraph *b* of section 374 were equal to zero,

iii. section 418.1.10 were read with the reference to "for a taxation year throughout which the taxpayer is resident in Canada" in the portion before paragraph *a* thereof replaced by "for a taxation year", and

iv. each of the amounts determined under subparagraph ii of paragraph *a* of section 418.1.10 and paragraph *b* of that section were equal to zero; and

(*b*) an amount deducted under this section in computing the individual's taxable income earned in Canada for the particular year is deemed, for the purpose of applying section 371 or 418.1.10, as the case may be, to a subsequent taxation year, to have been deducted in computing the individual's income for the particular year."

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

189. (1) Section 1091.2 of the said Act is amended

(1) by striking out the definition of "qualified foreigner";

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

"“Canadian investor”, at any time in relation to a person not resident in Canada, means a person that the person not resident in Canada knows, or ought to know after reasonable inquiry, is at that time resident in Canada;”;

(3) by replacing “of a qualified foreigner” in the portion of the definition of “qualified investment” before paragraph *a* by “of a person or partnership”;

(4) by replacing subparagraph i of paragraph *a* of the definition of “qualified investment” by the following subparagraph:

“i. that is either a security not listed on a Canadian stock exchange nor on a foreign stock exchange, or listed on such a stock exchange, if the person or partnership, together with all persons with whom the person or partnership does not deal at arm’s length, owns 25% or more of the issued shares of any class of the capital stock of the corporation or of the total value of interests in the partnership, trust, entity, organization or fund, as the case may be, and”;

(5) by replacing the definition of “promoter” by the following definition:

"“promoter” of a corporation, trust or partnership means a particular person or partnership that initiates or directs the founding, organization or substantial reorganization of the corporation, trust or partnership, and a person or partnership that is affiliated with the particular person or partnership;”;

(6) by replacing “a qualified foreigner” in the portion of the definition of “designated investment services” before paragraph *a* by “a person or partnership”;

(7) by replacing “the qualified foreigner” wherever it appears in paragraph *d* of the definition of “designated investment services” by “the person or partnership”;

(8) by replacing “the qualified foreigner is a corporation, trust or partnership” in paragraph *e* of the definition of “designated investment services” by “the service is provided to a corporation, trust or partnership”.

(2) Paragraphs 1 and 3 to 8 of subsection 1 apply from the taxation year 2002.

(3) Paragraph 2 of subsection 1 applies from the taxation year 1999. However, where the definition of “Canadian investor” in section 1091.2 of the said Act applies before 1 January 2002, it shall be read as follows:

"“Canadian investor”, at any time in relation to a qualified foreigner, means

(*a*) a person that the qualified foreigner knows, or ought to know after reasonable inquiry, is at that time resident in Canada; or

(*b*) a partnership that the qualified foreigner knows, or ought to know after reasonable inquiry, has a member that is at that time resident in Canada;".

190. (1) Sections 1091.3 and 1091.4 of the said Act are replaced by the following sections:

"**1091.3.** For the purposes of Part I and this Part, a person not resident in Canada is not considered to be carrying on a business in Canada at any particular time solely because of the provision to the person, or to a partnership of which the person is a member, at the particular time of designated investment services by a Canadian service provider if

(*a*) in the event that the person not resident in Canada is an individual other than a trust, the person is not affiliated at the particular time with the Canadian service provider;

(*b*) in the event that the person not resident in Canada is a corporation or trust,

i. the person has not, before the particular time, directly or through a mandatary, sold a share of its capital stock or an interest in itself, such a share and such an interest in this section referred to as an "investment", that is outstanding at the particular time to a person who was a Canadian investor at the time of the sale and who is a Canadian investor at the particular time, nor directed any promotion of investments in itself principally at Canadian investors,

ii. the person has not, before the particular time, directly or through a mandatary, filed any document with a public authority in Canada in accordance with the securities legislation of Canada or of any province in order to permit the distribution of investments in the person to persons resident in Canada, and

iii. where the particular time is more than one year after the time at which the person was created, the total of the fair market value, at the particular time, of investments in the person that are beneficially owned by a person or partnership that is affiliated with the Canadian service provider and is not a designated entity in respect of the Canadian service provider, does not exceed 25% of the fair market value, at the particular time, of all investments in the person; and

(*c*) in the event that the person not resident in Canada is a member of a partnership and where the particular time is more than one year after the time at which the partnership was formed, the total of the fair market value, at the particular time, of interests in the partnership that are beneficially owned by a person or partnership that is affiliated with the Canadian service provider and is not a designated entity in respect of the Canadian service provider, does not exceed 25% of the fair market value, at the particular time, of all interests in the partnership.

For the purposes of this paragraph, subparagraph iii of subparagraph *b* of the first paragraph and subparagraph *c* of that first paragraph,

(*a*) the fair market value of an investment in a corporation or trust or an interest in a partnership shall be determined without regard to any voting rights attaching to that investment; and

(*b*) a person or partnership is, at a particular time, a designated entity in respect of a Canadian service provider if the total of the fair market value, at the particular time, of investments in the designated entity or interests in the partnership, as the case may be, that are beneficially owned by a person or partnership that is affiliated with the Canadian service provider and is not another designated entity in respect of the Canadian service provider, does not exceed 25% of the fair market value, at the particular time, of all investments in the entity or of such interests, as the case may be.

"**1091.4.** For the purposes of Title I.2 of Book XI of Part I, where section 1091.3 applies to a person that is a corporation or trust or to a partnership, if the Canadian service provider referred to in that section does not deal at arm's length with the promoter of the person or of the partnership, the Canadian service provider is deemed not to deal at arm's length with the person or partnership."

(2) Subsection 1 applies from the taxation year 2002. In addition, where subparagraph i of subparagraph *b* of the first paragraph of section 1091.3 of the said Act applies to taxation years that end before 1 January 2002, it shall be read as follows:

"i. the qualified foreigner has not, before the particular time, directly or through a mandatary, sold a share of its capital stock or an interest in itself, such a share and such an interest in this section referred to as an "investment", that is outstanding at the particular time to a person who was a Canadian investor at the time of the sale and who is a Canadian investor at the particular time, nor directed any promotion of investments in itself principally at Canadian investors,".

191. (1) Section 1094 of the said Act is amended

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

"**1094.** For the purposes of this Part, taxable Québec property of a taxpayer at a particular time in a taxation year means";

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

"(*b*) property used in Québec by the taxpayer in carrying on a business, intangible capital property used in Québec in relation to a business or property used in Québec and included in the inventory of a business, other than

i. property used in carrying on an insurance business, and

ii. where the taxpayer is not resident in Canada, ships and aircraft used principally in international traffic and movable property pertaining to their operation if the country in which the taxpayer is resident does not impose tax on gains of persons resident in Canada from dispositions of such property;";

(3) by replacing the portion of paragraph *c*.1 before subparagraph ii by the following:

"(*c*.1) a share of the capital stock of a corporation not resident in Canada that is not listed on a Canadian stock exchange or a foreign stock exchange where, at any time during the 60-month period that ends at the particular time,

i. more than 50% of the fair market value of all the properties of the corporation was attributable to the following properties of the corporation:

(1) a taxable Québec property,

(2) a Canadian resource property,

(3) a timber resource property,

(4) an income interest in a trust resident in Canada, or

(5) an interest in or option in respect of a property described in any of subparagraphs 2 to 4, whether or not the property exists, and";

(4) by replacing paragraphs *d* and *e* by the following paragraphs:

"(*d*) a share that is listed on a Canadian stock exchange or a foreign stock exchange and that would be described in paragraph *c* or *c*.1 if those paragraphs were read without reference to "that is not listed on a Canadian stock exchange or a foreign stock exchange", or a share of the capital stock of a mutual fund corporation, if at any time during the 60-month period that ends at the particular time the taxpayer, persons with whom the taxpayer did not deal at arm's length, or the taxpayer together with all such persons owned 25% or more of the issued shares of any class of the capital stock of the corporation;

"(*e*) an interest in a partnership where, at any time during the 60-month period that ends at the particular time, more than 50% of the fair market value of all the properties of the partnership was attributable to the following properties of the partnership:

i. a taxable Québec property,

ii. a Canadian resource property,

iii. a timber resource property,

iv. an income interest in a trust resident in Canada, or

v. an interest in or option in respect of a property described in any of subparagraphs ii to iv, whether or not the property exists;";

(5) by replacing paragraph *h* and the portion of paragraph *h*.1 before subparagraph ii by the following:

"(*h*) a unit of a mutual fund trust resident in Québec where, at any time during the 60-month period that ends at the particular time, at least 25% of the issued units belonged to the taxpayer, to persons with whom the taxpayer did not deal at arm's length, or to the taxpayer and persons with whom the taxpayer did not deal at arm's length; and

"(*h*.1) an interest in a trust not resident in Canada where, at any time during the 60-month period that ends at the particular time,

i. more than 50% of the fair market value of all the properties of the trust was attributable to the following properties of the trust:

(1) a taxable Québec property,

(2) a Canadian resource property,

(3) a timber resource property,

(4) an income interest in a trust resident in Canada, or

(5) an interest in or an option in respect of a property described in any of subparagraphs 2 to 4, whether or not the property exists, and";

(6) by striking out paragraph *i*.

(2) Subsection 1 has effect from 2 October 1996. However, where the portion of paragraph *b* of section 1094 of the said Act before subparagraph i, enacted by paragraph 2 of subsection 1, applies before 24 December 1998, it shall be read as follows:

"(*b*) a capital property used in Québec by the taxpayer in carrying on a business, other than".

192. (1) Section 1097 of the said Act is amended

(1) by replacing "*c* to *i*" in the portion of the first paragraph before subparagraph *a* by "*c* to *h*.1";

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

"The same rule applies in the case of a corporation not resident in Canada which proposes to dispose of a taxable Québec property which would be referred to in the first paragraph if that paragraph were read without reference to ", property described in any of paragraphs *c* to *h*.1 of section 1094,"."

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

193. (1) Section 1102 of the said Act is amended, in the portion before subparagraph *a* of the first paragraph,

(1) by replacing "paragraph *k*" and "paragraph *d*" by "subparagraph *k* of the first paragraph" and "subparagraph *d* of the first paragraph", respectively;

(2) by striking out "any property that is or would, if the person not resident in Canada disposed of it, be".

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

194. (1) Section 1102.1 of the said Act is amended, in the first paragraph,

(1) by replacing "paragraph *k*", "paragraph *d*" and "paragraph *e*" by "subparagraph *k* of the first paragraph", "subparagraph *d* of the first paragraph" and "subparagraph *e* of the first paragraph", respectively;

(2) by striking out "or would, if the person not resident in Canada disposed of it, be".

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

195. (1) Section 1102.4 of the said Act is amended

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

"**1102.4.** For the purposes of sections 1097, 1102 and 1102.1, excluded property of a person not resident in Canada means

(*a*) a property that is taxable Québec property solely because a provision of this Act deems it to be a taxable Québec property;";

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

"(*a*.1) property, other than an immovable property situated in Québec, a Québec resource property within the meaning of subparagraph *d* of the first paragraph of section 1089 or a Québec timber resource property within the meaning of subparagraph *e* of the first paragraph of that section, that is used in Québec by the person and included in the inventory of a business;";

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

"(*b*) a share of a class of shares of the capital stock of a corporation listed on a Canadian stock exchange or a foreign stock exchange;";

(4) by replacing paragraph *e* by the following paragraph:

"(*e*) property of an insurer not resident in Canada that

i. is licensed or otherwise authorized under the laws of Canada or a province to carry on an insurance business in Canada, and

ii. carries on an insurance business, within the meaning of section 817, in Canada;";

(5) by adding the following paragraphs after paragraph *e*:

"(*f*) property of an authorized foreign bank that is used or held in the course of the bank's Canadian banking business;

"(*g*) an option in respect of property referred to in any of paragraphs *a* to *f* whether or not such property is in existence; and

"(*h*) an interest in property referred to in any of paragraphs *a* to *g*."

(2) Paragraphs 1 and 2 of subsection 1 have effect from 2 October 1996.

(3) Paragraphs 3 to 5 of subsection 1 have effect from 28 June 1999.

196. (1) Section 1117.1 of the said Act is amended by replacing paragraph *a* by the following paragraph:

"(*a*) throughout the period that begins on the later of 21 February 1990 and the day of its incorporation and ends at that time, all or substantially all of its property consisted of property other than property that would be taxable Canadian property if section 1094 were read without reference to paragraph *b* thereof; or".

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

197. (1) Section 1120.1 of the said Act is amended

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

"(*a*) throughout the period that begins on the later of 21 February 1990 and the day of its creation and ends at that time, all or substantially all of its property consisted of property other than property that would be taxable Canadian property of the trust if section 1094 were read without reference to paragraph *b* thereof; or

"(*b*) the trust has not issued any units, other than units referred to in the second paragraph, after 20 February 1990 and before that time to a person who, after reasonable inquiry, it had reason to believe was not resident in Canada, except where the units were issued to that person under an agreement in writing entered into before 21 February 1990.";

(2) by adding the following paragraph:

"The units to which subparagraph *b* of the first paragraph refers are the following:

(*a*) a unit issued to a person as a payment of an amount out of the trust's income determined before the application of sections 657 and 657.1, or out of the trust's capital gains; or

(*b*) a unit issued to a person in consideration for the person's right to enforce payment of an amount out of the trust's income or capital gains referred to in subparagraph *a*."

(2) Paragraph 1 of subsection 1, where it replaces paragraph *a* of section 1120.1 of the said Act, has effect from 2 October 1996.

(3) Paragraph 1 of subsection 1, where it replaces paragraph *b* of section 1120.1 of the said Act, and paragraph 2 of subsection 1, have effect from 21 February 1990.

198. (1) Section 1121.7 of the said Act is amended by inserting ", subject to section 1121.7.1," after "deemed" in paragraph *b*.

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

199. (1) The said Act is amended by inserting the following section after section 1121.7:

"**1121.7.1.** Where a particular taxation year of a trust ends on 15 December of a calendar year because of an election made under section 1121.7, the following rules apply if the trust applies to the Minister in writing before 15 December of that calendar year, or before a later time that is satisfactory to the Minister, to have this section apply to the trust, with the concurrence of the Minister:

(*a*) the trust's taxation year following the particular year is deemed to begin immediately after the end of the particular year and end at the end of that calendar year; and

(*b*) each subsequent taxation year of the trust is deemed to be determined as if that election had not been made."

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

200. (1) Section 1121.12 of the said Act is amended by striking out paragraph *c*.

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

201. (1) The said Act is amended by inserting the following section after section 1122:

"**1122.1.** Notwithstanding section 1122, a corporation is not a non-resident-owned investment corporation in any taxation year that ends after the earlier of,

(*a*) the first time after 27 February 2000 at which the corporation effects an increase in capital; and

(*b*) the end of the corporation's last taxation year that begins before 1 January 2003.

For the purposes of subparagraph *a* of the first paragraph, an increase in capital in respect of a corporation means a transaction, other than a transaction carried out pursuant to an agreement in writing made before 28 February 2000 and referred to in this paragraph as a "specified transaction", in the course of which the corporation issues additional shares of its capital stock or incurs indebtedness, if the transaction has the effect of increasing the aggregate of the corporation's liabilities and the fair market value of all the shares of its capital stock to an amount that is substantially greater than that aggregate would have been on 27 February 2000 if all specified transactions had been carried out before that date."

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

202. (1) The said Act is amended by inserting the following section after section 1125:

"**1125.1.** Where a non-resident-owned investment corporation makes, at a particular time, a valid election for the purposes of subsection 1 of section 134.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the following rules apply:

(*a*) the corporation's taxation year that would have included the elected time, determined for the purposes of section 134.2 of the Income Tax Act, if the corporation had not made that election, is deemed to end immediately before the elected time; and

(*b*) a new taxation year of the corporation is deemed to begin at the elected time.

Where an election to which the first paragraph refers was made, the prescribed form, together with a copy of every document transmitted to the Minister of

Revenue of Canada in connection with that election, shall be transmitted to the Minister."

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

203. (1) Section 1126 of the said Act is amended by striking out "or of property which would be such property if the corporation had not been resident in Canada at any time in the year".

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

204. (1) Section 1128 of the said Act is amended by striking out "or property which would be such property if the corporation had not been resident in Canada at any time in the year" in the first paragraph.

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

205. (1) Section 1130 of the said Act, amended by section 416 of chapter 9 of the statutes of 2003 and by section 135 of chapter 29 of the statutes of 2003, is again amended

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

"“authorized foreign bank” has the meaning assigned by section 1;";

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

"“Canadian banking business” has the meaning assigned by section 1;";

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

"“OSFI risk-weighting guidelines” means the guidelines, issued by the Superintendent of Financial Institutions of Canada under the authority of section 600 of the Bank Act (Statutes of Canada, 1991, chapter 46), requiring an authorized foreign bank to provide to the Superintendent on a periodic basis a return of the bank's risk-weighted on-balance sheet assets and off-balance sheet exposures, that apply as of 8 August 2000;".

(2) Subsection 1 has effect from 28 June 1999.

206. (1) Section 1131 of the said Act is replaced by the following section:

"**1131.** Any corporation having an establishment in Québec at any time in a taxation year shall pay, in respect of that year, a tax on its paid-up capital shown in its financial statements for the year or, in the case of an authorized foreign bank, on its paid-up capital for the year."

(2) Subsection 1 has effect from 28 June 1999.

207. (1) Section 1140 of the said Act is amended by inserting ", other than an authorized foreign bank," after "bank" in the portion before paragraph *a*.

(2) Subsection 1 has effect from 28 June 1999.

208. (1) The said Act is amended by inserting the following section after section 1140:

"**1140.1.** In this Part, the paid-up capital of an authorized foreign bank for a taxation year is equal to the aggregate of

(*a*) 10% of the aggregate of all amounts, each of which is the risk-weighted amount at the end of the year of an on-balance sheet asset of the bank or of an off-balance sheet exposure of the bank in respect of its Canadian banking business that the bank would be required to report under the OSFI risk-weighting guidelines if those guidelines applied and required a report at that time; and

(*b*) the aggregate of all amounts, each of which is an amount at the end of the year in respect of the bank's Canadian banking business that

i. if the bank were a bank listed in Schedule II to the Bank Act (Statutes of Canada, 1991, chapter 46), would be required under the risk-based capital adequacy guidelines issued by the Superintendent of Financial Institutions of Canada and applicable at that time to be deducted from the bank's capital in determining the amount of capital available to satisfy the Superintendent's requirement that capital equal a particular proportion of risk-weighted assets and exposures, and

ii. is not an amount in respect of a loss protection facility required to be deducted from capital under the guidelines of the Superintendent of Financial Institutions of Canada respecting asset securitization applicable at that time."

(2) Subsection 1 has effect from 28 June 1999.

209. (1) The said Act is amended by inserting the following section after section 1141.2:

"**1141.2.0.1.** A corporation referred to in section 1140.1 may, in computing its paid-up capital, deduct the amount determined in respect of the corporation under section 57.1 of the Act respecting international financial centres (chapter C-8.3)."

(2) Subsection 1 has effect from 28 June 1999. However, where subsection 1 applies to taxation years that begin before 21 December 1999, section 1141.2.0.1 of the said Act shall be read as follows:

"**1141.2.0.1.** A corporation referred to in section 1140.1 may, in computing its paid-up capital, deduct the aggregate of any amount it included in that computation under section 1140.1, that is attributable to the operations of an international financial centre the corporation operates and that is not otherwise deducted in that computation."

210. (1) The said Act is amended by inserting the following sections after section 1141.2.1.1:

"**1141.2.1.1.1.** Every corporation referred to in section 1140.1 may, in computing its paid-up capital for a taxation year, deduct the amount determined by the formula

$A \times C/B$.

In the formula provided for in the first paragraph,

(*a*) A is the total of all amounts each of which is the amount, at the end of the taxation year, of an asset of the corporation that the corporation used or held in the year in the course of carrying on its Canadian banking business, determined before the application of risk weights that the corporation would be required to report under the OSFI risk-weighting guidelines if those guidelines applied and required such report at the end of the year and that is a share of the capital stock or the long-term debt of another corporation referred to in this Title to which the corporation is related;

(*b*) B is the proportion that the business carried on in Québec by the corporation in the year is of the total business carried on in Québec and elsewhere by the corporation in the year; and

(*c*) C is the proportion that the business carried on in Québec by the other corporation in its taxation year ending in the year of the corporation is of the total business carried on in Québec and elsewhere by the other corporation in that taxation year.

In the second paragraph, the proportion that the business carried on in Québec is of the total business carried on in Québec and elsewhere in respect of a corporation is the proportion determined in accordance with the regulations made under subsection 2 of section 771.

"**1141.2.1.1.2.** An amount that a corporation may deduct in computing its paid-up capital under section 1141.2.1.1.1 does not include the part of that amount that is provided for in section 60.0.1 of the Act respecting international financial centres (chapter C-8.3)."

(2) Subsection 1, where it enacts section 1141.2.1.1.1 of the said Act, has effect from 28 June 1999 and, where it enacts section 1141.2.1.1.2 of the said Act, applies to taxation years that begin after 20 December 1999.

211. (1) Section 1141.4 of the said Act is amended by replacing "referred to in section 1140" by "referred to in section 1140 or 1140.1".

(2) Subsection 1 has effect from 28 June 1999.

ACT RESPECTING THE APPLICATION OF THE TAXATION ACT

212. (1) Section 51.2 of the Act respecting the application of the Taxation Act (R.S.Q., chapter I-4) is replaced by the following section:

"**51.2.** Sections 59 to 88.2 do not apply in respect of a disposition by a person not resident in Canada of a property

(*a*) that the person last acquired before 27 April 1995;

(*b*) that would not be a taxable Québec property immediately before the disposition if sections 1087 to 1096.2 of the Taxation Act (chapter I-3) were read as they applied in respect of dispositions that occurred on 26 April 1995; and

(*c*) that would be a taxable Québec property immediately before the disposition if sections 1087 to 1096.2 of the Taxation Act were read as they applied in respect of dispositions that occurred on 1 January 1996."

(2) Subsection 1 applies in respect of dispositions that occur after 1 October 1996.

ACT RESPECTING THE MINISTÈRE DU REVENU

213. (1) Section 93.1.8 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by inserting "578.7," after "421.8," in the first paragraph.

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

214. (1) Section 93.1.12 of the said Act is amended by inserting "578.7," after "421.8," in the first paragraph.

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

ACT RESPECTING THE QUÉBEC SALES TAX

215. (1) Section 433.9 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) is amended by replacing "charité" in the French text of subparagraph *b* of paragraph 1 by "bienfaisance".

(2) Subsection 1 applies for the purpose of computing the net tax of charities in respect of reporting periods beginning after 31 December 1996.

216. (1) Section 677 of the said Act, amended by section 350 of chapter 2 of the statutes of 2003 and by section 458 of chapter 9 of the statutes of 2003, is again amended by striking out "property or" in subparagraph 7.2 of the first paragraph.

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

ACT TO AGAIN AMEND THE TAXATION ACT AND OTHER FISCAL LEGISLATION

217. (1) Section 52 of the Act to again amend the Taxation Act and other fiscal legislation (1988, chapter 18), amended by section 377 of chapter 59 of the statutes of 1990 and by section 362 of chapter 16 of the statutes of 1993, is again amended by replacing "the reference therein to "one-half" shall, subject to paragraphs *a*, *b*, and *c*, be a reference to "3/4"" in the portion of subsection 4 before paragraph *a* by "the reference therein to "one-half of" shall, subject to paragraphs *a*, *b* and *c*, be a reference to "the product obtained by multiplying the fraction required to be used under the first paragraph of section 231 of the Taxation Act by"".

(2) Subsection 1 has effect from 17 June 1988.

218. (1) Section 54 of the said Act, amended by section 378 of chapter 59 of the statutes of 1990 and by section 364 of chapter 16 of the statutes of 1993, is again amended by replacing "the reference therein to "one-half" shall, subject to paragraphs *a*, *b* and *c*, be a reference to "3/4"" in the portion of subsection 4 before paragraph *a* by "the reference therein to "one-half of" shall, subject to paragraphs *a*, *b* and *c*, be a reference to "the product obtained by multiplying the fraction required to be used under the first paragraph of section 231 of the Taxation Act by"".

(2) Subsection 1 has effect from 17 June 1988.

ACT TO AMEND THE TAXATION ACT AND OTHER LEGISLATIVE PROVISIONS

219. (1) Section 92 of the Act to amend the Taxation Act and other legislative provisions (2001, chapter 7) is amended, in subparagraph *d* of paragraph 2 of subsection 2,

(1) by replacing subparagraphs iii and iv by the following subparagraphs:

"iii. if subsection 1 applies to taxation years that end before 1 January 2000, the particular trust where it is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 of the said Act or in subparagraph *a*.1 of that first paragraph in relation to a spouse, the spouse is the beneficiary referred to in subparagraph *a* and the disposition occurs before the end of the trust's third taxation year that begins after the spouse's death,

"iv. if subsection 1 applies to taxation years that end before 1 January 2000, a trust described in subparagraph *b* of the second paragraph of section 454 of the said Act created by the individual in relation to the individual's spouse, or a trust described in section 440 of the said Act created by the individual's will in relation to the individual's spouse, before the end of the trust's third taxation year that begins after the spouse's death,";

(2) by adding the following subparagraphs after subparagraph iv:

"v. if subsection 1 applies to taxation years that end after 31 December 1999, the particular trust where it is a post-1971 spousal trust or a trust described in subparagraph *a*.1 of the first paragraph of section 653 of the said Act, the individual's spouse is the beneficiary referred to in subparagraph *a* and the disposition occurs before the end of the trust's third taxation year that begins after the death of the spouse, or

"vi. if subsection 1 applies to taxation years that end after 31 December 1999, a trust described in paragraph *c* of section 454.1 of the said Act created by the individual, or a trust described in section 440 of the said Act created by the individual's will in relation to the individual's spouse, before the end of the trust's third taxation year that begins after the death of the individual or the individual's spouse;".

(2) Subsection 1 has effect from 23 May 2001.

ACT GIVING EFFECT TO THE BUDGET SPEECH DELIVERED ON 1 NOVEMBER 2001, TO THE SUPPLEMENTARY STATEMENT OF 19 MARCH 2002 AND TO CERTAIN OTHER BUDGET STATEMENTS

220. (1) Section 67 of the Act giving effect to the Budget Speech delivered on 1 November 2001, to the supplementary statement of 19 March 2002 and to certain other budget statements (2003, chapter 9) is amended by replacing paragraphs 1 to 4 of subsection 2 by the following paragraphs:

"(1) to the taxation years 1998 and 1999, it shall be read as follows:

"ii. the aggregate of amounts deductible in computing the spouse's taxable income for the year under any of paragraphs *b* to *c*, *c*.2 and *e* of section 725 or section 725.1.2 or, if the spouse is not resident in Québec on 31 December of the year or in Canada throughout that year, the aggregate of the amounts that would be deductible in computing the spouse's taxable income for the year if the spouse had been resident in Québec on 31 December of the year and in Canada throughout that year; and";

"(2) to the taxation year 2000, it shall be read as follows:

"ii. the aggregate of amounts deductible in computing the spouse's taxable income for the year under any of paragraphs *b* to *c*, *c*.2 and *e* of section 725 or section 725.1.2 or 737.29 or, if the spouse is not resident in Québec on

31 December of the year or in Canada throughout that year, the aggregate of the amounts that would be deductible in computing the spouse's taxable income for the year if the spouse had been resident in Québec on 31 December of the year and in Canada throughout that year; and";

"(3) to the taxation year 2001, it shall be read as follows:

"ii. the aggregate of amounts deductible in computing the spouse's taxable income for the year under any of paragraphs *b* to *c*.0.1, *c*.2 and *e* of section 725 or section 725.1.2 or 737.29 or, if the spouse is not resident in Québec on 31 December of the year or in Canada throughout that year, the aggregate of the amounts that would be deductible in computing the spouse's taxable income for the year if the spouse had been resident in Québec on 31 December of the year and in Canada throughout that year; and";

"(4) to the taxation year 2002, it shall be read as follows:

"ii. the aggregate of amounts deductible in computing the spouse's taxable income for the year under any of paragraphs *b* to *c*.0.1, *c*.2 and *e* of section 725 or any of sections 725.1.2, 726.4 and 737.29 or, if the spouse is not resident in Québec on 31 December of the year or in Canada throughout that year, the aggregate of the amounts that would be deductible in computing the spouse's taxable income for the year if the spouse had been resident in Québec on 31 December of the year and in Canada throughout that year; and"."

(2) Subsection 1 has effect from 10 December 2003.

(3) Notwithstanding sections 1010 to 1011 of the Taxation Act (R.S.Q., chapter I-3), the Minister of Revenue shall make, under Part I of the said Act, such assessments of tax, interest or penalties as are necessary for any taxation year to give effect to this section. Sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such assessments.

221. Where, at any particular time included in the period that begins on 2 October 1996 and ends on 6 June 2002, an individual ceases to be resident in Canada or, where the individual is a trust, the trust makes a distribution of property to which section 688 of the Taxation Act (R.S.Q., chapter I-3) does not apply solely because of section 692 of the said Act, as amended by subsection 1 of section 134, the following rules apply:

(1) for the purpose of establishing a reassessment for a taxation year of the individual to take into account the application of the Taxation Act in respect of the cessation of residence or the distribution, the Minister of Revenue may, notwithstanding the expiry of the time limit prescribed in paragraph *a* of subsection 2 of section 1010 of the said Act, for any taxation year that ends at or after the particular time re-determine the individual's tax, interest and

penalties and make a reassessment on or before the later of the day on which, but for this section, that time limit would end and 7 June 2005; and

(2) sections 93.1.8 and 93.1.12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with the necessary modifications, to such an assessment.

222. This Act comes into force on 7 June 2004.