DIVISION VIII
REPRESENTATION EXPENSES

Expenses of representation.

155. A taxpayer may deduct any amount the taxpayer pays as expenses incurred in making any representation relating to a business carried on by the taxpayer or to obtain a license, permit, franchise or trademark relating to that business if such representation is made

(*a*) to the government of a country, province or state or to a municipal or public body performing a function of government in Canada; or

(*b*) to a mandatary of a government or body mentioned in paragraph a, if such a mandatary is authorized by law to make rules or regulations relating to the business carried on by the taxpayer.

History: 1972, c. 23, s. 143; 2017, c. 29, s. 40.
Corresponding Federal Provision: 20(1)(cc).

Election in applying section 155.

156. Instead of deducting any amount deductible under section 155, the taxpayer may, if he so elects in prescribed manner, deduct one-tenth of that amount in computing his income for that year and make a similar deduction in computing his income for each of the nine subsequent years.

History: 1972, c. 23, s. 144.
Corresponding Federal Provision: 20(9).

DIVISION VIII.1
ADDITIONAL DEDUCTION IN RESPECT OF CERTAIN INVESTMENTS

Deductions in computing business income.

156.1. A taxpayer, other than a trust, may deduct, in computing the taxpayer's income from a business for a taxation year,

(*a*) where the taxpayer is an individual, the proportion of the amount determined for the year in his respect under section 156.2 that the aggregate of the income earned in Québec and elsewhere by the individual for the year is of the income earned in Québec by the individual for the year;

(*b*) where the taxpayer is a corporation, the proportion of the amount determined for the year in its respect under section 156.3 that the aggregate of the business carried on in Canada or in Québec and elsewhere by the corporation in the year is of the business carried on in Québec by the corporation in the year.

History: 1989, c. 5, s. 46; 1993, c. 16, s. 81; 1995, c. 1, s. 199; 1997, c. 3, s. 71; 1999, c. 83, s. 35.

Amount deductible by a partnership.

156.1.1. A partnership may deduct, in computing the partnership's income from a business for a fiscal period, the proportion of the amount determined in its respect for the period under section 156.3.1 that the aggregate of the business carried on in Canada or in Québec and elsewhere by the partnership in the period is of the business carried on in Québec by the partnership in the period.

History: 1999, c. 83, s. 36.

Computation.

156.2. The amount referred to in paragraph *a* of section 156.1 is, in respect of an individual for a taxation year, equal to 20% of the amount determined in respect of the individual for the year according to the following formula:

A × (B / C).

Interpretation.

For the purposes of the formula provided in the first paragraph,

(*a*) the letter A represents the amount deducted by the individual, in computing his income for the year, under paragraph *a* of section 130 or the second paragraph of section 130.1 in respect of a prescribed depreciable property;

(*b*) the letter B represents the amount by which the aggregate of the income earned in Québec and elsewhere by the individual for the year exceeds the income earned in Québec by the individual for the year;

(*c*) the letter C represents the aggregate of the income earned in Québec and elsewhere by the individual for the year.

History: 1989, c. 5, s. 46; 1993, c. 19, s. 18; 1997, c. 85, s. 53.

Computation.

156.3. The amount referred to in paragraph *b* of section 156.1 is, in respect of a corporation for a taxation year, equal to 20% of the amount determined in respect of the corporation for the year according to the following formula:

A × (B / C).

Interpretation.

For the purposes of the formula provided in the first paragraph,

(*a*) the letter A represents the amount deducted by the corporation, in computing its income for the year, under paragraph *a* of section 130 or the second paragraph of section 130.1 in respect of a prescribed depreciable property;

(*b*) the letter B represents the amount by which the aggregate of the business carried on in Canada or in Québec

and elsewhere by the corporation in the year exceeds the business carried on in Québec by the corporation in the year;

(*c*) the letter C represents the aggregate of the business carried on in Canada or in Québec and elsewhere by the corporation in the year.

History: 1989, c. 5, s. 46; 1993, c. 19, s. 19; 1995, c. 1, s. 199; 1997, c. 3, s. 71; 1997, c. 85, s. 54.

Computation.

156.3.1. The amount to which section 156.1.1 refers is, in respect of a partnership for a fiscal period, equal to 20% of the amount determined for the fiscal period in respect of the partnership according to the formula

A × (B / C).

Interpretation.

In the formula provided for in the first paragraph,

(*a*) A is the amount deducted by the partnership, in computing its income for the fiscal period, under paragraph *a* of section 130 or the second paragraph of section 130.1 in respect of a property that would, if the partnership were a corporation, be a prescribed depreciable property for the purposes of subparagraph *a* of the second paragraph of section 156.3;

(*b*) B is the amount by which the aggregate of the business carried on in Canada or in Québec and elsewhere by the partnership in the fiscal period exceeds the business carried on in Québec by the partnership in the fiscal period; and

(*c*) C is the aggregate of the business carried on in Canada or in Québec and elsewhere by the partnership in the fiscal period.

History: 1999, c. 83, s. 37.

Rules applicable.

156.4. For the purposes of sections 156.1 to 156.3.1, the following rules apply:

(*a*) the computation of income earned in Québec and of income earned in Québec and elsewhere is made in the manner prescribed in the regulations made pursuant to section 22, with the necessary modifications; and

(*b*) the computation of the business carried on in Canada, in Québec and in Québec and elsewhere by a corporation is made in the manner prescribed in the regulations made under subsection 2 of section 771, with the necessary modifications, and the computation of the business carried on in Canada, in Québec and in Québec and elsewhere by a partnership is made in the manner so prescribed in those regulations, with the necessary modifications, as if the partnership were a corporation and if its fiscal period were a taxation year.

History: 1989, c. 5, s. 46; 1995, c. 1, s. 26; 1995, c. 63, s. 261; 1999, c. 83, s. 38.

DIVISION VIII.2
SUPPLEMENTARY DEDUCTION IN RESPECT OF CERTAIN INVESTMENTS

Deduction in computing business income.

156.5. Subject to the second paragraph, a taxpayer other than a trust may deduct, in computing the taxpayer's income from a business for a taxation year,

(*a*) where the taxpayer is an individual, the proportion of the amount determined for the year in respect of the individual under the first paragraph of section 156.6 that the aggregate of the income earned in Québec and elsewhere by the individual for the year is of the income earned in Québec by the individual for the year;

(*b*) where the taxpayer is a corporation, the proportion of the amount determined for the year in respect of the corporation under the first paragraph of section 156.6 that the aggregate of the business carried on in Canada or in Québec and elsewhere by the corporation in the year is of the business carried on in Québec by the corporation in the year;

(*c*) *(subparagraph repealed).*

Property acquired by a taxpayer not dealing at arm's length with the transferor.

No deduction may be made by a taxpayer under the first paragraph, in computing the taxpayer's income from a business for a taxation year, in respect of property acquired from a person or partnership with whom or with which the taxpayer was not dealing at arm's length at the time of acquisition if

(*a*) the property is property acquired by the person or partnership before 26 March 1997 or after 25 March 1997 pursuant to an obligation in writing entered into before 26 March 1997 or the construction of which, by or on behalf of the person or partnership, had begun by 25 March 1997;

(*b*) the person or partnership was entitled to deduct, for a taxation year or fiscal period, as the case may be, preceding the taxation year or fiscal period in which the property was disposed of, an amount in computing the person's or partnership's income from a business under the first paragraph or under the first paragraph of section 156.5.1, as the case may be, in respect of the property; or

(*c*) this paragraph or the second paragraph of section 156.5.1 applied to the person or partnership in respect of the property.

History: 1997, c. 85, s. 55; 1999, c. 83, s. 39; 2001, c. 51, s. 24; 2004, c. 21, s. 57.

Amount deductible by a partnership.

156.5.1. Subject to the second paragraph, a partnership may deduct, in computing its income from a business for a fiscal period the proportion of the amount determined for the fiscal period in its respect under the second paragraph of section 156.6 that the aggregate of the business carried on in Canada or in Québec and elsewhere by the partnership in the fiscal period is of the business carried on in Québec by the partnership in the fiscal period.

Property acquired by a partnership not dealing at arm's length with the transferor.

No deduction may be made by a partnership under the first paragraph, in computing the partnership's income from a business for a fiscal period, in respect of property acquired from a person or partnership with whom or with which the partnership was not dealing at arm's length at the time of acquisition if

(*a*) the property is property acquired by the person or partnership before 26 March 1997 or after 25 March 1997 pursuant to an obligation in writing entered into before 26 March 1997 or the construction of which, by or on behalf of the person or partnership, had begun by 25 March 1997;

(*b*) the person or partnership was entitled to deduct, for a taxation year or fiscal period, as the case may be, preceding the taxation year or fiscal period in which the property was disposed of, an amount in computing the person's or partnership's income from a business under the first paragraph or under the first paragraph of section 156.5, as the case may be, in respect of the property; or

(*c*) this paragraph or the second paragraph of section 156.5 applied to the person or partnership in respect of the property.

History: 1999, c. 83, s. 40; 2004, c. 21, s. 58.

Computation.

156.6. The amount to which subparagraphs *a* and *b* of the first paragraph of section 156.5 refer in relation to a taxpayer for a taxation year, is equal to 25% of the aggregate of all amounts each of which is an amount deducted by the taxpayer under paragraph *a* of section 130 or the second paragraph of section 130.1, in computing the taxpayer's income for the year, in respect of property which is prescribed depreciable property for the purpose, where the taxpayer is an individual, of subparagraph *a* of the second paragraph of section 156.2, and where the taxpayer is a corporation, of subparagraph *a* of the second paragraph of section 156.3.

Computation.

The amount to which the first paragraph of section 156.5.1 refers, in relation to a partnership for a fiscal period, is equal to 25% of the aggregate of all amounts each of which is an amount deducted by the partnership under paragraph *a* of section 130 or the second paragraph of section 130.1 in computing the partnership's income for the fiscal period, in respect of property that would be prescribed depreciable property for the purpose of subparagraph *a* of the second paragraph of section 156.3 if the partnership were a corporation.

History: 1997, c. 85, s. 55; 1999, c. 83, s. 41; 2000, c. 39, s. 15; 2001, c. 51, s. 25; 2004, c. 21, s. 59.

Rules applicable.

156.7. For the purposes of sections 156.5 and 156.5.1, the following rules apply:

(*a*) the computation of income earned in Québec and of income earned in Québec and elsewhere is made in the manner prescribed in the regulations made under section 22, with the necessary modifications; and

(*b*) the computation of the business carried on in Canada, in Québec and in Québec and elsewhere by a corporation is made in the manner prescribed in the regulations made under subsection 2 of section 771, with the necessary modifications, and the computation of the business carried on in Canada, in Québec and in Québec and elsewhere by a partnership is made in the manner so prescribed in those regulations as if the partnership were a corporation and if its fiscal period were a taxation year, and with the necessary modifications.

History: 1997, c. 85, s. 55; 1999, c. 83, s. 42.

DIVISION VIII.2.1
OTHER DEDUCTION IN RESPECT OF CERTAIN INVESTMENTS

Deduction in computing business income.

156.7.1. A taxpayer, other than a trust, may deduct, in computing the taxpayer's income from a business for a taxation year, an amount equal to 85% of the aggregate of all amounts each of which is an amount deducted by the taxpayer in computing the taxpayer's income for the year under paragraph *a* of section 130 or the second paragraph of section 130.1, in respect of the taxpayer's prescribed depreciable property.

History: 2011, c. 1, s. 23.

DIVISION VIII.2.2
ADDITIONAL DEDUCTION RELATING TO CANADIAN VESSELS

Definitions:

156.7.2. For the purposes of this division,

"eligible work";
"eligible work" means work that a taxpayer has carried out by a corporation under a contract entered into after 4 June 2014 and before 1 January 2024 in a qualified shipyard that the corporation operates;

"qualified shipyard".
"qualified shipyard" has the meaning assigned by section 979.24.

History: 2015, c. 21, s. 124.

Deduction in computing business income.

156.7.3. In computing a taxpayer's income for a taxation year from a business, there may be deducted an amount equal to 50% of the aggregate of all amounts each of which is the portion of the amount deducted in computing the taxpayer's income for the year under paragraph *a* of section 130 or the second paragraph of section 130.1, in respect of the taxpayer's prescribed depreciable property, that relates to the cost of eligible work.

History: 2015, c. 21, s. 124.

DIVISION VIII.2.3
ADDITIONAL DEDUCTION OF 35% OR 60% IN RESPECT OF CERTAIN INVESTMENTS

Additional deduction of 35 % or 60 %.

156.7.4. Subject to section 156.7.5, a taxpayer may deduct, in computing the taxpayer's income from a business for a taxation year, an amount equal to the amount determined, in respect of a prescribed depreciable property, by the formula

A × (B/C).

Interpretation.

In the formula in the first paragraph,

(*a*) A is an amount equal to the product obtained by multiplying the amount deducted by the taxpayer in computing the taxpayer's income for the year under paragraph *a* of section 130 in respect of the prescribed class that includes the property by

i. 35%, where the property is acquired after 28 March 2017 and before 28 March 2018, or

ii. 60%, where the property is acquired after 27 March 2018 and before

(1) 1 July 2019, if the property was acquired pursuant to an obligation in writing entered into before 4 December 2018 or if the construction of the property, by or on behalf of the taxpayer, began before 4 December 2018, or

(2) 4 December 2018, in any other case;

(*b*) B is

i. where the taxation year includes the time at which the property is considered to have become available for use, within the meaning of section 93.7, either of the following amounts:

(1) if the property is acquired after 20 November 2018, the amount attributable to the property that is added to the undepreciated capital cost of the prescribed class that includes the property, determined for the purpose of computing the amount that is deductible by the taxpayer in computing the taxpayer's income for the year under paragraph *a* of section 130, or

(2) in any other case, one half of the capital cost of the property at the end of the year,

ii. where the taxation year is the particular year that follows the year referred to in subparagraph i, the amount by which the capital cost of the property at the end of the particular year exceeds the portion of the amount deducted by the taxpayer in computing the taxpayer's income for the preceding year under paragraph *a* of section 130 that is attributable to the property, or

iii. in any other case, zero; and

(*c*) C is the undepreciated capital cost at the end of the year of property of the prescribed class that includes the property, determined for the purpose of computing the amount that is deductible by the taxpayer in computing the taxpayer's income for the year under paragraph *a* of section 130 before any deduction under that paragraph *a* for the year.

History: 2020, c. 16, s. 37.

Limit.

156.7.5. The amount that a taxpayer may deduct in computing the taxpayer's income from a business for a particular taxation year under section 156.7.4, in respect of a property acquired after 20 November 2018, may not exceed

(*a*) where the particular year includes the time at which the property is considered to have become available for use, within the meaning of section 93.7,

i. in the case where the property is included in Class 50 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1), the product obtained by multiplying 16.5% of the capital cost of the property at the end of the particular year by the proportion that the number of days in the particular year is of 365, or

ii. in the case where the property is included in Class 53 of Schedule B to the Regulation respecting the Taxation Act, the product obtained by multiplying 15% of the capital cost of the property at the end of the particular year by the proportion that the number of days in the particular year is of 365; or

(*b*) where the particular year is the year following the year referred to in subparagraph *a*, the lesser of

i. the total of

(1) the amount by which the amount computed under section 156.7.4 in respect of the property for the year referred to in subparagraph *a* exceeds the amount determined under that subparagraph in respect of the property for that year, and

(2) the amount computed under section 156.7.4 in respect of the property for the particular year, and

ii. the total of

(1) the amount by which the amount computed under subparagraph *a* in respect of the property for the year referred to in that subparagraph exceeds the amount computed under section 156.7.4 in respect of the property for that year, and

(2) the product obtained by multiplying the amount determined under the second paragraph in respect of the property by the proportion that the number of days in the particular year is of 365.

Amount referred to.

The amount to which subparagraph 2 of subparagraph ii of subparagraph *b* of the first paragraph refers is

(*a*) 23.9% of the capital cost of the property at the end of the particular year, if it is included in Class 50 of Schedule B to the Regulation respecting the Taxation Act; or

(*b*) 22.5% of the capital cost of the property at the end of the particular year, if it is included in Class 53 of Schedule B to the Regulation respecting the Taxation Act.

History: 2020, c. 16, s. 37.

Additional deduction of 30 %.

156.7.6. A taxpayer may deduct, in computing a taxpayer's income from a business for a taxation year, an amount equal to 30% of the aggregate of all amounts each of which is an amount deducted by the taxpayer in computing income for the preceding taxation year under paragraph *a* of section 130 or the second paragraph of section 130.1, in respect of a prescribed depreciable property acquired after 3 December 2018.

History: 2020, c. 16, s. 37.

DIVISION VIII.2.4
ADDITIONAL DEDUCTION OF 30% IN RESPECT OF CERTAIN INVESTMENTS

DIVISION VIII.3
ADDITIONAL DEDUCTION RELATING TO PUBLIC TRANSIT PASSES

Additional amount.

156.8. A taxpayer may deduct, in computing the taxpayer's income from a business for a taxation year, the aggregate of all amounts each of which is an amount otherwise deductible in computing that income for that taxation year and that is

(*a*) an amount paid to an employee, after 23 March 2006, as the total or partial reimbursement of the cost of an eligible transit pass taking the form of a subscription for a minimum period of one month, valid after that date, that the employee acquired with a view to using it to commute between the employee's ordinary place of residence and the employee's work location;

(*b*) an amount paid to an employee, after 23 March 2006, as the total or partial reimbursement of the cost of an eligible paratransit pass, valid after that date, that the employee acquired with a view to using it to commute between the employee's ordinary place of residence and the employee's work location; or

(*c*) the cost to the taxpayer of an eligible transit pass or eligible paratransit pass that is supplied, after 23 March 2006, to an employee primarily to commute between the employee's ordinary place of residence and the employee's work location.

History: 2006, c. 36, s. 27; 2009, c. 15, s. 57.

Definitions:

156.9. In section 156.8,

"eligible paratransit pass";
"eligible paratransit pass" means a transit pass that allows the use of a paratransit service provided by a public entity authorized under an Act of Québec to organize such a service;

"eligible transit pass".
"eligible transit pass" means a transit pass that allows the use of a public transit service, other than paratransit, provided by a public entity authorized under an Act of Québec to organize such a service.

History: 2006, c. 36, s. 27.

DIVISION VIII.4
ADDITIONAL DEDUCTION RELATING TO THE ORGANIZATION OF AN INTERMUNICIPAL SHARED TRANSPORTATION SERVICE

Additional amount.

156.10. A taxpayer may deduct, in computing the taxpayer's income from a business for a taxation year, the aggregate of all amounts each of which is an amount otherwise deductible in computing that income for that taxation year in respect of the setting up or operation of a shared transportation service of the taxpayer.

Shared transportation service.

For the purposes of the first paragraph, a shared transportation service of a taxpayer means a transportation

service organized by the taxpayer, alone or jointly with others, for the benefit of employees whose place of residence is outside the local municipal territory where their employer's establishment to which they ordinarily report for work is located, if

(*a*) the shared transportation service is provided at least five days a week, except during holiday periods or a slowdown in the business' activities;

(*b*) employees are transported in a coach, minibus or van or any other vehicle with a design capacity of at least 15 people; and

(*c*) employees can get on and off the vehicle only at predetermined places.

History: 2013, c. 10, s. 18.

DIVISION VIII.5
ADDITIONAL DEDUCTION FOR TRANSPORTATION COSTS INCURRED BY REMOTE SMALL AND MEDIUM-SIZED BUSINESSES

Definitions:

156.11. In this division,

"additional deduction rate";
"additional deduction rate" that applies to a qualified corporation or a manufacturing corporation for a taxation year means, in the case of a qualified corporation for the year, 10% and, in the case of a manufacturing corporation for the year, subject to sections 156.12 and 156.13,

(*a*) 0%, if the major portion of the corporation's cost of manufacturing and processing capital for the year is attributable to property it uses outside the central area, the intermediate area, the remote area and the special remote area;

(*a.*1) 1%, if the major portion of the corporation's cost of manufacturing and processing capital for the year is attributable to property it uses in the central area;

(*b*) 3%, if the major portion of the corporation's cost of manufacturing and processing capital for the year is attributable to property it uses in the intermediate area;

(*c*) 5%, if the major portion of the corporation's cost of manufacturing and processing capital for the year is attributable to property it uses in the remote area; or

(*d*) 10%, if the major portion of the corporation's cost of manufacturing and processing capital for the year is attributable to property it uses in the special remote area;

"central area";
"central area" means an area that includes the part of the territory of Québec that is not included in the intermediate area, the remote area and the special remote area;

"cost of capital";
"cost of capital" of a qualified corporation for a taxation year means the amount determined in respect of the corporation for the year under the definition of "cost of capital" in section 5202 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

"cost of labour";
"cost of labour" of a qualified corporation for a taxation year means the amount determined in respect of the corporation for the year under the definition of "cost of labour" in section 5202 of the Income Tax Regulations made under the Income Tax Act;

"cost of manufacturing and processing capital";
"cost of manufacturing and processing capital" of a manufacturing corporation for a taxation year means the amount determined in respect of the corporation for the year under the definition of "cost of manufacturing and processing capital" in section 5202 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

"intermediate area";
"intermediate area" means an area that is

(*a*) the territory of any of the following regions described in the Décret concernant la révision des limites des régions administratives du Québec (chapter D-11, r. 1), or any part of such a region:

i. administrative region 03 Capitale-Nationale, except the part of the territory comprising the territory of the municipalities in the Québec census metropolitan area as described in the Standard Geographical Classification (SGC) 2011 published by Statistics Canada and the territory of Municipalité régionale de comté de Charlevoix-Est,

ii. the southern part of administrative region 04 Mauricie that includes the territory of the cities of Trois-Rivières and Shawinigan and the territory of the regional county municipalities of Chenaux and Maskinongé,

iii. the western part of administrative region 05 Estrie that includes the territory of Ville de Sherbrooke and of the regional county municipalities of Memphrémagog, Val-Saint-François, des Sources and Coaticook,

iv. administrative region 12 Chaudière-Appalaches, except the part of the territory comprising the territory of the municipalities in the Québec census metropolitan area as described in the Standard Geographical Classification (SGC) 2011 published by Statistics Canada,

v. administrative region 14 Lanaudière, except the part of the territory comprising the territory of the municipalities in the Montréal census metropolitan area as described in the Standard Geographical Classification (SGC) 2011 published by Statistics Canada,

vi. administrative region 15 Laurentides, except the part of the territory comprising the territory of the municipalities in the Montréal census metropolitan area as described in the Standard Geographical Classification (SGC) 2011 published by Statistics Canada, and the territory of Municipalité régionale de comté d'Antoine-Labelle,

vii. administrative region 16 Montérégie, except the part of the territory comprising the territory of the municipalities in the Montréal census metropolitan area as described in the Standard Geographical Classification (SGC) 2011 published by Statistics Canada, and

viii. administrative region 17 Centre-du-Québec; or

(*b*) the territory of Municipalité régionale de comté de Papineau;

"manufacturing corporation";
"manufacturing corporation" for a taxation year means a Canadian-controlled private corporation the proportion of the manufacturing or processing activities of which for the year is greater than 25%;

"proportion of the manufacturing or processing activities";
"proportion of the manufacturing or processing activities" of a manufacturing corporation for a taxation year means the proportion that the amount determined in respect of the corporation for the year under paragraph *a* of section 5200 of the Income Tax Regulations made under the Income Tax Act is of the amount determined in respect of the corporation for the year under paragraph *b* of section 5200 of those Regulations;

"qualified corporation";
"qualified corporation" for a taxation year means a Canadian-controlled private corporation more than 50% of the cost of labour or cost of capital of which for the taxation year is attributable to a business that it operates in a special remote area;

"remote area";
"remote area" means an area that is

(*a*) the territory of any of the following regions described in the Décret concernant la révision des limites des régions administratives du Québec, or any part of such a region:

i. administrative region 01 Bas-Saint-Laurent,

ii. administrative region 02 Saguenay–Lac-Saint-Jean,

iii. the eastern part of administrative region 05 Estrie that includes the territory of the regional county municipalities of Granit and Haut-Saint- François,

iv. administrative region 08 Abitibi-Témiscamingue,

v. administrative region 09 Côte-Nord, except the part of the region within the territory of Municipalité de l'Île-d'Anticosti and of Municipalité régionale de comté du Golfe-du-Saint-Laurent,

vi. administrative region 10 Nord-du-Québec, except the part of the region within the territory of the Kativik Regional Government, and

vii. the part of administrative region 11 Gaspésie–Îles-de-la-Madeleine comprising the territory of the regional county municipalities of Avignon, Bonaventure, Côte-de-Gaspé, Haute-Gaspésie and Rocher-Percé;

(*b*) the territory of any of the following regional county municipalities:

i. Municipalité régionale de comté d'Antoine-Labelle,

ii. Municipalité régionale de comté de Charlevoix-Est,

iii. Municipalité régionale de comté de La Vallée-de-la-Gatineau,

iv. Municipalité régionale de comté de Mékinac, and

v. Municipalité régionale de comté de Pontiac; or

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

"special remote area".
"special remote area" means an area that is

(*a*) the territory of Municipalité de l'Île-d'Anticosti;

(*b*) the territory of the urban agglomeration of Îles-de-la-Madeleine as described in section 9 of the Act respecting certain municipal powers in certain urban agglomerations;

(*c*) the territory of Municipalité régionale de comté du Golfe-du-Saint- Laurent; or

(*d*) the territory of the Kativik Regional Government.

History: 2015, c. 21, s. 125; 2015, c. 24, s. 29; 2017, c. 29, s. 42.

Determination of the applicable additional deduction rate.

156.12. For the purposes of the definition of "additional deduction rate" in section 156.11, a manufacturing corporation for a taxation year may determine the part of its cost of manufacturing and processing capital for the year attributable to goods it uses in a particular area by adding to it the portion of the corporation's cost of manufacturing and processing capital for the year attributable to goods it uses in another area for which a higher additional deduction rate for the year is provided.

History: 2015, c. 21, s. 125.

Determination of the applicable additional deduction rate.

156.13. Despite the definition of "additional deduction rate" in section 156.11, the additional deduction rate applicable to a manufacturing corporation for a taxation year is, for the year, equal to the rate determined by the formula

A × [(B − 25%)/25%].

Interpretation.

In the formula in the first paragraph,

(*a*) A is the additional deduction rate applicable to the manufacturing corporation for the year, determined without reference to this section; and

(*b*) B is the lesser of 50% and the proportion of the manufacturing or processing activities of the manufacturing corporation for the year.

Transitional rule.

For the taxation year of a manufacturing corporation that ends after 4 June 2014 and that includes that date, the additional deduction rate applicable to the corporation for the year is equal to the rate of the deduction, determined for the year with reference to the first and second paragraphs, multiplied by the proportion that the number of days in the year that follow 4 June 2014 is of the number of days in the year.

History: 2015, c. 21, s. 125.

Additional deduction for transportation costs.

156.14. Subject to section 156.15, a manufacturing corporation for a taxation year may deduct, in computing its income from a business for the year, an amount equal to

(*a*) the amount obtained by multiplying its gross revenue for the year by the additional deduction rate applicable to it for the year, if 10% is the additional deduction rate that would be applicable to it for the year in the absence of section 156.13; or

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

i. the amount obtained by multiplying its gross revenue for the year by the additional deduction rate applicable to it for the year, and

ii. the regional limit that is applicable to it for the year.

Meaning of "regional limit".

In this section and in section 156.14.1, "regional limit" applicable to a manufacturing corporation for a taxation year means

(*a*) $50,000, if 1% is the additional deduction rate that would be applicable to the corporation for the year in the absence of section 156.13;

(*b*) $150,000, if 3% is the additional deduction rate that would be applicable to the corporation for the year in the absence of section 156.13; or

(*c*) $350,000, if 5% is the additional deduction rate that would be applicable to the corporation for the year in the absence of section 156.13.

Taxation year less than 365 days.

For the purposes of the definition of "regional limit" in the second paragraph, if the number of days in the manufacturing corporation's taxation year is less than 365, the amount of $50,000, $150,000 or $350,000, as the case may be, is to be replaced by the proportion of that amount that the number of days in the year is of 365.

History: 2015, c. 21, s. 125; 2015, c. 24, s. 30; 2017, c. 29, s. 43.

Associated corporations.

156.14.1. For the purposes of section 156.14, if a manufacturing corporation for a taxation year to which a regional limit is applicable for the year is associated in the year with one or more other manufacturing corporations for the year to which a regional limit is applicable for the year, the regional limit that is applicable to each of those corporations for the year is equal to zero, unless all of those corporations file with the Minister in the prescribed form containing prescribed information an agreement whereby, for the purposes of this division, they allocate a particular percentage to one or more of them, in which case the following rules apply:

(*a*) where the percentage or the aggregate of the percentages so allocated, as the case may be, does not exceed 100%, the regional limit applicable to each of those corporations for the year is deemed to be equal to the product obtained by multiplying the amount corresponding to the regional limit that is applicable to it for the year, determined without reference to this section, by the percentage so allocated to it; and

(*b*) in any other case, the regional limit applicable to the corporation for the year is deemed to be equal to zero.

Failure to file an agreement.

If one of the corporations fails to file with the Minister the agreement within 30 days after notice in writing by the Minister has been sent to any of them that such an agreement is required for the purposes of any assessment of tax under this Part, the Minister shall, for the purposes of this division, allocate a percentage to one or more of those corporations for the taxation year, which percentage or the aggregate of which percentages, as the case may be, is to be equal to 100% and, in such a case, the regional limit that is applicable to each of those corporations for the year is deemed to be equal to the product obtained by multiplying the amount corresponding to the regional limit applicable to it for the year, determined without reference to this section, by the percentage so allocated to it by the Minister.

History: 2015, c. 24, s. 31.

Qualified corporation — additional deduction of transportation costs.

156.14.2. Subject to section 156.15, a qualified corporation for a taxation year that does not deduct any amount under section 156.14 for the year may deduct, in computing its income from a business for the year, an amount equal to the amount obtained by multiplying its gross revenue for the year by the additional deduction rate applicable to it for the year.

History: 2017, c. 29, s. 44.

Deduction limit reduced depending on the corporation's paid-up capital.

156.15. Despite sections 156.14 and 156.14.2, the amount of the deduction to which a corporation is entitled under each of those sections is equal, for a taxation year that ends in a calendar year, to the amount by which the amount of the deduction, determined without reference to this section, exceeds the amount determined by the formula

A × [(B − $10,000,000)/$5,000,000].

Interpretation.

In the formula in the first paragraph,

(*a*) A is the amount of the deduction to which the corporation is entitled for the taxation year under section 156.14 or 156.14.2, as the case may be, determined without reference to this section; and

(*b*) B is,

i. if the corporation is not associated with any other corporation in the taxation year for the purposes of section 771.2.1.8, the corporation's paid-up capital determined as provided in section 771.2.1.9 for its preceding taxation year or, if the corporation is in its first fiscal period, on the basis of its financial statements prepared at the beginning of the fiscal period in accordance with generally accepted accounting principles, and

ii. if the corporation is associated with one or more other corporations in the taxation year for the purposes of section 771.2.1.8, the aggregate of all amounts each of which is, for the corporation or any of the other corporations, the amount of its paid-up capital determined as provided in section 771.2.1.9 for its last taxation year ending in the preceding calendar year or, if the corporation is in its first fiscal period, on the basis of its financial statements prepared at the beginning of the fiscal period in accordance with generally accepted accounting principles.

History: 2015, c. 21, s. 125; 2017, c. 29, s. 45.

DIVISION IX
OTHER DEDUCTIONS

Deductions.

157. A taxpayer may deduct:

(*a*) *(paragraph repealed)*;

(*b*) *(paragraph repealed)*;

(*c*) despite section 128, an amount that the taxpayer pays to attend, in connection with the taxpayer's business, not more than two conventions held during the year by a business or professional organization at a place that may reasonably be regarded as consistent with the territorial scope of its activities;

(*d*) an amount, other than a commission, that is paid by the taxpayer to a person or a partnership for advice as to the advisability for the taxpayer of purchasing or selling a specific share or security or for services in respect of the administration or management of the taxpayer's shares or securities, if that person's or partnership's principal business is to so advise or includes the provision of such services;

(*e*) an amount that the taxpayer pays for investigating the suitability of a site for a building or other structure planned by the taxpayer for use in connection with a business carried on by the taxpayer;

(*f*) an amount that the taxpayer pays to a person with whom the taxpayer deals at arm's length for the purpose of making a service connection to the taxpayer's place of business for the supply, by means of wires, pipes or conduits, of water, electricity, gas, telephone service or sewers supplied by that person, to the extent that such amount is not paid to enable the taxpayer to acquire property or as consideration for the goods or services for the supply of which the service connection has been made;

(*g*) the proportion of an amount not otherwise deductible that was paid or that became payable by the taxpayer before the end of the year to a person for the cancellation of a lease of property of the taxpayer leased by the taxpayer to that person that the number of days that remained in the term of the lease, including all renewal periods of the lease, not exceeding 40 years, immediately before its cancellation and that were in the year is of the total number of days in any case if the property was owned at the end of the year by the taxpayer or by a person with whom the taxpayer was not dealing at arm's length and no part of the amount was deductible by the taxpayer under paragraph *g*.1 in computing the taxpayer's income for a preceding taxation year;

(*g*.1) an amount not otherwise deductible that was paid or that became payable by the taxpayer before the end of the year to a person for the cancellation of a lease of property of the taxpayer leased by the taxpayer to that person, to the extent of that amount or, in the case of capital property, 1/2

of that amount that was not deductible by the taxpayer under paragraph *g* in computing the taxpayer's income for any preceding taxation year in any case if the property was not owned at the end of the year by the taxpayer or by a person with whom the taxpayer was not dealing at arm's length, and no part of the amount was deductible by the taxpayer under this paragraph in computing the taxpayer's income for any preceding taxation year;

(*h*) an amount paid by the taxpayer for the landscaping of grounds around a building or other structure owned by the taxpayer and that the taxpayer uses primarily to gain income from it or from a business;

(*h.*1) an amount paid by the taxpayer in the year for prescribed renovations or alterations to a building that is used by the taxpayer primarily for the purpose of gaining or producing income from the property or from a business that are made to enable individuals who have a mobility impairment to gain access to the building or be mobile within it, to the extent that the amount was not deducted in computing the taxpayer's income for the year or in computing the taxpayer's income for a preceding taxation year under paragraph *h*.1.1;

(*h.*1.1) the portion of an amount paid by the taxpayer in the year for renovations or alterations to a building that is used by the taxpayer primarily for the purpose of gaining or producing income from the property or from a business, in respect of which an architect, an engineer or a professional technologist certifies in the prescribed form that the renovation or alteration work was carried out in accordance with the barrier-free design standards set out in the Construction Code (chapter B-1.1, r. 2);

(*h.*2) an amount paid by the taxpayer in the year for any prescribed disability-specific device or equipment;

(*i*) an amount paid by the taxpayer in the year as a levy under the Western Grain Stabilization Act (Revised Statutes of Canada, 1985, chapter W-7), as a premium in respect of the gross revenue insurance program established under the Farm Income Protection Act (Statutes of Canada, 1991, chapter 22) or as an administration fee in respect of a net income stabilization account;

(*i.*1) an amount that is paid by the taxpayer in the year as a contribution under the Farm Income Stabilization Account program established under the Act respecting La Financière agricole du Québec (chapter L-0.1) and that is

i. a contribution referred to in section 15 of that program,

ii. an additional contribution referred to in section 16 of that program,

iii. a special contribution referred to in section 16.1 or 50 of that program, or

iv. a special contribution referred to in the first paragraph of section 50.1 of that program, where the special contribution is made by a partnership;

(*j*) *(paragraph repealed)*;

(*k*) *(paragraph repealed)*;

(*k.*1) a repayment in the year by the taxpayer of an amount the taxpayer is required by paragraph *a* of section 87 to include in computing the taxpayer's income from a business for the year or a preceding taxation year;

(*l*) any amount included by the taxpayer under paragraph *q* of section 87 in computing the taxpayer's income for the preceding taxation year;

(*l.*1) such part of any amount paid in the year by the taxpayer on an amount payable by the taxpayer under section 32 of the Tax Administration Act (chapter A-6.002) if that section applies to an excess in relation to this Part, or under a prescribed disposition and as may reasonably be considered to be a repayment of interest that the taxpayer included in computing the taxpayer's income for the year or a preceding taxation year;

(*m*) the amount of any assistance or benefit received by the taxpayer in the year as a deduction from or reimbursement of an expense that is either a tax, other than the Québec sales tax or the goods and services tax, or royalty to the extent that

i. the tax or royalty is, by reason of the receipt of the amount by the taxpayer, not deductible in computing the taxpayer's income for a taxation year, and

ii. the deduction or reimbursement was included by the taxpayer in the amount determined under paragraph *e* of section 399, paragraph *h* of section 412 or paragraph *e* of section 418.6;

(*n*) such portion claimed by the taxpayer of an amount that is an outlay or expense made or incurred by the taxpayer before the end of the year that is a cost to the taxpayer of any substance injected before that time into a natural reservoir to assist in the recovery of petroleum, natural gas or related hydrocarbons to the extent that that portion was not otherwise deducted in computing the taxpayer's income for the year or deducted in computing the taxpayer's income for any preceding taxation year;

(*n.*1) the tax, if any, under Part III.14, under Part XII.6 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or under a law of a province other than Québec under which tax similar to that payable under Part III.14 is imposed, paid in the year or payable in respect of the year by the taxpayer, depending on the method regularly followed by the taxpayer in computing the taxpayer's income;

(*o*) an amount repaid by the taxpayer in the year pursuant to a legal obligation to repay all or part of a particular amount

i. included under paragraph *w* of section 87 in computing the taxpayer's income for the year or a preceding taxation year, or

ii. that is, by reason of subparagraph ii of paragraph *w* of section 87 or section 87.4, not included in computing the taxpayer's income under paragraph *w* for the year or a preceding taxation year, if the particular amount relates to an outlay or expense, other than an outlay or expense described in section 157.2.1, that would have been deductible in computing the taxpayer's income for the year or a preceding taxation year were it not for the receipt of the particular amount;

(*o.*1) 3/4 of any amount repaid by the taxpayer in the year, on or after the time the taxpayer ceases to carry on a business, pursuant to a legal obligation to repay all or part of an amount the taxpayer received or was entitled to receive that was assistance from a government, municipality or other public authority (whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance) in respect of, or for the acquisition of, property the cost of which was an incorporeal capital amount of the taxpayer in respect of the business, within the meaning of section 106, as it read before being repealed, if the incorporeal capital amount of the taxpayer in respect of the business was reduced under paragraph *b* of section 106.2, as it read before being repealed, because of the amount of the assistance the taxpayer received or was entitled to receive;

(*p*) any deferred amount under a salary deferral arrangement in respect of another person to the extent that the deferred amount is in respect of services rendered to the taxpayer and is included under section 37 as a benefit in computing the income of the other person for the taxation year of the other person that ends in the taxpayer's taxation year;

(*q*) any amount under a salary deferral arrangement in respect of another person, other than an arrangement established primarily for the benefit of one or more employees not resident in Canada in respect of services to be rendered outside Canada, to the extent that the amount was in respect of services rendered to the taxpayer and was included under section 47.10 in computing the income of the other person for the taxation year of the other person that ends in the taxpayer's taxation year;

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

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

(*t*) any amount deducted in computing the taxpayer's income for the year because of paragraph *a* of section 485.15 or section 485.27; and

(*u*) an amount paid in the year by the taxpayer as or on account of an existing or proposed countervailing or anti-dumping duty in respect of property other than depreciable property.

History: 1972, c. 23, s. 145; 1975, c. 21, s. 4; 1977, c. 26, s. 16; 1978, c. 26, s. 36; 1980, c. 13, s. 9; 1982, c. 5, s. 45; 1984, c. 15, s. 36; 1985, c. 25, s. 32; 1986, c. 15, s. 50; 1986, c. 19, s. 27; 1987, c. 21, s. 13; 1987, c. 67, s. 40; 1988, c. 18, s. 11; 1989, c. 5, s. 47; 1990, c. 59, s. 89; 1991, c. 25, s. 47; 1992, c. 1, s. 27; 1993, c. 16, s. 82; 1994, c. 22, s. 105; 1995, c. 49, s. 46; 1996, c. 39, s. 50; 1997, c. 3, s. 71; 1998, c. 16, s. 93; 2000, c. 5, s. 43; 2001, c. 53, s. 44; 2003, c. 2, s. 48; 2004, c. 21, s. 60; 2006, c. 36, s. 28; 2009, c. 5, s. 60; 2009, c. 15, s. 58; 2010, c. 31, s. 175; 2015, c. 21, s. 126; 2019, c. 14, s. 84.
Interpretation Bulletins: IMP. 87-4/R1; IMP. 87-6/R1.
Corresponding Federal Provision: 20(1) and (10).

157.1. *(Repealed).*

History: 1982, c. 5, s. 46; 1998, c. 16, s. 94; 2015, c. 21, s. 127.
Corresponding Federal Provision: 20(17).

157.2. *(Repealed).*

History: 1982, c. 5, s. 46; 1997, c. 3, s. 71; 1998, c. 16, s. 95; 2005, c. 1, s. 63; 2015, c. 21, s. 127.
Corresponding Federal Provision: 20(18).

Taxation year that is less than 51 weeks.

157.2.0.1. For the purposes of paragraph *n* of section 157, where the year referred to therein is less than 51 weeks, the amount that may be claimed under the said paragraph by the taxpayer for the year shall not exceed the greater of

(*a*) that proportion of the maximum amount that may otherwise be claimed under the said paragraph *n* by the taxpayer for the year that the number of days in the year is of 365, and

(*b*) the amount of such outlay or expense described in that paragraph *n* that was made or incurred by the taxpayer in the year and not otherwise deducted in computing the taxpayer's income for the year.

History: 1993, c. 16, s. 83; 1998, c. 16, s. 96.
Corresponding Federal Provision: 20(1)(mm)(iii) and (iv).

Outlay or expense.

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.

History: 1991, c. 25, s. 48; 1995, c. 49, s. 47; 2004, c. 8, s. 28.
Interpretation Bulletins: IMP. 87-4/R1; IMP. 87-6/R1.
Corresponding Federal Provision: 20(1)(hh)(ii).

Derivative forward agreement.

157.2.2. There may be deducted in computing a taxpayer's income for a taxation year in respect of a derivative forward agreement, the amount determined by the formula

A – B.

Interpretation.

In the formula in the first paragraph,

(*a*) A is the lesser of

i. the total of all amounts each of which is

(1) if the taxpayer acquires property under the agreement in the year or a preceding taxation year, the amount by which the cost to the taxpayer of the property exceeds the fair market value of the property at the time it is acquired by the taxpayer, or

(2) if the taxpayer disposes of property under the agreement in the year or a preceding taxation year, the amount by which the fair market value of the property at the time the agreement is entered into exceeds the proceeds of disposition, within the meaning of section 251, of the property, and

ii. the amount that is,

(1) if final settlement of the agreement occurs in the year and it cannot reasonably be considered that one of the main reasons for entering into the agreement is to obtain a deduction under this section, the amount determined under subparagraph i, or

(2) in any other case, the total of all amounts included in computing the taxpayer's income under paragraph *z*.7 of section 87 in respect of the agreement for the year or a preceding taxation year; and

(*b*) B is the total of all amounts deducted under this section in respect of the agreement for a preceding taxation year.

History: 2015, c. 24, s. 32.
Corresponding Federal Provision: 20(1)(xx).

Annuity contract.

157.3. Where a taxpayer in a particular taxation year receives an amount under an annuity contract in respect of which an amount was by virtue of section 92 included in computing his income for a taxation year commencing before 1 January 1983, there may be deducted in computing his income for the particular year such amount as is allowed by regulation.

History: 1982, c. 5, s. 46; 1984, c. 15, s. 37.
Corresponding Federal Provision: 20(19).

Acquisition of Québec film.

157.4. A taxpayer who has acquired as the first purchaser a film certified as a Québec film within the meaning of the regulations made under section 130, may deduct, in computing his income for a taxation year at the end of which he is the owner of that film and has been so without interruption from that acquisition, an amount not exceeding the amount by which 50% of the aggregate of the amounts deducted by him in computing his income for that year or for a previous taxation year, in respect of the film, under paragraph *a* of section 130 exceeds any amount deducted under this section, in respect of the film, in computing his income for a previous taxation year.

Deduction.

Furthermore, where the taxpayer disposes of the film for the first time, he may deduct, in computing his income for the taxation year in which he disposes of the film, the amount by which 50% of the aggregate of the amount he could have deducted in such computation, in respect of the film, under paragraph *a* of section 130, had it not been for the disposition, and the amounts deducted by him in computing his income for a previous taxation year, in respect of the film, under the said paragraph *a*, exceeds any amount deducted under this section, in respect of the film, in computing his income for a previous taxation year.

History: 1983, c. 44, s. 23; 1984, c. 35, s. 12.

Deduction by member of a partnership.

157.4.1. Where a taxpayer is a member of a partnership at the end of a particular fiscal period of that partnership during which it acquired as the first purchaser a film certified as a Québec film within the meaning of the regulations made under section 130, he may deduct, in computing his income for a taxation year in which a fiscal period of the partnership ends and at the end of which he is a member thereof and has been a member without interruption from the end of the particular fiscal year, an amount not exceeding the amount by which his share of 50% of the aggregate of the amounts deducted by the partnership in computing its income for that fiscal period or a previous fiscal period, in respect of the film, under paragraph *a* of section 130, exceeds any amount deducted by the taxpayer under this section or section 157.4,

in respect of the film, in computing his income for a previous taxation year.

Deduction.

Furthermore, where the partnership disposes of the film for the first time, the taxpayer contemplated in the first paragraph may deduct, in computing his income for the taxation year in which the fiscal period of the partnership ends and during which the disposition occurs, the amount by which his share of 50% of the aggregate of the amount that the partnership could have deducted in computing its income for that fiscal period, in respect of the film, under paragraph *a* of section 130, had it not been for the disposition, and the amounts deducted by the partnership in computing its income for a previous fiscal period, in respect of the film, under the said paragraph *a*, exceeds any amount deducted by the taxpayer under this section or section 157.4, in respect of the film, in computing his income for a previous taxation year.

Share of taxpayer.

For the purposes of this section, the share of a taxpayer is deemed to be equal to the lesser of:

(*a*) his share in the profits of the partnership determined in the absence of this paragraph; and

(*b*) his share in the profits of the partnership determined in respect of the fiscal period of the partnership during which it acquired the film.

History: 1984, c. 35, s. 12; 1997, c. 3, s. 71.

Québec film.

157.4.2. Notwithstanding sections 157.4 and 157.4.1, no amount may be deducted under those sections in computing the income of a taxpayer in respect of a film certified as a Québec film, within the meaning of the regulations under section 130, acquired after 31 December 1986, except in respect of the first purchaser of such a film certified as a Québec film by the Société générale du cinéma du Québec not later than 31 December 1987 where

(*a*) production work on the film was sufficiently advanced on 11 December 1986, or

(*b*) the sums collected for that purpose were collected through the sale of units in respect of which the receipt for the final prospectus was issued not later than 31 December 1986 and the receipt for the preliminary prospectus was issued before 11 December 1986.

History: 1988, c. 4, s. 27.

Deduction prohibited from 1988.

157.4.3. Notwithstanding sections 157.4 to 157.4.2, no individual may deduct any amount under the said sections in computing his income for a taxation year from his taxation year 1988.

History: 1989, c. 5, s. 48.

Disposition of interest in a life insurance policy.

157.5. Where a taxpayer disposes of an interest in a life insurance policy that is not an annuity contract, otherwise than as a consequence of a death, or of an interest in an annuity contract, other than a prescribed annuity contract, there may be deducted in computing his income for the taxation year in which the disposition occurs an amount equal to the lesser of

(*a*) the aggregate of all amounts each of which is an amount that was included by virtue of sections 92.11 to 92.19 or paragraph *c*.1 of section 312 in respect of that interest in computing his income for the year or any preceding taxation year, and

(*b*) the amount by which the adjusted cost basis, within the meaning assigned by sections 976 to 977.1, to him of that interest immediately before the disposition exceeds the proceeds of the disposition, within the meaning assigned by paragraph *b*.4 of section 966, of the interest that the policyholder, a beneficiary or an assignee became entitled to receive.

History: 1984, c. 15, s. 38; 1985, c. 25, s. 33; 1986, c. 19, s. 28; 1991, c. 25, s. 49; 1993, c. 16, s. 84.
Corresponding Federal Provision: 20(20).

Disposition of interest in a debt obligation.

157.6. Where a taxpayer disposes of a property that is a right in a debt obligation for consideration equal to its fair market value at the time of disposition, there may be deducted in computing the taxpayer's income for the taxation year in which the disposition occurs the amount by which the aggregate of all amounts each of which was included in computing the taxpayer's income for the year or a preceding taxation year as interest on the property exceeds the aggregate of all amounts each of which is

(*a*) such portion of an amount that was received or became receivable by him in the year or in a preceding taxation year as can reasonably be considered to be in respect of an amount that was included in computing his income for the year or a preceding taxation year as interest on the property and that was not repaid by the taxpayer to the issuer of the debt obligation because of an adjustment in respect of interest received before the time of disposition by the taxpayer, or

(*b*) an amount in respect of the property that was deductible by him by virtue of the second paragraph of section 167 in computing his income for the year or a preceding taxation year.

History: 1984, c. 15, s. 38; 1985, c. 25, s. 33; 1993, c. 16, s. 85; 1994, c. 22, s. 106; 2020, c. 16, s. 38.

Corresponding Federal Provision: 20(21).

Deduction for negative reserves.

157.6.1. An insurer may, in computing the income of the insurer for a taxation year, deduct the amount included under paragraph *e*.1 of section 87 by the insurer in computing the insurer's income for the preceding taxation year.

History: 1998, c. 16, s. 97.
Corresponding Federal Provision: 20(22).

157.7. *(Repealed).*

History: 1984, c. 15, s. 38; 1991, c. 25, s. 50.

157.8. *(Repealed).*

History: 1984, c. 15, s. 38; 1991, c. 25, s. 50.

157.9. *(Repealed).*

History: 1984, c. 15, s. 38; 1991, c. 25, s. 50.

Amounts paid for undertaking future obligations.

157.10. Where an amount is included under paragraph *a* of section 87 in computing a taxpayer's income for a taxation year in respect of an undertaking to which subparagraph i or ii of that paragraph applies and the taxpayer paid a reasonable amount in a particular taxation year to another person as consideration for the assumption by that other person of the taxpayer's obligations in respect of the undertaking, the following rules apply if the taxpayer and the other person make a valid election under subsection 24 of section 20 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in relation to the undertaking:

(*a*) the payment may be deducted in computing the taxpayer's income for the particular year;

(*b*) no amount is deductible under section 150 or 150.1 in computing the taxpayer's income for the particular year or any subsequent taxation year in respect of the undertaking; and

(*c*) where the amount was received by the other person in carrying on a business, it is deemed to be an amount described in subparagraph i or ii of paragraph *a* of section 87.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 24 of section 20 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1986, c. 19, s. 29; 1994, c. 22, s. 107; 2009, c. 5, s. 61.
Corresponding Federal Provision: 20(24).

157.11. *(Repealed).*

History: 1986, c. 19, s. 29; 1997, c. 31, s. 18; 2009, c. 5, s. 62.

157.12. *(Repealed).*

History: 1990, c. 59, s. 90; 1996, c. 39, s. 51; 2015, c. 21, s. 128.
Corresponding Federal Provision: 20(26).

Deduction respecting buildings.

157.13. In computing a taxpayer's income from a business or property for a taxation year ending before the time at which a building or a part thereof acquired after 31 December 1989 by the taxpayer has become available for use by the taxpayer, there may be deducted an amount not exceeding the amount by which

(*a*) the lesser of

i. the amount that would have been deductible under paragraph *a* of section 130 for the year in respect of the building if section 93.6 were not applicable, and

ii. the taxpayer's income for the year from renting the building, computed without reference to this section and before deducting any amount in respect of the building under paragraph *a* of section 130, exceeds

(*b*) the amount deductible for the year under paragraph *a* of section 130 in respect of the building, computed without reference to this section.

Deemed depreciation.

The amount deducted under the first paragraph is deemed to be an amount deducted by the taxpayer by reason of paragraph *a* of section 130 in computing the taxpayer's income for the year.

History: 1993, c. 16, s. 86.
Corresponding Federal Provision: 20(28).

Deduction respecting buildings.

157.14. Where, by reason of section 135.4, no amount would, but for this section, be deductible by a taxpayer in respect of an outlay or expense in respect of a building, or part thereof, and the outlay or expense would, but for section 135.4 and this section, be deductible in computing the taxpayer's income for a taxation year, there may be deducted in respect of such an outlay or expense in computing the taxpayer's income for the year an amount equal to the lesser of

(*a*) the aggregate of all amounts each of which is such an outlay or expense, and

(*b*) the taxpayer's income for the year from renting the building or the part thereof, computed without reference to section 157.13 and this section.

History: 1993, c. 16, s. 86.
Corresponding Federal Provision: 20(29).

Multi-employer insurance plan.

157.15. Notwithstanding sections 128 and 133, a taxpayer may deduct, in computing the income of the taxpayer from a business for a taxation year, the portion, which can reasonably be attributed to a plan for the insurance of persons, otherwise than in relation to coverage against the loss of all or part of the income from a business, of the aggregate of all amounts each of which is the total contribution relating to work performed in connection with that business and payable by the taxpayer for a period in the year, otherwise than because of a previous, the current or an intended office or employment of another person, to the administrator of a multi-employer insurance plan, within the meaning of section 43.1, and of the tax, within the meaning of subparagraph *d* of the second paragraph of section 37.0.1.1, relating thereto.

History: 1995, c. 63, s. 31; 1998, c. 16, s. 98.

Contribution to the Réseau d'investissement social du Québec.

157.16. A corporation may, in computing its income for a taxation year, deduct an additional amount equal to half the contribution, otherwise deductible in computing its income from a business, that is made in the year by the corporation to the Réseau d'investissement social du Québec.

History: 1999, c. 83, s. 43.

Deduction by member of a partnership.

157.17. Where a corporation is a member of a partnership at the end of a fiscal period of the partnership during which the partnership made a contribution to the Réseau d'investissement social du Québec, the corporation may, in computing its income for a taxation year in which that fiscal period ends, deduct an amount equal to half the corporation's share of the contribution, otherwise deductible in computing the income of the partnership from a business.

Corporation's share.

For the purposes of the first paragraph, the share of a corporation in a contribution made by a partnership of which the corporation is a member is equal to the agreed proportion of the contribution in respect of the corporation for the fiscal period of the partnership that ends in the taxation year of the corporation.

History: 1999, c. 83, s. 43; 2009, c. 15, s. 59.

Interposed partnership.

157.17.1. For the purposes of section 157.17, the following rules apply in respect of a corporation if one or more partnerships (each of which is in this section referred to as an "interposed partnership") are interposed between the corporation and a given partnership, for a given fiscal period of the given partnership:

(*a*) the corporation is deemed to be a member of a particular partnership at the end of a particular fiscal period of the particular partnership and that particular fiscal period is deemed to end in the corporation's taxation year in which ends the fiscal period of the interposed partnership of which it is directly a member, if

i. the particular fiscal period is that which ends in the fiscal period (in this section referred to as the "interposed fiscal period") of the interposed partnership that is a member of the particular partnership at the end of that particular fiscal period, and

ii. the corporation is a member, or deemed to be a member under this paragraph, of the interposed partnership described in subparagraph i at the end of the interposed partnership's interposed fiscal period; and

(*b*) for the purpose of determining the corporation's share in an amount in respect of the given partnership for the given fiscal period, the agreed proportion in respect of the corporation for that fiscal period of the given partnership is deemed to be equal to the product obtained by multiplying the agreed proportion in respect of the corporation for the interposed fiscal period of the interposed partnership of which it is directly a member, by

i. if there is only one interposed partnership, the agreed proportion in respect of the interposed partnership for the given partnership's given fiscal period, or

ii. if there is more than one interposed partnership, the result obtained by multiplying together all proportions each of which is the agreed proportion in respect of an interposed partnership for the particular fiscal period of the particular partnership referred to in paragraph *a* of which the interposed partnership is a member at the end of that particular fiscal period.

History: 2009, c. 15, s. 60.

Section 157.17.1 not applicable.

157.17.2. Section 157.17.1 does not apply in respect of a corporation, in relation to a given partnership, if the Minister is of the opinion that the interposition, between the corporation and the given partnership, of one or more other partnerships is part of an operation or transaction or of a series of operations or transactions, one of the purposes of which is to cause the corporation to be able to deduct, in computing its income for a taxation year under section 157.17, an amount greater than the amount that the corporation could have so deducted for that taxation year, but for that interposition.

History: 2009, c. 15, s. 60.

157.18. *(Repealed).*

History: 2001, c. 51, s. 26; 2003, c. 2, s. 49; 2005, c. 38, s. 63.

157.19. *(Repealed).*

History: 2001, c. 51, s. 26; 2003, c. 2, s. 50; 2005, c. 38, s. 63.

DIVISION X
SOCIAL BENEFIT PLANS

Employer's contributions to supplementary unemployment benefit plan, deferred profit sharing plan.

158. An employer shall not deduct, for the purposes of this chapter, an amount which he pays to a trustee:

(*a*) under a supplementary unemployment benefit plan, except to the extent allowed under section 964;

(*b*) under a deferred profit sharing plan, except to the extent provided in section 881;

(*c*) on behalf of his employees or those of a corporation with whom he does not deal at arm's length under a profit sharing plan except to the extent provided for in section 856.

History: 1972, c. 23, s. 146; 1973, c. 17, s. 13; 1991, c. 25, s. 51; 1997, c. 3, s. 71.

Corresponding Federal Provision: 18(1)(i) to (k)(i) and 20(1)(w) to (y) and (2).

DIVISION X.1
EXPENDITURES MATCHABLE WITH A RIGHT TO RECEIVE PRODUCTION

Definitions:

158.1. In this division,

"matchable expenditure";
"matchable expenditure" of a taxpayer means the amount of an expenditure that is made by the taxpayer to

(*a*) acquire a right to receive production;

(*b*) fulfil a covenant or obligation in circumstances in which it is reasonable to consider that a relationship exists between the covenant or obligation and a right to receive production; or

(*c*) preserve or protect a right to receive production;

"right to receive production";
"right to receive production" means a right under which a taxpayer is entitled, either immediately or in the future and either absolutely or contingently, to receive an amount all or a portion of which is established by reference to use of property, production, revenue, profit, cash flow, commodity price, cost or value of property or any other similar criterion or by reference to dividends paid or payable to shareholders of any class of shares where the amount is in respect of another taxpayer's activity, property or business but such a right does not include an income interest in a trust, a Canadian resource property or a foreign resource property;

"tax benefit";
"tax benefit" means a reduction, avoidance or deferral of tax or other amount payable under this Act or an increase in a refund of tax or other amount under this Act;

"tax shelter";
"tax shelter" means a property that would be a tax shelter, as defined in section 1079.1, if

(*a*) the cost of a right to receive production were equal to the aggregate of all amounts each of which is a matchable expenditure to which the right relates; and

(*b*) sections 158.2 to 158.12 did not apply for the purpose of computing an amount, or in the case of a partnership a loss, represented to be deductible;

"taxpayer".
"taxpayer" includes a partnership.

Limitation as to a matchable expenditure.

For the purposes of the definition of "matchable expenditure" in the first paragraph, the amount of an expenditure that a taxpayer may deduct in computing the taxpayer's income for a taxation year under this chapter, otherwise than under this division, is not a matchable expenditure.

History: 2001, c. 7, s. 26; 2003, c. 2, s. 51.

Corresponding Federal Provision: 18.1(1).

Limitation on the deductibility of a matchable expenditure.

158.2. Subject to section 158.3, no amount of a matchable expenditure may be deducted by a taxpayer in computing the taxpayer's income from a business or property for a taxation year.

History: 2001, c. 7, s. 26.

Corresponding Federal Provision: 18.1(2).

Deduction of a matchable expenditure.

158.3. If a taxpayer's matchable expenditure would, but for section 158.2 and this section, be deductible in computing the taxpayer's income for a taxation year, the taxpayer may deduct in respect of the matchable expenditure in computing the taxpayer's income for a taxation year the amount that is determined under section 158.4 for the year in respect of the expenditure.

History: 2001, c. 7, s. 26.

Corresponding Federal Provision: 18.1(3).

Amount of deduction.

158.4. The amount to which section 158.3 refers for a taxation year in respect of a taxpayer's matchable expenditure is the amount that is the least of

(*a*) the aggregate of the amount by which the amount determined under this subparagraph for the preceding taxation year in respect of the matchable expenditure exceeds

the amount of the matchable expenditure deductible in computing the taxpayer's income for that preceding year and the lesser of

i. 1/5 of the matchable expenditure, and

ii. the amount determined by the formula

(A / B) × C;

(*b*) the aggregate of all amounts each of which is included in computing the taxpayer's income for the year, other than any portion of such amount that is the subject of a reserve claimed by the taxpayer for the year under this Act, in respect of the right to receive production to which the matchable expenditure relates and the amount by which the amount determined under this subparagraph for the preceding taxation year in respect of the matchable expenditure exceeds the amount of the matchable expenditure deductible in computing the taxpayer's income for that preceding year; and

(*c*) the amount by which the aggregate of all amounts each of which is the amount of the matchable expenditure that would, but for this division, have been deductible in computing the taxpayer's income for the year or a preceding taxation year exceeds the aggregate of all amounts each of which is the amount of the matchable expenditure deductible under section 158.3 in computing the taxpayer's income for a preceding taxation year.

Interpretation.

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

(*a*) A is the number of months that are in the taxation year and after the day on which the right to receive production to which the matchable expenditure relates is acquired;

(*b*) B is the lesser of 240 and the number of months that are in the period that begins on the day on which the right to receive production to which the matchable expenditure relates is acquired and that ends on the day the right is to terminate; and

(*c*) C is the amount of the matchable expenditure.

History: 2001, c. 7, s. 26.

Corresponding Federal Provision: 18.1(4).

Special rules.

158.5. For the purposes of this division, the following rules apply:

(*a*) where a taxpayer's matchable expenditure is made before the day on which the related right to receive production is acquired by the taxpayer, the expenditure is deemed to have been made on that day;

(*b*) where a taxpayer has one or more rights to renew a particular right to receive production to which a matchable expenditure relates for one or more additional terms, after the term that includes the time at which the particular right was acquired, the particular right is deemed to terminate on the latest day on which the latest possible such term could terminate if all rights to renew the particular right were exercised;

(*c*) where a taxpayer has more than one right to receive production that can reasonably be considered to be related to each other, the rights are deemed to be one right; and

(*d*) where the term of a taxpayer's right to receive production is for an indeterminate period, the right is deemed to terminate 20 years after it is acquired.

History: 2001, c. 7, s. 26.

Corresponding Federal Provision: 18.1(5).

Proceeds of disposition considered income.

158.6. Where in a taxation year a taxpayer disposes of all or part of a right to receive production to which a matchable expenditure relates, the proceeds of the disposition shall be included in computing the taxpayer's income for the year.

History: 2001, c. 7, s. 26.

Corresponding Federal Provision: 18.1(6).

Arm's length disposition.

158.7. Subject to sections 158.8 and 158.9, the amount that a taxpayer may deduct, under section 158.3, in computing the taxpayer's income for a taxation year, in respect of a matchable expenditure, other than a matchable expenditure no portion of which would, if this division were read without reference to this section, be deductible under section 158.3 in computing the taxpayer's income, is deemed to be the amount determined under subparagraph *c* of the first paragraph of section 158.4 for the year in respect of the matchable expenditure where in the year

(*a*) the taxpayer disposes, otherwise than in a disposition to which subsections 1 and 2 of section 544 or sections 556 to 564.1 and 565 apply, of all of the taxpayer's right to receive production to which the matchable expenditure relates; or

(*b*) the taxpayer's right to receive production to which the matchable expenditure relates has expired.

History: 2001, c. 7, s. 26.

Corresponding Federal Provision: 18.1(7).

Non-arm's length disposition and special arm's length case.

158.8. Section 158.9 applies where a taxpayer's particular right to receive production to which a matchable expenditure, other than a matchable expenditure no portion of which would, if this division were read without reference to sections 158.7 and 158.9, be deductible under section 158.3 in computing the taxpayer's income, relates has expired or

the taxpayer has disposed of all of the right, otherwise than in a disposition to which subsections 1 and 2 of section 544 or sections 556 to 564.1 and 565 apply, and

(*a*) where

i. during the period that begins 30 days before and ends 30 days after the disposition or expiry, the taxpayer or a person affiliated, or who does not deal at arm's length, with the taxpayer acquires a right to receive production, in this section and section 158.9 referred to as the "substituted property", that is, or is identical to, the particular right, and

ii. at the end of the period referred to in subparagraph i, the taxpayer or a person affiliated, or who does not deal at arm's length, with the taxpayer owns the substituted property; or

(*b*) during the period that begins at the time of the disposition or expiry and ends 30 days after that time, a taxpayer that had an interest, directly or indirectly, in the right to receive production has another interest, directly or indirectly, in another right to receive production, which other interest is a tax shelter or a tax shelter investment as defined by section 851.38.

History: 2001, c. 7, s. 26; 2020, c. 16, s. 39.

Corresponding Federal Provision: 18.1(9).

Amount of deduction if non-arm's length disposition.

158.9. Where this section applies because of section 158.8 to a disposition or expiry in a taxation year or a preceding taxation year of a taxpayer's right to receive production to which a matchable expenditure relates, the following rules apply:

(*a*) the amount that may be deducted under section 158.3 in respect of the expenditure in computing the taxpayer's income for a taxation year that ends at or after the disposition or expiry of the right is the amount determined under section 158.4 for the year in respect of the expenditure; and

(*b*) the amount determined under section 158.4 in respect of the expenditure for a taxation year is deemed to be the amount determined under subparagraph *c* of the first paragraph of section 158.4 in respect of the expenditure for the year where the year includes the time that is immediately before the first time, after the disposition or expiry,

i. at which the right would, if it were owned by the taxpayer, be deemed by Chapter I of Title I.1 of Book VI or section 999.1 to have been disposed of by the taxpayer,

ii. that is immediately before the taxpayer is subject to a loss restriction event,

iii. at which winding-up of the taxpayer begins, other than a winding-up to which sections 556 to 564.1 and 565 apply, if the taxpayer is a corporation,

iv. where section 158.8 applies otherwise than because of paragraph *b* thereof, at which a 30-day period begins throughout which neither the taxpayer nor a person affiliated, or who does not deal at arm's length, with the taxpayer owns the substituted property, or a property that is identical to the substituted property and that was acquired after the day that is 31 days before the period began, or

v. where section 158.8 applies otherwise than because of paragraph *a* thereof, at which a 30-day period begins throughout which no taxpayer who had an interest, directly or indirectly, in the right has an interest, directly or indirectly, in another right to receive production if one or more of those direct or indirect interests in the other right is a tax shelter or tax shelter investment as defined by section 851.38.

History: 2001, c. 7, s. 26; 2004, c. 8, s. 29; 2017, c. 1, s. 94; 2020, c. 16, s. 40.

Corresponding Federal Provision: 18.1(10).

Partnerships.

158.10. For the purposes of paragraph *b* of section 158.9, where a partnership ceases to exist at any time after a disposition or expiry referred to in section 158.9, the partnership is deemed not to have ceased to exist, and each taxpayer who was a member of the partnership immediately before the partnership would, but for this section, have ceased to exist is deemed to remain a member of the partnership until the time that is immediately after the first of the times described in subparagraphs i to v of paragraph *b* of section 158.9.

History: 2001, c. 7, s. 26.

Corresponding Federal Provision: 18.1(11).

Identical property.

158.11. For the purpose of applying section 158.8, otherwise than because of paragraph *b* thereof, and section 158.9, a right to acquire a particular right to receive production, other than a right, as security only, derived from a hypothec, mortgage, agreement of sale or similar obligation, is deemed to be a right to receive production that is identical to the particular right.

History: 2001, c. 7, s. 26; 2005, c. 1, s. 64.

Corresponding Federal Provision: 18.1(12).

Application of Title VIII of Book VI.

158.12. For the purpose of applying Title VIII of Book VI to an amount that would, if this division were read without reference to this section, be a matchable expenditure any portion of the cost of which is deductible under section 158.3, the expenditure is deemed to be a tax shelter investment and that Title VIII shall be read without reference to paragraph *b* of section 851.41.

History: 2001, c. 7, s. 26.

Corresponding Federal Provision: 18.1(13).

Debt obligations.

158.13. Where the rate of return on a taxpayer's right to receive production to which a matchable expenditure, other than a matchable expenditure no portion of which would, if this division were read without reference to this section, be deductible under section 158.3 in computing the taxpayer's income, relates is reasonably certain at the time the taxpayer acquires the right, the following rules apply:

(*a*) for the purposes of section 92.5 and the regulations made under that section,

i. the right is deemed to be a debt obligation in respect of which no interest is stipulated to be payable in respect of the principal amount, and

ii. the obligation is deemed to be satisfied at the time the right terminates for an amount equal to the total of the return on the debt obligation and the amount that would otherwise be the matchable expenditure that is related to the right; and

(*b*) notwithstanding section 158.3, no amount may be deducted in computing the taxpayer's income in respect of any matchable expenditure that relates to the right.

History: 2001, c. 7, s. 26.
Corresponding Federal Provision: 18.1(14).

Exceptions.

158.14. Sections 158.2 to 158.12 do not apply to a taxpayer's matchable expenditure in respect of a right to receive production if

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

i. no portion of the expenditure can reasonably be considered to relate to a tax shelter or a tax shelter investment, within the meaning of section 851.38, and

ii. none of the main purposes for making the expenditure can reasonably be considered to have been to obtain a tax benefit for the taxpayer, a person or partnership with whom the taxpayer does not deal at arm's length, or a person or partnership that holds, directly or indirectly, an interest in the taxpayer; or

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

History: 2001, c. 7, s. 26; 2003, c. 2, s. 52; 2004, c. 37, s. 90; 2009, c. 5, s. 63.
Corresponding Federal Provision: 18.1(15) and (16).

Exception.

158.15. Subparagraph *a* of the first paragraph of section 158.4 does not apply in determining the amount that a taxpayer may deduct for a taxation year in respect of a matchable expenditure in respect of a right to receive production if

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

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

History: 2009, c. 5, s. 64.
Corresponding Federal Provision: 18.1(17).

DIVISION X.2
STAPLED SECURITIES

Definitions:

158.16. In this division,

"entity";
"entity" has the meaning assigned by the first paragraph of section 1129.70;

"equity value";
"equity value" has the meaning assigned by the first paragraph of section 1129.70;

"real estate investment trust";
"real estate investment trust" has the meaning assigned by the first paragraph of section 1129.70;

"security";
"security", of an entity, means

(*a*) a liability of the entity;

(*b*) if the entity is a corporation,

i. a share of the capital stock of the corporation, and

ii. a right to control in any manner whatever the voting rights of a share of the capital stock of the corporation if it can reasonably be concluded that one of the reasons that a person or partnership holds the right to control is to avoid the application of the second paragraph of section 92.31 or section 158.18;

(*c*) if the entity is a trust, a capital or income interest in the trust; and

(*d*) if the entity is a partnership, an interest as a member of the partnership;

"stapled security";
"stapled security", of a particular entity at a particular time, means a particular security of the particular entity if at that time

(*a*) another security (in this division referred to as the "reference security")

i. is or may be required to be transferred together or concurrently with the particular security as a term or condition of the particular security, the reference security, or an agreement or arrangement to which the particular entity (or if the reference security is a security of another entity, the other entity) is a party, or

ii. is listed or traded with the particular security on a stock exchange or other public market under a single trading symbol;

(*b*) the particular security or the reference security is listed or traded on a stock exchange or other public market; and

(*c*) any of the following subparagraphs applies:

i. the particular security and the reference security are securities of the particular entity and the particular entity is a corporation, SIFT partnership or SIFT trust,

ii. the reference security is a security of another entity, one of the particular entity or the other entity is a subsidiary of the other, and the particular entity or the other entity is a corporation, SIFT partnership or SIFT trust, or

iii. the reference security is a security of another entity and the particular entity or the other entity is a real estate investment trust or a subsidiary of a real estate investment trust;

"subsidiary";
"subsidiary", of a particular entity at a particular time, means

(*a*) any entity in which the particular entity holds at the particular time securities that have a total fair market value greater than the amount that is 10% of the equity value of the entity; or

(*b*) an entity that at that time is a subsidiary of an entity that is a subsidiary of the particular entity;

"transition period".
"transition period", in relation to an entity, means

(*a*) if one or more securities of the entity would have been stapled securities of the entity on 31 October 2006 and 19 July 2011 had the definition of "stapled security" had effect from 31 October 2006, the period that begins on 20 July 2011 and ends on the earliest of

i. 1 January 2016,

ii. the first day after 20 July 2011 on which any of those securities is materially altered, and

iii. the day described in the second paragraph;

(*b*) if paragraph a does not apply in respect of the entity and one or more securities of the entity would have been stapled securities on 19 July 2011 had the definition of "stapled security" had effect from that date, the period that begins on 20 July 2011 and ends on the earliest of

i. 20 July 2012,

ii. the first day after 20 July 2011 on which any of those securities is materially altered, and

iii. the day described in the second paragraph; and

(*c*) in any other case, if the entity is a subsidiary of another entity on 20 July 2011 and the other entity has a transition period, the period that begins on 20 July 2011 and ends on the earliest of

i. the day on which the other entity's transition period ends,

ii. the first day after 20 July 2011 on which the entity ceases to be a subsidiary of the other entity, and

iii. the day described in the second paragraph.

Transition period.

The day to which subparagraph iii of paragraphs *a* to *c* of the definition of "transition period" in the first paragraph refers is the first day after 20 July 2011 on which a security of the entity becomes a stapled security other than by way of

(*a*) a transaction that is completed under the terms of an agreement in writing entered into before 20 July 2011 if no party to the agreement may be excused from completing the transaction as a result of amendments to the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), and that is not the issuance of a security in satisfaction of a right to enforce payment of an amount by the entity; or

(*b*) the issuance of the security in satisfaction of a right to enforce payment of an amount that became payable by the entity on another security of the entity before 20 July 2011, if the other security was a stapled security on 20 July 2011 and

the issuance was made under a term or condition of the other security in effect on that date.

History: 2017, c. 1, s. 95.
Corresponding Federal Provision: 18.3(1).

Property representing security.

158.17. Where a receipt or similar property (in this section referred to as the "receipt") represents all or a portion of a particular security of an entity and the receipt would be described in paragraphs *a* and *b* of the definition of "stapled security" in the first paragraph of section 158.16 if it were a security of the entity, the following rules apply for the purpose of determining whether the particular security is a stapled security:

(*a*) the particular security is deemed to be described in those paragraphs *a* and *b*; and

(*b*) any security that would be a reference security in respect of the receipt is deemed to be a reference security in respect of the particular security.

History: 2017, c. 1, s. 95.
Corresponding Federal Provision: 18.3(2).

Amounts not deductible.

158.18. Despite any other provision of this Act, in computing the income of a particular entity for a taxation year from a business or property, no deduction may be made in respect of an amount

(*a*) that is paid or payable after 19 July 2011, unless the amount is paid or payable in respect of the particular entity's transition period; and

(*b*) that is

i. interest paid or payable on a liability of the particular entity that is a stapled security, unless each reference security in respect of the stapled security is a liability, or

ii. if a security of the particular entity, a subsidiary of the particular entity or an entity of which the particular entity is a subsidiary is a reference security in respect of a stapled security of a real estate investment trust or a subsidiary of a real estate investment trust, an amount paid or payable to

(1) the real estate investment trust,

(2) a subsidiary of the real estate investment trust, or

(3) any person or partnership on condition that any person or partnership pays or makes payable an amount to the real estate investment trust or a subsidiary of the real estate investment trust.

History: 2017, c. 1, s. 95.
Corresponding Federal Provision: 18.3(3).

DIVISION XI
RESTRICTIONS ON ADVERTISING EXPENSES

§1. — *Canadian newspapers*

Definitions:

159. In this subdivision,

"Canadian citizen";
"Canadian citizen" includes the following persons and entities:

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

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

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

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

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

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

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

(*a*) a Canadian citizen;

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

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

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

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

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

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

"United States";

"United States" means

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

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

Interpretation.

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

Interpretation.

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

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

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

Presumption.

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

History: 1972, c. 23, s. 147; 1977, c. 26, s. 17; 1997, c. 31, s. 19; 2003, c. 2, s. 54; 2010, c. 5, s. 22.

Corresponding Federal Provision: 19(5) and (5.1).

Trust or estate.

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

History: 2003, c. 2, s. 55; 2020, c. 16, s. 41.

Corresponding Federal Provision: 19(6).

Newspaper ceasing to be a Canadian newspaper.

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

History: 2003, c. 2, s. 55.

Corresponding Federal Provision: 19(7).

Foreign newspaper.

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

History: 2003, c. 2, s. 55.

Corresponding Federal Provision: 19(8).

Advertising costs.

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

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

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

History: 2003, c. 2, s. 55.
Corresponding Federal Provision: 19(1).

Exception.

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

History: 2003, c. 2, s. 55.
Interpretation Bulletins: 19(3).

§2. — *Periodicals*

Definitions:

159.6. In this subdivision,

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

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

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

(*a*) the author of which is a Canadian citizen or a permanent resident within the meaning of the Immigration and Refugee Protection Act (Statutes of Canada, 2001, chapter 27); or

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

"periodical";

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

Interpretation.

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

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

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

History: 2003, c. 2, s. 55; 2007, c. 12, s. 42.
Corresponding Federal Provision: 19.01(1) and (6).

Advertising costs.

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

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

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

History: 2003, c. 2, s. 55.
Corresponding Federal Provision: 19.01(2) to (5).

§3. — *Broadcasting*

Definitions:

159.8. In this subdivision,

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

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

History: 2003, c. 2, s. 55.
Corresponding Federal Provision: 19.1(4).

Advertising costs.

159.9. In computing income, no deduction shall be made by a taxpayer in respect of an outlay or expense of the taxpayer for an advertisement directed primarily to a market in Canada and broadcast by a foreign broadcasting undertaking.

History: 2003, c. 2, s. 55.
Corresponding Federal Provision: 19.1(1) and (2).

DIVISION XII
INTEREST AND CERTAIN PROPERTY TAXES

Interest paid on borrowed money.

160. A taxpayer may deduct the lesser of a reasonable amount and the amount paid in the year or payable in respect of the year, depending on the method that he regularly

follows in computing his income, pursuant to a legal obligation to pay interest on:

(*a*) borrowed money used to earn income from a business or property;

(*b*) an amount payable for property acquired to gain or produce income from it or from a business;

(*c*) an amount paid to the taxpayer under a law to advance or sustain the technological capacity of any industry or for any other reason, to the extent prescribed; or

(*d*) borrowed money used to acquire an interest in an annuity contract in respect of which sections 92.11 to 92.19 apply, or would apply if the contract had an anniversary day in the year at a time when the taxpayer held the interest, except that, where annuity payments have commenced under the contract in a preceding taxation year, the amount of interest paid or payable in the year shall not be deducted to the extent that it exceeds the amount included under the said sections in computing the taxpayer's income for the year with respect to his interest in the contract.

History: 1972, c. 23, s. 148; 1984, c. 15, s. 39; 1986, c. 19, s. 30; 1991, c. 25, s. 52; 1993, c. 16, s. 87; 2005, c. 1, s. 65.
Corresponding Federal Provision: 20(1)(c).

Restrictions respecting deduction of certain interest.

161. No amount may be deducted under paragraphs *a* and *b* of section 160 to the extent that it represents interest on

(*a*) borrowed money used to acquire property the income from which would be exempt from tax or to acquire a life insurance policy which does not include a policy that is an annuity contract issued before 1 January 1978 providing for annuity payments to commence not later than the day on which the policy holder attains 75 years of age, a policy that is a registered pension plan, a pooled registered pension plan, a registered retirement savings plan, a deferred profit sharing plan, an income-averaging annuity contract or a policy issued under any such plan or contract, or a policy that is an annuity contract all or part of the insurer's reserves for which vary in amount depending on the fair market value of a specified group of properties;

(*b*) an amount payable for property referred to in paragraph *a* or for property representing an interest in a life insurance policy referred to in the said paragraph; or

(*c*) borrowed money used to acquire a share of the capital stock of the corporation governed by the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1), a class "A" or class "B" share issued by the corporation governed by the Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (chapter F-3.1.2) or a class "A" share issued by the corporation governed by the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (chapter F-3.2.1), or an amount payable for such shares.

History: 1972, c. 23, s. 149; 1978, c. 26, s. 37; 1980, c. 13, s. 10; 1984, c. 35, s. 13; 1991, c. 25, s. 53; 1993, c. 16, s. 88; 2001, c. 53, s. 45; 2004, c. 21, s. 62; 2005, c. 1, s. 66; 2010, c. 25, s. 17; 2015, c. 21, s. 129.
Corresponding Federal Provision: 20(1)(c)(i), (ii) and (2.2).

Loan with promise to repay larger amount.

162. For the purposes of section 160, where a person borrows money in consideration of a promise by him to repay a larger amount and pay interest on the larger amount, the amount borrowed is deemed the larger amount. However, where the amount actually borrowed has been used in part only to earn income from a business or property, the amount so used is deemed the proportion of the larger amount that the amount actually so used is of the amount actually borrowed.

History: 1972, c. 23, s. 150.
Corresponding Federal Provision: 20(2).

Amount paid under legal obligation to pay interest.

163. There shall be deductible an amount paid in the year pursuant to a legal obligation to pay interest on an amount that would be deductible under section 160 if it were paid in the year or payable in respect of the year.

History: 1972, c. 23, s. 151.
Corresponding Federal Provision: 20(1)(d).

Limitation of expression "interest" in respect of a leveraged insurance policy.

163.0.1. For the purposes of sections 160 and 163, an amount is not an amount paid or payable as interest if

(*a*) the amount

i. is paid, after 20 March 2013 in respect of a period that begins after 31 December 2013, in respect of a life insurance policy that is, at the time of the payment, a leveraged insurance policy, and

ii. is described in paragraph *a* of the definition of "leveraged insurance policy" in section 1; or

(*b*) the amount

i. is payable, in respect of a life insurance policy, after 20 March 2013 in respect of a period that begins after 31 December 2013 during which the policy is a leveraged insurance policy, and

ii. is described in paragraph *a* of the definition of "leveraged insurance policy" in section 1.

History: 2017, c. 1, s. 96.
Corresponding Federal Provision: 20(2.01).

Deduction of interest paid in respect of a policy loan.

163.1. For the purposes of sections 160 and 163, an amount paid in the year by a taxpayer pursuant to a legal obligation to pay interest includes an amount paid by the taxpayer in the year, after 1980 and in respect of a period commencing after 1980, which is an interest, within the meaning of subparagraph *i* of the first paragraph of section 835, in respect of a policy loan, within the meaning that it would be given under subparagraph *h* of the first paragraph of the same section if that subparagraph did not refer to an advance granted in accordance with the terms and conditions of an annuity contract granted by an insurer to the extent that the amount is verified by the insurer in prescribed form and within the prescribed time to be

(*a*) such an interest paid in the year on the loan;

(*b*) such an interest that is not included in the computation of the adjusted cost basis, within the meaning of sections 976 and 976.1, to the taxpayer, of his interest in the policy; and

(*c*) an interest that is not paid on money borrowed before 1978 to acquire a life insurance policy that is an annuity contract issued before 1978 under which pension payments are to begin not later than on the day the policyholder reaches 75 years of age or on an amount payable in respect of property acquired before 1978 which is an interest in such a contract.

History: 1981, c. 12, s. 1; 1986, c. 19, s. 31; 1996, c. 39, s. 273; 2001, c. 53, s. 46; 2005, c. 1, s. 67; 2010, c. 25, s. 18.
Corresponding Federal Provision: 20(2.1) and (2.2)(b).

163.2. *(Repealed).*

History: 1984, c. 35, s. 14; 1990, c. 59, s. 91.

Restriction respecting interest and property taxes relating to certain land.

164. Notwithstanding section 160, no amount shall be deducted by a taxpayer in computing his income for a particular taxation year in respect of an expense incurred by him in the year as, or in lieu of, full or partial payment of interest on debt relating to the acquisition of land or as, or in lieu of, full or partial payment of property taxes paid or payable by him in respect of land to a province or to a Canadian municipality, except to the extent of the amount determined in the second paragraph, unless, having regard to all the circumstances, including the cost to the taxpayer of the land in relation to his gross revenue therefrom for the particular year or any preceding taxation year, the land can reasonably be considered to have been, in the year,

(*a*) used in the course of a business carried on in the particular year by the taxpayer, other than a business in the ordinary course of which land is held primarily for the purposes of resale or development, or

(*b*) held primarily by the taxpayer for the purposes of gaining or producing income therefrom for the particular year.

Description of the amount.

The amount referred to in the first paragraph is equal to the aggregate of

(*a*) the amount by which the taxpayer's gross revenue from the land for the particular year exceeds the aggregate of all other amounts deducted in computing his income from the land for the year;

(*b*) where the taxpayer is a corporation whose principal business is the leasing, rental or sale, or the development for lease, rental or sale, or any combination thereof, of immovable property owned by it, to or for a person with whom it is dealing at arm's length, the corporation's base level deduction for the particular year.

History: 1972, c. 23, s. 152; 1975, c. 22, s. 20; 1980, c. 13, s. 11; 1990, c. 59, s. 92; 1997, c. 3, s. 71.
Corresponding Federal Provision: 18(2).

Interpretation:

165. For the purposes of section 164:

"land";

(*a*) the word "land", except to the extent that it is used for the provision of parking facilities for a fee or charge, does not include:

i. any building or other structure affixed to land;

ii. the land subjacent to any property described in subparagraph i; or

iii. the land immediately contiguous to the land contemplated in subparagraph ii that is a parking area, driveway, yard, garden or similar land necessary for the use of any property described in subparagraph i;

"property taxes";

(*b*) the expression "property taxes" does not include an income or profits tax or a tax relating to the transfer of property;

"interest on debt relating to the acquisition of land".

(*c*) the expression "interest on debt relating to the acquisition of land" includes interest paid or payable in the year in respect of borrowed money that may reasonably be considered, having regard to all the circumstances:

i. to be borrowed money used in respect of the acquisition of land, even if it cannot be identified with particular land; or

ii. to have been used to assist, directly or indirectly, any person with whom the taxpayer does not deal at arm's length, a corporation of which the taxpayer is a specified shareholder or a partnership of which the taxpayer's share of any income or loss is 10% or more, to acquire land to be used or held by that person, corporation or partnership otherwise than as provided for in subparagraph *a* or *b* of the first paragraph of section 164, except where the assistance is in the form of a loan to that person, corporation or partnership and a reasonable rate of interest thereon is charged by the taxpayer.

History: 1972, c. 23, s. 153; 1975, c. 22, s. 21; 1990, c. 59, s. 93; 1997, c. 3, s. 71.

Corresponding Federal Provision: 18(2)(b) (part) and (3).

Cases where the taxpayer is a member of a partnership.

165.1. Where a taxpayer who is a member of a partnership is obligated to pay an amount as interest or in full or partial payment of interest on money that was borrowed by him before 1 April 1977 and that was used by him to acquire land owned by the partnership before that day or pursuant to an obligation entered into by him before 1 April 1977 to pay for such land, and, in a taxation year of the taxpayer, the partnership disposes of all or part of the land, or the taxpayer disposes of all or part of his interest in the partnership, to a person other than a person with whom the taxpayer does not deal at arm's length, the taxpayer may, in computing his income for the year or any subsequent taxation year, deduct such part of the amount as may reasonably be attributed to the part of the land or interest in the partnership, as the case may be, that is so disposed of and that was not

(*a*) deductible under section 164 in computing the income of the taxpayer for any previous year,

(*b*) deductible in computing the income of another taxpayer for any taxation year,

(*c*) included in computing the adjusted cost base to the taxpayer of any property, nor

(*d*) deductible, under this section, in computing the income of the taxpayer for a previous taxation year.

History: 1978, c. 26, s. 38; 1995, c. 49, s. 48; 1997, c. 3, s. 71.

Corresponding Federal Provision: 18(2.1).

Base level deduction of a corporation.

165.2. For the purposes of this division, a corporation's base level deduction for a taxation year is equal to the amount that would be the amount of interest for the year, computed at the prescribed rate, in respect of a loan of $1,000,000 outstanding throughout the year, unless the corporation is associated in the year with one or more other corporations in which case, subject to sections 165.3 to 165.5, its base level deduction for the year is nil.

History: 1990, c. 59, s. 94; 1997, c. 3, s. 71.

Corresponding Federal Provision: 18(2.2).

Allocation by agreement of the base level deduction.

165.3. Notwithstanding section 165.2, where none of the corporations that are associated with each other in a taxation year has, in that year, an establishment in a province other than Québec and all of those corporations have filed with the Minister, in prescribed form, an agreement whereby, for the purposes of this division, they allocate an amount to one or more of them for the taxation year and the amount so allocated or the aggregate of the amounts so allocated, as the case may be, does not exceed $1,000,000, the base level deduction for each of the corporations for the year is equal to the base level deduction that would be computed under section 165.2 in respect of the corporation if the reference in that section to an amount of $1,000,000 were read as a reference to the amount so allocated to it.

History: 1990, c. 59, s. 94; 1997, c. 3, s. 71; 1999, c. 83, s. 44.

Corresponding Federal Provision: 18(2.3).

Allocation by the Minister of the base level deduction.

165.4. Where any of the corporations referred to in section 165.3 has failed to file with the Minister an agreement referred to in that section within 30 days after notice in writing by the Minister has been forwarded to any of them that such an agreement is required for the purposes of any assessment of tax under this Part, the Minister shall, for the purposes of this division, allocate an amount to one or more of them for the taxation year, which amount or the aggregate of which amounts, as the case may be, shall be equal to $1,000,000 and, in any such case, the amount so allocated to any such corporation is deemed to be an amount allocated to the corporation pursuant to section 165.3.

History: 1990, c. 59, s. 94; 1997, c. 3, s. 71; 1999, c. 83, s. 44; 2010, c. 25, s. 19.

Corresponding Federal Provision: 18(2.4).

Allocation of a business limit in certain cases.

165.4.1. Notwithstanding section 165.2, where one of the corporations that are associated with each other in a taxation year has, in that year, an establishment in a province other than Québec and an amount is, pursuant to subsection 2.3 of section 18 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), allocated to one or more such corporations for the year, the base level deduction for the year for each such corporation shall be equal to its base level deduction determined for that year for the purposes of paragraph *f* of subsection 2 of the said section 18.

Filing of an agreement.

Where, for a taxation year, a corporation referred to in the first paragraph files an agreement with the Minister of Revenue of Canada in accordance with paragraph 2.3 of section 18 of the Income Tax Act, the corporation shall file with the Minister, for that year, a copy of that agreement.

History: 1999, c. 83, s. 45; 2000, c. 5, s. 293.

Determination of the base level deduction in certain cases.

165.5. Notwithstanding any other provision of this division,

(*a*) where a corporation to which section 165.3 or 165.4 applies, in this section referred to as "the first corporation", has more than one taxation year ending in the same calendar year and is associated in two or more of those taxation years with another corporation that has a taxation year ending in that calendar year, the base level deduction of the first corporation for each taxation year in which it is associated with the other corporation ending in that calendar year is, subject to paragraph *b*, an amount equal to its base level deduction for the first such taxation year determined without reference to paragraph *b*; and

(*b*) where a corporation to which any of sections 165.2 to 165.4 applies, other than a corporation to which section 165.4.1 applies, has a taxation year that is less than 51 weeks, its base level deduction for the year is equal to that proportion of its base level deduction for the year, determined without reference to this paragraph, that the number of days in the year is of 365.

History: 1990, c. 59, s. 94; 1997, c. 3, s. 71; 1999, c. 83, s. 46.
Corresponding Federal Provision: 18(2.5).

Payments on income bonds or debentures.

166. A corporation shall not deduct an amount paid as interest or otherwise to the holders of its income bonds or income debentures unless they have been issued or their provisions in respect of interest have been adopted since 1930 to provide the debtor with assistance in meeting his financial difficulties and to replace or alter bonds or debentures which, at the end of 1930, were bearing a fixed unconditional rate of interest.

History: 1972, c. 23, s. 154; 1997, c. 3, s. 71; 1997, c. 14, s. 46.
Interpretation Bulletins: IMP. 21.12-1/R1.
Corresponding Federal Provision: 18(1)(g).

Interest owing through sale of debt obligation.

167. Where, by virtue of the disposition of a debt obligation other than an income bond, an income debenture, a development bond or a small business bond, the transferee has become entitled to an amount of interest that accrued thereon for a period ending at the time of the disposition and that is not payable until after that time, such amount shall be included as interest in computing the transferor's income for his taxation year in which the disposition occurred, except to the extent that it was otherwise included in computing his income for the year or a preceding taxation year.

Deduction of interest.

In that case, the transferee may, in computing his income for a taxation year, deduct the amount of any interest accrued at the time of the disposition to the extent that the amount was included as interest in computing his income for the year.

History: 1972, c. 23, s. 155; 1984, c. 15, s. 40; 1996, c. 39, s. 273.
Corresponding Federal Provision: 20(14).

Interest on debt obligation.

167.1. Where a person who has issued a debt obligation, other than an income bond, an income debenture, a small business development bond or a small business bond, is obligated to pay an amount that is stipulated to be interest on that debt obligation in respect of a period before its issue and it is reasonable to consider that the consideration paid to the issuer by the person to whom the debt obligation was issued includes that interest, the following rules apply:

(*a*) for the purposes of sections 87, 87.2, 89 to 92.7 and 167, the issue of the debt obligation is deemed to be a disposition of the debt obligation from the issuer, as transferor, to the person to whom the obligation is issued, as transferee, and that interest is deemed to be interest that accrued on the debt obligation for a period ending at the time of the disposition; and

(*b*) notwithstanding paragraph *a* or any other provision of this Act, the issuer shall not deduct or include that interest in computing his income.

History: 1985, c. 25, s. 34; 1991, c. 25, s. 54.
Corresponding Federal Provision: 20(14.1).

Sales of linked notes.

167.1.1. For the purposes of section 167, the amount determined by the following formula is deemed to be interest that accrued on a disposed debt obligation—that is, at any time, described in section 92.5R3 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) because of subparagraph *d* of the first paragraph of that section—that the transferee has become entitled to receive for a period commencing before the time of the disposition (in this section referred to as the "particular time") and ending at the particular time and that is not payable until after the particular time:

A – B.

Formula elements.

In the formula in the first paragraph,

(*a*) A is the price for which the debt obligation was disposed of at the particular time; and

(*b*) B is the amount by which the price (converted to Canadian currency using the exchange rate prevailing at the particular time, if the debt obligation is denominated in a foreign currency) for which the debt obligation was issued exceeds the portion of the principal amount of the debt obligation (converted to Canadian currency using the

exchange rate prevailing at the particular time, if the debt obligation is denominated in a foreign currency) that was repaid by the issuer on or before the particular time.

History: 2019, c. 14, s. 85.
Corresponding Federal Provision: 20(14.2).

168. *(Repealed).*

History: 1972, c. 23, s. 156; 1984, c. 15, s. 41.

Limitation on the deduction of interest.

169. Despite any other provision of this Act (other than section 174.2), a corporation or a trust shall not make any deduction in respect of the proportion, determined in accordance with section 170, of any amount otherwise deductible in computing its income from a business (other than the Canadian banking business of an authorized foreign bank) or property for a taxation year, in respect of interest paid or payable by it on outstanding debts to specified persons not resident in Canada.

History: 1972, c. 23, s. 157; 1997, c. 3, s. 71; 2015, c. 21, s. 130; 2015, c. 24, s. 33.
Corresponding Federal Provision: 18(4) before (a).

Calculation of proportion referred to in section 169.

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

Amount referred to in the first paragraph.

The amount to which the first paragraph refers is equal to the amount by which the corporation's or trust's average outstanding debts for the year exceeds the amount equal to 150% of the corporation's or trust's equity amount for the year.

History: 1972, c. 23, s. 158; 1997, c. 3, s. 71; 2003, c. 2, s. 56; 2015, c. 21, s. 131; 2015, c. 24, s. 34.
Corresponding Federal Provision: 18(4)(a) and (b).

Outstanding debts.

171. For the purposes of sections 169, 170 and 172, a corporation's or trust's outstanding debts at any particular time in a taxation year to specified persons not resident in Canada are the aggregate of all amounts each of which is an amount outstanding at that time in respect of any debt or other obligation to pay an amount payable by the corporation or trust to a person who is, in the year, a specified person not resident in Canada, on which interest paid or payable is or would be, but for section 169, deductible in computing the corporation's or trust's income for the year.

Exceptions.

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 that is

(*a*) an obligation to pay an amount to

i. 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

ii. an authorized foreign bank, if the bank uses or holds the amount outstanding at the particular time in its Canadian banking business; or

(*b*) a debt obligation described in subparagraph ii of subparagraph *a* of the second paragraph of section 127.17, to the extent that the proceeds of the debt obligation can reasonably be considered to directly or indirectly fund at the particular time, in whole or in part, a pertinent loan or indebtedness (as defined in subparagraph ii of subparagraph *a* of the second paragraph of section 127.16) owing to the corporation or another corporation resident in Canada that does not, at the particular time, deal at arm's length with the corporation.

History: 1972, c. 23, s. 159; 1975, c. 22, s. 22; 1984, c. 15, s. 42; 1990, c. 59, s. 95; 1994, c. 22, s. 108; 1997, c. 3, s. 71; 1998, c. 16, s. 99; 2004, c. 8, s. 30; 2015, c. 24, s. 35; 2017, c. 29, s. 46.
Corresponding Federal Provision: 18(5) "outstanding debts to sepcified non-residents".

Definitions:

172. Despite any other provision of this Act, other than section 173.1, for the purposes of this section, sections 169 to 171 and 173.2 to 174.0.1,

"specified shareholder";
(*a*) "specified shareholder" of a corporation at any time means a person who at that time, either alone or together with persons with whom that person is not dealing at arm's length, owns shares of the capital stock of the corporation

i. that give the holders thereof 25% or more of the votes that could be cast at an annual meeting of the shareholders of the corporation, or

ii. that have a fair market value of 25% or more of the fair market value of all of the issued and outstanding shares of the capital stock of the corporation;

"specified shareholder not resident in Canada";
(*b*) "specified shareholder not resident in Canada" of a corporation at any time means a specified shareholder of the corporation who was at that time a person not resident in

Canada or an investment corporation owned by persons not resident in Canada;

"equity contribution";
(*b.*1) "equity contribution", to a trust, means a transfer of property to the trust that is made

i. in exchange for an interest as a beneficiary under the trust,

ii. in exchange for a right to acquire an interest as a beneficiary under the trust, or

iii. gratuitously by a person beneficially interested in the trust;

"tax-paid earnings";
(*b.*2) "tax-paid earnings", of a trust resident in Canada for a taxation year, means the aggregate of all amounts each of which is the amount, in respect of a particular taxation year of the trust that ended before the year, determined by the formula

A− B;

"beneficiary";
(*b.*3) "beneficiary" means a beneficiary within the meaning of the second paragraph of section 646;

"specified beneficiary";
(*b.*4) "specified beneficiary", of a trust at any time, means a person who at that time, either alone or together with persons with whom that person does not deal at arm's length, has an interest as a beneficiary under the trust with a fair market value that is not less than 25% of the fair market value of all interests as a beneficiary under the trust;

"specified beneficiary not resident in Canada";
(*b.*5) "specified beneficiary not resident in Canada", of a trust at any time, means a specified beneficiary of the trust who at that time is a person not resident in Canada;

"specified right";
(*b.*5.1) "specified right", at any time in respect of a property, means a right to, at that time, hypothecate, mortgage, assign, pledge or in any way encumber the property to secure payment of an obligation—other than a particular debt or other particular obligation described in paragraph *a* of section 174 or a debt or other obligation described in subparagraph ii of paragraph *d* of that section— or to use, invest, sell or otherwise dispose of the property unless it is established by the taxpayer that all of the proceeds (net of costs) received, or that would be received, from exercising the right must first be applied to reduce an amount described in subparagraph i or ii of paragraph *d* of section 174;

"security interest";
(*b.*5.2) "security interest", in respect of a property, means a right in the property that secures payment of an obligation;

"equity amount";
(*b.*6) "equity amount", of a corporation or a trust for a taxation year, means

i. in the case of a corporation resident in Canada, the aggregate of

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

(2) the average of all amounts each of which is the corporation's contributed surplus (other than any portion of that contributed surplus that arose in connection with an investment to which subsection 2 of section 212.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applies) at the beginning of a month that ends in the year, to the extent that it was contributed by a specified shareholder not resident in Canada of the corporation, and

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

ii. in the case of a trust resident in Canada, the amount determined by the formula

C − D, or

iii. in the case of a corporation or trust that is not resident in Canada, the amount determined by the formula

40% × (E − F);

"specified person not resident in Canada".
(*c*) "specified person not resident in Canada"in respect of a corporation or a trust means

i. a specified shareholder not resident in Canada of the corporation or a specified beneficiary not resident in Canada of the trust, or

ii. a person not resident in Canada not dealing at arm's length with a specified shareholder of the corporation or with a specified beneficiary of the trust, as the case may be.

Formula elements in subparagraphs b.2 and b.6 of the first paragaph.

In the formulas in subparagraphs *b*.2 and *b*.6 of the first paragraph,

(*a*) A is the taxable income of the trust under this Part for the particular year;

(*b*) B is the total of tax payable under this Part by the trust for the particular year, tax payable by the trust for the particular year under Part I of the Income Tax Act and all

income taxes payable by the trust for the particular year under the laws of a province, other than Québec;

(*c*) C is the total of the average of all amounts each of which is the total amount of all equity contributions to the trust made before a month that ends in the year, to the extent that the contributions were made by a specified beneficiary not resident in Canada of the trust, and the tax-paid earnings of the trust for the year;

(*d*) D is the average of all amounts each of which is the total of all amounts that were paid or became payable by the trust to a beneficiary of the trust in respect of the beneficiary's interest under the trust before a month that ends in the year except to the extent that the amount is

i. included in computing the beneficiary's income for a taxation year because of section 663,

ii. an amount in respect of which tax was deducted under Part XIII of the Income Tax Act because of paragraph *c* of subsection 1 of section 212 of that Act, or

iii. paid or payable to a person other than a specified beneficiary not resident in Canada of the trust;

(*e*) E is the average of all amounts each of which is the cost of a property, other than an interest as a member of a partnership, owned by the corporation or trust at the beginning of a month that ends in the year, that is used by the corporation or trust in the year in, or held by it in the year in the course of, carrying on a business in Canada; and

(*f*) F is the average of all amounts each of which is the total of all amounts outstanding, at the beginning of a month that ends in the year, in relation to a debt or other obligation to pay an amount that was payable by the corporation or trust and that may reasonably be regarded as relating to a business carried on by it in Canada, other than a debt or obligation that is included in the outstanding debts to specified persons not resident in Canada of the corporation or trust.

Specified shareholder.

For the purpose of determining whether a particular person is a specified shareholder of a corporation at any time, the particular person or the person with whom the particular person is not dealing at arm's length, as the case may be, is deemed at that time to own the shares referred to in subparagraph *a* of the first paragraph and the corporation referred to in subparagraph *b* of the first paragraph is deemed at that time to have redeemed, acquired or cancelled the shares referred to in the said subparagraph *b*, where the particular person or the person with whom the particular person is not dealing at arm's length has at that time a right under a contract or otherwise, either immediately or in the future and either absolutely or contingently, other than a right that is not exercisable at that time because the exercise thereof is contingent on the death, bankruptcy or permanent disability of an individual,

(*a*) to, or to acquire, shares in a corporation or to control the voting rights of shares in a corporation; or

(*b*) to cause a corporation to redeem, acquire or cancel any of its shares, other than shares held by the particular person or the person with whom the particular person is not dealing at arm's length.

Clarification regarding the definition of specified beneficiary.

For the purpose of determining whether a particular person is a specified beneficiary of a trust at any time, the following rules apply:

(*a*) if the particular person, or a person with whom the particular person does not deal at arm's length, has at that time a right under a contract or otherwise, either immediately or in the future and either absolutely or contingently, to acquire an interest as a beneficiary under the trust, the particular person or the person with whom the particular person does not deal at arm's length, as the case may be, is deemed at that time to own the interest;

(*b*) if the particular person, or a person with whom the particular person does not deal at arm's length, has at that time a right under a contract or otherwise, either immediately or in the future and either absolutely or contingently, to cause a trust to redeem, acquire or cancel any interest in it as a beneficiary (other than an interest held by the particular person or a person with whom the particular person does not deal at arm's length), the trust is deemed at that time to have redeemed, acquired or cancelled the interest, unless the right is not exercisable at that time because the exercise of the right is contingent on the death, bankruptcy or permanent disability of an individual; and

(*c*) if the amount of income or capital of the trust that the particular person, or a person with whom the particular person does not deal at arm's length, may receive as a beneficiary of the trust depends on the exercise by any person of, or the failure by any person to exercise, a discretionary power, that person is deemed to have fully exercised, or to have failed to exercise, the power, as the case may be.

Property used in business — cost attribution.

For the purposes of subparagraph *e* of the second paragraph, the following rules apply:

(*a*) if a property is partly used or held by a taxpayer in a taxation year in the course of carrying on a business in Canada, the cost of the property to the taxpayer is deemed for the year to be equal to the proportion of the cost to the taxpayer of the property (determined without reference to this paragraph) that the proportion of the use or holding made of the property in the course of carrying on a business in Canada in the year is of the whole use or holding made of the property in the year; and

(*b*) if a corporation or trust is deemed to own a portion of a property of a partnership because of section 174.1 at any time,

i. the property is deemed to have, at that time, a cost to the corporation or trust equal to the proportion of the cost of the property to the partnership that is the proportion that the debts and other obligations to pay an amount of the partnership allocated to it under section 174.1 is of the total amount of all debts and other obligations to pay an amount of the partnership, and

ii. in the case of a partnership that carries on a business in Canada, the corporation or trust is deemed to use or hold the property in the course of carrying on a business in Canada to the extent the partnership uses or holds the property in the course of carrying on a business in Canada for the fiscal period of the partnership that includes that time.

History: 1972, c. 23, s. 160; 1973, c. 18, s. 5; 1984, c. 15, s. 42; 1986, c. 15, s. 51; 1994, c. 22, s. 109; 1997, c. 3, s. 71; 2003, c. 2, s. 57; 2015, c. 24, s. 36; 2017, c. 29, s. 47; 2020, c. 16, s. 42.

Corresponding Federal Provision: 18(5).

173. *(Repealed).*

History: 1973, c. 18, s. 6; 1997, c. 3, s. 71; 2003, c. 2, s. 58.

Corresponding Federal Provision: 18(5.4).

Specified shareholder or specified beneficiary.

173.1. For the purposes of this section and sections 169 to 172 and 173.2 to 174, where a particular person would, but for this section, be a specified shareholder of a corporation or a specified beneficiary of a trust at any time, the particular person is deemed not to be a specified shareholder of the corporation or a specified beneficiary of the trust, as the case may be, at that time if

(*a*) there was in effect at that time an agreement or arrangement under which, on the satisfaction of a condition or the occurrence of an event that it is reasonable to expect will be satisfied or will occur, the particular person ceases to be a specified shareholder of the corporation or a specified beneficiary of the trust; and

(*b*) the purpose for which the particular person became a specified shareholder of the corporation or a specified beneficiary of the trust was the safeguarding of rights or interests of the particular person or a person with whom the particular person is not dealing at arm's length in respect of any indebtedness owing at any time to the particular person or a person with whom the particular person is not dealing at arm's length.

History: 1994, c. 22, s. 110; 1997, c. 3, s. 71; 2003, c. 2, s. 59; 2015, c. 24, s. 37.

Corresponding Federal Provision: 18(5.1).

Specified shareholder or specified beneficiary.

173.2. For the purposes of sections 169 to 173.1, 173.3 and 174, a corporation not resident in Canada is deemed to be a specified shareholder not resident in Canada of itself and a trust not resident in Canada is deemed to be a specified beneficiary not resident in Canada of itself.

History: 2015, c. 24, s. 38.

Corresponding Federal Provision: 18(5.2).

Rules — trust income.

173.3. For the purposes of this Act, where a trust that is resident in Canada designates, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), an amount for a taxation year in accordance with subsection 5.4 of section 18 of that Act in respect of all or any portion of an amount paid or credited as interest by the trust, or by a partnership, in the year to a person not resident in Canada, the amount so designated is deemed to be income of the trust that has been paid to the person not resident in Canada as a beneficiary of the trust, and not to have been paid or credited by the trust or the partnership as interest, to the extent that an amount in respect of the interest

(*a*) is included in computing the income of the trust for the year under paragraph *m*.1 of section 87; or

(*b*) is not deductible in computing the income of the trust for the year because of section 169.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to a designation made under subsection 5.4 of section 18 of the Income Tax Act.

History: 2015, c. 24, s. 38.

Corresponding Federal Provision: 18(5.4).

Back-to-back loan arrangement.

174. For the purposes of sections 169 to 172, the rules set out in section 174.0.1 apply at any time in respect of a taxpayer if at that time

(*a*) the taxpayer owes a particular amount as or on account of a particular debt or other particular obligation to pay an amount to a person (in this section and section 174.0.1 referred to as the "intermediary");

(*b*) the intermediary is neither

i. a person resident in Canada with whom the taxpayer does not deal at arm's length, nor

ii. a person that is, in respect of the taxpayer, a specified person not resident in Canada;

(*c*) the intermediary or a person that does not deal at arm's length with the intermediary

i. owes an amount to a particular person that is, in respect of the taxpayer, a specified person not resident in Canada as or on account of a debt or other obligation to pay an amount (in this section and section 174.0.1 referred to as the "intermediary debt"), in respect of which any of the following conditions is met:

(1) recourse in respect of the debt or other obligation is limited in whole or in part, either immediately or in the future and either absolutely or contingently, to the particular debt or other particular obligation, or

(2) it can reasonably be concluded that all or a portion of the particular amount became owing, or was permitted to remain owing, because all or a portion of the debt or other obligation was entered into or was permitted to remain owing, or the intermediary anticipated that all or a portion of the debt or other obligation would become owing or remain owing, or

ii. has a specified right in respect of a particular property that was granted directly or indirectly by a particular person that is, in respect of the taxpayer, a specified person not resident in Canada and in respect of which any of the following conditions is met:

(1) the existence of the specified right is required under the terms and conditions of the particular debt or other particular obligation, or

(2) it can reasonably be concluded that all or a portion of the particular amount became owing, or was permitted to remain owing, because the specified right was granted or the intermediary anticipated that it would be granted; and

(*d*) the aggregate of all amounts—each of which is, in respect of the particular debt or other particular obligation, an amount owing as or on account of an intermediary debt or the fair market value of a particular property described in subparagraph ii of paragraph *c*—is equal to at least 25% of the total of

i. the particular amount, and

ii. the aggregate of all amounts each of which is an amount (other than the particular amount) that the taxpayer, or a person that does not deal at arm's length with the taxpayer, owes to the intermediary as or on account of a debt or other obligation to pay an amount under the agreement, or an agreement that is connected to the agreement, under which the particular debt or other particular obligation was entered into if

(1) the intermediary is granted a security interest in respect of a property that is the intermediary debt or the particular property, as the case may be, and the security interest secures the payment of two or more debts or other obligations that include the debt or other obligation and the particular debt or other particular obligation, and

(2) each security interest that secures the payment of a debt or other obligation referred to in subparagraph 1 secures the payment of every debt or other obligation referred to in that subparagraph.

History: 1972, c. 23, s. 161; 1977, c. 26, s. 18; 1984, c. 15, s. 43; 1986, c. 19, s. 32; 1997, c. 3, s. 71; 2015, c. 24, s. 39; 2017, c. 29, s. 48; 2020, c. 16, s. 43.

Corresponding Federal Provision: 18(6).

Back-to-back loan arrangement.

174.0.1. The rules to which section 174 refers in respect of a taxpayer at any time are as follows:

(*a*) the portion of the particular amount, at that time, referred to in paragraph *a* of section 174 that is equal to the lesser of the following amounts is deemed to be an amount owing as or on account of a debt or other obligation to pay an amount to the particular person referred to in subparagraph i or ii of paragraph *c* of section 174 and not to the intermediary:

i. the amount owing as or on account of the intermediary debt or the fair market value of the particular property referred to in subparagraph ii of paragraph *c* of section 174, as the case may be, and

ii. the proportion of the particular amount that the amount owing or the fair market value, as the case may be, is of the aggregate of all amounts each of which is

(1) an amount owing as or on account of an intermediary debt in respect of the particular debt or other particular obligation that is owed to the particular person or any other person that is, in respect of the taxpayer, a specified person not resident in Canada, or

(2) the fair market value of a particular property referred to in subparagraph ii of paragraph *c* of section 174 in respect of the particular debt or other particular obligation, and

(*b*) the portion of the interest paid or payable by the taxpayer, in respect of a period throughout which subparagraph *a* applies, on the particular debt or other particular obligation referred to in paragraph *a* of section 174 that is equal to the amount determined by the following formula is deemed to be paid or payable by the taxpayer to the particular person, and not to the intermediary, as interest for the period on the amount that is deemed under subparagraph *a* to be owing to the particular person:

A × B/C.

Interpretation.

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

(*a*) A is the interest paid or payable;

(*b*) B is the average of all amounts each of which is an amount that is deemed under subparagraph *a* of the first paragraph to be owing to the particular person at a time during the period; and

(*c*) C is the average of all amounts each of which is the particular amount owing at a time during the period.

History: 2017, c. 29, s. 49; 2020, c. 16, s. 44.
Corresponding Federal Provision: 18(6.1).

Partnership debts and property.

174.1. For the purposes of sections 87.0.1 and 169 to 174.0.1 and this section, each member of a partnership at a particular time is deemed at that time

(*a*) to owe the portion (in this section referred to as the "debt amount") of any debt or other obligation to pay an amount of the partnership and to own the portion of each property of the partnership that is equal to the following proportion of the debt or other obligation:

i. the agreed proportion, in respect of the member of the partnership, determined for the partnership's last fiscal period ending at or before the end of the taxation year referred to in section 169 and at a time when the member is a member of the partnership, and

ii. if no agreed proportion may be determined, in respect of the member of the partnership, in accordance with subparagraph i, the proportion that the fair market value of the member's interest in the partnership at the particular time is of the fair market value of all interests in the partnership at the particular time;

(*b*) to owe the debt amount to the person to whom the partnership owes the debt or other obligation to pay an amount; and

(*c*) to have paid interest on the debt amount that is deductible in computing the member's income to the extent that an amount in respect of interest paid or payable on the debt amount by the partnership is deductible in computing the partnership's income.

History: 2015, c. 21, s. 132; 2015, c. 24, s. 40; 2017, c. 29, s. 50.
Corresponding Federal Provision: 18(7).

Exception — foreign accrual property income.

174.2. Any amount in respect of interest paid or payable to a controlled foreign affiliate of a corporation resident in Canada that would otherwise not be deductible by the corporation for a taxation year because of section 169 may be deducted to the extent that an amount included under section 580 in computing the corporation's income for the year or a subsequent year can reasonably be considered to be in respect of the interest.

History: 2015, c. 21, s. 132.
Corresponding Federal Provision: 18(8).

175. *(Repealed).*

History: 1972, c. 23, s. 162; 1982, c. 5, s. 47; 1986, c. 19, s. 33.

Limitation on outlay or expense.

175.1. (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;

(*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; or

(*d*) as consideration, subject to sections 869.4 to 869.7, for a "designated employee benefit" (as defined in section 869.1) required to be provided after the end of the year (other than consideration payable in the year, to a corporation that is licensed to provide insurance, for coverage in respect of the year).

Portion of outlay or expense.

(2) The portion of any outlay or expense, other than an outlay or expense of a corporation, partnership or trust as, or in lieu of, full or partial payment of interest, that, but for subsection 1, would have been deductible in computing a taxpayer's income for a taxation year is deductible in computing the taxpayer's income for the subsequent taxation year to which it can reasonably be considered to relate.

Expenditure deemed not included.

(3) For the purposes of subsection 1, an outlay or expense is deemed not to include a payment that is referred to in paragraph *d* or *e* of subsection 1 of section 222 and that

(*a*) is made by the taxpayer to a person or partnership with which the taxpayer deals at arm's length; and

(*b*) is not an expenditure in respect of scientific research and experimental development related to a business of the taxpayer and undertaken in Canada on behalf of the taxpayer.

Outlay or expense for the acquisition of an insurance policy.

(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.

History: 1982, c. 5, s. 47; 1988, c. 18, s. 12; 1990, c. 59, s. 96; 1994, c. 22, s. 111; 1997, c. 3, s. 71; 1997, c. 31, s. 20; 2004, c. 8, s. 31; 2011, c. 6, s. 121; 2015, c. 21, s. 133.

Corresponding Federal Provision: 18(9)(a), (b) and (d) and (9.02).

Prepaid expenses.

175.1.1. Subject to section 851.22.13.1, where, at any time, a payment is made to a person or partnership by a taxpayer in the course of carrying on a business or earning income from property in respect of borrowed money or on an amount payable for property acquired by the taxpayer, in this section referred to as a "debt obligation", as consideration for a reduction in the rate of interest payable by the taxpayer on the debt obligation, or as a penalty or bonus payable by the taxpayer by reason of the repayment by the taxpayer of all or part of the principal amount of the debt obligation before its maturity, the payment is deemed, to the extent that it may reasonably be considered to relate to, and does not exceed the value at that time of, an amount that, but for the reduction or the repayment, would have been paid or payable by the taxpayer as interest on the debt obligation for a taxation year of the taxpayer ending after that time,

(*a*) for the purposes of this Part, to have been paid by the taxpayer and received by the person or partnership at that time as interest on the debt obligation, and

(*b*) for the purpose of computing the taxpayer's income in respect of the business or property for the year, to have been paid or payable by the taxpayer in that year as interest pursuant to a legal obligation to pay interest,

i. in the case of any such reduction, on the debt obligation, and

ii. in the case of any such repayment, where the repayment was in respect of all or part of the principal amount of the debt obligation that was

(1) borrowed money, except to the extent that the borrowed money was used by the taxpayer to acquire property, on borrowed money used in the year for the purpose for which the borrowed money that was repaid was used, or

(2) either borrowed money used to acquire property or an amount payable for property acquired by the taxpayer, on the debt obligation to the extent that the property or property substituted therefor is used by the taxpayer in the year for the purpose of earning income therefrom or for the purposes of gaining and producing income from a business.

Limitation.

The first paragraph does not apply where the payment

(*a*) may reasonably be considered to have been made in respect of the extension of the term of a debt obligation or in respect of the substitution or conversion of a debt obligation to another debt obligation or share, or

(*b*) is contingent or dependent on the use of or production from property or is computed by reference to revenue, profit, cash flow, commodity price or any other similar criterion or by reference to dividends paid or payable to shareholders of any class of shares of the capital stock of a corporation.

History: 1993, c. 16, s. 89; 1995, c. 49, s. 49; 1997, c. 3, s. 71; 2001, c. 7, s. 27; 2003, c. 2, s. 60.

Corresponding Federal Provision: 18(9.1).

Interest on a debt obligation.

175.1.2. For the purposes of this Part, the amount of interest payable on borrowed money or on an amount payable for property, in this section and sections 175.1.3 to 175.1.8 referred to as the "debt obligation", by a corporation, partnership or trust, in this section and sections 175.1.3 to 175.1.7 referred to as the "borrower", in respect of a taxation year is, notwithstanding subparagraph i of paragraph *b* of section 175.1.1, deemed to be an amount equal to the lesser of

(*a*) the amount of interest, not in excess of a reasonable amount, that would have been payable on the debt obligation by the borrower in respect of the year if no amount had been paid before the end of the year in satisfaction of the obligation to pay interest on the debt obligation in respect of the year and if the amount outstanding at each particular time in the year that is after 31 December 1991 on account of the principal amount of the debt obligation were the amount by which the amount outstanding at the particular time on account of the principal amount of the debt obligation exceeds the total of

i. the aggregate of all amounts each of which is an amount paid before the particular time in satisfaction, in whole or in part, of the obligation to pay interest on the debt obligation in respect of a period or part thereof that is after 31 December 1991, after the beginning of the year, and after the time the amount was so paid, other than a period or part thereof that is in the year where no such amount has been paid before the particular time in respect of a period or part thereof that is after the end of the year, and

ii. the amount by which

(1) the aggregate of all amounts each of which is the amount of interest payable on the debt obligation, determined without reference to this section, by the borrower in respect of a taxation year ending after 31 December 1991 and before the year, to the extent that such interest does not exceed a reasonable amount, exceeds

(2) the aggregate of all amounts each of which is the amount of interest deemed by this section to have been payable on the debt obligation by the borrower in respect of a taxation year ending before the year; and

(*b*) the amount by which

i. the aggregate of all amounts each of which is an amount of interest payable on the debt obligation, determined without reference to this section, by the borrower in respect of the year or a taxation year ending after 31 December 1991 and before the year, to the extent that such interest does not exceed a reasonable amount, exceeds

ii. the aggregate of all amounts each of which is the amount of interest deemed by this section to be payable on the debt obligation by the borrower in respect of a taxation year ending before the year.

History: 1994, c. 22, s. 112; 1997, c. 3, s. 71.
Corresponding Federal Provision: 18(9.2).

Settlement or extinction of a debt obligation.

175.1.3. Where at any time in a taxation year of a borrower a debt obligation of the borrower is settled or extinguished or the holder of the obligation acquires or reacquires property of the borrower in circumstances in which sections 484 to 484.6 apply in respect of the debt obligation and, at that time, the aggregate determined in the second paragraph exceeds the aggregate determined in the third paragraph, which excess is in this section referred to as the "excess amount", the following rules apply:

(*a*) for the purpose of applying sections 484 to 484.6 in respect of the borrower, the principal amount at that time of the debt obligation is deemed to be equal to the amount by which the principal amount at that time of the debt obligation exceeds the excess amount; and

(*b*) the excess amount shall be deducted at that time in computing the forgiven amount in respect of the obligation, within the meaning assigned by section 485.

Settlement or extinction of a debt obligation.

The aggregate first referred to in the first paragraph, at any particular time, is equal to the total of the following amounts:

(*a*) the aggregate of all amounts each of which is an amount paid at or before that time in satisfaction, in whole or in part, of the obligation to pay interest on the debt obligation in respect of a period or part of a period that is after the particular time; and

(*b*) the aggregate of all amounts each of which is the amount of interest payable on the debt obligation, determined without reference to section 175.1.2, by the borrower in respect of a taxation year ending after 31 December 1991 and before the particular time, or in respect of a period or part thereof that is in the year and before the particular time, to the extent that such interest does not exceed a reasonable amount.

Interpretation.

The second aggregate referred to in the first paragraph, at any particular time, is equal to the total of the following amounts:

(*a*) the aggregate of all amounts each of which is an amount of interest deemed by section 175.1.2 to have been payable on the debt obligation by the borrower in respect of a taxation year ending before the particular time; and

(*b*) the amount of interest that would be deemed by section 175.1.2 to have been payable on the debt obligation by the borrower in respect of the year if the year had ended immediately before the particular time.

History: 1994, c. 22, s. 112; 1996, c. 39, s. 52.
Corresponding Federal Provision: 18(9.3).

Payment deemed to be an amount of interest payable on a debt obligation.

175.1.4. Where an amount is paid at any time by a person or partnership in respect of a debt obligation of a borrower as, or in lieu of, full or partial payment of interest on the debt obligation in respect of a period or part thereof that is after 31 December 1991 and after the time the amount was so paid, or as consideration for a reduction in the rate of interest payable on the debt obligation, excluding a payment described in the second paragraph of section 175.1.1, in respect of a period or part thereof that is after 31 December 1991 and after the time the amount was so paid, that amount is deemed,

(*a*) for the purposes of section 175.1.5 and, subject to that section, for the purposes of subparagraph 1 of subparagraph ii of paragraph *a* of section 175.1.2, subparagraph i of paragraph *b* of that section, subparagraph *b* of the second paragraph of section 175.1.3 and section 175.1.6, to be an amount of interest payable on the debt obligation by the borrower in respect of that period or part thereof; and

(*b*) for the purposes of subparagraph i of paragraph *a* of section 175.1.2 and subparagraph *a* of the second paragraph of section 175.1.3, to be an amount paid at that time in

satisfaction of the obligation to pay interest on the debt obligation in respect of that period or part thereof.

History: 1994, c. 22, s. 112; 1997, c. 3, s. 71.
Corresponding Federal Provision: 18(9.4).

Payment deemed to be an amount of interest payable on a debt obligation.

175.1.5. Where an amount of interest payable on a debt obligation, determined without reference to section 175.1.2, by a borrower in respect of a particular period or part thereof that is after 31 December 1991 can reasonably be regarded as an amount payable as consideration for a reduction in the amount of interest that would otherwise be payable on the debt obligation in respect of a subsequent period, or a reduction in the amount that was or may be paid before the beginning of a subsequent period in satisfaction of the obligation to pay interest on the debt obligation in respect of that subsequent period, such reductions being determined without reference to the existence of, or the amount of any interest paid or payable on, any other debt obligation, that amount,

(*a*) for the purposes of subparagraph 1 of subparagraph ii of paragraph *a* of section 175.1.2, subparagraph i of paragraph *b* of that section, subparagraph *b* of the second paragraph of section 175.1.3 and section 175.1.6, is deemed to be an amount of interest payable on the debt obligation by the borrower in respect of the subsequent period and not to be an amount of interest payable on the debt obligation by the borrower in respect of the particular period; and

(*b*) when paid, is deemed for the purposes of subparagraph i of paragraph *a* of section 175.1.2 and subparagraph *a* of the second paragraph of section 175.1.3 to be an amount paid in satisfaction of the obligation to pay interest on the debt obligation in respect of the subsequent period.

History: 1994, c. 22, s. 112.
Corresponding Federal Provision: 18(9.5).

Liability assumed by a borrower.

175.1.6. Where liability in respect of a debt obligation of a person or partnership is assumed by a borrower at any time,

(*a*) the amount of interest payable on the debt obligation, determined without reference to section 175.1.2, by any person or partnership in respect of a period is, to the extent that that period is included in a taxation year of the borrower ending after 31 December 1991, deemed, for the purposes of subparagraph 1 of subparagraph ii of paragraph *a* of section 175.1.2, subparagraph i of paragraph *b* of that section and subparagraph *b* of the second paragraph of section 175.1.3, to be an amount of interest payable on the debt obligation by the borrower in respect of that year; and

(*b*) the application of sections 175.1.2 and 175.1.3 to the borrower in respect of the debt obligation after that time shall be determined on the assumption that section 175.1.2 applied to the borrower in respect of the debt obligation before that time.

Existence of the borrower.

For the purposes of this section, where the borrower came into existence at a particular time that is after the beginning of the particular period commencing at the beginning of the first period in respect of which interest was payable on the debt obligation by any person or partnership and ending at the particular time, the borrower is deemed to have been in existence throughout the particular period, and to have had, throughout the particular period, taxation years ending on the day of the year on which its first taxation year ended.

History: 1994, c. 22, s. 112; 1997, c. 3, s. 71.
Corresponding Federal Provision: 18(9.6).

Payment of interest deemed to be a payment as a penalty or bonus.

175.1.7. Where the amount paid by a borrower at any particular time, in satisfaction of the obligation to pay a particular amount of interest on a debt obligation in respect of a subsequent period or part thereof, exceeds the particular amount of that interest, discounted for the particular period beginning at the particular time and ending at the end of the subsequent period or part thereof, and at the rate or rates of interest applying under the debt obligation during the particular period or, where the rate of interest in respect of any part of the particular period is not fixed at the particular time, at the prescribed rate of interest in effect at the particular time, such excess is deemed

(*a*) for the purposes of sections 175.1.2 to 175.1.6 and 175.1.8, to be neither an amount of interest payable on the debt obligation nor an amount paid in satisfaction of the obligation to pay interest on the debt obligation; and

(*b*) to be a payment as a penalty or bonus, described in section 175.1.1, in respect of the debt obligation.

History: 1994, c. 22, s. 112.
Corresponding Federal Provision: 18(9.7).

Limitation.

175.1.8. Notwithstanding sections 175.1.2 to 175.1.7, the aggregate of all amounts each of which is an amount of interest payable on a debt obligation by an individual, other than a trust, or deemed by section 175.1.2 to be payable on the debt obligation by a corporation, partnership or trust, in respect of a taxation year ending after 31 December 1991 and before any particular time, shall not exceed the aggregate of all amounts each of which is an amount of interest payable on the debt obligation, determined without reference to section 175.1.2, by a person or partnership in respect of a taxation year ending after 31 December 1991 and before that particular time.

History: 1994, c. 22, s. 112; 1997, c. 3, s. 71.
Corresponding Federal Provision: 18(9.8).

Limitation on amounts contributed to an annuity contract or a pension plan.

175.2. Notwithstanding any other provision of this Part, a taxpayer shall not, in computing his income for a taxation year, deduct any amount under section 147, 160, 163, 176, 176.4 or 179 in respect of borrowed money, or other property acquired by the taxpayer, in respect of any period after which the money or other property is used by the taxpayer for the purpose of

(*a*) making a payment after 12 November 1981 as consideration for an income-averaging annuity contract, unless such contract was acquired pursuant to an agreement in writing entered into before 13 November 1981;

(*a.*1) making a payment to acquire an income-averaging annuity respecting income from artistic activities;

(*b*) paying a premium referred to in paragraph *b* of subsection 11 of section 18 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(*c*) making a contribution to a registered pension plan, a pooled registered pension plan or a deferred profit sharing plan, other than a contribution described in paragraph *b* or *c* of section 71, as they read for the taxation year 1990, that was required to be made pursuant to an obligation entered into before 13 November 1981, or an amount deductible under section 137 or paragraph *b* of section 158 in computing the taxpayer's income;

(*d*) making a payment as consideration for an annuity the payment for which deductible in computing his income by virtue of paragraph *f* of section 339;

(*d.*1) making a contribution to a net income stabilization account;

(*d.*1.0.1) paying an amount as a contribution to a farm income stabilization account;

(*d.*1.1) making a contribution to a retirement compensation arrangement where the contribution was deductible under section 70.2 in computing his income;

(*d.*2) *(paragraph repealed)*;

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

(*d.*4) making a contribution to a registered disability savings plan;

(*d.*5) making a contribution to a tax-free savings account; and

(*d.*6) allocating an amount to a tax-free reserve within the meaning of section 979.25;

(*e*) *(paragraph repealed)*;

(*f*) *(paragraph repealed)*;

(*g*) *(paragraph repealed)*;

(*h*) *(paragraph repealed).*

History: 1984, c. 15, s. 44; 1985, c. 25, s. 35; 1987, c. 67, s. 41; 1990, c. 59, s. 97; 1991, c. 25, s. 55; 1993, c. 16, s. 90; 1994, c. 22, s. 113; 1995, c. 49, s. 50; 1997, c. 14, s. 47; 2000, c. 5, s. 44; 2004, c. 21, s. 63; 2005, c. 23, s. 41; 2009, c. 15, s. 61; 2013, c. 10, s. 19; 2015, c. 21, s. 134.
Interpretation Bulletins: IMP. 160-2/R3.
Corresponding Federal Provision: 18(11)(a) to (h).

Presumption.

175.2.1. For the purposes of section 175.2, to the extent that an indebtedness is incurred by a taxpayer in respect of a property and at any time that property or a property substituted therefor is used for any of the purposes referred to in the said section, the indebtedness is deemed to be incurred at that time and for that purpose.

History: 1993, c. 16, s. 91; 1994, c. 22, s. 114.
Corresponding Federal Provision: 18(11) after (h).

Borrowed money used to earn income from property.

175.2.2. Where at any time after 31 December 1993 borrowed money ceases to be used by a taxpayer for the purpose of earning income from a capital property, other than depreciable property or immovable property, and the amount of the borrowed money that was so used by the taxpayer immediately before that time exceeds the amount determined under the second paragraph, the amount of the excess, to the extent that it is outstanding after that time, is deemed to be borrowed money used by the taxpayer for the purpose of earning income from the property.

Interpretation.

The amount referred to in the first paragraph as being determined in the second paragraph is the aggregate of

(*a*) where the taxpayer disposed of the property at the particular time for an amount of consideration that is not less than the fair market value of the property at that time, the amount of the borrowed money used to acquire the consideration;

(*b*) where the taxpayer disposed of the property at the particular time and paragraph *a* does not apply, the amount of the borrowed money that, if the taxpayer had received as consideration an amount of money equal to the amount by which the fair market value of the property at that time exceeds the amount included in the aggregate determined under this paragraph by reason of paragraph *c*, would be considered to be used to acquire the consideration;

(*c*) where the taxpayer disposed of the property at the particular time for consideration that includes a reduction in the amount of the borrowed money, the amount of the reduction; and

(*d*) where the taxpayer did not dispose of the property at the particular time, the amount of the borrowed money that, if the taxpayer had disposed of the property at that time and received as consideration an amount of money equal to the fair market value of the property at that time, would be considered to be used to acquire the consideration.

History: 1995, c. 49, s. 51.
Corresponding Federal Provision: 20.1(1).

Borrowed money used to earn income from a business.

175.2.3. Where at any particular time after 31 December 1993 a taxpayer ceases to carry on a business and, as a consequence, borrowed money ceases to be used by the taxpayer for the purpose of earning income from the business, the following rules apply:

(*a*) where, at any time, in this paragraph referred to as the "time of disposition", at or after the particular time, the taxpayer disposes of property that was last used by the taxpayer in the business, an amount of the borrowed money equal to the lesser of the following amounts is deemed to have been used by the taxpayer immediately before the time of disposition to acquire the property:

i. the fair market value of the property at the time of disposition, and

ii. the amount of the borrowed money outstanding at the time of disposition that is not deemed by this paragraph to have been used before the time of disposition to acquire any other property;

(*b*) subject to paragraph *a*, the borrowed money is deemed, after the particular time, not to have been used to acquire property that was used by the taxpayer in the business;

(*c*) the amount of the borrowed money outstanding at any time after the particular time that is not deemed by paragraph *a* to have been used before that subsequent time to acquire property is deemed to be used by the taxpayer at that subsequent time for the purpose of earning income from the business; and

(*d*) the business is deemed to have fiscal periods after the particular time that coincide with the taxation years of the taxpayer, except that the first such fiscal period is deemed to begin at the end of the business's last fiscal period that began before the particular time.

History: 1995, c. 49, s. 51.
Corresponding Federal Provision: 20.1(2).

Deemed disposition where a taxpayer ceases to carry on a business.

175.2.4. For the purposes of paragraph *a* of section 175.2.3,

(*a*) where a property was used by a taxpayer in a business that the taxpayer has ceased to carry on, the taxpayer is deemed to dispose of the property at the time at which the taxpayer begins to use the property in another business or for any other purpose;

(*b*) where a taxpayer, who has at any particular time ceased to carry on a business, regularly used a property in part in the business and in part for some other purpose,

i. the taxpayer is deemed to have disposed of the property at that time, and

ii. the fair market value of the property at that time is deemed to equal the proportion of the fair market value of the property at that time that the use regularly made of the property in the business was of the whole use regularly made of the property; and

(*c*) where the taxpayer is a trust, sections 653 to 656.3.1 do not apply.

History: 1995, c. 49, s. 51; 2004, c. 21, s. 64.
Corresponding Federal Provision: 20.1(3).

Presumption.

175.2.5. Where an amount is payable by a taxpayer for property, the amount is deemed, for the purposes of sections 175.2.2 to 175.2.7 and, where section 175.2.3 applies with respect to the amount, for the purposes of this Part, to be payable in respect of borrowed money used by the taxpayer to acquire the property.

History: 1995, c. 49, s. 51.
Corresponding Federal Provision: 20.1(4).

Borrowed money used to acquire an interest in a partnership.

175.2.6. For the purposes of sections 175.2.2 to 175.2.7, where borrowed money that has been used to acquire an interest in a partnership is, as a consequence, considered to be used at any time for the purpose of earning income from a business or property of the partnership, the borrowed money is deemed to be used at that time for the purpose of earning income from property that is the interest in the partnership and not to be used for the purpose of earning income from the business or property of the partnership.

History: 1995, c. 49, s. 51; 1997, c. 3, s. 71.
Corresponding Federal Provision: 20.1(5).

Borrowed money used to repay money previously borrowed.

175.2.7. Where at any time a taxpayer uses borrowed money to repay money previously borrowed that was deemed

by paragraph *c* of section 175.2.3 immediately before that time to be used for the purpose of earning income from a business, the following rules apply:

(*a*) paragraphs *a* to *c* of section 175.2.3 apply with respect to the borrowed money; and

(*b*) section 183 does not apply with respect to the borrowed money.

History: 1995, c. 49, s. 51.
Corresponding Federal Provision: 20.1(6).

Definitions:

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

"branch advance";
"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";
"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".
"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.

Special rule.

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.

History: 2004, c. 8, s. 32.
Corresponding Federal Provision: 20.2(1).

Deduction of interest.

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

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

Interpretation.

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.

History: 2004, c. 8, s. 32.

Corresponding Federal Provision: 20.2(2) and (3).

Amounts used for the application of section 175.2.9.

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.

History: 2004, c. 8, s. 32.

Corresponding Federal Provision: 20.2(4).

Notional interest.

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.

History: 2004, c. 8, s. 32.

Corresponding Federal Provision: 20.2(5).

Definitions:

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

"exchange date";

"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";

"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".

"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.

History: 2004, c. 8, s. 32.

Corresponding Federal Provision: 20.3(1).

Tax treatment of interest and gains.

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.

History: 2004, c. 8, s. 32.

Corresponding Federal Provision: 20.3(2).

Hedge.

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.

History: 2004, c. 8, s. 32.
Corresponding Federal Provision: 20.3(3).

Repayment of principal.

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.

History: 2004, c. 8, s. 32.
Corresponding Federal Provision: 20.3(4).

DIVISION XII.0.1
TRANSITIONAL RULES RELATING TO AN INSURER

Definitions.

175.2.16. In sections 175.2.17 to 175.2.19, "insurance business", "reserve transition amount" and "transition year" have the meaning assigned by section 92.23.

History: 2010, c. 25, s. 20.
Corresponding Federal Provision: 20.4(1).

Transition year income deduction.

175.2.17. If an insurer's reserve transition amount in respect of an insurance business carried on by it in Canada is negative, the reserve transition amount, expressed as a positive number, must be deducted in computing the insurer's income for its transition year from the insurance business.

History: 2010, c. 25, s. 20.
Corresponding Federal Provision: 20.4(2).

Transition year income inclusion reversal.

175.2.18. If an amount has been included under section 92.24 in computing an insurer's income for its transition year from an insurance business carried on by it in Canada, there must be deducted in computing the insurer's income, for each particular taxation year of the insurer that ends after the beginning of the transition year, from that insurance business, the amount determined by the formula

A × B/1,825.

Interpretation.

In the formula in the first paragraph,

(*a*) A is the amount included under section 92.24 in computing the insurer's income for its transition year from that insurance business; and

(*b*) B is the number of days in the particular taxation year that are before the day that is 1,825 days after the first day of the transition year.

History: 2010, c. 25, s. 20.
Corresponding Federal Provision: 20.4(3).

Ceasing to carry on business.

175.2.19. If at any time an insurer ceases (otherwise than as a result of an amalgamation within the meaning of subsections 1 and 2 of section 544) to carry on all or substantially all of an insurance business (in this section referred to as the "discontinued business"), and neither section 92.26 nor 92.27 applies, there must be deducted in computing the insurer's income from the discontinued business for the insurer's taxation year that includes the time that is immediately before that time, the amount determined by the formula

A − B.

Interpretation.

In the formula in the first paragraph,

(*a*) A is the amount included under section 92.24 in computing the insurer's income from the discontinued business for its transition year; and

(*b*) B is the aggregate of all amounts each of which is an amount deducted under section 175.2.18 in computing the insurer's income from the discontinued business for a taxation year that began before that time.

History: 2010, c. 25, s. 20.
Corresponding Federal Provision: 20.4(4).

175.3. *(Repealed).*

History: 1985, c. 25, s. 36; 1987, c. 67, s. 42.

DIVISION XII.1
WORKSPACE IN HOME

Deduction.

175.4. Notwithstanding any other provision of this Act, an individual or a partnership of which the individual is a member shall not, in computing his or its income from a business for a taxation year or a fiscal period, as the case may be, deduct an amount in respect of an amount otherwise deductible for any part, in this division referred to as the "work space", of a self-contained domestic establishment in which the individual resides, except to the extent that the work space is either

(*a*) the principal place of business of the individual or partnership, as the case may be; or

(*b*) used

i. exclusively for the purposes of earning income from a business, and

ii. on a regular and continuous basis for meeting clients, customers or patients of the individual or partnership in respect of the business, as the case may be.

History: 1990, c. 59, s. 98; 1996, c. 39, s. 273; 1997, c. 14, s. 48; 1997, c. 31, s. 21.
Corresponding Federal Provision: 18(12)(a).

Limitation on deduction.

175.5. Where a work space is described in paragraph *a* or *b* of section 175.4, the amount in respect of the work space that is deductible by the individual or partnership referred to in that section in computing the income of the individual or partnership from the business referred to in that section for a taxation year or fiscal period, as the case may be, shall not exceed the lesser of

(*a*) the aggregate of all amounts each of which is,

i. where the individual or the partnership has made an expenditure, other than an expenditure of a capital nature, that may reasonably be considered to relate

(1) both to the part of the establishment, other than the work space, and to the work space, the product obtained by multiplying the amount that would, but for this section, be deductible in computing the income of the individual or partnership from the business for the taxation year or the fiscal period, as the case may be, in respect of the expenditure, by 50%, or

(2) solely to the work space, the amount that would, but for this section, be deductible in computing the income of the individual or partnership from the business for the taxation year or the fiscal period, as the case may be, in respect of the expenditure, and

ii. the amount deducted by the individual or the partnership in computing the income of the individual or partnership from the business for the taxation year or the fiscal period, as the case may be, under paragraph *a* of section 130 or the second paragraph of section 130.1, in respect of the work space; and;

(*b*) the income of the individual or partnership from the business for the taxation year or the fiscal period, as the case may be, computed before deducting any amount referred to in subparagraphs i and ii of subparagraph *a* and without reference to sections 217.2 to 217.9.1.

Presumption.

For the purposes of subparagraph i of subparagraph *a* of the first paragraph,

(*a*) an amount paid or payable by the individual or partnership as rent pertaining to the work space is deemed to be an expenditure that may reasonably be considered to relate to both the part of the establishment, other than the work space, and the work space;

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

(*b.*1) an expenditure, other than an expenditure of a capital nature, made by the individual or partnership, that may reasonably be considered to relate to both the work space in connection with the operation of a private residential home and the part of the establishment, other than the work space, is deemed to be an expenditure relating solely to the work space; and

(*c*) an expenditure, other than an expenditure of a capital nature, made by the individual or partnership, that may reasonably be considered to relate both to the part of the establishment, other than the work space, and to the work space, including an amount paid or payable by the individual or partnership as lighting or heating costs, and that is not an expenditure in relation to the maintenance of the establishment, is deemed to be an expenditure that may reasonably be considered to relate solely to the work space.

Expenditure relating to the maintenance of the establishment.

For the purposes of subparagraph *c* of the second paragraph, an amount paid or payable by the individual or partnership as

maintenance and repairs costs, rent, interest on a hypothecary loan, property and school taxes or insurance premiums, relating to both the part of the establishment, other than the work space, and the work space, is deemed to be an expenditure relating to the maintenance of the establishment.

History: 1990, c. 59, s. 98; 1997, c. 14, s. 49; 1997, c. 31, s. 22; 1999, c. 83, s. 48; 2000, c. 5, s. 293; 2000, c. 39, s. 16; 2001, c. 51, s. 27; 2002, c. 9, s. 7; 2006, c. 13, s. 29; 2015, c. 24, s. 41; 2017, c. 29, s. 51.

Corresponding Federal Provision: 18(12)(b).

Special rules.

175.6. Where the amount determined under subparagraph *a* of the first paragraph of section 175.5, in respect of a business of an individual or partnership for the taxation year or fiscal period, as the case may be, preceding a particular taxation year or fiscal period, as the case may be, exceeds the amount determined under subparagraph *b* of that first paragraph, in respect of the business of the individual or partnership for that preceding taxation year or fiscal period, as the case may be, the following rules apply:

(*a*) for the purposes of section 175.4, the excess amount is deemed, for the purpose of computing the income of the individual or partnership from the business for the particular taxation year or fiscal period, as the case may be, to be an amount otherwise deductible for the particular taxation year or fiscal period, as the case may be, in respect of a work space that is described in paragraph *a* or *b* of section 175.4 for the particular taxation year or fiscal period, as the case may be;

(*b*) in applying section 175.5, the excess amount is deemed to be an expenditure, other than an expenditure of a capital nature, that may reasonably be considered to relate solely to the work space and that is deductible in computing the income of the individual or partnership from the business for the particular taxation year or the particular fiscal period, as the case may be.

History: 1990, c. 59, s. 98; 1997, c. 14, s. 49; 1997, c. 31, s. 22; 2000, c. 39, s. 17.

Corresponding Federal Provision: 18(12)(c).

DIVISION XII.1.1
EXPENSES FOR FOOD, BEVERAGES AND ENTERTAINMENT

Maximum amount deductible.

175.6.1. The aggregate of all amounts that a taxpayer may deduct in computing income from a business or property for a taxation year, each of which is an amount to which section 421.1 applies for the year, shall not exceed

(*a*) in respect of a business of the taxpayer that consists in acting as an intermediary in selling property included in the inventory of another taxpayer,

i. if the taxpayer's deemed gross revenue for the year from the business referred to in this subparagraph does not exceed $32,500, the amount determined by the formula

[2% × (A / B)] + [2% × (C − A)],

ii. if the taxpayer's deemed gross revenue for the year from the business referred to in this subparagraph exceeds $32,500 but does not exceed $51,999, $650, and

iii. if the taxpayer's deemed gross revenue for the year from the business referred to in this subparagraph exceeds $51,999, the amount determined by the formula

[1.25% × (A / B)] + [1.25% × (C − A)];

(*b*) in any other case,

i. if the taxpayer's gross revenue for the year from the business or property does not exceed $32,500, an amount equal to 2% of that gross revenue,

ii. if the taxpayer's gross revenue for the year from the business or property exceeds $32,500 but does not exceed $51,999, $650, and

iii. if the taxpayer's gross revenue for the year from the business or property exceeds $51,999, an amount equal to 1.25% of that gross revenue.

Determination of the deemed gross revenue.

For the purposes of subparagraphs i to iii of subparagraph *a* of the first paragraph, the taxpayer's deemed gross revenue for the year from the business referred to in that subparagraph *a* is the amount determined by the formula

(A / B) + (C − A).

Interpretation.

In the formulas in subparagraphs i and iii of subparagraph *a* of the first paragraph and in the second paragraph,

(*a*) A is the aggregate of all amounts each of which is the amount of a commission that the taxpayer included in computing income for the year from the business referred to in that subparagraph *a*;

(*b*) B is the average percentage of the aggregate of all the commissions in respect of which the taxpayer included the amount in computing income for the year from the business referred to in that subparagraph *a*; and

(*c*) C is the taxpayer's gross revenue for the year from the business referred to in that subparagraph *a*.

Taxation year of less than 365 days.

If the number of days in the taxation year of the taxpayer is less than 365, the following rules apply:

(*a*) for the purposes of subparagraphs *a* and *b* of the first paragraph, the taxpayer's deemed gross revenue or gross revenue for the year from a business or property is deemed to be equal to the amount obtained by multiplying that revenue by the proportion that 365 is of the number of days in the year; and

(*b*) the amount determined under subparagraph *a* or *b* of the first paragraph is deemed to be equal to that amount, otherwise determined, multiplied by the proportion that the number of days in the year is of 365.

Exception.

However, an amount to which section 421.1 applies for a taxation year must not be included in computing the aggregate referred to in the first paragraph, in relation to a business of the taxpayer, where it is an amount in respect of food or beverages consumed by a person in a place that is at least 40 kilometres from the taxpayer's place of business where that person ordinarily works or to which that person is ordinarily attached and to the extent that the amount is paid or payable in connection with activities related to the business that are ordinarily carried on by a person in a place so remotely located from that place of business.

Taxpayer who is a member of a partnership.

In addition, no taxpayer who is a member of a partnership at the end of a fiscal period of the partnership may, in respect of a business carried on by the partnership or of property owned by the partnership, deduct an amount incurred by the taxpayer and to which section 421.1 applies, in computing income from the business or property for the taxpayer's taxation year in which that fiscal period ends.

History: 2004, c. 21, s. 65; 2005, c. 23, s. 42; 2011, c. 1, s. 24; 2012, c. 8, s. 43.

DIVISION XII.2
SUPERFICIAL LOSSES

When section 175.9 applies to money lenders.

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

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

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

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

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

(*e*) the particular property is a share, or a loan, bond, debenture, note, hypothecary claim, mortgage, agreement of sale or any other indebtedness;

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

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

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

History: 1990, c. 59, s. 98; 1996, c. 39, s. 53; 1997, c. 3, s. 71; 2000, c. 5, s. 45; 2005, c. 1, s. 68.

Corresponding Federal Provision: 18(13).

When section 175.9 applies to adventurers in trade.

175.8. Section 175.9 also applies where

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

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

(*c*) the disposition is not a disposition that is deemed to have occurred under subparagraph *b* of the first paragraph of section 85.7, paragraph *a* of section 85.9, any of Divisions I to III of Chapter III of Title VII, section 653, Chapter I of Title I.1 of Book VI, paragraph *a* or *c* of section 785.5, or any of sections 832.1, 851.22.0.4 and 999.1;

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

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

History: 2000, c. 5, s. 46; 2004, c. 8, s. 33; 2015, c. 36, s. 11; 2020, c. 16, s. 45.

Corresponding Federal Provision: 18(14).

Loss on certain properties.

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

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

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

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

ii. at which the substituted property would, if it were owned by the transferor, be deemed under Chapter I of Title I.1 of Book VI or section 999.1 to have been disposed of by the transferor,

iii. that is immediately before the transferor is subject to a loss restriction event, or

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

Application.

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

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

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

History: 2000, c. 5, s. 46; 2004, c. 8, s. 34; 2017, c. 1, s. 97.
Corresponding Federal Provision: 18(15).

Deemed identical property.

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

History: 2000, c. 5, s. 46; 2005, c. 1, s. 69.
Corresponding Federal Provision: 18(16).

DIVISION XII.3
STRADDLE LOSSES

Definitions.

175.11. For the purposes of this division,

"offsetting position";
"offsetting position", in respect of a particular position of a person or partnership (in this definition referred to as the "holder"), means one or more positions that

(*a*) are held by

i. the holder,

ii. another person or partnership that does not deal at arm's length with, or is affiliated with, the holder (that other person or partnership being referred to in this section and sections 175.13 and 175.15 as the "connected person"), or

iii. any combination of the holder and one or more connected persons;

(*b*) have the effect, or would have the effect if each of the positions held by a connected person were held by the holder, of eliminating all or substantially all of the holder's risk of loss and opportunity for gain or profit in respect of the particular position; and

(*c*) if held by a connected person, can reasonably be considered to have been held with the purpose of obtaining the effect described in paragraph *b*;

"position";
"position", of a person or partnership, means one or more properties, obligations or liabilities of the person or partnership, where

(*a*) each property, obligation or liability is

i. a share of the capital stock of a corporation,

ii. an interest in a partnership,

iii. an interest in a trust,

iv. a commodity,

v. foreign currency,

vi. a swap agreement, a forward purchase or sale agreement, a forward rate agreement, a futures agreement, an option agreement or a similar agreement,

vii. a debt owed to or owing by the person or partnership that, at any time,

(1) is denominated in a foreign currency,

(2) would be described in subparagraph *d* of the first paragraph of section 92.5R3 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) if that subparagraph were read

without reference to ", other than one described in any of subparagraphs *a* to *c*,", or

(3) is convertible into or exchangeable for a right in any property that is described in any of subparagraphs i to iv,

viii. an obligation to transfer or return to another person or partnership a property identical to a particular property described in any of subparagraphs i to vii that was previously transferred or lent to the person or partnership by that other person or partnership, or

ix. a right in any property that is described in any of subparagraphs i to vii; and

(*b*) it is reasonable to conclude that, if there is more than one property, obligation or liability, each of them is held in connection with each other;

"successor position";
"successor position", in respect of a position (in this definition referred to as the "initial position"), means a particular position if

(*a*) the particular position is an offsetting position in respect of a second position;

(*b*) the second position was an offsetting position in respect of the initial position that was disposed of at a particular time; and

(*c*) the particular position was entered into during the period that begins 30 days before, and ends 30 days after, the particular time;

"unrecognized loss";
"unrecognized loss", in respect of a position of a person or partnership at a particular time in a taxation year, means the loss, if any, that would be deductible in computing the income of the person or partnership for the year with respect to the position if it were disposed of immediately before the particular time for proceeds of disposition equal to its fair market value at the time of disposition;

"unrecognized profit".
"unrecognized profit", in respect of a position of a person or partnership at a particular time in a taxation year, means the profit, if any, that would be included in computing the income of the person or partnership for the year with respect to the position if it were disposed of immediately before the particular time for proceeds of disposition equal to its fair market value at the time of disposition.

History: 2020, c. 16, s. 46.

Straddle loss.

175.12. Subject to section 175.13, the rule set out in the second paragraph applies in respect of the disposition of a particular position by a person or partnership (in this section and sections 175.13 and 175.15 referred to as the "transferor"), if

(*a*) the disposition is not a deemed disposition under any of Divisions I to III of Chapter III of Title VII, section 653, Chapter I of Title I.1 of Book VI or section 832.1 or 999.1;

(*b*) the transferor is not a financial institution (within the meaning of section 851.22.1), a mutual fund corporation or a mutual fund trust; and

(*c*) the particular position was, immediately before its disposition, not a capital property, or an obligation or liability on account of capital, of the transferor.

Rule applicable.

Where the conditions of the first paragraph are met in respect of the disposition of a particular position by a transferor, the portion of the transferor's loss, if any, from the disposition of the particular position that is deductible in computing the transferor's income for a particular taxation year is equal to the amount determined by the formula

A + B − C.

Interpretation.

In the formula in the second paragraph,

(*a*) A is

i. if the particular taxation year is the taxation year in which the disposition occurs, the amount of the loss determined with reference to section 175.9 but without reference to this section, and

ii. in any other taxation year, nil;

(*b*) B is

i. if the disposition occurred in a taxation year preceding the particular taxation year, the amount determined under subparagraph *c* in respect of the disposition for the taxation year preceding the particular taxation year, and

ii. in any other case, nil; and

(*c*) C is the lesser of

i. the amount determined under subparagraph *a* for the taxation year in which the disposition occurs, and

ii. the amount determined by the formula

D − (E + F).

Interpretation.

In the formula in subparagraph ii of subparagraph *c* of the third paragraph,

(*a*) D is the aggregate of all amounts each of which is equal to the amount of unrecognized profit at the end of the particular taxation year in respect of

i. the particular position,

ii. positions that are offsetting positions in respect of the particular position or those that would be such offsetting positions, to the extent that there is no successor position in respect of the particular position, if the particular position continued to be held by the transferor,

iii. successor positions in respect of the particular position, and

iv. positions that are offsetting positions in respect of any successor position referred to in subparagraph iii or those that would be such offsetting positions if any such successor position continued to be held by the transferor;

(*b*) E is the aggregate of all amounts each of which is equal to the amount of unrecognized loss at the end of the particular taxation year in respect of positions referred to in subparagraphs i to iv of subparagraph *a*; and

(*c*) F is the aggregate of all amounts each of which is equal to the amount determined by the formula

G − H.

Interpretation.

In the formula in subparagraph *c* of the fourth paragraph,

(*a*) G is the amount determined under subparagraph *a* of the third paragraph for the taxation year in which the disposition occurs in respect of another position that was disposed of prior to the disposition of the particular position, if

i. the particular position was a successor position in respect of the other position, and

ii. the other position was

(1) an offsetting position in respect of the particular position,

(2) an offsetting position in respect of a position in respect of which the particular position was a successor position, or

(3) the particular position; and

(*b*) H is the aggregate of all amounts each of which is, in respect of another position described in subparagraph *a*, an amount determined under the second paragraph for the particular taxation year or a preceding taxation year.

Successor position in respect of another successor position.

For the purposes of subparagraph iii of subparagraph *a* of the fourth paragraph, subparagraph i of subparagraph *a* of the fifth paragraph and subparagraph 2 of subparagraph ii of that subparagraph *a*, a successor position in respect of a position includes a successor position that is in respect of a successor position in respect of the position.

History: 2020, c. 16, s. 46.

Section 175.12 not applicable.

175.13. Section 175.12 does not apply in respect of a particular position of a transferor if

(*a*) the following conditions are met:

i. either the particular position, or the offsetting position in respect of the particular position, consists of

(1) commodities that the holder of the position manufactures, produces, grows, extracts or processes, or

(2) debt that the holder of the position incurs in the course of a business that consists of one or any combination of the activities described in subparagraph 1, and

ii. it can reasonably be considered that the position not described in subparagraph i—the particular position if the position that is described in subparagraph i is the offsetting position, or the offsetting position if the position that is described in that subparagraph i is the particular position—is held to reduce the risk, with respect to the position described in subparagraph i, from

(1) in the case of a position described in subparagraph i that consists of commodities described in subparagraph 1 of that subparagraph i, price changes or fluctuations in the value of currency with respect to such commodities, or

(2) in the case of a position described in subparagraph i that consists of a debt described in subparagraph 2 of that subparagraph i, fluctuations in interest rates or in the value of currency with respect to the debt;

(*b*) the transferor or a connected person (in this subparagraph referred to as the "holder") continues to hold a position—that would be an offsetting position in respect of the particular position if the particular position continued to be held by the transferor—throughout a 30-day period beginning on the date of disposition of the particular position, and at no time during the period

i. is the holder's risk of loss or opportunity for gain or profit with respect to the position reduced in any material respect by another position entered into or disposed of by the holder, or

ii. would the holder's risk of loss or opportunity for gain or profit with respect to the position be reduced in any material respect by another position entered into or disposed of by a connected person, if the other position were entered into or disposed of by the holder; or

(*c*) it can reasonably be considered that none of the main purposes of the series of transactions or events, or any of the transactions or events in the series, of which the holding of both the particular position and offsetting position are part, is to avoid, reduce or defer tax that would otherwise be payable under this Act.

History: 2020, c. 16, s. 46.

Rules of application.

175.14. For the purposes of this division,

(*a*) if a position of a person or partnership is not a property of the person or partnership, the person or partnership is deemed

i. to hold the position at any time while it is a position of the person or partnership, and

ii. to have disposed of the position when the position is settled or extinguished in respect of the person or partnership;

(*b*) the disposition of a position is deemed to include the disposition of a portion of the position;

(*c*) a first position held by one or more persons or partnerships referred to in paragraph *a* of the definition of "offsetting position" in section 175.11 is deemed to be an offsetting position in respect of a particular position of a person or partnership if

i. there is a high degree of negative correlation between changes in value of the first position and that of the particular position, and

ii. it can reasonably be considered that the principal purpose of the series of transactions or events, or any of the transactions in the series, of which the holding of both the first position and the particular position are part, is to avoid, reduce or defer tax that would otherwise be payable under this Act; and

(*d*) one or more positions held by one or more persons or partnerships referred to in paragraph *a* of the definition of "offsetting position" in section 175.11 are deemed to be a successor position in respect of a particular position of a person or partnership if

i. a portion of the particular position was disposed of at a particular time,

ii. the position is, or the positions include, as the case may be, a position that consists of the portion of the particular position that was not disposed of (in this paragraph referred to as the "remaining portion of the particular position"),

iii. where there is more than one position, any position that does not consist of the remaining portion of the particular position was entered into during the period that begins 30 days before, and ends 30 days after, the particular time referred to in subparagraph i,

iv. the position is, or the positions taken together would be, as the case may be, an offsetting position in respect of a second position (within the meaning assigned by the definition of "successor position" in section 175.11),

v. the second position described in subparagraph iv was an offsetting position in respect of the particular position, and

vi. it can reasonably be considered that the principal purpose of the series of transactions or events, or any of the transactions in the series, of which the disposition of a portion of the particular position and the holding of one or more positions are part, is to avoid, reduce or defer tax that would otherwise be payable under this Act.

History: 2020, c. 16, s. 46.

Different taxation years.

175.15. The presumption provided for in the second paragraph applies where

(*a*) at any time in a particular taxation year of a transferor, a position referred to in any of subparagraphs ii to iv of subparagraph *a* of the fourth paragraph of section 175.12 (in this section referred to as the "gain position") is held by a connected person;

(*b*) the connected person disposes of the gain position in the particular taxation year; and

(*c*) the taxation year of the connected person in which the disposition referred to in subparagraph *b* occurs ends after the end of the particular taxation year.

Presumption applicable.

Where the conditions of the first paragraph are met, the portion of the profit, if any, realized from the disposition of the gain position referred to in subparagraph *b* of the first paragraph that is determined by the following formula is deemed, for the purposes of the definition of "unrecognized profit" in section 175.11 and the second paragraph of section 175.12, to be unrecognized profit in respect of the gain position until the end of the taxation year of the connected person in which the disposition occurs:

$A \times B/C$.

Interpretation.

In the formula in the second paragraph,

(*a*) A is the amount of the profit otherwise determined;

(*b*) B is the number of days in the taxation year of the connected person in which the disposition referred to in

subparagraph *b* of the first paragraph occurs that are after the end of the particular taxation year; and

(*c*) C is the total number of days in the taxation year of the connected person in which the disposition referred to in subparagraph *b* of the first paragraph occurs.

History: 2020, c. 16, s. 46.

DIVISION XIII
BORROWINGS

Deduction of certain borrowing expenses.

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

(*a*) in the course of a borrowing of money used by the taxpayer for the purpose of earning income from a business or property, other than money used by the taxpayer for the purpose of acquiring property the income from which is exempt from tax;

(*b*) in the course of incurring indebtedness that is an amount payable for property acquired for the purpose of earning income therefrom or for the purpose of earning income from a business, other than property the income from which would be exempt from tax or property that is an interest in a life insurance policy; or

(*c*) in the course of a rescheduling or restructuring of a debt obligation of the taxpayer or an assumption of a debt obligation by the taxpayer, where

(1) the debt obligation is in respect of a borrowing described in paragraph *a* or in respect of an amount payable described in paragraph *b*, and

(2) in the case of a rescheduling or restructuring, the rescheduling or restructuring, as the case may be, provides for the modification of the terms or conditions of the debt obligation or the substitution or conversion of the debt obligation with or to another debt obligation or a share.

Excluded amount.

The amount to which the first paragraph refers is

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

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

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

History: 1972, c. 23, s. 163; 1980, c. 13, s. 12; 1990, c. 59, s. 99; 1995, c. 49, s. 53; 2001, c. 7, s. 28; 2003, c. 2, s. 61.
Corresponding Federal Provision: 20(1)(e)(ii) to (ii.2) and (iv.1).

Restriction.

176.1. The amount deductible under section 176 shall not exceed the lesser of

(*a*) that proportion of 20% of the expense that the number of days in the year is of 365, and

(*b*) the amount by which the expense exceeds the aggregate of all amounts each of which is an amount deductible in respect of the expense in computing the taxpayer's income for a preceding taxation year.

History: 1990, c. 59, s. 100.
Corresponding Federal Provision: 20(1)(e)(iii) and (iv).

Where debt obligations are settled.

176.2. For the purposes of sections 176, 176.1 and 176.3, where in a taxation year all debt obligations in respect of a borrowing of money described in subparagraph *a* of the first paragraph of section 176 or in respect of an amount payable described in subparagraph *b* of that first paragraph are settled or extinguished by the taxpayer, otherwise than in a transaction made as part of a series of borrowings or other transactions and repayments, for consideration that does not include any property described in the second paragraph, of the taxpayer or any person with whom the taxpayer does not deal at arm's length or any partnership or trust of which the taxpayer or any person with whom the taxpayer does not deal at arm's length is a member or beneficiary, section 176.1 shall be read without reference to the words "the lesser of" and to paragraph *a*.

Interpretation.

The property referred to in the first paragraph is a unit of a unit investment trust, an interest in a partnership, a share in a syndicate, a share in the capital stock of a corporation or a debt obligation.

History: 1990, c. 59, s. 100; 1995, c. 49, s. 54; 1997, c. 3, s. 71.
Corresponding Federal Provision: 20(1)(e)(v).

Dissolved partnership.

176.3. For the purposes of sections 176 to 176.2, where a partnership has ceased to exist at any particular time in a fiscal period of the partnership,

(*a*) no amount may be deducted by the partnership under section 176 in computing its income for that fiscal period, and

(*b*) any person or partnership that was a member of the partnership immediately before that time may deduct, for a taxation year ending at or after that time, that proportion of the amount that would, but for this section, have been deductible under section 176 by the partnership in the fiscal period ending in the year had it continued to exist and had the partnership interest not been redeemed, acquired or cancelled, that the fair market value of such member's interest in the partnership immediately before that time is of the fair market value of all the interests in the partnership immediately before that time.

History: 1990, c. 59, s. 100; 1997, c. 3, s. 71.
Corresponding Federal Provision: 20(1)(e)(vi).

Annual fees related to borrowings.

176.4. A taxpayer may deduct an amount payable by him, other than an amount referred to in section 176.5, as a registrar fee, transfer agent fee, standby charge, guarantee fee, filing fee, service fee or any similar fee, that may reasonably be considered to relate solely to the year and that is incurred by the taxpayer

(*a*) in the course of a borrowing of money to be used by the taxpayer for the purpose of earning income from a business or property, other than money used by the taxpayer for the purpose of acquiring property the income from which is exempt from tax;

(*b*) in the course of incurring indebtedness that is an amount payable for property acquired for the purpose of earning income therefrom or for the purpose of earning income from a business, other than property the income from which is exempt from tax or property that is an interest in a life insurance policy; or

(*c*) in the course of rescheduling or restructuring a debt obligation of the taxpayer or an assumption of a debt obligation by the taxpayer, where

(1) the debt obligation is in respect of a borrowing described in paragraph *a*, or in respect of an amount payable described in paragraph *b*, and

(2) in the case of a rescheduling or restructuring, the rescheduling or restructuring, as the case may be, provides for the modification of the terms or conditions of the debt obligation or the substitution or conversion of the debt obligation with or to another debt obligation or a share.

History: 1990, c. 59, s. 100; 1995, c. 49, s. 55.
Corresponding Federal Provision: 20(1)(e.1) (part).

Restriction.

176.5. The amount to which section 176.4 refers is

(*a*) a payment that is contingent or dependent upon the use of or production from property,

(*b*) a payment that is computed by reference to revenue, profit, cash flow, commodity price or any other similar criterion, or

(*c*) a payment that is computed by reference to dividends paid or payable to shareholders of any class of shares of the capital stock of a corporation.

History: 1990, c. 59, s. 100; 1997, c. 3, s. 71; 2003, c. 2, s. 62.
Corresponding Federal Provision: 20(1)(e.1) before (i) (part).

Premiums on life insurance — collateral.

176.6. A taxpayer may deduct the least of the following amounts in respect of a life insurance policy (other than an annuity contract or a leveraged insured annuity policy):

(*a*) the premium payable by the taxpayer under the life insurance policy in respect of the year, where

i. an interest in the policy is assigned to a restricted financial institution in the course of a borrowing from the institution,

ii. the interest payable in respect of the borrowing is or would, but for sections 135.4, 164, 180 to 182 and 194 to 197, be deductible in computing the taxpayer's income for the year, and

iii. the assignment referred to in subparagraph i is required by the restricted financial institution as collateral for the borrowing;

(*b*) the net cost of pure insurance in respect of the year (other than in respect of a period that begins after 31 December 2013 during which the policy is a leveraged insurance policy), as determined in accordance with the regulations, in respect of the interest in the policy referred to in subparagraph i of paragraph *a*; and

(*c*) the portion, of the lesser of the amounts determined in accordance with paragraphs *a* and *b* in respect of the policy, that can reasonably be considered to relate to an amount owing from time to time during the year by the taxpayer to the restricted financial institution under the borrowing.

History: 1993, c. 16, s. 92; 1995, c. 49, s. 56; 2017, c. 1, s. 98.
Corresponding Federal Provision: 20(1)(e.2).

Repayment of loan.

177. A taxpayer may deduct the part of any loan or indebtedness repaid by him in the year and which he included under section 113 in computing his income for a preceding taxation year, if it is established that the repayment was not made as part of a series of transactions and repayments.

Restriction.

This section applies only to the extent that the amount of the loan or indebtedness was not deductible for the purpose of computing the taxpayer's taxable income for that preceding taxation year.

History: 1972, c. 23, s. 164; 1973, c. 17, s. 15; 1984, c. 15, s. 45; 1985, c. 25, s. 37; 1994, c. 22, s. 115.
Corresponding Federal Provision: 20(1)(j).

178. *(Repealed).*

History: 1972, c. 23, s. 165; 1990, c. 59, s. 101.

Payments on bonds and other securities issued at discount.

179. (*1*) A taxpayer may deduct an amount paid in the year to pay the principal amount of a bond, debenture, bill, hypothecary claim, mortgage or other similar obligation, but only if they have been issued by the taxpayer after 18 June 1971 and call for the payment of interest and only to the extent that the amount so paid does not exceed:

(*a*) where such security has been issued for an amount not less than 97% of its principal amount, and its yield, expressed in yearly percentage on the amount for which it has been issued does not exceed 4/3 of the annual rate of interest stipulated, the amount according to which the lesser of the principal amount of such security and the aggregate of amounts paid in the year or in a previous year to repay its principal amount exceeds the amount for which it has been issued; and

(*b*) in all other cases, the lesser of 1/2 of the amount so paid and 1/2 of the amount by which the lesser of the principal amount of the security and the aggregate of the amounts paid in the year or in any preceding taxation year in satisfaction of the principal amount thereof exceeds the amount for which it has been issued.

Application of ss. 124 and 125.

(2) Sections 124 and 125 apply to this section.

History: 1972, c. 23, s. 166; 1973, c. 17, s. 16; 1990, c. 59, s. 102; 1996, c. 39, s. 54; 2003, c. 2, s. 63; 2005, c. 1, s. 70.
Corresponding Federal Provision: 20(1)(f).

Acquisition of depreciable property.

180. A taxpayer who during a taxation year acquires depreciable property may elect, in his fiscal return filed under this Part for the year, to have the following rules apply:

(*a*) in computing his 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 his election that, but for the election, would have been deductible in computing his income, other than exempt income, for any such year in respect of borrowed money used to acquire the depreciable property or the amount payable for the depreciable property;

(*b*) the amount referred to in paragraph *a* shall be included in computing the capital cost to him of the depreciable property.

History: 1972, c. 23, s. 167; 1982, c. 5, s. 48; 1984, c. 15, s. 46; 1986, c. 19, s. 34; 1993, c. 16, s. 93.
Corresponding Federal Provision: 21(1).

Borrowed money for exploration purposes.

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.

History: 1972, c. 23, s. 168; 1975, c. 22, s. 23; 1977, c. 26, s. 19; 1982, c. 5, s. 48; 1986, c. 19, s. 34; 1993, c. 16, s. 94; 2004, c. 8, s. 35.
Corresponding Federal Provision: 21(2).

Election for a particular taxation year.

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.

Rules applicable.

The first paragraph applies to a taxpayer who

(*a*) in any taxation year preceding the particular year,

i. made an election under section 180 in respect of borrowed money used to acquire depreciable property or the amount payable for the depreciable property;

ii. was required under section 135.4 to include, in respect of the construction of depreciable property for the acquisition of which he borrowed money or for which an amount was payable by him, an amount in computing the cost to him of the depreciable property; or

iii. made an election under section 181 in respect of borrowed money used for the exploration, development or acquisition of property; and

(*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.

History: 1972, c. 23, s. 169; 1984, c. 15, s. 47; 1986, c. 19, s. 34; 2004, c. 8, s. 36.

Corresponding Federal Provision: 21(3) and (4).

Borrowed money used to repay money previously borrowed.

183. Subject to section 175.2.7, borrowed money used by a taxpayer to repay money previously borrowed or to pay an amount payable for property referred to in paragraph *b* of section 160 or 161 and previously acquired (which previously borrowed money or amount payable in respect of previously acquired property is, in this section, referred to as the "previous indebtedness") is deemed, for the purposes of this division and sections 160, 161, 175.2.2 and 175.2.3, to be used for the purposes for which the previous indebtedness was used or incurred, or was deemed, under this section, to have been used or incurred.

History: 1972, c. 23, s. 170; 1990, c. 59, s. 103; 1995, c. 49, s. 57; 2010, c. 5, s. 23.

Corresponding Federal Provision: 20(3).

CHAPTER IV
CEASING TO CARRY ON BUSINESS

Sale of accounts receivable.

184. If the sale of all or substantially all the property of a business includes debts that have been or will be included in computing the vendor's income for a previous year or for the taxation year or debts arising from loans made in the ordinary course of the business if part of the vendor's ordinary business has been the lending of money, the purchaser proposes to continue to carry on the business, and the vendor and the purchaser make a valid election under subsection 1 of section 22 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in relation to the sale, the following rules apply:

(*a*) the vendor may deduct and the buyer must include, in computing their income for the taxation year, an amount equal to the excess of the face value of the debts so sold, other than debts in respect of which a deduction has already been made under section 141 by the vendor over the consideration paid by the purchaser for such debts;

(*b*) for the purposes of sections 140 and 141, the debts so sold are deemed to have been included in computing the income of the purchaser for the taxation year or a previous year, but the latter shall not make any deduction under section 141 respecting a debt in respect of which the vendor has previously made a deduction;

(*c*) for the purposes of paragraph *i* of section 87 the purchaser is deemed to have himself deducted the amount deducted by the vendor under section 141 in computing his income for a previous year in respect of any of the debts sold.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 1 of section 22 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1972, c. 23, s. 171; 1974, c. 18, s. 10; 1994, c. 22, s. 116; 2009, c. 5, s. 65.

Corresponding Federal Provision: 22(1).

Declaration by vendor and purchaser.

185. Subject to section 422, a declaration made by the vendor and the purchaser, in respect of the amount paid for the debts assigned, under this section, as it read before 20 December 2006, or, in the case of a valid election made under subsection 1 of section 22 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006, under subsection 2 of section 22 of that Act, is binding on the parties as against

the Minister to the extent that it may be relevant in respect of any matter arising under this Part.

History: 1972, c. 23, s. 172; 1975, c. 22, s. 24; 2009, c. 5, s. 66.
Corresponding Federal Provision: 22(2).

Sale of property included in inventory.

186. When a taxpayer ceases to carry on a business or sells all or part of it and thereupon or subsequently sells any property included in the inventory of such business, he is deemed to have sold such property in the course of carrying on the business.

History: 1972, c. 23, s. 173.
Corresponding Federal Provision: 23(1).

Property deemed included in inventory.

187. For the purposes of section 186, any property that would have been included in the inventory of a business if the income from it had not been computed in accordance with the method authorized by section 194 or 215 is deemed to have been so included.

History: 1972, c. 23, s. 176; 1975, c. 22, s. 26; 1986, c. 19, s. 35.
Corresponding Federal Provision: 23(3).

188. *(Repealed).*

History: 1972, c. 23, s. 177; 1993, c. 16, s. 95; 2003, c. 2, s. 64; 2005, c. 1, s. 71; 2019, c. 14, s. 86.
Corresponding Federal Provision: 24(1).

Business subsequently operated by spouse or controlled corporation.

189. Where, at any time, an individual ceases to carry on a business and the individual's spouse, or a corporation controlled directly or indirectly in any manner whatever by the individual, subsequently carries on the business and acquires all of the property included in Class 14.1 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1) in respect of the business owned by the individual immediately before that time and that had value at that time, the following rules apply:

(*a*) the individual is deemed to have, immediately before that time, disposed of the property and received proceeds of disposition equal to the lesser of the capital cost and the cost amount to the individual of the property immediately before the disposition;

(*b*) the spouse or corporation, as the case may be, is deemed to have acquired the property at a cost equal to those proceeds; and

(*c*) for the purposes of sections 93 to 104, Chapter III of Title III and any regulations enacted under paragraph *a* of section 130, if the amount that was the capital cost to the individual of the property exceeds the amount determined under section 436 to be the cost to the person that acquired the property,

i. the capital cost to the person of the property is deemed to be the amount that was the capital cost to the individual of the property, and

ii. the excess is deemed to have been allowed to the person as depreciation under paragraph *a* of section 130 in respect of the property for taxation years that ended before the person acquired the property.

History: 1972, c. 23, s. 178; 1990, c. 59, s. 104; 1993, c. 16, s. 96; 1994, c. 22, s. 117; 1996, c. 39, s. 55; 1997, c. 3, s. 71; 2003, c. 2, s. 65; 2005, c. 1, s. 72; 2019, c. 14, s. 87.
Corresponding Federal Provision: 24(2).

189.0.1. *(Repealed).*

History: 1994, c. 22, s. 118; 1997, c. 3, s. 71; 2019, c. 14, s. 88.
Corresponding Federal Provision: 24(3).

189.1. *(Repealed).*

History: 1986, c. 15, s. 52; 1986, c. 19, s. 36; 1997, c. 31, s. 23.

Fiscal period.

190. Where an individual who was the sole proprietor of a business disposed of it during a fiscal period of the business, the fiscal period is referred to in the third or fourth paragraph of section 7 and the individual makes a valid election under subsection 1 of section 25 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in relation to the fiscal period, Division II of Chapter II is to be read without reference to the exception provided for in paragraph *a* of section 95, for the purpose of computing the individual's income for the fiscal period.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 1 of section 25 of the Income Tax Act.

History: 1972, c. 23, s. 179; 1984, c. 15, s. 48; 1986, c. 19, s. 37; 1997, c. 31, s. 24; 2009, c. 5, s. 67; 2019, c. 14, s. 89.
Corresponding Federal Provision: 25.

CHAPTER V
SPECIAL CASES

DIVISION I
BANKS

191. *(Repealed).*

History: 1972, c. 23, s. 180; 1982, c. 5, s. 49; 1989, c. 77, s. 21; 1990, c. 59, s. 105; 1997, c. 31, s. 25.

Amounts to be included by a bank.

191.1. A bank shall include in computing its income for its first taxation year that commences after 17 June 1987 and ends after 31 December 1987, referred to in sections 191.2 and 191.3 as the "first year", the aggregate of

(*a*) all the specific provisions of the bank at the end of its preceding taxation year, as determined, or as would have been determined if such a determination had been required, under the Minister's rules,

(*b*) all general provisions of the bank at the end of its preceding taxation year, as determined, or as would have been determined if such a determination had been required, under the Minister's rules,

(*c*) the amount by which

i. the amount of the special provision for losses on transborder claims of the bank, as determined, or as would have been determined if such a determination had been required, under the Minister's rules, that was deductible under section 191 in computing its income for its preceding taxation year, exceeds

ii. that part of the amount determined under subparagraph i that was a realized loss of the bank for its preceding taxation year, and

(*d*) the amount of the tax allowable appropriations account of the bank at the end of its preceding taxation year, as determined, or as would have been determined if such a determination had been required, under the Minister's rules.

History: 1990, c. 59, s. 106.

Corresponding Federal Provision: 26(1).

Deduction of certain amounts by a bank.

191.2. A bank may deduct in computing its income for a taxation year an amount not exceeding the aggregate of

(*a*) that part, that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year, of the aggregate of the amounts of the five-year average loan loss experiences of the bank, as determined, or as would have been determined if such a determination had been required, under the Minister's rules, for all taxation years before its first year,

(*b*) that part, that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year, of the aggregate of the amounts transferred by the bank to its tax allowable appropriations account, as permitted under the Minister's rules, for all taxation years before its first year,

(*c*) that part, that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year, of the amount by which

i. the amount of the special provision for losses on transborder claims, as determined, or as would have been determined if such a determination had been required, under the Minister's rules, that was deductible by the bank under section 191 in computing its income for its last taxation year before its first year, exceeds

ii. that part of the amount determined under subparagraph i that was a realized loss of the bank for its last taxation year before its first year,

(*d*) where the tax allowable appropriations account of the bank at the end of its last taxation year before its first year, as determined, or as would have been determined if such a determination had been required, under the Minister's rules, is a negative amount, that part of such amount expressed as a positive number that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year, and

(*e*) that part, that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year, of the aggregate of the amounts calculated in respect of the bank for the purposes of the Minister's rules, or that would have been calculated if such a calculation had been required, under Procedure 8 of the Procedures for the Determination of the Provision for Loan Losses as set out in Appendix 1 of those rules, for all taxation years before its first year.

History: 1990, c. 59, s. 106; 1995, c. 63, s. 32.

Corresponding Federal Provision: 26(2).

Rules applicable.

191.3. For the purposes of computing the income of a bank, the following rules apply:

(*a*) for the purposes of paragraph *i* of section 87 and section 92.22, any amount that was recorded by the bank as a realized loss or a write-off of an asset and that was included by the bank in the calculation of an amount deductible under the Minister's rules, or would have been included therein if such a calculation had been required, for any taxation year before its first year is deemed to have been deducted under section 141 in computing its income for the year for which it was so recorded;

(*b*) for the purposes of section 92.22, any amount that was recorded by the bank as a recovery of a realized loss or a write-off of an asset and that was included by the bank in the calculation of an amount deductible under the Minister's rules, or would have been included if such a calculation had been required, for any taxation year before its first year is deemed to have been included under paragraph *i* of section 87 in computing its income for the year for which it was so recorded.

History: 1990, c. 59, s. 106.

Corresponding Federal Provision: 26(3).

"Minister's rules".

191.4. In this division, "Minister's rules" means the "Rules for the Determination of the Appropriations for

Contingencies of a Bank" issued under the authority of the Minister of Finance of Canada pursuant to section 308 of the Bank Act (Revised Statutes of Canada, 1985, chapter B-1), as it read before its repeal, for the purposes of subsections 1 and 2 of section 26 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 1990, c. 59, s. 106; 1997, c. 31, s. 26.
Corresponding Federal Provision: 26(4).

DIVISION II
STATE AND FEDERAL CROWN BODIES

Application to State and Crown bodies.

192. This Part, except section 985, applies to a State body or a federal Crown body, unless otherwise provided by the regulations.

Presumption.

Notwithstanding any other provision of this Part, a prescribed body and any corporation controlled by it are deemed not to be private corporations.

History: 1972, c. 23, s. 181; 1977, c. 5, s. 14; 1980, c. 13, s. 13; 1987, c. 21, s. 14; 1997, c. 3, s. 22; 1998, c. 16, s. 101; 2000, c. 5, s. 47.
Corresponding Federal Provision: 27(1) and (2).

Special rules.

192.1. For the purposes of this Part,

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

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

History: 2000, c. 5, s. 48.
Corresponding Federal Provision: 27(1).

Transfers of land for disposition.

193. Where land of Her Majesty has been transferred, for purposes of disposition, to a body that is a prescribed body for the purposes of the second paragraph of section 192, the acquisition of the property by the body and any disposition thereof are deemed not to have been in the course of the business carried on by the body.

History: 1972, c. 23, s. 182; 1997, c. 3, s. 22; 1998, c. 16, s. 102; 2000, c. 5, s. 49.
Corresponding Federal Provision: 27(3).

DIVISION II.1
EMISSION ALLOWANCES

Emission allowance.

193.1. Despite sections 83 to 85.6, for the purpose of computing a taxpayer's income from a business, an emission allowance must be valued at the cost at which the taxpayer acquired it.

History: 2019, c. 14, s. 90.
Corresponding Federal Provision: 27.1(1).

Determination of cost of emissions allowances.

193.2. Where a taxpayer that owns one emission allowance, or two or more identical emission allowances, acquires, at a particular time, one or more other emission allowances (in this section referred to as "newly-acquired emission allowances"), each of which is identical to each of the previously-acquired emission allowances, the following rules apply for the purpose of computing, at any subsequent time, the cost to the taxpayer of each of the identical emission allowances:

(*a*) the taxpayer is deemed to have disposed of each of the previously-acquired emission allowances immediately before the particular time for proceeds of disposition equal to its cost to the taxpayer immediately before the particular time; and

(*b*) the taxpayer is deemed to have acquired each of the identical emission allowances at the particular time at a cost equal to the amount determined by the formula

(A + B)/C.

Formula elements.

In the formula in the first paragraph,

(*a*) A is the total cost to the taxpayer immediately before the particular time of the previously-acquired emission allowances;

(*b*) B is the total cost to the taxpayer (determined without reference to this division) of the newly-acquired emission allowances; and

(*c*) C is the number of identical emission allowances owned by the taxpayer immediately after the particular time.

Identical emission allowance.

For the purposes of this section, emission allowances are considered identical if they can be used to settle the same emission obligations.

History: 2019, c. 14, s. 90.
Corresponding Federal Provision: 27.1(2).

Expense restriction.

193.3. Despite any other provision of this Act, in computing a taxpayer's income from a business for a taxation year, the total amount deductible in respect of a particular emission obligation for the year is not to exceed the amount determined by the formula

A + (B × C).

Formula elements.

In the formula in the first paragraph,

(*a*) A is the total cost of emission allowances either

i. used by the taxpayer to settle the particular emission obligation in the year, or

ii. held by the taxpayer at the end of the year that can be used to satisfy the particular emission obligation in respect of the year;

(*b*) B is the amount determined by the formula

D − (E + F); and

(*c*) C is the fair market value of an emission allowance at the end of the year that could be used to satisfy the particular emission obligation in respect of the year.

Formula elements.

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

(*a*) D is the number of emission allowances required to satisfy the particular emission obligation in respect of the year;

(*b*) E is the number of emission allowances used by the taxpayer to settle the particular emission obligation in the year; and

(*c*) F is the number of emission allowances held by the taxpayer at the end of the year that can be used to satisfy the particular emission obligation in respect of the year.

History: 2019, c. 14, s. 90.
Corresponding Federal Provision: 27.1(3).

Income inclusion in following year.

193.4. The amount deducted by a taxpayer in computing the taxpayer's income from a business for a particular taxation year, in respect of an emission obligation referred to in section 193.3, must be included in computing the taxpayer's income from the business for the subsequent taxation year, to the extent that the emission obligation was not settled in the particular taxation year.

History: 2019, c. 14, s. 90.
Corresponding Federal Provision: 27.1(4).

Proceeds of disposition.

193.5. If a taxpayer surrenders an emission allowance to settle an emission obligation, the taxpayer's proceeds from the disposition of the emission allowance are deemed to be equal to the taxpayer's cost of the emission allowance.

History: 2019, c. 14, s. 90.
Corresponding Federal Provision: 27.1(5).

Loss restriction event.

193.6. Despite section 193.1, each emission allowance held at the end of a taxpayer's taxation year that ends immediately before the time at which the taxpayer is subject to a loss restriction event is to be valued at the cost at which the taxpayer acquired the property, or its fair market value at the end of the year, whichever is lower, and after that time the cost at which the taxpayer acquired the property is, subject to a subsequent application of section 193.2 and this section, deemed to be equal to that lower amount.

History: 2019, c. 14, s. 90.
Corresponding Federal Provision: 27.1(6).

DIVISION III
FARMING BUSINESSES

Computation of income from farming or fishing business.

194. A taxpayer shall compute income from a farming business or fishing business for a taxation year in accordance with the cash method, by which the income from the business is deemed to be equal to the aggregate determined in the second paragraph minus the aggregate determined in the third paragraph, if the taxpayer makes, in relation to the year, a valid election under subsection 1 of section 28 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 of the method provided for in that subsection 1 for computing the taxpayer's income from a farming business or fishing business.

Computation.

The first aggregate referred to in the first paragraph in respect of a farming business or fishing business for a taxation year is equal to the total of the following amounts:

(*a*) all amounts received in the year or deemed by this Part to have been received in the year, in the course of carrying on the business described in the first paragraph, in payment of or on account of an amount that would be included in computing income from the business for that or any other taxation year if that income were not computed in accordance with this cash method;

(*b*) in respect of a farming business, the amount specified by the taxpayer in respect of the business in his fiscal return filed under this Part for the year, not exceeding the amount by which the fair market value, at the end of the year, of inventory owned by him at that time in connection with the business exceeds the amount determined under subparagraph *c* for the year;

(*c*) in respect of a farming business, the amount equal to the lesser of

i. the taxpayer's loss from the business for the year, computed without reference to this subparagraph and to subparagraph *b*, and

ii. the value of inventory purchased by the taxpayer and owned by him in connection with the business at the end of the year;

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

Computation.

The second aggregate referred to in the first paragraph in respect of a farming business or fishing business for a taxation year is equal to the total of the following amounts:

(*a*) all amounts, other than an amount described in section 198, that were paid in the year, or are deemed by this Part to have been paid in the year, in the course of carrying on the business,

i. in the case of amounts paid, or deemed by this Part to have been paid, for the inventory relating to the business, in payment of or on account of an amount that would be deductible in computing the income from the business for the year or any other taxation year if that income were not computed in accordance with this cash method, and

ii. in any other case, in payment of or on account of an amount that would be deductible in computing the income from the business for a preceding taxation year, the year or the following taxation year if that income were not computed in accordance with this cash method;

(*a.*1) all amounts, other than an amount described in section 198, that would be deductible in computing the income from the business for the year if that income were not computed in accordance with this cash method, that are not deductible in computing the income from the business for any other taxation year, and that were paid in a preceding taxation year in the course of carrying on the business;

(*b*) the aggregate of all amounts each of which is an amount included under subparagraph *b* or *c* of the second paragraph in computing the taxpayer's income from the business for the preceding taxation year;

(*c*) the aggregate of all amounts each of which is an amount deducted for the year under paragraph *a* of section 130, section 130.1, paragraph *t* of section 157, section 198, the first paragraph of section 487 or section 487.0.2 in respect of the business.

Business carried on by several persons.

If a farming business or fishing business is carried on by several persons, an election referred to in the first paragraph is not valid for any of those persons in respect of the business unless each of them makes such an election in respect of the business.

Deceased taxpayer.

Subparagraphs *b* and *c* of the second paragraph do not apply in computing the income of the taxpayer for the taxation year in which he died.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 1 of section 28 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1972, c. 23, s. 183; 1973, c. 17, s. 17; 1982, c. 5, s. 50; 1990, c. 59, s. 107; 1991, c. 25, s. 56; 1993, c. 16, s. 97; 1996, c. 39, s. 56; 2000, c. 5, s. 50; 2001, c. 7, s. 29; 2009, c. 5, s. 68; 2017, c. 1, s. 99; 2019, c. 14, s. 91.

Interpretation Bulletins: IMP. 521.2-1/R1.

Corresponding Federal Provision: 28(1).

Acquisition of inventory.

194.0.1. For the purposes of sections 194 to 197, where at any time a taxpayer has, in circumstances where section 422 applies by reason of the application of paragraph *a* or *b* thereof, acquired inventory in connection with a farming business the income from which is computed in accordance with the cash method,

(*a*) the taxpayer is deemed to have purchased the inventory at the time it was so acquired,

(*b*) the taxpayer is deemed to have paid at that time, in the course of carrying on that business, an amount equal to the cost to him of the inventory, and

(*c*) the amount referred to in paragraph *b* is deemed to be the only amount paid for the inventory by the taxpayer.

History: 1993, c. 16, s. 98.
Corresponding Federal Provision: 28(1.1).

194.1. *(Repealed).*

History: 1990, c. 59, s. 108; 1993, c. 16, s. 99.

Value of inventory.

194.2. For the purposes of subparagraph *c* of the second paragraph of section 194 and notwithstanding sections 83 to 85.6, inventory of a taxpayer in connection with a farming business shall be valued at any time at the lesser of the amount paid by the taxpayer at or before that time to acquire it, in this section and in section 194 referred to as the "cash cost", and its fair market value.

Exception.

Notwithstanding the first paragraph, an animal, in this section and in section 194 referred to as a "specified animal", that is a horse or, where the taxpayer so elects in respect thereof for the taxation year that includes the time referred to in the first paragraph or for any preceding taxation year, is a bovine animal registered under the Animal Pedigree Act (Revised Statutes of Canada, 1985, chapter 8, 4th Supplement) shall be valued

(*a*) at any time in the taxation year in which the specified animal is acquired, at such amount as is designated by the taxpayer not exceeding its cash cost and not less than 70% of that cost;

(*b*) at any time in any subsequent taxation year, at such amount as is designated by the taxpayer not exceeding its cash cost and not less than 70% of the aggregate of its value determined under this section at the end of the preceding taxation year, and the total amount paid on account of the purchase price of the animal during the year.

History: 1990, c. 59, s. 108; 1993, c. 16, s. 100.
Corresponding Federal Provision: 28(1.2).

Taxation year of less than 51 weeks.

194.3. For each taxation year that is less than 51 weeks, the references to "70" in subparagraphs *a* and *b* of the second paragraph of section 194.2 shall read as references to the number determined by the formula

$100 - (30 \times A / 365)$.

Interpretation.

For the purposes of the formula set forth in the first paragraph, A is the number of days in the taxation year referred to therein.

History: 1990, c. 59, s. 108.
Corresponding Federal Provision: 28(1.3).

Use of cash method in respect of farming or fishing business.

195. If a taxpayer has used, for a taxation year, in respect of a farming business or fishing business, the cash method provided for in section 194 because of an election referred to in the first paragraph of that section made in relation to the year, the income from the business for a subsequent taxation year must be computed in accordance with the same method, subject to the other provisions of this Part, unless the taxpayer makes a valid election under subsection 3 of section 28 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 of a method other than the method provided for in subsection 1 of section 28 of that Act, in which case that income must instead be computed in accordance with that other method.

Conditions applicable.

Any condition determined by the Minister of National Revenue for the election referred to in the first paragraph made under subsection 3 of section 28 of the Income Tax Act applies, with the necessary modifications, in computing the income from the farming business or fishing business.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 3 of section 28 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1972, c. 23, s. 184; 2009, c. 5, s. 69.
Corresponding Federal Provision: 28(3).

Debt owing to a taxpayer not resident in Canada at the end of a taxation year.

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.

History: 1972, c. 23, s. 185; 1974, c. 18, s. 11; 1993, c. 16, s. 101; 2004, c. 8, s. 37.
Corresponding Federal Provision: 28(4).

196.1. *(Repealed).*

History: 1993, c. 16, s. 102; 2004, c. 8, s. 38.

Payments received under accounts receivable.

197. A taxpayer shall include in computing his income for a taxation year an amount he receives as payment for debts that resulted from carrying on the business, to the extent that they would have been included in computing his income if he had been paid for them while he was still carrying on the business.

History: 1972, c. 23, s. 186.
Corresponding Federal Provision: 28(5).

Cost of clearing, levelling.

198. A taxpayer may deduct in computing his income from a farming business for a taxation year any amount paid by him before the end of the year for clearing land, levelling land or installing a land drainage system for the purposes of the business, to the extent that such amount has not been deducted in computing his income for a preceding taxation year.

History: 1972, c. 23, s. 187; 1990, c. 59, s. 109.
Corresponding Federal Provision: 30.

DIVISION IV
BASIC HERD

Disposition of animal of basic herd of particular class.

199. The rules set out in this division apply if a taxpayer who has a basic herd of a particular class of animals and disposes of an animal of that class in carrying on a farming business in a taxation year makes, in relation to that year, a valid election under subsection 1 of section 29 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in relation to that business.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 1 of section 29 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1972, c. 23, s. 188; 2009, c. 5, s. 70.
Corresponding Federal Provision: 29(1) before (a).

Required deductions.

200. In the case of a disposition referred to in the first paragraph of section 199 of an animal of a class, the taxpayer shall deduct

(*a*) in counting the taxpayer's basic herd of that class at the end of the year, the least of the number the taxpayer designates in relation to the basic herd, under paragraph *a* of subsection 1 of section 29 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in the election referred to in the first paragraph of section 199, the taxpayer's basic herd of that class of animals at the end of the preceding taxation year, the number of animals of that class disposed of by the taxpayer in the year, and one-tenth of the taxpayer's basic herd of that class on 31 December 1971; and

(*b*) in computing his income from the farming business for the taxation year, the product obtained by multiplying the number determined under paragraph *a* by the quotient obtained when the fair market value on 31 December 1971 of such animals of that class is divided by the number of such animals of that class on that day.

History: 1972, c. 23, s. 189; 2009, c. 5, s. 71.
Corresponding Federal Provision: 29(1)(a) and (b).

Reduction of basic herd.

201. Where the basic herd of a class at the end of the year preceding the taxation year minus the deduction required at the end of the year under paragraph *a* of section 200 exceeds the number of animals of that class owned by the taxpayer at the end of the year, he shall deduct:

(*a*) in computing his basic herd of that class at the end of the year, the number of animals comprising the excess, and

(*b*) in computing his income from the farming business for the taxation year, the product obtained by multiplying the number of animals determined under paragraph *a* by the quotient obtained when the fair market value of the animals of that class on 31 December 1971 is divided by the number of the animals of that class on the same day.

History: 1972, c. 23, s. 190.
Corresponding Federal Provision: 29(2).

Definitions:

202. In this division:

"basic herd";

(*a*) a taxpayer's "basic herd" of any class of animals at a particular time means such number of the animals of that class that he had on hand at the end of his 1971 taxation year as were, for the purpose of assessing his tax for that year, accepted by the Minister, on an application by the taxpayer, to be capital properties minus the number of animals required under this division to be deducted in computing his basic herd of that class at the end of the taxation years before the particular time;

"class of animals".
(*b*) "class of animals" means animals of one of the following species: cattle, horses, sheep or swine, if they are:

i. purebred animals of that species for which a certificate of registration has been issued by a person recognized by the breeders in Canada of purebred animals of that species to be the registrar of the breed to which such animals belong, or

issued by the Registrar of the Canadian National Livestock Records, or

ii. animals of that species other than purebred animals described in subparagraph i.

History: 1972, c. 23, s. 191; 1973, c. 17, s. 18; 1997, c. 14, s. 290.
Corresponding Federal Provision: 29(3)(a) and (b).

Group of animals a separate class.

203. Each group of animals contemplated in subparagraphs i and ii of paragraph *b* of section 202 is deemed to be of a separate class, unless the number of animals of the same species described in one of those subparagraphs is not greater than 10 per cent of the total number of the animals of that species. In this case, all such animals together are deemed to be of a single class.

History: 1972, c. 23, s. 192.
Corresponding Federal Provision: 29(3)(b) after (ii).

Restrictions in determining animals of a class.

204. In determining the number of animals of any class on hand at any time, the taxpayer shall include neither an animal acquired for a feeder operation, nor animals of the same class whose age is less than two years for cattle, three years for horses or one year for sheep or swine; in the case of an animal whose age is less than such ages two of such animals of the same class shall be counted as one.

History: 1972, c. 23, s. 193.
Corresponding Federal Provision: 29(3)(c).

DIVISION V
CERTAIN FARMING LOSSES

Loss from farming where chief source of income not farming.

205. Where a taxpayer's chief source of income for a taxation year is neither farming nor a combination of farming and some other source of income that is a subordinate source of income for the taxpayer, the loss from all farming businesses carried on by the taxpayer is deemed to be the aggregate of

(*a*) the lesser of the following amounts:

i. the amount by which the aggregate of the taxpayer's losses, determined without reference to this division and before any deduction under sections 222 to 230, from all farming businesses carried on by the taxpayer during the year exceeds the aggregate of the taxpayer's incomes, so determined, of the same nature for the same year, and

ii. $2,500 plus the lesser of $15,000 and one-half of the amount by which the amount determined under subparagraph i exceeds $2,500; and

(*b*) the amount by which the amount that would be computed under subparagraph i of paragraph *a*, if subparagraph i were read without reference to "and before any deduction under sections 222 to 230", exceeds the amount computed under that subparagraph.

History: 1972, c. 23, s. 194; 1973, c. 17, s. 19; 1980, c. 13, s. 14; 1990, c. 59, s. 110; 2000, c. 5, s. 51; 2015, c. 36, s. 12.
Corresponding Federal Provision: 31(1).

Farming and manufacturing or processing.

206. Section 205 does not apply to a taxpayer for a taxation year if the taxpayer's chief source of income for the year is a combination of farming and manufacturing or processing in Canada of goods for sale and all or substantially all output from all farming businesses carried on by the taxpayer is used in the manufacturing or processing.

History: 1972, c. 23, s. 195; 2015, c. 36, s. 12.
Corresponding Federal Provision: 31(2).

Restricted farm loss.

207. For the purposes of this Part, a taxpayer's restricted farm loss for a taxation year is the amount by which the amount determined under subparagraph i of paragraph *a* of section 205 in respect of the taxpayer for the year exceeds the aggregate of the amount determined under subparagraph ii of that paragraph *a* in respect of the taxpayer for the year and all amounts each of which is an amount by which the taxpayer's restricted farm loss for the year is required to be reduced because of sections 485 to 485.18.

History: 1972, c. 23, s. 196; 1973, c. 17, s. 20; 1996, c. 39, s. 57.
Corresponding Federal Provision: 31(1.1).

DIVISION VI
INSURANCE AGENTS AND BROKERS

Reserve in respect of unearned commissions.

208. In computing the income of a taxpayer from the taxpayer's business as an insurance agent or broker, there may be deducted, as a reserve in respect of unearned commissions from that business, only an amount equal to the lesser of

(*a*) the aggregate of all amounts each of which is that proportion of an amount that has been included in computing the taxpayer's income for the year or a previous year as a commission in respect of an insurance contract other than a life insurance contract, that the number of days in the period provided for in the insurance contract that fall after the end of the taxation year is of the total number of days in that period, and

(*b*) the aggregate of all amounts each of which is the amount that would, but for this section, be deductible under section 150 for the year in respect of a commission referred to in paragraph *a*.

History: 1972, c. 23, s. 197; 1989, c. 48, s. 257; 1993, c. 16, s. 103; 1994, c. 22, s. 119.
Corresponding Federal Provision: 32(1).

Reserve in respect of unearned commissions.

209. An insurance agent or broker shall include in computing his income from his business every amount deducted under section 208 for the preceding taxation year.

History: 1972, c. 23, s. 198; 1989, c. 48, s. 257.
Corresponding Federal Provision: 32(2).

Additional reserve.

209.0.1. In computing the income of a taxpayer for a taxation year ending after 31 December 1990 from a business carried on by the taxpayer throughout the year as an insurance agent or broker, there may be deducted as an additional reserve in respect of unearned commissions an amount not exceeding

(*a*) where the year ends in 1991, 90%,

(*b*) where the year ends in 1992, 80%,

(*c*) where the year ends in 1993, 70%,

(*d*) where the year ends in 1994, 60%,

(*e*) where the year ends in 1995, 50%,

(*f*) where the year ends in 1996, 40%,

(*g*) where the year ends in 1997, 30%,

(*h*) where the year ends in 1998, 20%,

(*i*) where the year ends in 1999, 10%, and

(*j*) where the year ends after 31 December 1999, 0%

of the amount by which the reserve that was deducted by the taxpayer under section 208 for the taxpayer's last taxation year ending before 1 January 1991 exceeds the amount deductible by the taxpayer under section 208 for the taxpayer's first taxation year ending after 31 December 1990.

Presumption.

For the purposes of section 209, any amount deducted by the taxpayer under the first paragraph for a taxation year is deemed to have been deducted for that year pursuant to section 208.

History: 1993, c. 16, s. 104; 1994, c. 22, s. 120.
Corresponding Federal Provision: 32(3).

DIVISION VI.1
EMPLOYEE BENEFIT PLANS

Deduction in respect of an employee benefit plan.

209.1. A taxpayer who makes contributions to an employee benefit plan in respect of his employees or former employees may deduct, in computing his income for a taxation year, the amount allocated to him for the year under section 209.3 by the custodian of the plan that does not, however, exceed the amount by which the aggregate of all contributions made by him to the plan for the year or a preceding year exceeds the aggregate of all amounts deducted by him, in respect of the plan, in computing his income for a preceding year and all amounts received by him in the year or a preceding year as a return of his contributions to the plan.

History: 1982, c. 5, s. 51; 1991, c. 25, s. 176.
Corresponding Federal Provision: 32.1(1)(a).

Deduction in respect of a return of the contributions to the plan.

209.2. A taxpayer contemplated in section 209.1 may also deduct, where at the end of the year all of the obligations of the plan to his employees and former employees have been satisfied and no property of the plan will thereafter be paid or otherwise be available for the benefit of the taxpayer, the amount equal to the amount by which the aggregate of the contributions paid by him to the plan for the year or a preceding year exceeds the aggregate of all amounts deducted by him in respect of the plan in computing his income for a preceding year or, under section 209.1, for the year, and all amounts received by him in the year or a preceding year as a return of his contributions to the plan.

History: 1982, c. 5, s. 51; 1991, c. 25, s. 176.
Corresponding Federal Provision: 32.1(1)(b) and (2)(a).

Allocation under an employee benefit plan.

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

History: 1982, c. 5, s. 51; 1984, c. 15, s. 49; 1991, c. 25, s. 176; 2000, c. 5, s. 52.
Corresponding Federal Provision: 32.1(2)(b).

Income of an employee benefit plan.

209.4. For the purposes of section 209.3, the income of an employee benefit plan for a year is the aggregate of all amounts each of which is the amount by which a payment under the plan by the custodian thereof in the year exceeds, in the case of an annuity, that part of the payment determined in prescribed manner to have been a return of capital and, in

any other case, that part of the payment that could, but for sections 47.1 and 47.2, reasonably be regarded as being a payment of a capital nature.

Application.

Despite the first paragraph, in the case of a plan that is a trust, the income of the plan for a year is the amount that would be its income for the year but for sections 652, 653 to 657.3, 659, 663 to 663.2, 664, 666 to 668.3, 671 to 671.4, 680 and 681.

History: 1982, c. 5, s. 51; 1996, c. 39, s. 58; 2004, c. 21, s. 66; 2009, c. 5, s. 72; 2017, c. 1, s. 100.
Corresponding Federal Provision: 32.1(3).

DIVISION VII
(Repealed).

210. *(Repealed).*

History: 1972, c. 23, s. 199; 1975, c. 22, s. 27; 1989, c. 77, s. 22; 1990, c. 59, s. 111.

211. *(Repealed).*

History: 1972, c. 23, s. 200; 1975, c. 22, s. 28; 1990, c. 59, s. 111.

212. *(Repealed).*

History: 1975, c. 22, s. 29; 1990, c. 59, s. 111.

213. *(Repealed).*

History: 1972, c. 23, s. 201; 1975, c. 22, s. 30; 1990, c. 59, s. 111.

214. *(Repealed).*

History: 1972, c. 23, s. 202; 1975, c. 22, s. 31; 1990, c. 59, s. 111.

DIVISION VIII
PROFESSIONALS

Election relating to work in progress.

215. For the purpose of computing the income of a taxpayer for a taxation year from a business that is the professional practice of an accountant, dentist, advocate, physician, veterinarian or chiropractor, no amount is to be included in respect of work in progress at the end of the year if the taxpayer makes, in relation to the year, a valid election under paragraph *a* of section 34 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in respect of the business.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under paragraph *a* of section 34 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1972, c. 23, s. 203; 1973, c. 17, s. 21; 1984, c. 15, s. 50; 1986, c. 19, s. 38; 1997, c. 14, s. 50; 2009, c. 5, s. 73.
Corresponding Federal Provision: 34(a).

Subsequent taxation years.

216. If a taxpayer has not, in respect of a business, included any amount in respect of work in progress at the end of a taxation year because of an election referred to in the first paragraph of section 215 made in relation to the year, the taxpayer shall apply that paragraph for the purpose of computing the taxpayer's income from the business for subsequent taxation years, unless the taxation year is a year in relation to which a revocation, made by the taxpayer under paragraph *b* of section 34 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006, of an election made under paragraph *a* of section 34 of that Act in respect of the business, is valid.

Conditions applicable.

Any condition determined by the Minister of National Revenue for the revocation referred to in the first paragraph applies, with the necessary modifications, in computing the income from the business.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to a revocation made under paragraph *b* of section 34 of the Income Tax Act or in relation to a revocation made under this section before 20 December 2006.

History: 1972, c. 23, s. 204; 1986, c. 19, s. 38; 2009, c. 5, s. 73.
Corresponding Federal Provision: 34(b).

217. *(Repealed).*

History: 1972, c. 23, s. 205; 1986, c. 19, s. 39.

217.1. *(Repealed).*

History: 1984, c. 15, s. 51; 1986, c. 19, s. 39.

DIVISION VIII.1
ADDITIONAL BUSINESS INCOME OF AN INDIVIDUAL

Additional business income.

217.2. If an individual, other than a succession that is a graduated rate estate, carries on a business in a taxation year, a particular fiscal period of the business begins in the year and ends after the end of the year, and the individual has made an election referred to in the first paragraph of section 7.0.3 in respect of the business, where the particular fiscal period is a fiscal period referred to in the second paragraph of section 7, or has made an election under subsection 4 of section 249.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in

respect of the business, where the particular fiscal period is a fiscal period referred to in the third or fourth paragraph of section 7, the individual shall, if the election has not been revoked, include, in computing the individual's income for the year from the business, the amount determined by the formula

(A − B) × (C / D).

Interpretation.

For the purposes of the formula in the first paragraph,

(*a*) A is the total of the individual's income from the business for the fiscal periods of the business that end in the year;

(*b*) B is the lesser of

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

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

(*c*) C is the number of days on which the individual carries on the business that are both in the year and in the particular fiscal period; and

(*d*) D is the number of days on which the individual carries on the business that are in fiscal periods of the business that end in the year.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 4 of section 249.1 of the Income Tax Act in relation to a fiscal period referred to in the third or fourth paragraph of section 7.

History: 1997, c. 31, s. 27; 2009, c. 5, s. 74; 2017, c. 1, s. 101.
Corresponding Federal Provision: 34.1(1).

Additional income election.

217.3. If an individual, other than a succession that is a graduated rate estate, begins carrying on a business in a taxation year but not earlier than the beginning of the first fiscal period of the business that begins in the year and ends after the end of the year (in this section referred to as the "particular fiscal period") and the individual has made an election referred to in the first paragraph of section 7.0.3 in respect of the business, where the particular fiscal period is a fiscal period referred to in the second paragraph of section 7, or has made an election under subsection 4 of section 249.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the business, where the particular fiscal period is a fiscal period referred to in the third or fourth paragraph of section 7, the individual shall, if the election has not been revoked, include, in computing the individual's income for the year from the business, the lesser of

(*a*) the amount designated in the individual's fiscal return under this Part for the year; and

(*b*) the amount determined by the formula

(A − B) × (C / D).

Interpretation.

For the purposes of the formula in subparagraph *b* of the first paragraph,

(*a*) A is the individual's income from the business for the particular fiscal period;

(*b*) B is the lesser of

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

ii. the aggregate of all amounts deducted under the said Title VI.5 in computing the individual's taxable income for the individual's taxation year that includes the end of the particular fiscal period;

(*c*) C is the number of days on which the individual carries on the business that are both in the year and in the particular fiscal period; and

(*d*) D is the number of days on which the individual carries on the business that are in the particular fiscal period.

History: 1997, c. 31, s. 27; 2009, c. 5, s. 75; 2017, c. 1, s. 102.
Corresponding Federal Provision: 34.1(2).

Deduction.

217.4. An individual shall deduct in computing the individual's income for a taxation year from a business the amount included under section 217.2 or 217.3 in computing the individual's income for the preceding taxation year from the business.

History: 1997, c. 31, s. 27.
Corresponding Federal Provision: 34.1(3).

217.5. *(Repealed).*

History: 1997, c. 31, s. 27; 2015, c. 24, s. 42.
Corresponding Federal Provision: 34.1(4)(a) and (b).

217.6. *(Repealed).*

History: 1997, c. 31, s. 27; 2015, c. 24, s. 42.
Corresponding Federal Provision: 34.1(4) after (b).

217.7. *(Repealed).*

History: 1997, c. 31, s. 27; 2015, c. 24, s. 42.
Corresponding Federal Provision: 34.1(5) and (6).

217.8. *(Repealed).*

History: 1997, c. 31, s. 27; 2015, c. 24, s. 42.
Corresponding Federal Provision: 34.1(7).

No additional income inclusion.

217.9. Sections 217.2 and 217.3 do not apply in computing an individual's income for a taxation year from a business where

(*a*) the individual dies or otherwise ceases to carry on the business in the taxation year; or

(*b*) the individual becomes a bankrupt in the calendar year in which the taxation year ends.

History: 1997, c. 31, s. 27.
Corresponding Federal Provision: 34.1(8).

Death of a partner or proprietor.

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

(A − B) × (C / D).

Interpretation.

In the formula provided for in the first paragraph,

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

(*b*) B is the lesser of

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

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

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

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

History: 2000, c. 5, s. 53.
Corresponding Federal Provision: 34.1(9).

DIVISION VIII.2
(Repealed).

217.10. *(Repealed).*

History: 1997, c. 31, s. 27; 2015, c. 24, s. 43.
Corresponding Federal Provision: 34.2(1).

217.11. *(Repealed).*

History: 1997, c. 31, s. 27; 2015, c. 24, s. 43.
Corresponding Federal Provision: 34.2(2).

217.12. *(Repealed).*

History: 1997, c. 31, s. 27; 2015, c. 24, s. 43.
Corresponding Federal Provision: 24.2(3).

217.13. *(Repealed).*

History: 1997, c. 31, s. 27; 2000, c. 5, s. 54; 2002, c. 40, s. 22; 2004, c. 21, s. 67; 2015, c. 24, s. 43.
Corresponding Federal Provision: 34.2(4).

217.14. *(Repealed).*

History: 1997, c. 31, s. 27; 2015, c. 24, s. 43.
Corresponding Federal Provision: 34.2(5).

217.15. *(Repealed).*

History: 1997, c. 31, s. 27; 2015, c. 24, s. 43.
Corresponding Federal Provision: 34.2(6).

217.16. *(Repealed).*

History: 1997, c. 31, s. 27; 2015, c. 24, s. 43.
Corresponding Federal Provision: 34.2(7).

217.17. *(Repealed).*

History: 2000, c. 5, s. 55; 2015, c. 24, s. 43.
Corresponding Federal Provision: 34.2(8).

DIVISION VIII.3
ADDITIONAL BUSINESS INCOME OF A CORPORATION

§1. — *Limitation on the deferral of corporate tax through the use of a partnership*

Definitions:

217.18. In this division,

"adjusted stub period accrual";
"adjusted stub period accrual" of a corporation in respect of a partnership— in which the corporation has a significant

interest at the end of the last fiscal period of the partnership that ends in the corporation's taxation year in circumstances where another fiscal period (in subparagraphs *c* and *e* of the second paragraph and in section 217.33 referred to as the "particular fiscal period") begins in the year and ends after the end of the year—means

(*a*) if paragraph *b* does not apply, the amount determined by the formula

[(A – B) × C / D] – (E + F); or

(*b*) if a fiscal period of the partnership ends in the corporation's taxation year and the year is the first taxation year in which the fiscal period of the partnership (in this paragraph and subparagraphs *j* to *m* of the second paragraph referred to as the "eligible fiscal period") is aligned with the fiscal period of one or more other partnerships under a multi-tier alignment,

i. where a fiscal period of the partnership ends in the year and before the eligible fiscal period, the amount determined by the formula

[(G – H) × C / I] – (E + F), and

ii. where the eligible fiscal period of the partnership is the first fiscal period of the partnership that ends in the corporation's taxation year, the amount determined by the formula

[(J – K – L) × C / M] – (E + F);

"eligible alignment income";
"eligible alignment income", of a corporation, means

(*a*) if a partnership is subject to a single-tier alignment, the first aligned fiscal period of the partnership ends in the first taxation year of the corporation ending after 22 March 2011 (in this paragraph and subparagraphs *n* to *p* of the second paragraph referred to as the "eligible fiscal period") and the corporation is a member of the partnership at the end of the eligible fiscal period,

i. where the eligible fiscal period is preceded by another fiscal period of the partnership that ends in the corporation's first taxation year that ends after 22 March 2011 and the corporation is a member of the partnership at the end of that preceding fiscal period, the amount determined by the formula

N – O – P, or

ii. where the eligible fiscal period is the first fiscal period of the partnership that ends in the corporation's first taxation year ending after 22 March 2011, an amount equal to zero; or

(*b*) if a partnership is subject to a multi-tier alignment, the first aligned fiscal period of the partnership ends in the taxation year of the corporation (in this paragraph and subparagraphs *q* to *s* of the second paragraph referred to as the "eligible fiscal period") and the corporation is a member of the partnership at the end of the eligible fiscal period, the amount determined by the formula

Q – R – S;

"multi-tier alignment";
"multi-tier alignment", in respect of a partnership, means the alignment of the fiscal period of the partnership and the fiscal period of one or more other partnerships that results from a valid alignment election the members of the partnership make under subsection 9 of section 249.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or from the deemed alignment election under subsection 11 of that section;

"qualified resource expense";
"qualified resource expense", of a corporation for a taxation year in respect of a fiscal period of a partnership that begins in the year and ends after the end of the year, means an expense incurred by the partnership in the portion of the fiscal period that is in the year and that is a Canadian exploration expense, a Canadian development expense, a foreign resource expense or a Canadian oil and gas property expense;

"qualifying transitional income";
"qualifying transitional income", of a corporation that is a member of a partnership on 22 March 2011, means the amount that is the aggregate of the following amounts, computed in accordance with section 217.31,

(*a*) the corporation's eligible alignment income in respect of the partnership; and

(*b*) the corporation's adjusted stub period accrual in respect of the partnership for

i. if there is a multi-tier alignment in respect of the partnership, the corporation's taxation year during which ends the fiscal period of the partnership that is aligned with the fiscal period of one or more other partnerships under the multi-tier alignment, or

ii. in any other case, the corporation's first taxation year that ends after 22 March 2011;

"significant interest";
"significant interest", of a corporation in a partnership at any time, means an interest of the corporation in the partnership if the corporation, or the corporation together with one or more persons or partnerships related to or affiliated with the corporation, is entitled at that time to more than 10% of

(*a*) the income or loss of the partnership; or

(*b*) the net assets of the partnership if it were to cease to exist;

"single-tier alignment";
"single-tier alignment", in respect of a partnership, means the determination of the partnership's fiscal period end date as part of a valid alignment election the members of the

partnership make under subsection 8 of section 249.1 of the Income Tax Act;

"specified percentage".
"specified percentage", of a corporation for a particular taxation year in respect of a partnership, means

(*a*) if the first taxation year in respect of which the corporation has qualifying transitional income ends in the calendar year 2011 and the particular year ends in

i. the calendar year 2011, 100%,

ii. the calendar year 2012, 85%,

iii. the calendar year 2013, 65%,

iv. the calendar year 2014, 45%,

v. the calendar year 2015, 25%, and

vi. the calendar year 2016, 0%;

(*b*) if the first taxation year in respect of which the corporation has qualifying transitional income ends in the calendar year 2012 and the particular year ends in

i. the calendar year 2012, 100%,

ii. the calendar year 2013, 85%,

iii. the calendar year 2014, 65%,

iv. the calendar year 2015, 45%,

v. the calendar year 2016, 25%, and

vi. the calendar year 2017, 0%; and

(*c*) if the first taxation year in respect of which the corporation has qualifying transitional income ends in the calendar year 2013 and the particular year ends in

i. the calendar year 2013, 85%,

ii. the calendar year 2014, 65%,

iii. the calendar year 2015, 45%,

iv. the calendar year 2016, 25%, and

v. the calendar year 2017, 0%.

Interpretation.

In the formulas in the definitions of "adjusted stub period accrual" and "eligible alignment income" in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is the corporation's share of an income or taxable capital gain of the partnership for a fiscal period of the partnership that ends in the year (other than any amount in respect of which a deduction is available under sections 738 to 749);

(*b*) B is the aggregate of all amounts each of which is the corporation's share of a loss or allowable capital loss—to the extent that the total of all allowable capital losses does not exceed the total of all taxable capital gains included in the aggregate described in subparagraph *a*—of the partnership for a fiscal period of the partnership that ends in the year;

(*c*) C is the number of days that are in both the year and the particular fiscal period;

(*d*) D is the number of days in fiscal periods of the partnership that end in the year;

(*e*) E is the amount of the qualified resource expense in respect of the particular fiscal period of the partnership that is designated by the corporation for the year under section 217.23 in its fiscal return for the year filed with the Minister on or before its filing-due date for the year;

(*f*) F is an amount (other than an amount included in the amount described in subparagraph *e*) designated by the corporation in its fiscal return for the year filed with the Minister on or before its filing-due date for the year;

(*g*) G is the aggregate of all amounts each of which is the corporation's share of an income or taxable capital gain of the partnership for the first fiscal period of the partnership that ends in the year (other than any amount in respect of which a deduction is available under sections 738 to 749);

(*h*) H is the aggregate of all amounts each of which is the corporation's share of a loss or allowable capital loss—to the extent that the total of all allowable capital losses does not exceed the total of all taxable capital gains included in the aggregate described in subparagraph *g*—of the partnership for the first fiscal period of the partnership that ends in the year;

(*i*) I is the number of days in the first fiscal period of the partnership that ends in the year;

(*j*) J is the aggregate of all amounts each of which is the corporation's share of an income or taxable capital gain of the partnership for the eligible fiscal period (other than any amount in respect of which a deduction is available under sections 738 to 749);

(*k*) K is the aggregate of all amounts each of which is the corporation's share of a loss or allowable capital loss—to the extent that the total of all allowable capital losses does not exceed the total of all taxable capital gains included in the aggregate described in subparagraph *j*—of the partnership for the eligible fiscal period;

(*l*) L is the corporation's eligible alignment income for the eligible fiscal period;

(*m*) M is the number of days that are in the eligible fiscal period that ends in the year;

(*n*) N is the aggregate of all amounts each of which is the corporation's share of an income or taxable capital gain of the partnership for the eligible fiscal period (other than any amount in respect of which a deduction is available under sections 738 to 749);

(*o*) O is the aggregate of all amounts each of which is the corporation's share of a loss or allowable capital loss—to the extent that the total of all allowable capital losses does not exceed the total of all taxable capital gains included in the aggregate described in subparagraph *n*—of the partnership for the eligible fiscal period;

(*p*) P is, where an outlay or expense of the partnership is deemed by section 359.18 to have been made or incurred by the corporation at the end of the eligible fiscal period, the aggregate of all amounts each of which is an amount that would be deductible by the corporation for the taxation year under any of Divisions III to IV.1 of Chapter X of Title VI if each such outlay or expense were the only amount used in determining the amount deductible;

(*q*) Q is the aggregate of all amounts each of which is the corporation's share of an income or taxable capital gain of the partnership for the eligible fiscal period, other than any amount

i. in respect of which a deduction is available under sections 738 to 749, or

ii. that would be included in computing the income of the corporation for the year if there were no multi-tier alignment;

(*r*) R is the aggregate of all amounts each of which is the corporation's share of a loss or allowable capital loss—to the extent that the total of all allowable capital losses does not exceed the total of all taxable capital gains included in the aggregate described in subparagraph *q*—of a partnership for the eligible fiscal period; and

(*s*) S is, where an outlay or expense of the partnership is deemed by section 359.18 to have been made or incurred by the corporation at the end of the eligible fiscal period, the aggregate of all amounts each of which is an amount that would be deductible by the corporation for the taxation year under any of Divisions III to IV.1 of Chapter X of Title VI if each such outlay or expense were the only amount used in determining the amount deductible.

Provisions applicable.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 8 or 9 of section 249.1 of the Income Tax Act.

History: 2013, c. 10, s. 21.

Corresponding Federal Provision: 34.2(1).

Income inclusion – adjusted stub period accrual.

217.19. Subject to sections 217.22 and 217.25, a corporation (other than a professional corporation) shall include in computing its income for a taxation year its adjusted stub period accrual in respect of a partnership if

(*a*) the corporation has a significant interest in the partnership at the end of the last fiscal period of the partnership that ends in the year;

(*b*) another fiscal period of the partnership begins in the year and ends after the end of the year; and

(*c*) at the end of the year, the corporation is entitled to a share of an income, loss, taxable capital gain or allowable capital loss of the partnership for the fiscal period referred to in paragraph *b*.

History: 2013, c. 10, s. 21.

Corresponding Federal Provision: 34.2(2).

Income inclusion – new-partner designation.

217.20. Subject to section 217.22, if a corporation (other than a professional corporation) becomes a member of a partnership during a fiscal period of the partnership (in this section referred to as the "particular fiscal period") that begins in the corporation's taxation year and ends after the end of the taxation year but on or before its filing-due date for the taxation year and the corporation has a significant interest in the partnership at the end of the particular fiscal period, the corporation may include in computing its income for the taxation year the lesser of

(*a*) the amount designated by the corporation in its fiscal return for the taxation year; and

(*b*) the amount determined by the formula

A × B / C.

Interpretation.

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

(*a*) A is the corporation's income from the partnership for the particular fiscal period (other than any amount in respect of which a deduction is available under sections 738 to 749);

(*b*) B is the number of days that are both in the corporation's taxation year and the particular fiscal period; and

(*c*) C is the number of days in the particular fiscal period.

History: 2013, c. 10, s. 21.

Corresponding Federal Provision: 34.2(3).

Treatment in following year.

217.21. The following rules apply for a particular taxation year if an amount was included in computing the income of a corporation in respect of a partnership for the preceding taxation year under section 217.19 or 217.20:

(*a*) the portion of the amount that, because of subparagraph i or ii of paragraph *a* of section 217.22, was income for that preceding taxation year is deductible in computing the income of the corporation for the particular year; and

(*b*) the portion of the amount that, because of subparagraph i or ii of paragraph *a* of section 217.22, was a taxable capital gain for that preceding taxation year is deemed to be an allowable capital loss of the corporation for the particular year from the disposition of property.

History: 2013, c. 10, s. 21; 2015, c. 24, s. 44.
Corresponding Federal Provision: 34.2(4).

Character of amounts.

217.22. For the purposes of this Act, the following rules apply:

(*a*) in computing the income of a corporation for a taxation year,

i. an adjusted stub period accrual included under section 217.19 in respect of a partnership for the year is deemed to be income, and taxable capital gains from the disposition of property, having the same character and to be in the same proportions as the income and taxable capital gains that were allocated by the partnership to the corporation for all fiscal periods of the partnership ending in the year,

ii. an amount included under section 217.20 in respect of a partnership for the year is deemed to be income, and taxable capital gains from the disposition of property, having the same character and to be in the same proportions as the income and taxable capital gains that were allocated by the partnership to the corporation for the particular fiscal period referred to in that section,

iii. an amount, a portion of which is deductible or is an allowable capital loss under section 217.21 in respect of a partnership for the year, is deemed to have the same character and to be in the same proportions as the income and taxable capital gains included in computing the corporation's income for the preceding taxation year under section 217.19 or 217.20 in respect of the partnership,

iv. an amount claimed as a reserve under section 217.27 in respect of a partnership for the year is deemed to have the same character and to be in the same proportions as the qualifying transitional income in respect of the partnership for the year, and

v. an amount, a portion of which is included in computing income under paragraph *a* of section 217.28, or is deemed to be a taxable capital gain under paragraph *b* of section 217.28, in respect of a partnership for the year, is deemed to have the same character and to be in the same proportions as the amount claimed as a reserve under section 217.27 in respect of the partnership for the preceding taxation year; and

(*b*) the reference in subparagraph i.4 of paragraph *l* of section 257 to an amount deducted under section 217.27 includes an amount that is deemed to be an allowable capital loss under subparagraph *c* of the first paragraph of section 217.27.

History: 2013, c. 10, s. 21; 2015, c. 24, s. 45.
Corresponding Federal Provision: 34.2(5).

Designation – qualified resource expense.

217.23. A corporation may designate an amount for a taxation year in respect of a qualified resource expense for the purposes of the definition of "adjusted stub period accrual" in section 217.18, subject to the following rules:

(*a*) the corporation cannot designate an amount for the year in respect of a qualified resource expense in respect of a partnership except to the extent the corporation obtains from the partnership, before the corporation's filing-due date for the year, information in writing identifying the qualified resource expenses described in paragraph *d* of section 395 or 408, paragraph e of section 418.1.1 or paragraph *b* of section 418.2 and determined as if those expenses had been incurred by the partnership in its last fiscal period that ended in the year; and

(*b*) the amount designated for the year by the corporation is not to exceed the maximum amount that would be deductible by the corporation under any of Divisions III to IV.1 of Chapter X of Title VI in computing its income for the year if

i. the amounts referred to in paragraph *a* in respect of the partnership were the only amounts used in determining the maximum amount, and

ii. the fiscal period of the partnership that begins in the year and ends after the year had ended at the end of the year and each qualified resource expense were deemed under section 359.18 to be incurred by the corporation at the end of the year.

History: 2013, c. 10, s. 21.
Corresponding Federal Provision: 34.2(6).

No additional income – bankrupt.

217.24. Sections 217.19 and 217.20 do not apply in computing a corporation's income for a taxation year in respect of a partnership if the corporation becomes a bankrupt in the year.

History: 2013, c. 10, s. 21.

Corresponding Federal Provision: 34.2(7).

Special case – multi-tier alignment.

217.25. If a corporation is a member of a partnership subject to a multi-tier alignment, section 217.19 does not apply to the corporation in respect of the partnership for taxation years preceding the taxation year that includes the end of the first aligned fiscal period of the partnership under the multi-tier alignment.

History: 2013, c. 10, s. 21.
Corresponding Federal Provision: 34.2(9).

Designations.

217.26. Once a corporation makes a designation in calculating its adjusted stub period accrual in respect of a partnership for a taxation year under subparagraph *e* or f of the second paragraph of section 217.18, the designation cannot be amended or revoked.

History: 2013, c. 10, s. 21.
Corresponding Federal Provision: 34.2(10).

Transitional reserve.

217.27. Where a corporation has qualifying transitional income in respect of a partnership for a particular taxation year, the following rules apply:

(*a*) the corporation may, in computing its income for the particular year, claim an amount, as a reserve, not exceeding the least of

i. the specified percentage for the particular year of the corporation's qualifying transitional income in respect of the partnership,

ii. if, for the preceding taxation year, an amount was claimed under this section in computing the corporation's income in respect of the partnership, the amount that is the aggregate of

(1) the amount included under section 217.28 in computing the corporation's income for the particular year in respect of the partnership, and

(2) the amount by which the corporation's qualifying transitional income in respect of the partnership is increased in the particular year because of the application of sections 217.32 and 217.33, and

iii. the amount determined by the formula

A − B;

(*b*) the portion of the amount claimed under subparagraph *a* for the particular year that, because of subparagraph iv of paragraph *a* of section 217.22, has a character other than capital is deductible in computing the income of the corporation for the particular year; and

(*c*) the portion of the amount claimed under subparagraph *a* for the particular year that, because of subparagraph iv of paragraph *a* of section 217.22, has the character of capital is deemed to be an allowable capital loss for the particular year from the disposition of property.

Interpretation.

In the formula in subparagraph iii of subparagraph *a* of the first paragraph,

(*a*) A is the corporation's income for the particular year computed before deducting or claiming any amount under this section in respect of the partnership or under sections 346.2 to 346.4; and

(*b*) B is the aggregate of all amounts each of which is an amount deductible by the corporation for the year under sections 738 to 749 as a dividend received by the corporation after 20 December 2012.

History: 2013, c. 10, s. 21; 2015, c. 24, s. 46.
Corresponding Federal Provision: 34.2(11).

Inclusion of prior year reserve.

217.28. Subject to section 217.22, the following rules apply for a particular taxation year if a reserve was claimed by a corporation under section 217.27 in respect of a partnership for the preceding taxation year:

(*a*) the portion of the reserve that was deducted under subparagraph *b* of the first paragraph of section 217.27 for that preceding year is to be included in computing the income of the corporation for the particular year; and

(*b*) the portion of the reserve that was deemed by subparagraph *c* of the first paragraph of section 217.27 to be an allowable capital loss of the corporation for that preceding year is deemed to be a taxable capital gain of the corporation for the particular year from the disposition of property.

History: 2013, c. 10, s. 21; 2015, c. 24, s. 46.
Corresponding Federal Provision: 34.2(12).

No reserve.

217.29. No claim may be made under section 217.27 in computing a corporation's income for a taxation year in respect of a partnership

(*a*) unless, in the case of a corporation that is a member of a partnership in respect of which there is a multi-tier alignment, the corporation has been a member of the partnership continuously since before 22 March 2011 to the end of the year;

(*b*) unless, in the case of a corporation that is a member of a partnership in respect of which there is no multi-tier alignment, the corporation is a member of the partnership

i. at the end of the partnership's fiscal period that begins before 22 March 2011 and ends in the taxation year of the corporation that includes that date,

ii. at the end of the partnership's fiscal period commencing immediately after the fiscal period referred to in subparagraph i and continues to be a member until after the end of the taxation year of the corporation that includes 22 March 2011, and

iii. continuously since before 22 March 2011 until the end of the year;

(*c*) if at the end of the year or at any time in the following taxation year,

i. the corporation's income is exempt from tax under this Part, or

ii. the corporation is not resident in Canada and the partnership does not carry on business through an establishment in Canada; or

(*d*) if the year ends immediately before another taxation year

i. at the beginning of which the partnership no longer principally carries on the activities to which the reserve relates,

ii. in which the corporation becomes a bankrupt, or

iii. in which the corporation is dissolved or wound up (other than in circumstances to which the rules in sections 556 to 564.1 and 565 apply).

History: 2013, c. 10, s. 21; 2015, c. 24, s. 47.
Corresponding Federal Provision: 34.2(13).

Deemed partner.

217.30. A corporation that cannot claim an amount under section 217.27 for a taxation year in respect of a partnership solely because it has disposed of its interest in the partnership is deemed for the purposes of paragraphs *a* and *b* of section 217.29 to be a member of the partnership continuously until the end of the taxation year if

(*a*) the corporation disposed of its interest to another corporation related to, or affiliated with, the corporation at the time of the disposition; and

(*b*) a corporation related to, or affiliated with, the corporation has the partnership interest referred to in paragraph *a* at the end of the taxation year.

History: 2013, c. 10, s. 21; 2015, c. 24, s. 48.
Corresponding Federal Provision: 34.2(14).

Computing qualifying transitional income – special rules.

217.31. For the purpose of determining a corporation's qualifying transitional income, the income or loss of a partnership for a fiscal period must be computed as if

(*a*) the partnership had deducted for the fiscal period the maximum amount deductible in respect of any expense, reserve or other amount;

(*b*) this Act were read without reference to subparagraph *b* of the second paragraph of section 194; and

(*c*) the partnership had made a valid election for the purposes of paragraph *a* of section 34 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 2013, c. 10, s. 21.
Corresponding Federal Provision: 34.2(15).

Qualifying transition income adjustment — conditions for application.

217.32. Section 217.33 applies for a particular taxation year of a corporation and for each subsequent taxation year for which the corporation may claim an amount under section 217.27 in respect of a partnership if the particular year is the first taxation year

(*a*) that is after the taxation year in which the corporation has, or would have if the partnership had income, an adjusted stub period accrual that is included in the corporation's qualifying transitional income in respect of the partnership because of paragraph *b* of the definition of "qualifying transitional income" in the first paragraph of section 217.18; and

(*b*) in which ends the fiscal period of the partnership that began in the taxation year referred to in paragraph *a*.

History: 2013, c. 10, s. 21; 2015, c. 24, s. 49.
Corresponding Federal Provision: 34.2(16).

Adjustment of qualifying transitional income.

217.33. If, because of section 217.32, this section applies in respect of a partnership for a taxation year of a corporation, the adjusted stub period accrual included in the corporation's qualifying transitional income in respect of the partnership for the year must be computed as if subparagraphs *a*, *b*, *d* and *f* to *m* of the second paragraph of section 217.18 were read as follows:

"(*a*) A is the aggregate of all amounts each of which is the corporation's share of an income or taxable capital gain of the partnership for the particular fiscal period (other than any amount in respect of which a deduction is available under sections 738 to 749);

"(*b*) B is the aggregate of all amounts each of which is the corporation's share of a loss or allowable capital loss—to the extent that the total of all allowable capital losses does not exceed the total of all taxable capital gains included in the aggregate described in subparagraph *a*—of the partnership for the particular fiscal period;

"(*d*) D is the number of days in the particular fiscal period;

"(*f*) F is an amount equal to zero;

"(*g*) G is the aggregate of all amounts each of which is the corporation's share of an income or taxable capital gain of the partnership for the particular fiscal period (other than any amount in respect of which a deduction is available under sections 738 to 749);

"(*h*) H is the aggregate of all amounts each of which is the corporation's share of a loss or allowable capital loss—to the extent that the total of all allowable capital losses does not exceed the total of all taxable capital gains included in the aggregate described in subparagraph *g*—of the partnership for the particular fiscal period;

"(*i*) I is the number of days in the particular fiscal period;

"(*j*) J is the aggregate of all amounts each of which is the corporation's share of an income or taxable capital gain of the partnership for the particular fiscal period (other than any amount in respect of which a deduction is available under sections 738 to 749);

"(*k*) K is the aggregate of all amounts each of which is the corporation's share of a loss or allowable capital loss—to the extent that the total of all allowable capital losses does not exceed the total of all taxable capital gains included in the aggregate described in subparagraph *j*—of the partnership for the particular fiscal period;

"(*l*) L is an amount equal to zero;

"(*m*) M is the number of days in the particular fiscal period;".

History: 2013, c. 10, s. 21; 2015, c. 24, s. 50.

Corresponding Federal Provision: 34.2(17).

Anti-avoidance.

217.34. If it is reasonable to conclude that one of the main reasons a corporation is a member of a partnership in a taxation year is to avoid the application of section 217.29, the corporation is deemed not to be a member of the partnership for the purposes of that section.

History: 2013, c. 10, s. 21.

Corresponding Federal Provision: 34.2(18).

§2. — *Income shortfall adjustment*

Definitions:

217.35. In this subdivision,

"actual stub period accrual";
"actual stub period accrual", of a corporation in respect of a qualifying partnership for a taxation year, means the positive or negative amount determined by the formula

(A – B) × C / D – E;

"base year";
"base year", of a corporation in respect of a qualifying partnership for a taxation year, means the preceding taxation year of the corporation in which began a fiscal period of the partnership that ends in the corporation's taxation year;

"income shortfall adjustment";
"income shortfall adjustment", of a corporation in respect of a qualifying partnership for a particular taxation year, means the positive or negative amount determined by the formula

(F – G) × H × I;

"qualifying partnership".
"qualifying partnership", in respect of a corporation for a particular taxation year, means a partnership a fiscal period of which began in a preceding taxation year and ends in the particular taxation year, and in respect of which the corporation was required to calculate an adjusted stub period accrual for the preceding taxation year.

Interpretation.

In the formulas in the definitions of "actual stub period accrual" and "income shortfall adjustment" in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is the corporation's share of an income or taxable capital gain of the qualifying partnership for the last fiscal period of the partnership that began in the base year (other than any amount in respect of which a deduction was available under sections 738 to 749);

(*b*) B is the aggregate of all amounts each of which is the corporation's share of a loss or allowable capital loss of the qualifying partnership for the last fiscal period of the partnership that began in the base year (to the extent that the total of all allowable capital losses included in the aggregate described in this subparagraph in respect of all qualifying partnerships for the taxation year does not exceed the corporation's share of all taxable capital gains of all qualifying partnerships for the taxation year);

(*c*) C is the number of days that are in both the base year and the fiscal period;

(*d*) D is the number of days in the fiscal period;

(*e*) E is the amount of the qualified resource expense in respect of the qualifying partnership that was designated by the corporation for the base year under section 217.23 in its fiscal return for the base year filed with the Minister on or before its filing-due date for the base year;

(*f*) F is the amount that is the lesser of

i. the actual stub period accrual in respect of the qualifying partnership, and

ii. the amount that would be the corporation's adjusted stub period accrual for the base year in respect of the qualifying partnership if, for the purposes of paragraph *a* of the definition of "adjusted stub period accrual" in the first paragraph of section 217.18, the amount determined under subparagraph *f* of the second paragraph of that section were equal to zero;

(*g*) G is the amount included under section 217.19 in computing the corporation's income for the base year in respect of the qualifying partnership;

(*h*) H is the number of days in the period that begins on the day after the day on which the base year ends and ends on the day on which the taxation year ends; and

(*i*) I is the average daily rate of interest determined by reference to the rate of interest prescribed under section 28 of the Tax Administration Act (chapter A-6.002) for the period referred to in subparagraph *h*.

History: 2013, c. 10, s. 21.
Corresponding Federal Provision: 34.3(1).

Application of section 217.37.

217.36. Section 217.37 applies to a corporation for a taxation year if

(*a*) the corporation has designated an amount for the purposes of subparagraph *f* of the second paragraph of section 217.18 in calculating its adjusted stub period accrual for the base year in respect of a qualifying partnership for the taxation year; and

(*b*) where the corporation has qualifying transitional income, the taxation year is after the first taxation year of the corporation to which section 217.33 applies.

History: 2013, c. 10, s. 21.
Corresponding Federal Provision: 34.3(2).

Income shortfall adjustment – inclusion.

217.37. If, because of section 217.36, this section applies to a corporation for a taxation year, the corporation shall include in computing its income for the taxation year the amount determined by the formula

$A + 0.50 \times (A - B)$.

Interpretation.

In the formula in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is the corporation's income shortfall adjustment in respect of a qualifying partnership for the year; and

(*b*) B is the lesser of the aggregate described in subparagraph *a* and the aggregate of all amounts each of which is 25% of the positive amount that would be the income shortfall adjustment in respect of a qualifying partnership for the year if the amount referred to in subparagraph *g* of the second paragraph of section 217.35 were equal to zero.

History: 2013, c. 10, s. 21.
Corresponding Federal Provision: 34.3(3).

DIVISION IX
PROSPECTORS

Shares paid to prospector as consideration for mining property.

218. Where a prospector receives a share of the capital stock of a corporation as consideration for the disposition to the corporation of a mining property or right in that property acquired by him as a result of his efforts as a prospector, the following rules apply:

(*a*) he shall not include any amount in respect of the receipt of the share in computing his income, except as provided in paragraph *b* , or in computing the amount contemplated in paragraph *b* of section 412;

(*b*) he shall include in respect of the receipt of the share in computing his income for the year in which the share is disposed of or exchanged an amount equal to the lesser of the following amounts:

i. the fair market value of the share at the time of its acquisition;

ii. the fair market value of the share at the time of its disposition or exchange;

(*c*) he shall not include any amount in computing the cost of the share in respect of the disposition of the mining property or the right therein, as the case may be;

(*d*) the corporation shall not include any amount in respect of the share in computing the cost of the mining property or the right therein;

(*e*) for the purpose of paragraph *b*, a prospector is deemed to have disposed of or exchanged shares that are identical properties in the order in which they were acquired.

History: 1972, c. 23, s. 206; 1977, c. 26, s. 20; 1987, c. 67, s. 43; 1997, c. 3, s. 71; 2020, c. 16, s. 188.
Corresponding Federal Provision: 35(1)(a) and (c) to (g).

Interpretation.

219. In this division,

(*a*) a prospector is an individual who prospects or explores for minerals or develops a property for minerals on behalf of himself, on behalf of himself and others, or as an employee;

(*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.

History: 1972, c. 23, s. 207; 2004, c. 8, s. 39.
Corresponding Federal Provision: 35(2).

Application of s. 218.

220. The rule provided in section 218 applies to any person other than a prospector if:

(*a*) that person, under an arrangement with a prospector made before the prospecting or exploration for minerals or development of a property for minerals, or as an employer of a prospector, advanced money for or paid part or all of the expenses incurred in such work; and

(*b*) the share was received as consideration for the disposition to the corporation by the person referred to in paragraph *a* of a mining property or right in that property acquired by him under the arrangement contemplated in that paragraph, or if the prospector was his employee, acquired by him through his employee's efforts.

Restriction.

Notwithstanding the foregoing, the rules provided in paragraphs *b* and *e* of section 218 do not apply to such person unless he is an individual or a partnership other than a partnership each member of which is a taxable Canadian corporation.

History: 1972, c. 23, s. 208; 1987, c. 67, s. 44; 1997, c. 3, s. 71; 2020, c. 16, s. 188.
Corresponding Federal Provision: 35(1)(b)(i) and (ii) and (d) (part).

DIVISION X
(Repealed).

221. *(Repealed).*

History: 1972, c. 23, s. 209; 1977, c. 26, s. 21; 1991, c. 25, s. 57; 2015, c. 24, s. 51.
Corresponding Federal Provision: 36.

DIVISION XI
SCIENTIFIC RESEARCH AND EXPERIMENTAL DEVELOPMENT

Expenditures on scientific research and experimental development.

222. (1) A taxpayer who carries on a business in Canada in a taxation year may deduct, in computing the taxpayer's income from the business for the year, an amount not exceeding the aggregate of all amounts each of which is an expenditure of a current nature made by the taxpayer in the year or in a preceding taxation year ending after 31 December 1973

(*a*) on scientific research and experimental development that is related to a business of the taxpayer and directly undertaken in Canada by the taxpayer;

(*b*) on scientific research and experimental development that is related to a business of the taxpayer and directly undertaken in Canada on behalf of the taxpayer;

(*c*) by payments to a corporation resident in Canada to be used for scientific research and experimental development undertaken in Canada that is related to a business of the taxpayer, where the taxpayer is entitled to exploit the results of that scientific research and experimental development;

(*d*) by payments to be used for scientific research and experimental development undertaken in Canada that is related to a business of the taxpayer, if the taxpayer is entitled to exploit the results of that scientific research and experimental development and if the payment was made to

i. an association recognized by the Minister to undertake scientific research and experimental development,

ii. a university, college, research institute or other similar institution recognized by the Minister,

iii. a corporation resident in Canada and exempt from tax under section 991, or

iv. an organization recognized by the Minister that makes payments to an association, institution or corporation described in any of subparagraphs i to iii; or

(*e*) where the taxpayer is a corporation, by payments to an entity described in subparagraph iii of paragraph *d*, for scientific research and experimental development undertaken in Canada that is basic research or applied research the primary purpose of which is the use of results therefrom by the taxpayer in conjunction with other scientific research and experimental development activities undertaken or to be undertaken by or on behalf of the taxpayer that relate to a business of the taxpayer, and that has the technological potential for application to other businesses of a type unrelated to that carried on by the taxpayer.

Meaning of "scientific research and experimental development".

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

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

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

Included work.

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

Excluded work.

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

(*a*) market research or sales promotion;

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

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

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

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

(*f*) style changes; or

(*g*) routine data collection.

History: 1972, c. 23, s. 210; 1975, c. 22, s. 32; 1987, c. 67, s. 45; 1988, c. 18, s. 13; 1989, c. 5, s. 49; 1993, c. 16, s. 105; 1996, c. 39, s. 59; 1997, c. 3, s. 71; 1997, c. 31, s. 28; 2000, c. 5, s. 56; 2015, c. 21, s. 135.
Interpretation Bulletins: IMP. 1029.7-1; IMP. 1029.8.17-1/R1.
Corresponding Federal Provision: 37(1)(a)(i), (i.1) and (ii); 248(1) "scientific research and experimental development".

222.1. *(Repealed).*

History: 1993, c. 16, s. 106; 1997, c. 3, s. 71; 1997, c. 31, s. 29; 2015, c. 21, s. 136.
Interpretation Bulletins: IMP. 1029.8.17-1/R1.
Corresponding Federal Provision: 37(1)(a)(iii).

223. *(Repealed).*

History: 1972, c. 23, s. 211; 1974, c. 18, s. 12; 1987, c. 67, s. 46; 1989, c. 5, s. 50; 1995, c. 49, s. 236; 2015, c. 21, s. 136.
Interpretation Bulletins: IMP. 1029.8.17-1/R1.
Corresponding Federal Provision: 37(1)(b).

Deemed time of capital expenditure.

223.0.1. For the purposes of section 223, as it read before being repealed, in respect of a property, an expenditure made by a taxpayer in respect of the property is deemed not to have been made by the taxpayer before the property is considered to have become available for use by the taxpayer.

History: 1993, c. 16, s. 107; 2015, c. 21, s. 137.
Interpretation Bulletins: IMP. 1029.8.17-1/R1.
Corresponding Federal Provision: 37(1.2).

Arrangements, transactions or events.

223.1. Where a taxpayer carries on a business in Canada in a taxation year by reason of an arrangement, a transaction or an event, or of a series of arrangements, transactions or events, and it may reasonably be considered that one of the purposes of the arrangement, transaction or event or of the series of arrangements, transactions or events is to cause the taxpayer to carry on the business so as to allow the taxpayer to deduct an amount in computing the taxpayer's income from that business for that taxation year, pursuant to sections 222 to 226, the taxpayer is, for the purposes of those sections, deemed not to carry on the business in that year by reason of the arrangement, transaction or event or of the series of arrangements, transactions or events unless the taxpayer is, by reason of the arrangement, transaction or event, or of the series of arrangements, transactions or events, a member of a partnership other than a specified member of that partnership.

History: 1990, c. 7, s. 11; 2000, c. 39, s. 18.
Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Repayment of amounts received as government or non-government assistance.

224. A taxpayer referred to in subsection 1 of section 222 may also deduct, in computing his income from the business referred to therein for the year, all amounts included by virtue of paragraph *t* of section 87 in computing his income for any previous taxation year and the aggregate of all amounts each of which is an expenditure made by the taxpayer in the year or in any previous taxation year ending after 31 December 1973 as repayment of an amount described in paragraph *b* of section 225.

History: 1972, c. 23, s. 212; 1975, c. 22, s. 33; 1982, c. 5, s. 52; 1987, c. 67, s. 47; 1989, c. 5, s. 51.
Interpretation Bulletins: IMP. 1029.8.17-1/R1.
Corresponding Federal Provision: 37(1)(c) and (c.1).

Deemed repayment of assistance.

224.1. For the purposes of section 224, an amount is deemed to be an expenditure made in a taxation year by a taxpayer as repayment of an amount described in paragraph *b* of section 225 if the amount

(*a*) reduced, by the effect of paragraph *b* of section 225, the aggregate of the amounts that may be deducted by the taxpayer under sections 222 to 224 in computing his income for a taxation year;

(*b*) was not received by the taxpayer; and

(*c*) ceased in the taxation year to be an amount that the taxpayer can reasonably be expected to receive.

History: 1994, c. 22, s. 121.
Interpretation Bulletins: IMP. 1029.8.17-1/R1.

Application of ss. 222 to 224.

225. The aggregate of the amounts that may be deducted by a taxpayer under sections 222 to 224, in computing his income for a taxation year, shall be reduced by the aggregate of the following amounts:

(*a*) the amount prescribed;

(*b*) the aggregate of all amounts each of which is the amount of any government assistance or non-government assistance, within the meaning assigned to those expressions by the first paragraph of section 1029.6.0.0.1, in respect of an expenditure described in section 222 or 223, as each of those sections read in relation to the expenditure, that, on or before the taxpayer's filing-due date for the year, the taxpayer has received, is entitled to receive or can reasonably be expected to receive;

(*b.*1) where, in respect of a scientific research and experimental development project referred to in section 222 or 223, as each of those sections read in relation to the project, or in respect of the carrying out of the project, a person has obtained, is entitled to obtain or can reasonably be expected to obtain a benefit or an advantage, whether in the form of a reimbursement, compensation or guarantee or in the form of proceeds of disposition of a property which exceed the fair market value of the property or in any other form or manner, and it may reasonably be considered that the benefit or advantage directly or indirectly results in a compensation or indemnity or, otherwise, in any manner whatsoever, in a benefit for a party to the project, the amount of the benefit or advantage that the person has obtained, is entitled to obtain or can reasonably be expected to obtain on or before the taxpayer's filing-due date for the year;

(*c*) the aggregate of all amounts each of which is an amount deducted under sections 222 to 224 in computing the taxpayer's income for a preceding taxation year, except amounts described in section 229;

(*c.*1) the aggregate of all amounts each of which is the lesser of the amount deducted under section 346.2 in computing the taxpayer's income for a preceding taxation year and the amount by which the amount that was deductible under sections 222 to 225 in computing the taxpayer's income for that preceding year exceeds the amount deducted under those sections in computing the taxpayer's income for that preceding year;

(*d*) where the taxpayer is subject to a loss restriction event before the end of the year, the amount determined for the year under section 225.1 with respect to the taxpayer.

History: 1975, c. 22, s. 34; 1979, c. 18, s. 13; 1982, c. 5, s. 52; 1984, c. 15, s. 52; 1989, c. 5, s. 52; 1990, c. 7, s. 12; 1996, c. 39, s. 60; 1997, c. 3, s. 71; 1997, c. 31, s. 30; 2004, c. 21, s. 68; 2015, c. 21, s. 138; 2017, c. 1, s. 103.
Interpretation Bulletins: IMP. 87-6/R1; IMP. 1029.7-1; IMP. 1029.8.17-1/R1.
Corresponding Federal Provision: 37(1)(c), (c.1) (part), (d), (e), (f), (f.1) and (h).

Loss restriction event.

225.1. Where a taxpayer is, at any time before the end of a taxation year of the taxpayer, last subject to a loss restriction event, the amount determined for the purposes of paragraph *d* of section 225 for the year in respect of the taxpayer is the amount obtained by subtracting the amount determined under the third paragraph from the amount determined by the formula

A − B − C.

Interpretation.

In the formula in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is

i. an expenditure described in section 222 that was made by the taxpayer before that time or an expenditure described in

section 224, where that section refers to an expenditure made as repayment of an amount described in paragraph *b* of section 225 that was made by the taxpayer before that time,

ii. the lesser of the amounts determined immediately before that time in respect of the taxpayer under paragraphs *a* and *b* of section 223, as those paragraphs read on 29 March 2012 in respect of expenditures made, and property acquired, by the taxpayer before 1 January 2014, or

iii. an amount determined in respect of the taxpayer for its taxation year ending immediately before that time under section 224, where that section refers to an amount included, under paragraph *t* of section 87, in computing its income for a preceding taxation year;

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

i. the aggregate of all amounts determined in respect of the taxpayer under paragraphs *a* to *c* of section 225 for its taxation year ending immediately before that time, or

ii. the amount deducted under sections 222 to 225 in computing the taxpayer's income for its taxation year ending immediately before that time; and

(*c*) C is the aggregate of

i. where the business to which the amounts described in any of subparagraphs i to iii of subparagraph *a* may reasonably be considered to relate was carried on by the taxpayer for profit or with a reasonable expectation of profit throughout the year, the aggregate of

(1) the taxpayer's income for the year from the business before making any deduction under sections 222 to 225, and

(2) where properties were sold, leased, rented or developed, or services were rendered, in the course of carrying on the business before that time, the taxpayer's income for the year, before making any deduction under sections 222 to 225, 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, and

ii. the aggregate of all amounts each of which is an amount determined in respect of a preceding taxation year of the taxpayer that ended after that time equal to the lesser of

(1) the amount determined under subparagraph i in respect of the taxpayer in respect of the business for that preceding taxation year, and

(2) the amount in respect of the business deducted under sections 222 to 225 in computing the taxpayer's income for that preceding taxation year.

History: 1989, c. 5, s. 52; 1997, c. 3, s. 71; 2015, c. 21, s. 139; 2017, c. 1, s. 104 [amended by 2019, c. 14, s. 613].

Corresponding Federal Provision: 37(6.1).

Research and development carried on by related corporation.

225.2. For the purposes of sections 222 to 225 and notwithstanding section 230.0.0.1, where a taxpayer is a corporation, scientific research and experimental development, related to a business carried on by another corporation to which the taxpayer is related, otherwise than by reason of a right referred to in paragraph *b* of section 20 and in which that other corporation is actively engaged, at the time at which an expenditure or payment in respect of the scientific research and experimental development is made by the taxpayer, shall be considered to be related to a business of the taxpayer at that time.

History: 1989, c. 5, s. 52; 1997, c. 3, s. 71.

Corresponding Federal Provision: 37(1.1).

Research and development carried on in the exclusive economic zone of Canada.

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

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

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

History: 2006, c. 13, s. 30.

Corresponding Federal Provision: 37(1.3).

Research and development carried on outside Canada.

226. A taxpayer may deduct, in computing his income for a taxation year from a business of the taxpayer, expenditures of a current nature made by him in the year either on scientific research and experimental development carried on outside Canada, directly undertaken by or on behalf of the taxpayer, and related to the business or by way of payments to any of the entities described in subparagraphs i and ii of paragraph *d* of subsection 1 of section 222 to be used for scientific research and experimental development carried on outside Canada related to the business provided that the taxpayer is entitled to exploit the results of such scientific research and experimental development.

History: 1972, c. 23, s. 213; 1987, c. 67, s. 48; 1989, c. 5, s. 52; 2015, c. 21, s. 140.

Corresponding Federal Provision: 37(2).

Deduction under s. 226.

226.1. Where, in respect of a scientific research and experimental development project referred to in section 226 or in respect of the carrying out of that project, a person has

obtained, is entitled to obtain or can reasonably be expected to obtain a benefit or an advantage, whether in the form of a reimbursement, compensation, guarantee or the proceeds of the disposition of property exceeding the fair market value of the property or in any other form or manner, and it may reasonably be considered that the benefit or advantage directly or indirectly results in a compensation or indemnity or, otherwise, in any manner whatsoever, in a benefit for a party to the project, the amount which the taxpayer may deduct under the said section 226 for the taxation year referred to therein shall be reduced by the amount of the benefit or advantage which the person has obtained, is entitled to obtain or can reasonably be expected to obtain on or before the taxpayer's filing-due date for the year.

History: 1990, c. 7, s. 13; 1997, c. 31, s. 31.

227. *(Repealed).*

History: 1972, c. 23, s. 214; 1977, c. 5, s. 14; 1979, c. 77, s. 27; 1984, c. 36, s. 44; 1987, c. 67, s. 48; 1988, c. 41, s. 89; 1994, c. 16, s. 51; 1999, c. 8, s. 19; 2003, c. 29, s. 137; O.C. 222-2004; 2005, c. 1, s. 73.

Restrictions respecting certain expenditures.

228. No deduction may be made under this division in respect of an expenditure made to acquire rights in or arising out of scientific research and experimental development and no deduction permitted under this division may be claimed under section 710 or sections 752.0.10.1 to 752.0.10.14.

History: 1972, c. 23, s. 215; 1987, c. 67, s. 48; 1993, c. 64, s. 23.
Corresponding Federal Provision: 37(4) and (5).

Expenditures of a capital nature.

229. For the purposes of sections 93 to 104, an amount deducted under section 223 that may reasonably be considered to be in respect of a property described in that section, as it read before being repealed, in respect of the property, is deemed to be an amount deductible under the regulations made under paragraph *a* of section 130 and, for that purpose, the property so acquired is deemed to be of a separate prescribed class.

History: 1972, c. 23, s. 216; 2015, c. 21, s. 141.
Corresponding Federal Provision: 37(6).

229.1. *(Repealed).*

History: 1988, c. 4, s. 28; 1989, c. 5, s. 53.

Expenditures on research and development.

230. Expenditures on scientific research and experimental development include only

(*a*) in the cases referred to in section 226,

i. expenditures each of which was an expenditure incurred for and all or substantially all of which was attributable to the prosecution of scientific research and experimental development, and

ii. expenditures of a current nature that were directly attributable, as determined by regulation, to the prosecution of scientific research and experimental development;

(*b*) in cases other than those referred to in section 226, expenditures incurred by a taxpayer in a taxation year, other than a taxation year for which the taxpayer has elected under subparagraph *c*, each of which is

i. an expenditure of a current nature all or substantially all of which was attributable to the prosecution, or to the provision of premises, facilities or equipment for the prosecution, of scientific research and experimental development carried on in Canada, or

ii. an expenditure of a current nature directly attributable, as determined by regulation, to the prosecution, or to the provision of premises, facilities or equipment for the prosecution, of scientific research and experimental development carried on in Canada, and

iii. *(subparagraph repealed)*;

(*c*) in cases other than those referred to in section 226, where a taxpayer has elected in prescribed form and in accordance with section 230.0.0.4 for a taxation year, expenditures incurred by the taxpayer in the year each of which is

i. *(subparagraph repealed)*;

ii. an expenditure of a current nature for the prosecution of scientific research and experimental development in Canada directly undertaken on behalf of the taxpayer,

iii. *(subparagraph repealed)*;

iv. that portion of an expenditure incurred in respect of the salary or wages of an employee who is directly engaged in scientific research and experimental development in Canada that can reasonably be considered to relate to such work having regard to the time spent by the employee thereon, and, for this purpose, if all or substantially all of the employee's working time is spent on such scientific research and experimental development, that portion is deemed to be the amount of the expenditure, or

v. an expenditure incurred in relation to the cost of materials consumed or transformed in the prosecution of scientific research and experimental development carried on in Canada,

vi. *(subparagraph repealed)*.

Type of research and development included.

For greater certainty, it is understood that scientific research and experimental development relating to a business includes any scientific research and experimental development that may lead to or facilitate an extension of that business.

History: 1972, c. 23, s. 217; 1987, c. 67, s. 49; 1989, c. 5, s. 54; 1995, c. 1, s. 27; 2000, c. 5, s. 57; 2002, c. 40, s. 23; 2009, c. 5, s. 76; 2015, c. 21, s. 142; 2020, c. 16, s. 47.
Corresponding Federal Provision: 37(8)(a) and (b).

Research and development not considered as business.

230.0.0.1. Except in the case of a taxpayer that derives all or substantially all of his revenue from the prosecution of scientific research and experimental development, including the sale of rights arising out of scientific research and experimental development carried on by him, the prosecution of scientific research and experimental development shall not be considered to be a business of the taxpayer to which scientific research and experimental development is related.

History: 1989, c. 5, s. 55; 1992, c. 1, s. 28.
Corresponding Federal Provision: 37(8)(c).

Expenditures of a current nature.

230.0.0.1.1. For the purposes of this division, expenditures of a current nature include any expenditure made by a taxpayer, other than

(*a*) an expenditure made by the taxpayer for the acquisition from a person or partnership of a property that is a capital property of the taxpayer; or

(*b*) an expenditure made by the taxpayer for the use of, or the right to use, property that would be capital property of the taxpayer if it were owned by the taxpayer.

History: 2015, c. 21, s. 143.
Corresponding Federal Provision: 37(8)d).

Expenditures not to be included.

230.0.0.2. Despite the first paragraph of section 230, expenditures on scientific research and experimental development do not include

(*a*) any expenditure made in respect of the acquisition or lease of animals, other than laboratory animals within the meaning of the regulations, or in respect of any other similar kind of transaction regarding such animals; and

(*b*) a payment to any of the following entities to the extent that the payment may reasonably be considered to have been made to enable the entity to acquire rights in, or arising out of, scientific research and experimental development:

i. a corporation resident in Canada and exempt from tax under section 991, a research institute recognized by the Minister or an association recognized by the Minister, with which the taxpayer does not deal at arm's length,

ii. a corporation other than a corporation referred to in subparagraph i, or

iii. a university, college or organization recognized by the Minister.

History: 1989, c. 5, s. 55; 1991, c. 8, s. 2; 1993, c. 64, s. 24; 1995, c. 1, s. 28 [amended by 1998, c. 16, s. 308]; 1997, c. 3, s. 71; 2015, c. 21, s. 144.
Corresponding Federal Provision: 37(8)(d).

Application of s. 230.

230.0.0.3. For the purposes of subparagraphs *b* and *c* of the first paragraph of section 230, an expenditure of a taxpayer does not include remuneration based on profits or a bonus, where the remuneration or bonus, as the case may be, is in respect of a specified employee of the taxpayer.

History: 1995, c. 1, s. 29; 1997, c. 85, s. 56.
Corresponding Federal Provision: 37(9).

Limitation in respect of specified employees.

230.0.0.3.1. For the purposes of subparagraphs *b* and *c* of the first paragraph of section 230, expenditures incurred by a taxpayer in a taxation year do not include expenses incurred in the year in respect of salary or wages of a specified employee of the taxpayer to the extent that those expenses exceed the amount determined by the formula

A × B / 365.

Interpretation.

In the formula provided for in the first paragraph,

(*a*) A is 5 times the amount of the Maximum Pensionable Earnings, as determined under section 40 of the Act respecting the Québec Pension Plan (chapter R-9), for the calendar year in which the taxation year ends; and

(*b*) B is the number of days in the taxation year during which the employee is a specified employee of the taxpayer.

History: 1998, c. 16, s. 103.
Corresponding Federal Provision: 37(9.1).

Associated corporations.

230.0.0.3.2. For the purposes of subparagraphs *b* and *c* of the first paragraph of section 230, where in a taxation year of a corporation that ends in a particular calendar year, the corporation employs an individual who is a specified employee of the corporation, the corporation is associated with another corporation, in this section referred to as the "associated corporation", in a taxation year of the associated corporation that ends in the particular calendar year, and the individual is a specified employee of the associated

corporation in that taxation year of the associated corporation, the expenditures incurred by the corporation in its taxation year or years that end in the calendar year and by each associated corporation in its taxation year or years that end in the particular calendar year do not include expenses incurred in those taxation years in respect of salary or wages of the specified employee unless the corporation and all of the associated corporations have filed with the Minister an agreement referred to in section 230.0.0.3.3 in respect of those years in respect of that employee or section 230.0.0.3.5 applies to those corporations in respect of those years in respect of that employee.

History: 1998, c. 16, s. 103.

Corresponding Federal Provision: 37(9.2).

Agreement among associated corporations.

230.0.0.3.3. Where none of the members of a group of corporations that are associated with each other in a taxation year that ends in a particular calendar year and of which an individual is a specified employee has, in that taxation year, an establishment in a province other than Québec, all of the members of the group of associated corporations file, in respect of their taxation years that end in the particular calendar year, an agreement with the Minister in which they allocate an amount in respect of the individual to one or more of them for those years and the amount so allocated or the aggregate of the amounts so allocated, as the case may be, does not exceed the amount determined by the following formula, the maximum amount that may be claimed in respect of salary or wages of the individual for the purposes of subparagraphs *b* and *c* of the first paragraph of section 230 by each of the corporations for each of those years is the amount so allocated to it for each of those years:

A × B / 365.

Interpretation.

In the formula provided for in the first paragraph,

(*a*) A is 5 times the amount of the Maximum Pensionable Earnings, as determined under section 40 of the Act respecting the Québec Pension Plan (chapter R-9), for the particular calendar year; and

(*b*) B is the lesser of 365 and the number of days in those taxation years during which the individual was a specified employee of one or more of the corporations.

History: 1998, c. 16, s. 103.

Corresponding Federal Provision: 37(9.3).

Filing requirements.

230.0.0.3.4. An agreement referred to in the first paragraph of section 230.0.0.3.3 is deemed not to have been filed by a taxpayer with the Minister unless it is in prescribed form, and, where the taxpayer is a corporation, it is accompanied by, where the directors of the corporation are legally entitled to administer its affairs, a certified copy of their resolution authorizing the agreement to be made or, where the directors of the corporation are not legally entitled to administer its affairs, a certified copy of the document by which the person legally entitled to administer its affairs authorized the agreement to be made.

History: 1998, c. 16, s. 103.

Corresponding Federal Provision: 37(9.4).

Member having an establishment in a province other than Québec.

230.0.0.3.5. Where one of the members of a group of corporations that are associated with each other in a taxation year that ends in a particular calendar year and of which an individual is a specified employee has, in that taxation year, an establishment in a province other than Québec and an amount in respect of the individual is allocated, in accordance with subsection 9.3 of section 37 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), to one or more of them for each of their taxation years that ends in the particular calendar year, the maximum amount that may be claimed in respect of salary or wages of the individual for the purposes of subparagraphs *b* and *c* of the first paragraph of section 230 by each of the corporations for each of those years is the amount so allocated to it for each of those years.

Filing requirements.

Where, in respect of a taxation year, a member of a group of associated corporations referred to in the first paragraph files, in respect of an individual, an agreement with the Minister of Revenue of Canada in accordance with subsection 9.3 of section 37 of the Income Tax Act, the member is required to file with the Minister, in respect of that year, a copy of the agreement.

History: 1998, c. 16, s. 103; 2000, c. 5, s. 293.

Deemed corporations.

230.0.0.3.6. For the purposes of this section and sections 230.0.0.3.2, 230.0.0.3.3 and 230.0.0.3.5, each of the following is deemed to be a corporation associated with a particular corporation:

(*a*) an individual related to the particular corporation;

(*b*) a partnership of which a majority-interest partner is an individual related to the particular corporation or a corporation associated with the particular corporation; and

(*c*) a limited partnership of which a member whose liability as a member is not limited is an individual related to the particular corporation or a corporation associated with the particular corporation.

History: 1998, c. 16, s. 103.

Corresponding Federal Provision: 37(9.5).

Election.

230.0.0.4. Any election made under subparagraph *c* of the first paragraph of section 230 for a taxation year by a taxpayer shall be filed in prescribed form by the taxpayer, on the day on which the taxpayer first files a prescribed form referred to in section 230.0.0.4.1 for the year.

History: 1995, c. 1, s. 29; 1997, c. 31, s. 32 [amended by 2000, c. 5, s. 304].

Corresponding Federal Provision: 37(10).

Filing requirement.

230.0.0.4.1. A taxpayer shall, in respect of an expenditure that would be an expenditure made by the taxpayer in a taxation year that begins after 31 December 1995 if this Act were read without reference to section 482 and that is claimed by the taxpayer for the year as a deduction under this division, file with the Minister, on or before the day that is 12 months after the taxpayer's filing-due date for the year, the prescribed form containing

(*a*) prescribed information in respect of the expenditure; and

(*b*) claim preparer information within the meaning of section 1045.0.1.3.

Presumption.

For the purposes of the first paragraph, a taxpayer is deemed to have filed with the Minister the prescribed form containing prescribed information in respect of an expenditure on or before the day that is 12 months after the taxpayer's filing-due date for a taxation year so that an amount may be deducted by the taxpayer in computing the taxpayer's income under sections 222 to 224 in respect of the expenditure, if

(*a*) the taxpayer has filed with the Minister the prescribed form containing prescribed information and, if applicable, a copy of each agreement, certificate, favourable advance ruling, qualification certificate, rate schedule, receipt or report within the time limit provided for in the first paragraph of section 1029.6.0.1.2 that applies to the taxpayer for the taxation year, so as to be deemed to have paid an amount to the Minister for the year in respect of the expenditure under any of Divisions II.5.1 to II.6.15 of Chapter III.1 of Title III of Book IX; and

(*b*) the taxpayer files with the Minister the prescribed form containing prescribed information more than 12 months after that date so that an amount may be deducted by the taxpayer in computing the taxpayer's income under sections 222 to 224 in respect of the expenditure.

History: 1997, c. 31, s. 33; 2000, c. 5, s. 58; 2011, c. 1, s. 25; 2011, c. 6, s. 122; 2015, c. 36, s. 13; 2020, c. 16, s. 48.

Corresponding Federal Provision: 37(11).

Failure to report prescribed information.

230.0.0.4.2. Subject to section 230.0.0.5, where prescribed information in relation to an expenditure referred to in subparagraph *a* of the first paragraph of section 230.0.0.4.1 is not contained in the form referred to in that section, no amount in relation to the expenditure may be deducted under sections 222 to 224.

History: 2020, c. 16, s. 49.

Misclassified expenditures.

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

History: 1996, c. 39, s. 61; 1997, c. 31, s. 34; 2000, c. 5, s. 59.

Corresponding Federal Provision: 37(12).

Look-through rule.

230.0.0.5.1. For the purposes of paragraphs *b* to *e* of subsection 1 of section 222, the amount of a particular expenditure made by a taxpayer is required to be reduced by the amount of any related expenditure of the person or partnership to whom the particular expenditure is made that is not an expenditure of a current nature of the person or partnership.

History: 2015, c. 21, s. 145.

Corresponding Federal Provision: 37(14).

Reporting of certain payments.

230.0.0.5.2. If an expenditure is required to be reduced because of section 230.0.0.5.1, the person or the partnership referred to in that section is required to inform the taxpayer in writing of the amount of the reduction without delay if requested by the taxpayer and in any other case no later than 90 days after the end of the calendar year in which the expenditure was made.

History: 2015, c. 21, s. 145.

Corresponding Federal Provision: 37(15).

Prepaid expenses.

230.0.0.6. For the purposes of this division, an expenditure that is made by a taxpayer in a taxation year and that would, but for subsection 1 of section 175.1, have been deductible under this division in computing the taxpayer's income for the year, is deemed not to be made by the taxpayer in the year and to be made by the taxpayer in the subsequent taxation year to which the expenditure may reasonably be considered to relate.

History: 1997, c. 31, s. 35.

Corresponding Federal Provision: 18(9)(e).

DIVISION XII
(Repealed).

230.0.1. *(Repealed).*
History: 1985, c. 25, s. 38; 1997, c. 3, s. 71; 2000, c. 5, s. 60.

230.0.2. *(Repealed).*
History: 1985, c. 25, s. 38; 1997, c. 3, s. 71; 2000, c. 5, s. 60.

230.0.3. *(Repealed).*
History: 1985, c. 25, s. 38; 1997, c. 3, s. 71; 2000, c. 5, s. 60.

230.1. *(Repealed).*
History: 1979, c. 18, s. 14; 1980, c. 13, s. 15; 1987, c. 67, s. 51; 1997, c. 3, s. 71; 1997, c. 31, s. 36; 1998, c. 16, s. 251; 2000, c. 5, s. 60.

230.2. *(Repealed).*
History: 1979, c. 18, s. 14; 1989, c. 5, s. 56.

230.3. *(Repealed).*
History: 1979, c. 18, s. 14; 1980, c. 13, s. 16; 1987, c. 67, s. 52; 1997, c. 3, s. 71; 1998, c. 16, s. 251; 2000, c. 5, s. 60.

230.4. *(Repealed).*
History: 1979, c. 18, s. 14; 1997, c. 3, s. 71; 2000, c. 5, s. 60.

230.5. *(Repealed).*
History: 1979, c. 18, s. 14; 1997, c. 3, s. 71; 2000, c. 5, s. 60.

230.6. *(Repealed).*
History: 1979, c. 18, s. 14; 1997, c. 3, s. 71; 1997, c. 14, s. 51; 2000, c. 5, s. 60.

230.7. *(Repealed).*
History: 1979, c. 18, s. 14; 1997, c. 3, s. 71; 2000, c. 5, s. 60.

230.8. *(Repealed).*
History: 1979, c. 18, s. 14; 1987, c. 67, s. 53; 1997, c. 3, s. 71; 2000, c. 5, s. 60.

230.9. *(Repealed).*
History: 1979, c. 18, s. 14; 1997, c. 3, s. 71; 2000, c. 5, s. 60.

230.10. *(Repealed).*
History: 1979, c. 18, s. 14; 1997, c. 3, s. 71; 2000, c. 5, s. 60.

230.11. *(Repealed).*
History: 1982, c. 5, s. 53; 1997, c. 3, s. 71; 2000, c. 5, s. 60.

DIVISION XIII
(Repealed).

230.12. *(Repealed).*
History: 2000, c. 39, s. 19; 2002, c. 9, s. 8.

230.13. *(Repealed).*
History: 2000, c. 39, s. 19; 2001, c. 51, s. 28; 2002, c. 9, s. 8.

230.14. *(Repealed).*
History: 2000, c. 39, s. 19; 2002, c. 9, s. 8.

230.15. *(Repealed).*
History: 2000, c. 39, s. 19; 2002, c. 9, s. 8.

230.16. *(Repealed).*
History: 2000, c. 39, s. 19; 2002, c. 9, s. 8.

230.17. *(Repealed).*
History: 2000, c. 39, s. 19; 2002, c. 9, s. 8.

230.18. *(Repealed).*
History: 2000, c. 39, s. 19; 2002, c. 9, s. 8.

230.19. *(Repealed).*
History: 2000, c. 39, s. 19; 2002, c. 9, s. 8.

230.20. *(Repealed).*
History: 2000, c. 39, s. 19; 2002, c. 9, s. 8.

230.21. *(Repealed).*
History: 2000, c. 39, s. 19; 2002, c. 9, s. 8.

230.22. *(Repealed).*
History: 2000, c. 39, s. 19; 2002, c. 9, s. 8.

TITLE IV
CAPITAL GAINS AND CAPITAL LOSSES

CHAPTER I
GENERAL RULES

"taxable capital gain", "allowable capital loss", "allowable business investment loss".

231. Subject to sections 231.0.1 to 231.2.1, a taxable capital gain, an allowable capital loss or an allowable business investment loss is equal to 1/2 of the capital gain, 1/2 of the capital loss or 1/2 of the business investment loss, as the case may be, from the disposition of property.

Computation.

The capital gain, the capital loss or the business investment loss shall be computed in accordance with this Title in reference to the taxation year during which the disposition of

the property takes place, unless otherwise provided in this Part.

History: 1972, c. 23, s. 218; 1979, c. 18, s. 15; 1990, c. 59, s. 112; 2001, c. 51, s. 29; 2003, c. 2, s. 66; 2009, c. 15, s. 62.
Corresponding Federal Provision: 38.

Transitional rules.

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

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

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

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

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

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

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

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

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

vii. 2/3, in any other case;

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

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

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

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

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

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

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

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

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

i. 3/4, where the amount by which the amount of the taxpayer's net capital gains from dispositions of property in the period that begins at the beginning of the year and ends on 27 February 2000, in this paragraph referred to as the "first period", exceeds the amount of the taxpayer's net capital losses from dispositions of property in the period that begins on 28 February 2000 and ends on 17 October 2000, in this paragraph referred to as the "second period", exceeds the amount of the taxpayer's net capital losses from dispositions of property in the period that begins on 18 October 2000 and ends at the end of the year, in this paragraph referred to as the "third period",

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

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

exceeds the amount of the taxpayer's net capital losses from dispositions of property in the third period,

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

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

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

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

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

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

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

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

xii. 1/2, in any other case.

History: 2003, c. 2, s. 67.

Fraction applicable.

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

[(A × 3/4) + (B × 2/3)] / (A + B).

Interpretation.

In the formula provided for in the first paragraph,

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

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

History: 2003, c. 2, s. 67.

Fraction applicable.

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

[(A × 2/3) + (B × 1/2)] / (A + B).

Interpretation.

In the formula provided for in the first paragraph,

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

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

History: 2003, c. 2, s. 67.

Fraction applicable.

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

[(A × 3/4) + (B × 2/3)] / (A + B).

Interpretation.

In the formula provided for in the first paragraph,

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

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

History: 2003, c. 2, s. 67.

Fraction applicable.

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

[(A × 3/4) + (B × 2/3)] / (A + B).

Interpretation.

In the formula provided for in the first paragraph,

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

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

History: 2003, c. 2, s. 67.

Fraction applicable.

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

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

Interpretation.

In the formula provided for in the first paragraph,

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

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

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

History: 2003, c. 2, s. 67.

Fraction applicable.

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

[(A × 3/4) + (B × 1/2)] / (A + B).

Interpretation.

In the formula provided for in the first paragraph,

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

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

History: 2003, c. 2, s. 67.

Fraction applicable.

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

[(A × 3/4) + (B × 1/2)] / (A + B).

Interpretation.

In the formula provided for in the first paragraph,

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

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

History: 2003, c. 2, s. 67.

Fraction applicable.

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

[(A × 2/3) + (B × 1/2)] / (A + B).

Interpretation.

In the formula provided for in the first paragraph,

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

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

History: 2003, c. 2, s. 67.

Fraction applicable.

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

$[(A \times 2/3) + (B \times 1/2)] / (A + B)$.

Interpretation.

In the formula provided for in the first paragraph,

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

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

History: 2003, c. 2, s. 67.

Rules applicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

History: 2003, c. 2, s. 67; 2004, c. 8, s. 40; 2019, c. 14, s. 92.

231.1. *(Repealed).*

History: 2001, c. 51, s. 30; 2003, c. 2, s. 68; 2004, c. 8, s. 41.

Gifts of property to charities.

231.2. The taxable capital gain of a taxpayer for a taxation year from the disposition of a property is equal to zero if the disposition is

(*a*) a gift made to a qualified donee of a property that is

i. a share, debt obligation or right listed on a designated stock exchange,

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

iii. a unit of a mutual fund trust,

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

v. a bond, debenture, note, hypothecary claim, mortgage or similar obligation, either issued or guaranteed by the Government of Canada, or issued by the government of a province or its mandatary;

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

(*c*) a deemed disposition by reason of the application of Division III of Chapter III of Title VII and the property is

i. a property referred to in paragraph *a* or *b*, and

ii. the subject of a gift to which section 752.0.10.10.0.1 applies and that is made by the taxpayer's succession to a qualified donee that, in the case of a property referred to in paragraph *b*, is not a private foundation; or

(*d*) the exchange, for a property described in paragraph *a*, of a share of the capital stock of a corporation, which share included, at the time it was issued and at the time of the disposition, a condition allowing the holder to exchange it for the property, and the taxpayer

i. receives no consideration on the exchange other than the property, and

ii. makes a gift of the property to a qualified donee not more than 30 days after the exchange.

History: 2003, c. 2, s. 69; 2004, c. 8, s. 42; 2005, c. 1, s. 74; 2006, c. 36, s. 29; 2009, c. 15, s. 63; 2010, c. 5, s. 24; 2010, c. 25, s. 21; 2017, c. 29, s. 52.

Corresponding Federal Provision: 38(a.1) and (a.2).

Exchange of interest in partnership.

231.2.1. A taxpayer's taxable capital gain for a taxation year, from the disposition of an interest in a partnership (other than a prescribed interest) that would be an exchange described in paragraph *d* of section 231.2 if the interest were a share in the capital stock of a corporation, is equal to the lesser of

(*a*) that taxable capital gain determined without reference to this section; and

(*b*) the amount determined by the formula

(A − B) / 2.

Interpretation.

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

(*a*) A is the aggregate of the cost to the taxpayer of the partnership interest and of each amount required by subparagraph iv or x of paragraph *i* of section 255 to be added in computing the adjusted cost base to the taxpayer of the partnership interest;

(*b*) B is the adjusted cost base to the taxpayer of the partnership interest determined without reference to subparagraphs iv and v of paragraph *l* of section 257.

History: 2009, c. 15, s. 64.
Corresponding Federal Provision: 38(a.3).

Transitional rule.

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

History: 2003, c. 2, s. 69; 2004, c. 8, s. 43.

Advantage to donor.

231.4. If a taxpayer is entitled to an amount of an advantage in respect of a gift of a property described in section 231.2, the following rules apply:

(*a*) that section applies only to that proportion of the taxpayer's capital gain in respect of the gift that the eligible amount of the gift is of the taxpayer's proceeds of disposition in respect of the gift; and

(*b*) section 231 applies to the extent that the taxpayer's capital gain in respect of the gift exceeds the amount of the capital gain to which section 231.2 applies.

History: 2009, c. 5, s. 77.
Corresponding Federal Provision: 38.2.

231.5. *(Repealed).*

History: 2009, c. 15, s. 65; 2017, c. 29, s. 53.

Capital gain and capital loss.

232. A capital gain or a capital loss arises from the disposition of any property other than the following property:

(*a*) *(paragraph repealed)*;

(*b*) a timber resource property;

(*c*) a Canadian resource property;

(*d*) a foreign resource property;

(*e*) an insurance policy, including a life insurance policy, except for that part of a life insurance policy in respect of which a policyholder is deemed by section 851.11 to have an interest in a related segregated fund trust contemplated in section 851.2;

(*f*) an interest of a beneficiary under an environmental trust; or

(*g*) a property in respect of whose disposition any of sections 851.22.11, 851.22.13 and 851.22.14 applies.

Exception.

However, the disposition of depreciable property does not give rise to a capital loss and the following dispositions do not give rise to a capital gain:

(*a*) the disposition of a cultural property described in the third paragraph, the disposition of the bare ownership of such property made in the course of a recognized gift with reserve of usufruct or use or the disposition of a musical instrument resulting from a gift described in paragraph *e* of section 710 or in the definition of "total musical instrument gifts" in the first paragraph of section 752.0.10.1; or

(*b*) a deemed disposition, by reason of the application of Division III of Chapter III of Title VII, of a property referred to in subparagraph *a* of a taxpayer, where the property is the subject of a gift in respect of which section 752.0.10.10.0.1 applies and that gift is made by the taxpayer's succession to a donee that would be one of the following donees if the disposition were made at the time the succession makes the gift:

i. an institution or a public authority referred to in subparagraph *a* of the third paragraph,

ii. a certified archival centre,

iii. a recognized museum, or

iv. an entity referred to in any of paragraphs *a* to *e* of the definition of "total musical instrument gifts" in the first paragraph of section 752.0.10.1.

Cultural property.

A cultural property to which subparagraph *a* of the second paragraph refers is any of the following properties:

(*a*) a property which complies with the criteria of significance and importance set out in subsection 3 of section 29 of the Cultural Property Export and Import Act (Revised Statutes of Canada, 1985, chapter C-51) as determined by the Canadian Cultural Property Export Review Board, and that has been disposed of to an institution or a public authority in Canada which is, at the time of

disposition, designated under subsection 2 of section 32 of that Act for general purposes or for a specified purpose related to that property;

(*b*) a property that is classified, at the time of disposition, in accordance with the Cultural Heritage Act (chapter P-9.002) and that has been disposed of to an institution or a public authority referred to in subparagraph *a*; and

(*c*) a property that is the subject of a certificate issued by the Conseil du patrimoine culturel du Québec to the effect that it was acquired by a museum established under the Act respecting the Montréal Museum of Fine Arts (chapter M-42) or the National Museums Act (chapter M-44), a certified archival centre or a recognized museum in accordance with its acquisition and conservation policy and the directives of the Ministère de la Culture et des Communications.

History: 1972, c. 23, s. 219; 1975, c. 22, s. 35; 1978, c. 26, s. 39; 1984, c. 15, s. 53; 1985, c. 25, s. 39; 1986, c. 19, s. 40; 1987, c. 67, s. 54; 1996, c. 39, s. 62; 2000, c. 5, s. 293; 2003, c. 9, s. 21; 2005, c. 1, s. 75; 2004, c. 25, s. 70; O.C. 1295-2005; 2006, c. 36, s. 30; O.C. 1159-2008; 2010, c. 25, s. 22; 2011, c. 1, s. 26; 2011, c. 21, s. 231; 2017, c. 29, s. 54; 2019, c. 14, s. 93.

Interpretation Bulletins: IMP. 232-2/R1.

Corresponding Federal Provision: 39(1)(a).

Business investment loss.

232.1. A business investment loss arises from the disposition after 31 December 1977 of any property that is a share of the capital stock of a small business corporation or a debt owing by such a corporation or by a particular corporation described in the third paragraph, other than a debt disposed of by a corporation which is owed to the latter by a corporation with which it does not deal at arm's length.

Restriction.

However, the disposition of property gives rise to a business investment loss only if section 299 applies to the disposition or if the disposition of property is made by a taxpayer in favour of a person with whom he deals at arm's length.

Bankrupt or wound-up corporation.

The particular corporation referred to in the first paragraph is a Canadian-controlled private corporation that is

(*a*) a bankrupt that was a small business corporation at the time it last became a bankrupt, or

(*b*) a corporation referred to in section 6 of the Winding-up Act (Revised Statutes of Canada, 1985, chapter W-11) that was insolvent, within the meaning of the said Act, and was a small business corporation at the time a winding-up order under the said Act was made in its respect.

History: 1979, c. 18, s. 16; 1982, c. 5, s. 54; 1987, c. 67, s. 55; 1993, c. 16, s. 108; 1996, c. 39, s. 273; 1997, c. 3, s. 23.

Corresponding Federal Provision: 39(1)(c)(i), (ii), (iv)(B) and (C).

"small business corporation".

232.1.1. For the purposes of sections 232.1 and 236.1, the expression "small business corporation" at any particular time includes a corporation that was at any time in the 12 months preceding that time a small business corporation.

History: 1988, c. 18, s. 14; 1997, c. 3, s. 71.

Corresponding Federal Provision: 248(1) "small business corporation" after (c).

Guarantees.

232.1.2. For the purposes of sections 232.1 and 236.1, where an amount in respect of a debt owed by a corporation has been paid by a taxpayer to a person with whom the taxpayer was dealing at arm's length pursuant to an arrangement under which the taxpayer guaranteed the debt, and the corporation was a small business corporation at the time the debt was incurred and at any time in the 12 months before the time an amount first became payable by the taxpayer under the arrangement in respect of a debt owed by the corporation, that part of the amount that is owing to the taxpayer by the corporation is deemed to be a debt owing to the taxpayer by a small business corporation.

History: 1993, c. 16, s. 109; 1997, c. 3, s. 71.

Corresponding Federal Provision: 39(12).

Restriction.

233. An amount shall not constitute a capital gain, a capital loss or a business investment loss to the extent that it must otherwise be included or may otherwise be deducted in computing the income of the taxpayer for the year or any other year.

History: 1972, c. 23, s. 220; 1979, c. 18, s. 17.

Corresponding Federal Provision: 39(1)(a) before (i) and (b) before (i).

Computation of capital gain.

234. Unless otherwise provided in this Part, the gain from the disposition of property shall be computed by subtracting from the proceeds of disposition the aggregate of

(*a*) the adjusted cost base of that property immediately before the disposition and the expenses made or incurred by the taxpayer for the purpose of making the disposition; and

(*b*) subject to section 234.1, an amount as a reserve that is equal to the least of

i. a reasonable amount as a reserve in respect of the portion of the proceeds of disposition of the property that is payable to the taxpayer after the end of the year and that can reasonably be regarded as a portion of the amount by which the proceeds of disposition of the property exceed the

aggregate of the amounts referred to in subparagraph *a* in respect of the property,

ii. an amount equal to the product obtained by multiplying 1/5 of the amount by which the proceeds of disposition of the property exceed the aggregate of the amounts referred to in subparagraph *a* in respect of the property by the amount by which four exceeds the number of preceding taxation years of the taxpayer ending after the disposition of the property, and

iii. the amount allowed as a deduction for the year under subparagraph iii of paragraph *a* of subsection 1 of section 40 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in computing, for the purposes of that Act, the taxpayer's gain for the year from that disposition or, if the amount that is so allowed as a deduction is equal to the maximum amount that the taxpayer may claim as a deduction in that computation under that subparagraph iii in respect of the disposition, the amount that the taxpayer specifies and that is not less than that maximum amount.

Amount regarded as gain.

In each subsequent year, the taxpayer shall regard as a gain the amount of the reserve established under subparagraph *b* of the first paragraph for the preceding year and claim an amount as a new reserve, without exceeding the amount of that gain, computed in accordance with that paragraph.

Additional rules.

Sections 21.4.6 and 21.4.7 apply, with the necessary modifications, in relation to a deduction claimed under subparagraph iii of paragraph *a* of subsection 1 of section 40 of the Income Tax Act.

History: 1972, c. 23, s. 221; 1975, c. 22, s. 36; 1984, c. 15, s. 54; 1996, c. 39, s. 63; 1997, c. 14, s. 52; 1997, c. 85, s. 57; 2010, c. 5, s. 25.
Corresponding Federal Provision: 40(1)(a).

Gift of a non-qualifying security.

234.0.1. A taxpayer's gain for a particular taxation year from a disposition of a non-qualifying security of the taxpayer, as defined in the first paragraph of section 752.0.10.1, that is the making of a gift of the security, other than an excepted gift within the meaning assigned by that paragraph, to a qualified donee is equal to the amount by which

(*a*) an amount equal to

i. where the disposition occurred in the particular taxation year, the amount by which the taxpayer's proceeds of disposition exceed the aggregate of the adjusted cost base to the taxpayer of the security immediately before the disposition and any outlays and expenses made or incurred by the taxpayer for the purpose of making the disposition, and

ii. where the disposition occurred in the 60-month period ending at the beginning of the particular taxation year, the amount, if any, deducted under paragraph *b* in computing the taxpayer's gain for the preceding taxation year from the disposition of the security; exceeds

(*b*) the amount that the taxpayer claims as a deduction in the prescribed form filed with the taxpayer's fiscal return for the particular taxation year, not exceeding the eligible amount of the gift, if the taxpayer is not deemed under section 752.0.10.16 to have made a gift of a property before the end of the particular taxation year as a consequence of a disposition of the security by the donee or as a consequence of the security ceasing to be a non-qualifying security of the taxpayer before the end of that year.

History: 1999, c. 83, s. 49; 2003, c. 2, s. 70; 2009, c. 5, s. 78.
Corresponding Federal Provision: 40(1.01).

Deemed capital gain.

234.0.2. Where, in respect of a taxation year, an individual has made an election under section 1086.28, the amount deemed to be a capital gain under subparagraph *b* of the first paragraph of that section is deemed to be a gain from the disposition of property for the year.

History: 2011, c. 34, s. 26.
Corresponding Federal Provision: 40(3.21).

Computation of the reserve.

234.1. In computing the amount that a taxpayer may deduct as a reserve under subparagraph *b* of the first paragraph of section 234 in computing the taxpayer's gain from the disposition of a property, that subparagraph is to be read as if "1/5" and "4" were replaced by "1/10" and "9", respectively, if

(*a*) the property was disposed of by the taxpayer to the taxpayer's child;

(*b*) that child was resident in Canada immediately before the disposition; and

(*c*) that property was, immediately before the disposition,

i. land in Canada or a depreciable property in Canada of a prescribed class that was used by the taxpayer or the spouse, a child or the father or mother of the taxpayer in carrying on a farming or fishing business in Canada,

ii. a share of the capital stock of a family farm or fishing corporation of the taxpayer, within the meaning of subparagraph *a*.2 of the first paragraph of section 451, or an interest in a family farm or fishing partnership of the taxpayer, within the meaning of subparagraph *h* of that paragraph, or

iii. a qualified small business corporation share of the taxpayer within the meaning of section 726.6.1, or

iv. *(subparagraph repealed)*.

History: 1984, c. 15, s. 55; 1987, c. 67, s. 56; 1997, c. 3, s. 71; 1997, c. 14, s. 53; 2004, c. 8, s. 44; 2007, c. 12, s. 43; 2010, c. 5, s. 26; 2017, c. 29, s. 55.

Corresponding Federal Provision: 40(1.1).

Restrictions.

235. A taxpayer may not deduct the reserve established under section 234 for a taxation year if

(*a*) at the end of the year or at any time in the following taxation year, the taxpayer is not resident in Canada or is exempt from tax under this Part;

(*b*) the purchaser of the property sold is a corporation that, immediately after the sale,

i. is controlled, directly or indirectly, in any manner whatever, by the taxpayer,

ii. is controlled, directly or indirectly, in any manner whatever, by a person or group of persons by whom the taxpayer is controlled, directly or indirectly, in any manner whatever, or

iii. if the taxpayer is a corporation, controls the taxpayer, directly or indirectly, in any manner whatever; or

(*c*) the purchaser of the property sold is a partnership in which the taxpayer is, immediately after the sale, a majority-interest partner.

History: 1975, c. 22, s. 37; 1990, c. 59, s. 113; 1997, c. 3, s. 71; 2009, c. 5, s. 79; 2010, c. 5, s. 27.

Corresponding Federal Provision: 40(2)(a).

Computation of capital loss.

236. The loss from the disposition of a property shall be computed by subtracting the proceeds of disposition of that property from the aggregate of the adjusted cost base of such property immediately before the disposition and the expenses made or incurred by the taxpayer for the purposes of the disposition.

History: 1972, c. 23, s. 222.

Corresponding Federal Provision: 40(1)(b).

Computation of a taxpayer's business investment loss.

236.1. A business investment loss, in the case of a share referred to in the first paragraph of section 232.1, is computed by subtracting from the loss determined in accordance with this Title the amount that must be added after 1977 by virtue of the application of paragraph *b* of section 535 in computing the adjusted cost base of the share or of any other share, in this paragraph referred to as a "replaced share", for which the share or a replaced share was substituted or exchanged.

Computation of business investment loss.

In the case of a share that is not a share that was acquired after 31 December 1971 from a person with whom the taxpayer was dealing at arm's length, but that is a share referred to in the first paragraph of section 232.1 that was issued before 1 January 1972 or a share, in this paragraph and in the third paragraph referred to as a "substituted share", that was substituted or exchanged for such a share issued before 1 January 1972 or for a substituted share, the aggregate of all amounts that the taxpayer, his spouse or a trust of which the taxpayer or his spouse was a beneficiary received after 31 December 1971 and before or upon the disposition of the share as a taxable dividend on the share or on any other share in respect of which the share disposed of is a substituted share or which are receivable as such by one of such persons at the time of the disposition of the share must also be deducted from the loss determined in accordance with this Title.

Computation of a business investment loss in the case of a trust.

Furthermore, where the taxpayer is a trust for which a day is to be, or has been, determined under subparagraph *a* or *a*.4 of the first paragraph of section 653 by reference to a death or later death, as the case may be, and the share is a share referred to in the second paragraph, the aggregate of all amounts each of which is an amount received after 31 December 1971 or receivable at the time of the disposition, as a taxable dividend on the share or on any other share in respect of which the share disposed of is a substituted share, by an individual whose death is that death or later death, as the case may be, or the individual's spouse must also be deducted from the loss determined in accordance with this Title.

Subtraction from business investment loss.

Lastly, a business investment loss is computed by subtracting the amount determined in respect of the taxpayer under section 264.4 or 264.5, as the case may be.

History: 1979, c. 18, s. 18; 1980, c. 13, s. 17; 1982, c. 5, s. 55; 1986, c. 19, s. 41; 1987, c. 67, s. 57; 1994, c. 22, s. 122; 1997, c. 31, s. 37; 2000, c. 5, s. 61; 2017, c. 1, s. 105.

Corresponding Federal Provision: 39(1)(c)(v) to (viii).

Losses of a corporation in respect of certain shares.

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

been reduced by virtue of this section in respect of dispositions before the particular time of shares of the capital stock of the controlled corporation.

Computation.

The amount to which the first paragraph refers is the aggregate of all amounts added under paragraph *c*.1 of section 255 to the cost to a corporation, other than the controlled corporation, of property disposed of to that corporation by the controlled corporation that were added to the cost of the property during the period while the controlled corporation was controlled by the taxpayer and that can reasonably be attributed to losses on the property that accrued during the period while the controlled corporation was controlled by the taxpayer.

History: 1980, c. 13, s. 18; 1990, c. 59, s. 114; 1997, c. 3, s. 71; 2000, c. 5, s. 62.

Corresponding Federal Provision: 40(2)(h).

Acquisition of control of a controlled corporation.

236.3. For the purposes of section 236.2, where, in the case of an amalgamation within the meaning of section 544 of several corporations, a particular corporation was controlled, directly or indirectly in any manner whatever, by a predecessor corporation immediately before the amalgamation, and has become so controlled by the new corporation by virtue of the amalgamation, the new corporation is deemed to have acquired control of the particular corporation at the time control thereof was acquired by the predecessor corporation.

History: 1980, c. 13, s. 18; 1990, c. 59, s. 114; 1997, c. 3, s. 71.

Corresponding Federal Provision: 87(2)(kk)(i).

Capital loss not allowable.

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

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

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

Deemed identical property.

For the purposes of the first paragraph,

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

(*b*) a share of the capital stock of a SIFT wind-up corporation in respect of a SIFT wind-up entity is, if the share was acquired before 1 January 2013, deemed to be a property that is identical to an interest in the entity that is an investment in a SIFT wind-up entity.

History: 1972, c. 23, s. 223; 1975, c. 22, s. 38; 1977, c. 26, s. 22; 1990, c. 59, s. 115; 1997, c. 3, s. 71; 2000, c. 5, s. 63; 2005, c. 1, s. 76; 2010, c. 25, s. 23.

Corresponding Federal Provision: 40(2)(g)(i); 54 "superficial loss" (a), (b) and after (h).

Application of section 237.

238. Section 237 does not apply where the disposition is

(*a*) a disposition deemed to have occurred under section 242, as it read before 1 January 1993, any of sections 281, 283, 299 to 300, 436, 440, 444, 450, 450.6 and 653, Chapter I of Title I.1 of Book VI, paragraph *a* or *c* of section 785.5 or any of sections 832.1, 851.22.0.4, 851.22.15, 851.22.23 to 851.22.31, 861, 862 and 999.1;

(*b*) the expiry of an option;

(*c*) a disposition referred to in section 264.0.1;

(*d*) a disposition by a taxpayer that was subject to a loss restriction event within 30 days after the time of disposition;

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

(*f*) a disposition to which section 238.1 or the second paragraph of section 424 applies; or

(*g*) a disposition referred to in section 979.39 or 979.40.

History: 1972, c. 23, s. 224; 1975, c. 22, s. 39; 1984, c. 15, s. 56; 1985, c. 25, s. 40; 1987, c. 67, s. 58; 1995, c. 49, s. 58; 1996, c. 39, s. 64; 2000, c. 5, s. 63; 2004, c. 8, s. 45; 2009, c. 5, s. 80; 2010, c. 25, s. 24; 2015, c. 21, s. 146; 2015, c. 36, s. 14; 2017, c. 1, s. 106; 2020, c. 16, s. 50.

Interpretation Bulletins: IMP. 521.2-1/R1.

Corresponding Federal Provision: 54 " superficial loss" (c) to (h).

Loss on certain properties.

238.1. The rules in the second paragraph apply where

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

(*b*) during the period that begins 30 days before and ends 30 days after the time of disposition, the transferor or a person affiliated with the transferor acquires a property, in this

section referred to as the "substituted property", that is, or is identical to, the particular capital property; and

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

Rules applicable.

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

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

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

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

ii. at which the substituted property would, if it were owned by the transferor, be deemed under Chapter I of Title I.1 of Book VI or section 999.1 to have been disposed of by the transferor,

iii. that is immediately before the transferor is subject to a loss restriction event,

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

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

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

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

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

History: 2000, c. 5, s. 64; 2004, c. 8, s. 46; 2017, c. 1, s. 107.
Corresponding Federal Provision: 40(3.3) and (3.4).

Deemed identical property.

238.2. For the purposes of section 238.1,

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

(*b*) a share of the capital stock of a corporation that is acquired in exchange for another share in a transaction is deemed to be a property that is identical to the other share if

i. Division XIII of Chapter IV or Chapter V or VI of Title IX applies to the transaction, or

ii. the following conditions are met:

(1) Division VI of Chapter IV of Title IX applies to the transaction,

(2) the second paragraph of section 238.1 applied to a prior disposition of the other share, and

(3) none of the times described in any of subparagraphs i to v of subparagraph *b* of the second paragraph of section 238.1 has occurred in respect of the prior disposition;

(*b.*1) a share of the capital stock of a SIFT wind-up corporation in respect of a SIFT wind-up entity is, if the share was acquired before 1 January 2013, deemed to be a property that is identical to an interest in the entity that is an investment in a SIFT wind-up entity;

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

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

while the corporation is affiliated with the person or partnership.

History: 2000, c. 5, s. 64; 2005, c. 1, s. 77; 2009, c. 5, s. 81; 2010, c. 25, s. 25.
Corresponding Federal Provision: 40(3.5).

Loss on certain shares.

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

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

(*b*) in computing the adjusted cost base to the taxpayer after the particular time of a share of a class of the capital stock of the corporation owned by the taxpayer immediately after the particular time, the taxpayer shall add the proportion of the amount of the taxpayer's loss from the disposition, determined without reference to this section and sections 237, 240, 241 and 288, that

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

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

History: 2000, c. 5, s. 64.
Corresponding Federal Provision: 40(3.6).

Loss carry-over.

238.3.1. If all or any portion of the capital loss of the succession of a deceased taxpayer, computed without reference to sections 238.1 and 238.3, from the disposition of a share of the capital stock of a corporation is, because of section 1054, considered to be a capital loss of the deceased taxpayer from the disposition of the share, sections 238.1 and 238.3 apply to the succession in respect of the loss only to the extent that the amount of the loss exceeds the portion of the loss that is determined under subparagraph *a* of the first paragraph of section 1054.

History: 2005, c. 38, s. 64; 2009, c. 5, s. 82.
Corresponding Federal Provision: 40(3.61).

Loss of an individual not resident in Canada.

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.

History: 2004, c. 8, s. 47.
Corresponding Federal Provision: 40(3.7).

239. *(Repealed).*

History: 1972, c. 23, s. 225; 1990, c. 59, s. 116; 1997, c. 3, s. 71; 2000, c. 5, s. 65.

Restrictions respecting deductible capital losses.

240. A loss from the disposition of a debt or of any other right to receive an amount shall not be allowed unless the taxpayer has acquired such debt or right to produce or gain income from a business or property other than exempt income or as consideration for the disposition of capital property to a person with whom he was dealing at arm's length.

History: 1972, c. 23, s. 226.
Corresponding Federal Provision: 40(2)(g)(ii).

Loss not deductible.

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

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

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

History: 1977, c. 26, s. 23; 1978, c. 26, s. 40; 1979, c. 18, s. 19; 1991, c. 25, s. 58; 2003, c. 2, s. 71; 2009, c. 15, s. 66.
Corresponding Federal Provision: 40(2)(g)(iv)(A) and (B).

Loss following disposition of share.

241.0.1. A loss incurred by a taxpayer following the disposition, at a particular time, of a share of the capital stock of a corporation that was at any time a prescribed corporation or a share of the capital stock of a taxable Canadian corporation that was held in a prescribed stock savings plan, or of a property substituted for such share is deemed to be the amount, if any, by which

(*a*) the loss otherwise determined, exceeds

(*b*) the amount, if any, by which the amount of prescribed assistance that the taxpayer, or a person on with whom the taxpayer was not dealing at arm's length, received or is entitled to receive in respect of the share exceeds any loss otherwise determined from the disposition of the share or of the property substituted for the share before the particular time by the taxpayer or the person.

History: 1986, c. 15, s. 53; 1989, c. 77, s. 23; 1995, c. 49, s. 59; 1997, c. 3, s. 71; 2011, c. 1, s. 27.

Interpretation Bulletins: IMP. 257-2.

Corresponding Federal Provision: 40(2)(i) I.T.A.; 6702 I.T.R.

Loss from the disposition a Capital régional et coopératif Desjardins class "A" share.

241.0.2. A loss incurred by an individual following the disposition, at a particular time, of a class "A" share of the capital stock of the corporation governed by the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1) is deemed to be equal to the amount by which the amount of the individual's loss otherwise determined exceeds the amount by which the total of all amounts each of which is either an amount that the individual or a person with whom the individual was not dealing at arm's length deducted in respect of the share under section 776.1.5.0.11 or the portion of an amount deducted under section 776.41.5 by a person with whom the individual was not dealing at arm's length that can reasonably be attributed to a deduction to which the individual, or a person with whom the individual was not dealing at arm's length, was entitled in respect of the share under section 776.1.5.0.11, exceeds the aggregate of

(*a*) the amount of tax that the individual is required to pay, where applicable, under section 1129.27.6 following the redemption or purchase of the share; and

(*b*) the amount of any other loss otherwise determined from the disposition of the share before the particular time by a person with whom the individual was not dealing at arm's length.

History: 2002, c. 9, s. 9; 2019, c. 14, s. 94.

Loss from the disposition a Capital régional et coopératif Desjardins class "B" share.

241.0.3. A loss incurred by an individual following the disposition, at a particular time, of a class "B" share of the capital stock of the corporation governed by the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1) is deemed to be equal to the amount determined by the formula

A – (B – C).

Interprétation.

In the formula in the first paragraph,

(*a*) A is the amount of the individual's loss otherwise determined in relation to the disposition of the class "B" share;

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

i. an amount that the individual, or a person with whom the individual was not dealing at arm's length, deducted under section 776.1.5.0.15.2 or 776.1.5.0.15.4 in respect of the value of the consideration, taking the form of a share, for which the class "B" share was issued,

ii. the portion of an amount deducted under section 776.41.5 by a person with whom the individual was not dealing at arm's length that can reasonably be attributed to a deduction to which the individual, or a person with whom the individual was not dealing at arm's length, was entitled under section 776.1.5.0.15.2 or 776.1.5.0.15.4 in respect of the value of the consideration referred to in subparagraph i,

iii. an amount that the individual, or a person with whom the individual was not dealing at arm's length, deducted under section 776.1.5.0.11 in respect of the share forming the consideration referred to in subparagraph i, or

iv. the portion of an amount deducted under section 776.41.5 by a person with whom the individual was not dealing at arm's length that can reasonably be attributed to a deduction to which the individual, or a person with whom the individual was not dealing at arm's length, was entitled under section 776.1.5.0.11 in respect of the share forming the consideration referred to in subparagraph i; and

(*c*) C is the aggregate of

i. the amount of tax that the individual is required to pay, where applicable, under section 1129.27.10.3 following the redemption or purchase of the class "B" share, and

ii. the amount of any loss otherwise determined from the disposition of the class "B" share before the particular time by a person with whom the individual was not dealing at arm's length.

History: 2019, c. 14, s. 95.

241.1. *(Repealed).*

History: 1985, c. 25, s. 41; 1987, c. 67, s. 59.

241.2. *(Repealed).*

History: 1985, c. 25, s. 41; 1987, c. 67, s. 59.

242. *(Repealed).*

History: 1972, c. 23, s. 227; 1973, c. 17, s. 22; 1985, c. 25, s. 42; 1987, c. 67, s. 60; 1995, c. 49, s. 60.

243. *(Repealed).*

History: 1972, c. 23, s. 228; 1973, c. 17, s. 22; 1995, c. 49, s. 60.

244. *(Repealed).*

History: 1973, c. 17, s. 22; 1987, c. 67, s. 61.

245. *(Repealed).*

History: 1973, c. 17, s. 22; 1987, c. 67, s. 62; 1995, c. 49, s. 60.

246. *(Repealed).*

History: 1973, c. 17, s. 22; 1975, c. 22, s. 40; 1995, c. 49, s. 60.

247. *(Repealed).*

History: 1972, c. 23, s. 229; 1973, c. 17, s. 22; 1995, c. 49, s. 60.

247.1. *(Repealed).*

History: 1984, c. 15, s. 57; 1995, c. 49, s. 60.

Gain when small business corporation becomes public.

247.2. Where, at any time in a taxation year, an individual owns capital property that is a share of a class of the capital stock of a corporation that, at that time, is a small business corporation and, immediately after that time, ceases to be a small business corporation because a class of the shares of its capital stock or the capital stock of another corporation is listed on a designated stock exchange and the individual makes a valid election under subsection 1 of section 48.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the share, the individual is deemed, except for the purposes of Division VI of Chapter II of Title II, Division IX of Chapter V of Title III and sections 725.3, 766.3.5 and 766.3.6,

(*a*) to have disposed of the share at that time for proceeds of disposition equal to the greater of

i. the adjusted cost base to the individual of the share at that time, and

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

(*b*) to have reacquired the share immediately after that time at a cost equal to the proceeds of disposition determined under paragraph *a*.

History: 1993, c. 16, s. 110; 1997, c. 3, s. 71; 2001, c. 7, s. 30; 2003, c. 2, s. 72; 2010, c. 5, s. 28; 2012, c. 8, s. 44; 2015, c. 21, s. 147.

Corresponding Federal Provision: 48.1(1).

Filing requirements.

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

History: 2003, c. 2, s. 73.

Corresponding Federal Provision: 48.1(3).

247.3. *(Repealed).*

History: 1993, c. 16, s. 110; 1997, c. 31, s. 38; 2003, c. 2, s. 74.

247.4. *(Repealed).*

History: 1993, c. 16, s. 110; 2003, c. 2, s. 74.

Computation of penalty.

247.5. For the purposes of section 247.2.1, where an individual makes a valid election for a taxation year in respect of a share, under subsection 1 of section 48.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), and the individual files with the Minister, after the individual's filing-due date for the year, the prescribed form along with a copy of every document sent to the Minister of National Revenue in connection with that election, the individual is required to pay a penalty equal to the lesser of

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

(*b*) an amount equal to the product obtained by multiplying $100 by the number of months each of which is a month all or part of which is during the period referred to in paragraph *a*.

History: 1993, c. 16, s. 110; 2003, c. 2, s. 75.

Corresponding Federal Provision: 48.1(4).

Examination and assessment by the Minister.

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

History: 1993, c. 16, s. 110; 2003, c. 2, s. 76.

Corresponding Federal Provision: 48.1(5).

CHAPTER II
DEFINITION OF CERTAIN EXPRESSIONS

DIVISION I
DISPOSITION OF PROPERTY

Disposition of property.

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

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

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

i. where the property is a share, bond, debenture, bill, hypothecary claim, mortgage, agreement of sale or other similar property, or an interest in it, the property is in whole or in part redeemed, acquired or cancelled,

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

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

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

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

(*b*.1) where the property is an interest in a life insurance policy, a disposition within the meaning of paragraph *a* of section 966;

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

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

Exceptions.

The disposition of property does not include

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

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

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

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

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

i. the transferor and the transferee are trusts that are, at the time of the transfer, resident in Canada,

ii. *(subparagraph repealed)*;

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

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

v. the transferee is not a transferee who, in relation to the transfer, makes a valid election under subparagraph v of paragraph *f* of the definition of "disposition" in subsection 1 of section 248 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in order to avoid the application of that paragraph *f*;

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

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

(*c*) *(subparagraph repealed)*;

(*d*) where the property is part of a capital interest of a taxpayer in a trust, other than a personal trust or a trust prescribed for the purposes of section 688, that is described by reference to units issued by the trust, a payment after 31 December 1999 from the trust in respect of the capital

interest, where the number of units in the trust that are owned by the taxpayer is not reduced because of the payment;

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

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

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

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

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

i. to effect payment under a debt or loan,

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

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

(*h*) any issue of a bond, debenture, bill, hypothecary claim or mortgage;

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

(*i.*1) any redemption, acquisition or cancellation of a share of the capital stock of a corporation (in this subparagraph referred to as the "issuing corporation") or of a right to acquire such a share, which share or which right being referred to in this subparagraph as the "security", held by another corporation (in this subparagraph referred to as the "disposing corporation"), if

i. the redemption, acquisition or cancellation occurs as part of a merger or combination of two or more corporations, including the issuing corporation and the disposing corporation, to form a new corporation,

ii. the merger or combination

(1) is an amalgamation, within the meaning of subsections 1 and 2 of section 544, to which section 550.9 does not apply,

(2) is an amalgamation, within the meaning of subsections 1 and 2 of section 544, to which section 550.9 applies, if the issuing corporation and the disposing corporation are described in section 550.9 as the parent and the subsidiary, respectively,

(3) is a foreign merger, within the meaning of section 555.0.1, or

(4) would be a foreign merger, within the meaning of section 555.0.1, if subparagraph ii of paragraph *c* of that section were read without reference to "resident in a country other than Canada", and

iii. either

(1) the disposing corporation receives no consideration for the security, or

(2) in the case where the merger or combination is described in subparagraph 3 or 4 of subparagraph ii, the disposing corporation receives no consideration for the security other than property that was, immediately before the merger or combination, owned by the issuing corporation and that, on the merger or combination, becomes property of the new corporation; and

(*j*) any transfer of a property governed by civil law which does not entail a change in the right of the person who has the full ownership thereof, although such property be subject to a servitude, or in the right of the usufructuary, the emphyteutic lessee, an institute in a substitution or a beneficiary in a trust.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subparagraph v of paragraph *f* of the definition of "disposition" in subsection 1 of section 248 of the Income Tax Act or in relation to an election made under subparagraph v of subparagraph *b* of the second paragraph before 20 December 2006.

History: 1972, c. 23, s. 230; 1984, c. 15, s. 58; 1996, c. 39, s. 65; 1997, c. 3, s. 71; 2003, c. 2, s. 77; 2004, c. 8, s. 48; 2005, c. 1, s. 78; 2006, c. 13, s. 31; 2009, c. 5, s. 83; 2009, c. 15, s. 67; 2017, c. 1, s. 108.

Interpretation Bulletins: IMP. 280-1/R2.

Corresponding Federal Provision: 248(1) "disposition".

Transactions not considered to be dispositions.

248.1. A redemption, an acquisition or a cancellation, at a particular time after 31 December 1971 and before 24 December 1998, of a share of the capital stock of a corporation (in this section referred to as the "issuing corporation") or of a right to acquire a share, which share or which right being referred to in this section as the "security", held by another corporation (in this section referred to as the "disposing corporation"), is not a disposition, within the

meaning of section 248 as it read in respect of transactions and events that occurred at the particular time, if

(*a*) the redemption, acquisition or cancellation occurred as part of a merger or combination of two or more corporations, including the issuing corporation and the disposing corporation, to form a new corporation;

(*b*) the merger or combination

i. is an amalgamation, within the meaning of subsections 1 and 2 of section 544 as they read at the particular time, to which section 550.9 if in force, and as it read, at the particular time, does not apply,

ii. is an amalgamation, within the meaning of subsections 1 and 2 of section 544 as they read at the particular time, to which section 550.9 if in force, and as it read, at the particular time, applies, if the issuing corporation and the disposing corporation are described in section 550.9, if in force, and as it read, at the particular time, as the parent and the subsidiary, respectively,

iii. occurred before 13 November 1981 and is a merger of corporations that is described in section 555, as it read in respect of the merger or combination, or

iv. occurred after 12 November 1981 and

(1) is a foreign merger, within the meaning of section 555.0.1 as it read in respect of the merger or combination, or

(2) the conditions set out in the second paragraph are met; and

(*c*) either

i. the disposing corporation received no consideration for the security, or

ii. in the case where the merger or combination is described in subparagraph iv of subparagraph *b*, the disposing corporation received no consideration for the security other than property that was, immediately before the merger or combination, owned by the issuing corporation and that, on the merger or combination, became property of the new corporation.

Conditions.

The conditions to which subparagraph 2 of subparagraph iv of subparagraph *b* of the first paragraph refers are the following:

(*a*) the merger or combination is not a foreign merger, within the meaning of section 555.0.1, as it read in respect of the merger or combination;

(*b*) section 555.0.1, as it read in respect of the merger or combination, contained a subparagraph ii in its paragraph *c*; and

(*c*) the merger or combination would be a foreign merger, within the meaning of section 555.0.1, as it read in respect of the merger or combination, if subparagraph ii of paragraph *c* of that section were read as follows:

"ii. another foreign corporation (in this section referred to as the "parent corporation"), if, immediately after the merger, the new foreign corporation was controlled by the parent corporation."

History: 2009, c. 5, s. 84.
Corresponding Federal Provision: 248(1.1).

DIVISION II
CAPITAL PROPERTY

Capital property.

249. For the purposes of this Title, capital property means any depreciable property of the taxpayer and his other property on the occasion of the disposition of which any gain or loss would be a capital gain or a capital loss for him.

History: 1972, c. 23, s. 231.
Corresponding Federal Provision: 54 " capital property".

250. *(Repealed).*

History: 1972, c. 23, s. 232; 1990, c. 59, s. 117; 2003, c. 2, s. 78; 2005, c. 1, s. 79; 2019, c. 14, s. 96.
Corresponding Federal Provision: 54 "eligible capital property".

DIVISION II.1
DEEMED CAPITAL PROPERTY

Election relating to the disposition of Canadian security.

250.1. Subject to section 250.3, if a Canadian security is disposed of by a taxpayer in a taxation year and the taxpayer makes a valid election under subsection 4 of section 39 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 as a consequence of the disposition, every Canadian security owned by the taxpayer in the year or any subsequent taxation year is deemed to be a capital property owned by the taxpayer and every disposition by the taxpayer of any such Canadian security is deemed to be a disposition of a capital property.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 4 of section 39 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1978, c. 26, s. 41; 1984, c. 15, s. 59; 2001, c. 51, s. 31; 2009, c. 5, s. 85.

Corresponding Federal Provision: 39(4).

Canadian securities disposed of by a partnership.

250.1.1. For the purpose of computing the income of a taxpayer who is a member of a partnership, sections 250.1 and 250.3 apply as if every Canadian security owned by the partnership were owned by the taxpayer, and every Canadian security disposed of by the partnership in a fiscal period of the partnership were disposed of by the taxpayer at the end of that fiscal period.

History: 1993, c. 16, s. 111; 1997, c. 3, s. 71.
Corresponding Federal Provision: 39(4.1).

"Canadian security".

250.2. In this division, "Canadian security" means a security, other than a prescribed security, that is a share of the capital stock of a corporation resident in Canada, a unit of a mutual fund trust, or a bond, debenture, bill, note, hypothecary claim, mortgage or similar obligation issued by a person resident in Canada.

History: 1978, c. 26, s. 41; 1982, c. 5, s. 56; 1985, c. 25, s. 43; 1987, c. 67, s. 63; 1996, c. 39, s. 66; 1997, c. 3, s. 71; 2005, c. 1, s. 80.
Corresponding Federal Provision: 39(6).

Taxpayers to whom section 250.1 does not apply.

250.3. The first paragraph of section 250.1 does not apply to a disposition of a Canadian security by a taxpayer, other than a mutual fund corporation or a mutual fund trust, who, at the time of the disposition, is

(*a*) a trader or dealer in securities;

(*b*) a financial institution, within the meaning assigned by section 851.22.1;

(*c*) *(paragraph repealed)*;

(*d*) *(paragraph repealed)*;

(*e*) *(paragraph repealed)*;

(*f*) a corporation whose principal business is the lending of money or the purchasing of debt obligations, or a combination thereof; or

(*g*) a person not resident in Canada.

History: 1978, c. 26, s. 41; 1984, c. 15, s. 60; 1993, c. 16, s. 112; 1996, c. 39, s. 67; 1997, c. 3, s. 71; 2000, c. 5, s. 66; 2009, c. 5, s. 86.
Corresponding Federal Provision: 39(5)(a), (b), (f) and (g).

Shares deemed capital property.

250.4. Where a person disposes of all or substantially all of the assets used in a qualified business carried on by him to a corporation for consideration that includes shares of the corporation, the shares are deemed to be capital property of that person.

History: 1990, c. 59, s. 118; 1997, c. 3, s. 71.
Corresponding Federal Provision: 54.2.

DIVISION II.2
SPECIFIED PROPERTY

Specified property.

250.5. In this Title, specified property of a taxpayer is capital property of the taxpayer that is

(*a*) a share;

(*b*) an interest in a partnership;

(*c*) a capital interest in a trust; or

(*d*) an option to acquire a property described in any of paragraphs *a* to *c* or an option to acquire such an option.

History: 1996, c. 39, s. 68; 1997, c. 3, s. 71.
Corresponding Federal Provision: 54 "specified property".

DIVISION III
PROCEEDS OF DISPOSITION

Proceeds of disposition of property.

251. The proceeds of disposition of property include, for the purposes of this Title, the same elements as the proceeds of disposition of property referred to in subparagraph *f* of the first paragraph of section 93 and any amount deemed not to be a dividend under paragraph *b* of section 568; it does not include an amount deemed to be a dividend paid to a taxpayer under sections 517.1 to 517.3.1, an amount deemed to be a capital gain under section 517.5.5, an amount deemed to be a dividend received under section 508 to the extent that it refers to a dividend deemed paid under sections 505 and 506, except the portion of that amount that is deemed to be included in the proceeds of disposition of the share under paragraph *b* of section 308.1 or deemed not to be a dividend under paragraph *b* of section 568, or a prescribed amount.

History: 1972, c. 23, s. 233; 1975, c. 22, s. 41; 1978, c. 26, s. 42; 1982, c. 5, s. 57; 1984, c. 15, s. 61; 1985, c. 25, s. 44; 1987, c. 67, s. 64; 2001, c. 53, s. 260; 2017, c. 1, s. 109; 2019, c. 14, s. 97.
Interpretation Bulletins: IMP. 280-1/R2.
Corresponding Federal Provision: 54.

CHAPTER II.1
CAPITAL GAINS REDUCTION

Definitions:

251.1. In this chapter,

"exempt capital gains balance";

"exempt capital gains balance" of an individual for a taxation year that ends before 1 January 2005 in respect of a flow-through entity means the amount determined by the formula

A − B − C − D;

"flow-through entity";

"flow-through entity" means

(*a*) a mutual fund trust;

(*b*) a segregated fund trust referred to in section 851.2;

(*c*) a trust all or substantially all of the properties of which consist of shares of the capital stock of a corporation, where the trust was established pursuant to an agreement between two or more shareholders of the corporation and one of the main purposes of the trust is to provide for the exercise of voting rights in respect of those shares pursuant to that agreement;

(*d*) a trust established exclusively for the benefit of one or more persons each of whom was, at the time the trust was created, either a person from whom the trust received property or a creditor of that person, where one of the main purposes of the trust is to secure the payments required to be made by or on behalf of that person to such creditor;

(*e*) a trust maintained primarily for the benefit of employees of a corporation or two or more corporations that do not deal at arm's length with each other, where one of the main purposes of the trust is to hold interests in shares of the capital stock of the corporation or corporations, as the case may be, or any corporation not dealing at arm's length therewith;

(*f*) a trust governed by a profit sharing plan;

(*g*) a partnership;

(*h*) an investment corporation;

(*i*) a mortgage investment corporation; and

(*j*) a mutual fund corporation.

Interpretation.

For the purposes of the formula in the definition of "exempt capital gains balance" in the first paragraph,

(*a*) A is

i. if the entity is a trust referred to in any of paragraphs *b* to *f* of the definition of "flow-through entity" in the first paragraph, the amount determined under subparagraph *c* of the first paragraph of section 726.9.2 in respect of the individual's interest or interests therein, and

ii. in any other case, the lesser of

(1) 4/3 of the aggregate of the taxable capital gains that resulted from elections made under section 726.9.2 in respect of the individual's interests in or shares of the capital stock of the entity, and

(2) the amount that would be determined under subparagraph 1 if this Act were read without reference to section 726.9.3 and the amount designated in the election in respect of each interest or share were equal to the amount by which the fair market value of the interest or share at the end of 22 February 1994 exceeds the portion of the amount designated in the election in respect of that interest or share that exceeds 11/10 of its fair market value at that time;

(*b*) B is the aggregate of all amounts each of which is the amount by which the individual's capital gain for a preceding taxation year, determined without reference to section 251.2, from the disposition of an interest in or a share of the capital stock of the entity was reduced under that section;

(*c*) C is

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

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

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

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

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

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

(1) 4/3 of the aggregate of all amounts each of which is the amount by which the individual's share of the partnership's taxable capital gains, determined without reference to this chapter, for its fiscal period that ended before

28 February 2000 and in a preceding taxation year, was reduced under section 251.4,

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

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

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

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

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

iii. in any other case, the aggregate of all amounts each of which is the amount by which the aggregate of the individual's capital gains otherwise determined under sections 851.16, 851.21, 860, 1106, 1113 and 1116 for a preceding taxation year in respect of the entity was reduced under section 251.6; and

(*d*) D is

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

ii. in any other case, nil.

History: 1996, c. 39, s. 69; 1997, c. 3, s. 71; 2000, c. 5, s. 67; 2003, c. 2, s. 79.

Corresponding Federal Provision: 39.1(1).

Reduction of an individual's capital gain.

251.2. Where at any time after 22 February 1994 an individual disposes of an interest in or a share of the capital stock of a flow-through entity, the individual's capital gain otherwise determined for a taxation year from the disposition shall be reduced by such amount as the individual claims, not exceeding the amount determined by the formula

A − B − C.

Interpretation.

For the purposes of the formula in the first paragraph,

(*a*) A is the exempt capital gains balance of the individual for the year in respect of the entity;

(*b*) B is

i. where the entity made a designation under section 668 in respect of the individual for the year, twice the amount claimed under section 251.3 by the individual for the year in respect of the entity,

ii. where the entity is a partnership, twice the aggregate of the amounts claimed under section 251.4 by the individual for the year in respect of the entity, and

iii. in any other case, the amount claimed under section 251.6 by the individual for the year in respect of the entity; and

(*c*) C is the aggregate of all reductions under this section in the individual's capital gains otherwise determined for the year from the disposition of other interests in or shares of the capital stock of the entity.

History: 1996, c. 39, s. 69; 1997, c. 3, s. 71; 2003, c. 2, s. 80; 2019, c. 14, s. 98.

Corresponding Federal Provision: 39.1(2).

Reduction of an individual's taxable capital gain.

251.3. The taxable capital gain otherwise determined under section 668 of an individual for a taxation year as a result of a designation made under that section by a flow-through entity shall be reduced by such amount as the individual claims, not exceeding 1/2 of the individual's

exempt capital gains balance for the year in respect of the entity.

History: 1996, c. 39, s. 69; 2003, c. 2, s. 81; 2019, c. 14, s. 99.
Corresponding Federal Provision: 39.1(3).

Reduction in an individual's share of a partnership's taxable capital gains.

251.4. An individual's share otherwise determined for a taxation year of a taxable capital gain of a partnership from the disposition of a property, other than property acquired by the partnership after 22 February 1994 in a transfer to which the second paragraph of section 614 applied, for its fiscal period that ends in the year and after 22 February 1994 shall be reduced by such amount as the individual claims, not exceeding the amount by which 1/2 of the individual's exempt capital gains balance for the year in respect of the partnership exceeds the aggregate of all amounts claimed by the individual under this section in respect of other taxable capital gains of the partnership for that fiscal period.

History: 1996, c. 39, s. 69; 1997, c. 3, s. 71; 2003, c. 2, s. 82; 2019, c. 14, s. 100.
Corresponding Federal Provision: 39.1(4).

251.5. *(Repealed).*

History: 1996, c. 39, s. 69; 1997, c. 3, s. 71; 2003, c. 2, s. 83; 2019, c. 14, s. 101.
Corresponding Federal Provision: 39.1(5).

251.5.1. *(Repealed).*

History: 2003, c. 2, s. 84; 2019, c. 14, s. 101.

Reduction of an individual's capital gains.

251.6. The aggregate of capital gains otherwise determined under sections 851.16, 851.21, 860, 1106, 1113 and 1116 of an individual for a taxation year as a result of one or more elections, allocations or designations made after 22 February 1994 by a flow-through entity shall be reduced by such amount as the individual claims, not exceeding the individual's exempt capital gains balance for the year in respect of the entity.

History: 1996, c. 39, s. 69.
Corresponding Federal Provision: 39.1(6).
Corresponding Federal Provision: 39.1(6).

Nil exempt capital gains balance.

251.7. Notwithstanding section 251.1, where at any time an individual ceases to be a member or shareholder of, or a beneficiary under, a flow-through entity, the exempt capital gains balance of the individual in respect of the entity for each taxation year that begins after that time is deemed to be nil.

History: 1996, c. 39, s. 69.
Corresponding Federal Provision: 39.1(7).

CHAPTER III
COMPUTATION OF ADJUSTED COST BASE

DIVISION I
GENERAL RULES

Adjusted cost base of property.

252. The adjusted cost base of any property at a particular time, where such property is depreciable property of the taxpayer, is the capital cost to the taxpayer of such property as of that time.

Adjusted cost base of property.

In all other cases, such cost shall be calculated in accordance with this chapter.

History: 1972, c. 23, s. 234.
Corresponding Federal Provision: 54 "adjusted cost base" (a) and (b).

Reacquired property.

252.1. Where any property of the taxpayer is property that was reacquired by the taxpayer after having been previously disposed of by the taxpayer, no adjustment to the cost to the taxpayer of the property that was required to be made under this chapter before its reacquisition by the taxpayer shall be made under this chapter to the cost to the taxpayer of the property as reacquired property of the taxpayer.

Restriction.

The first paragraph does not apply in respect of property that is an interest in or a share of the capital stock of a flow-through entity within the meaning assigned by section 251.1 that was last reacquired by the taxpayer as a result of an election under section 726.9.2.

History: 1996, c. 39, s. 70.
Corresponding Federal Provision: 54 "adjusted cost base" (c).

Minimum adjusted cost base.

253. In no case shall the adjusted cost base to a taxpayer of any property at any time be less than zero.

History: 1972, c. 23, s. 235; 1996, c. 39, s. 71.
Corresponding Federal Provision: 54 "adjusted cost base" (d).

Adjusted cost base of disposed part of property.

254. The adjusted cost base of the disposed part of a property, immediately before its disposition, is the portion of the adjusted cost base of the whole property which may reasonably be attributed to such part.

History: 1972, c. 23, s. 236.
Corresponding Federal Provision: 43(1).

Land encumbered with a real servitude.

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

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

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

A × B / C; and

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

Interpretation.

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

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

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

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

History: 2003, c. 2, s. 85; 2006, c. 13, s. 32; 2019, c. 14, s. 102.
Corresponding Federal Provision: 43(2).

Property encumbered with a real servitude.

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

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

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

History: 2006, c. 13, s. 33; 2007, c. 12, s. 44; 2017, c. 29, s. 56.

Special rule.

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

History: 2003, c. 2, s. 85.
Corresponding Federal Provision: 43(3).

DIVISION II
AMOUNTS TO BE ADDED

Amounts to be added to adjusted cost base of property.

255. The taxpayer must, in computing the adjusted cost base of any property at a particular time, add to the cost of such property the following amounts:

MISCELLANEOUS CASES

(*a*) the amount deemed to be a gain, under section 261;

(*b*) where the property is substituted property, within the meaning of subparagraph *a* of the first paragraph of section 237, of the taxpayer, the amount by which the amount of the loss that was, because of the acquisition by the taxpayer of the property, a non-allowable loss referred to in that section 237 from a disposition of a property by a taxpayer exceeds, where the property disposed of was a share of the capital stock of a corporation, the amount that would, but for section 237, be deducted under section 741, 741.2 or 742 in computing the loss of any taxpayer from the disposition of the share;

(*c*) where the property is an indemnity, within the meaning of sections 469 to 479, or is deemed to be such an indemnity under those sections, the amount to be added under subparagraph *b* of the first paragraph of section 471;

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

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

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

(*c.*2) the reasonable costs incurred by the taxpayer before the particular time of surveying or valuing the property for the purpose of its acquisition or disposition to the extent that those costs are not otherwise deducted by the taxpayer in computing his income for any taxation year or attributable to any other property;

(*c.*3) where the property is immovable property of the taxpayer, any amount required by paragraph *b* of section 277.2 to be added;

(*c.*4) where the property is an interest in or a share of the capital stock of a flow-through entity within the meaning assigned by section 251.1 and the time is after 31 December 2004, an amount equal to the product obtained by multiplying the amount that would, if the definition of "exempt capital gains balance" in section 251.1 were read without reference to "that ends before 1 January 2005", be the taxpayer's exempt capital gains balance in respect of the entity for the taxpayer's taxation year 2005 by the proportion that the fair market value at that time of the property is of the fair market value at that time of all the taxpayer's interests in or shares of the capital stock of the entity;

(*c.*5) any amount required under paragraph *d* of section 259, paragraph *b* of any of sections 259.1 to 259.3 and 296.1, subparagraph *b*.2 of the first paragraph of section 301, subparagraph *b* of the first paragraph of section 543.2 or paragraph *b* of section 553.2 to be added;

(*c.*6) where the property is an interest in, or a share of the capital stock of, a flow-through entity described in any of paragraphs *a*, *b*, *e* and *g* to *j* of the definition of "flow-through entity" in the first paragraph of section 251.1, the time is before 1 January 2005 and immediately after that time the taxpayer disposed of the aggregate of the taxpayer's interests in, and shares of the capital stock of, the entity, an amount equal to the product obtained by multiplying the amount by which the taxpayer's exempt capital gains balance, within the meaning of the first paragraph of section 251.1, in relation to the entity for the taxpayer's taxation year that includes that time exceeds the aggregate of all amounts each of which is the amount by which a capital gain is reduced under the provisions of Chapter II.1 for the year because of the taxpayer's exempt capital gains balance in relation to the entity or, subject to section 255.1, twice an amount by which a taxable capital gain, or the income from a business, is reduced under the provisions of that chapter for the year because of the taxpayer's exempt capital gains balance in relation to the entity, by the proportion that the fair market value at that time of the property is of the fair market value at that time of the aggregate of the taxpayer's interests in, and shares of the capital stock of, the entity;

(*c.*7) where the property was acquired under a derivative forward agreement, any amount that must be included in respect of the property under subparagraph i of paragraph *z*.7 of section 87 in computing the taxpayer's income for a taxation year;

(*c.*8) where the property is disposed of under a derivative forward agreement, any amount that must be included in respect of the property under subparagraph ii of paragraph *z*.7 of section 87 in computing the taxpayer's income for the taxation year that includes the particular time;

SHARES OF A CORPORATION

(*d*) where the property is a share of the capital stock of a corporation resident in Canada, the amount by which the aggregate of all amounts each of which is the amount of any dividend that is deemed to have been received by the taxpayer under section 504 before that time exceeds the portion of that aggregate that relates to dividends in respect of which the taxpayer may deduct an amount under section 738 in computing the taxpayer's taxable income, except the portion of the dividends that, if paid as a separate dividend, would not be subject to section 308.1 because the amount of the separate dividend would not exceed the amount of the income earned or realized by any corporation after 31 December 1971 and before the safe-income determination time, in relation to the transaction or event or series of transactions or events as part of which the dividend is received, that can reasonably be considered to contribute to the capital gain that would have been realized on a disposition at fair market value of the share on which the dividend was received, if the disposition had occurred immediately before the dividend was paid;

(*d.*1) where the property is a share of the capital stock of a corporation, the amount of any dividend deemed by paragraph *c*.1 of section 785.1 to have been received in respect of the share by the taxpayer before that time and while the taxpayer was resident in Canada;

(*e*) where the property is a share of the capital stock of a corporation and the taxpayer, after 31 December 1971, makes a contribution of capital to the corporation otherwise than by way of a loan, by way of a disposition of shares of a foreign affiliate of a taxpayer to which section 540 applies or, subject to section 256, by way of a disposition of property in respect of which section 518 or 529 applies, that proportion of such contribution as cannot reasonably be regarded as a benefit conferred by the taxpayer on a person, other than the corporation, who was related to the taxpayer, that

i. the amount that may reasonably be regarded as the increase, as the result of such contribution of capital, in the fair market value of such share, is of

ii. the amount that may reasonably be regarded as the increase, as the result of such contribution of capital, in the fair market value of all the shares of the capital stock of such

corporation owned by the taxpayer immediately after the contribution of capital;

(*e.*1) where the property is a share of the capital stock of a corporation of which the taxpayer was, at any time, a specified shareholder, any expense incurred by the taxpayer in respect of land or a building of the corporation that was not deductible in computing the taxpayer's income for any taxation year commencing before that time by reason of section 135.4 or 164;

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

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

(*g*) where the property is a share of the capital stock of a foreign affiliate of the taxpayer, any amount required by Chapter IV of Title X to be added;

(*g.*1) where the property is a share of the capital stock of a corporation, any amount required by subparagraph *f* of the second paragraph of section 832.23 to be added;

BOND AND SIMILAR OBLIGATION

(*h*) the excess of the principal amount of a bond, debenture, bill, hypothecary claim, mortgage or similar obligation over the amount for which it has been issued, if such excess must be included, under sections 122 to 125, in computing the income of the taxpayer for a taxation year beginning before such particular time;

(*h.*0.0.1) where the property is a particular commercial obligation, within the meaning assigned by section 485, payable to the taxpayer as consideration for the settlement or extinguishment of another commercial obligation payable to the taxpayer and the taxpayer's loss from the disposition of the other obligation was reduced because of section 264.0.2, the proportion of the reduction that the principal amount of the particular obligation is of the aggregate of all amounts each of which is the principal amount of a commercial obligation payable to the taxpayer as consideration for the settlement or extinguishment of that other obligation;

INDEXED DEBT OBLIGATIONS

(*h.*0.1) where the property is an indexed debt obligation, the amount referred to in paragraph *a* of section 125.0.1 in respect of the obligation and required to be included in computing the income of the taxpayer for a taxation year beginning before the particular time;

OFFSHORE INVESTMENT FUND PROPERTY

(*h.*1) where the property is an offshore investment fund property within the meaning of section 597.1,

i. any amount included in respect of the property by virtue of section 597.4 in computing the taxpayer's income for a taxation year commencing before that time, or

ii. where the taxpayer is a controlled foreign affiliate, within the meaning of section 572, of a person resident in Canada, the amount prescribed;

PARTNERSHIP

(*i*) where the property is an interest in a partnership,

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

(1) sections 231.2 and 231.2.1, the fraction "1/2" in section 105, as it applied to a fiscal period of the partnership ending before 1 April 1977, and without reference to that or another fraction in sections 107, 231, 231.1, as it read before being repealed, and 265,

(1.1) the second and third paragraphs of section 232 in respect of a property described in that third paragraph that is not the subject of a gifting arrangement, within the meaning of the first paragraph of section 1079.1, nor a tax shelter,

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

(3) paragraphs *l* and *z*.4 of section 87, sections 89 to 91, 144, 144.1 and 145, paragraph *j* of section 157, as it read before being struck out, paragraph *b* of each of sections 200 and 201, Division XV of Chapter IV, section 425, paragraphs *g* and *h* of section 489, as they read before being struck out, the second paragraph of section 497, and the provisions of the Act respecting the application of the Taxation Act (1972, chapter 24), as they read before their repeal, in respect of income from the operation of new mines,

ii. the share of the taxpayer in any capital dividend and any life insurance capital dividend received by the partnership

before the particular time in respect of a share of the capital stock of a corporation while the partnership owned such share,

iii. the share of the taxpayer in the amount by which any proceeds of a life insurance policy received by the partnership after 31 December 1971 and before the particular time by reason of the death of any person whose life was insured under the policy exceed the aggregate of all amounts each of which is

(1) the adjusted cost basis (in this subparagraph iii having the meaning assigned by sections 976 and 976.1), immediately before the death, of the policy to the partnership, if the death occurs before 22 March 2016, or of the policyholder's interest in the policy, if the death occurs after 21 March 2016,

(2) if the death occurs after 21 March 2016, the amount by which the fair market value of consideration given in respect of a disposition of an interest in the policy by a policyholder (other than a taxable Canadian corporation) after 31 December 1999 and before 22 March 2016 exceeds the greater of the amount determined under subparagraph i of subparagraph *a* of the first paragraph of section 971, in respect of the disposition and the adjusted cost basis to the policyholder of the interest immediately before the disposition, or

(3) if the death occurs after 21 March 2016, the amount by which the amount by which the lesser of the fair market value of consideration given in respect of a disposition, in respect of which section 971 applies, of an interest in the policy by a policyholder (other than a taxable Canadian corporation) after 31 December 1999 and before 22 March 2016 and the adjusted cost basis to the policyholder of the interest immediately before the disposition exceeds the amount determined under subparagraph i of subparagraph *a* of the first paragraph of section 971, in respect of the disposition, exceeds the absolute value of the negative amount, if any, that would be, in the absence of section 7.5, the adjusted cost basis, immediately before the death, of the interest in the policy,

iv. where the taxpayer, after 31 December 1971, made a contribution of capital to the partnership otherwise than by way of a loan, that portion of such contribution as cannot reasonably be regarded as a benefit conferred on any other member of the partnership who was related to the taxpayer,

iv.1. any amount, in respect of a particular amount described in section 486 or a specified amount described in section 486.1, that is paid by the taxpayer to the partnership, to the extent that the amount paid is not deductible in computing the taxpayer's income,

v. the value, at the time of the taxpayer's death of the rights or property referred to in section 429 in respect of a partnership interest held by him immediately before his death, other than an interest referred to in section 612, where the particular time is immediately before the taxpayer's death and the taxpayer was at the particular time a member of the partnership,

v.1. any amount deemed by section 261.1 to be a gain of the taxpayer,

vi. *(subparagraph repealed)*,

vii. any amount deemed by paragraph *c* of section 618 or section 642 to be a gain of the taxpayer,

vii.1. a share of the taxpayer's Canadian development expense or Canadian oil and gas property expense that was deducted at or before the particular time in computing the adjusted cost base to the taxpayer of the interest because of subparagraph ii of paragraph *l* of section 257 and in respect of which the taxpayer has elected under paragraph *d* of section 408 or paragraph *b* of section 418.2, as the case may be,

viii. an amount deemed, before the particular time, by section 600.1, to be an amount referred to in paragraph *b* of section 399, in subparagraph i of paragraph *b* of section 412, in paragraph *c* of the said section 412, in subparagraph i of paragraph *b* of section 418.6 or in paragraph *c* of the said section 418.6 in respect of the taxpayer,

viii.1. any amount deemed, before that time, under section 330.1 to be proceeds of disposition receivable by the taxpayer in respect of the disposition of a foreign resource property,

ix. the amount by which the taxpayer's share of the amount of any assistance or benefit that the partnership has received or has become entitled to receive after 31 December 1971 and before the particular time from a government, municipality or other public authority, whether as a grant, subsidy, forgivable loan, deduction from royalty or tax, investment allowance or any other form of assistance or benefit, in respect of or related to a Canadian resource property or an exploration or development expense incurred in Canada, exceeds such part of that share of the assistance or benefit as has been repaid before that time by the taxpayer pursuant to a legal obligation to repay all or any part of that share of that assistance or benefit,

x. any amount required by sections 614 to 617 to be added before that particular time in computing the adjusted cost base to the taxpayer of the interest in the partnership,

xi. where the taxpayer's share of any income or loss of the partnership was, at any time, 10% or more, any expense incurred by the taxpayer in respect of land or a building of the partnership that was not deductible in computing the taxpayer's income for any taxation year commencing before that time by reason of section 135.4 or 164, and

xii. any amount required by subparagraph *a* of the first paragraph of section 726.9.6 to be added at that time in computing the adjusted cost base to the taxpayer of the interest;

TRUST

(*j*) where the property is a capital interest in a trust, any amount that is included under section 580 or 582 in computing the taxpayer's income for a taxation year that ends at or before the particular time, in respect of that interest, or that would have been so required to have been included for such a taxation year but for sections 316.1, 456 to 458, 462.1 to 462.24.1 and 466 to 467.1;

(*j*.1) where the property is an interest in a segregated fund trust referred to in section 851.2,

i. each amount deemed by section 851.3 to be an amount payable to the taxpayer before the particular time in respect of that interest,

ii. each amount required by section 851.12 to be added before the particular time in respect of that interest,

iii. each amount in respect of that interest that is a capital gain deemed to have been allocated under section 851.21 to the taxpayer before the particular time, and

iv. each amount in respect of that interest that before the particular time was deemed under section 851.16 to have been a capital gain of the taxpayer;

(*j*.2) where the property is a unit in a mutual fund trust, any amount required by section 1121.3 to be added in computing the adjusted cost base to the taxpayer of the unit;

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

LANDS

(*k*) where the property is land of the taxpayer, any amount paid after 31 December 1971 and before the particular time by the taxpayer or by another taxpayer in respect of whom the taxpayer was a person, corporation or partnership described in subparagraph ii of paragraph *c* of section 165, pursuant to a legal obligation to pay interest on debt relating to the acquisition of land, within the meaning of paragraph *c* of section 165, or property taxes, not including an income or profits taxes or taxes imposed by reference to the transfer of property, paid by the taxpayer in respect of the property to a province or to a Canadian municipality, to the extent that the amount

i. was not deductible by reason of section 164 in computing the taxpayer's income from the land or from a business for any taxation year beginning before that time, or

ii. was not deductible by reason of section 164 in computing the income of the other taxpayer if the amount was not included in or added to the cost to the other taxpayer of any property otherwise than by reason of paragraph *e*.1 or subparagraph xi of paragraph *i*;

(*l*) where the property is land used in a farming business which he operates, an amount, with respect to each taxation year ending after 1971 and beginning before such time, equal to the loss of such taxpayer for such year, derived from such farming business, to the extent that such loss

i. is not deductible in computing the income for that year under section 205,

ii. is not deducted in computing the taxable income for the taxation year in which the taxpayer disposed of the property or any previous taxation year,

iii. does not exceed the aggregate of the following amounts, to the extent that those amounts are included in computing the loss:

(1) taxes, other than income or profits taxes or taxes imposed by reference to the transfer of the property, paid by the taxpayer in that year or payable by the taxpayer in respect of that year to a province or a Canadian municipality in respect of the property, and

(2) interest, paid by the taxpayer in that year or payable by the taxpayer in respect of that year, pursuant to a legal obligation to pay interest on borrowed money used to acquire the property or on any amount as consideration payable for the property, and

iv. does not exceed the amount obtained by subtracting from the proceeds of disposition of that property reduced by its adjusted cost base immediately before that time, computed without referring to this paragraph, the aggregate of his losses from his farming business for the taxation years prior to that year and which must be added, under this paragraph, in computing the adjusted cost base of such property;

(*m*) *(paragraph repealed)*.

History: 1972, c. 23, s. 237; 1973, c. 17, s. 23; 1974, c. 18, s. 13; 1975, c. 22, s. 42; 1977, c. 26, s. 24; 1978, c. 26, s. 43; 1979, c. 18, s. 20; 1980, c. 13, s. 19; 1982, c. 5, s. 58; 1984, c. 15, s. 62; 1985, c. 25, s. 45; 1986, c. 15, s. 54; 1986, c. 19, s. 42; 1990, c. 59, s. 119; 1993, c. 16, s. 113; 1994, c. 22, s. 123; 1995, c. 49, s. 61; 1996, c. 39, s. 72; 1997, c. 3, s. 71; 1997, c. 14, s. 54; 1997, c. 85, s. 58; 1998, c. 16, s. 104; 2000, c. 5, s. 68; 2001, c. 7, s. 31; 2001, c. 53, s. 47; 2003, c. 2, s. 86; 2004, c. 8, s. 49; 2005, c. 1, s. 81; 2006, c. 36, s. 31; 2009, c. 5, s. 87; 2011, c. 34, s. 27; 2015, c. 24, s. 52; 2015, c. 36, s. 15; 2017, c. 1, s. 110; 2019, c. 14, s. 103.

Interpretation Bulletins: IMP. 232-2/R1.
Corresponding Federal Provision: 53(1).

Flow-through entity before 2005.

255.1. For the purposes of paragraph *c*.6 of section 255, the following rules apply:

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

(*b*) where the fair market value of all of a taxpayer's interests in, and shares of the capital stock of, a flow-through entity is nil when the taxpayer disposes of those interests and shares, the fair market value of each such interest or share, as the case may be, is deemed at that time to be $1.

History: 2003, c. 2, s. 87; 2015, c. 24, s. 53.

Deemed contribution of capital.

256. For the purposes of paragraph *e* of section 255, the disposition before 7 May 1974 of property in consideration of which the taxpayer did not receive shares of the capital stock of the corporation and in respect of which the election mentioned therein was made, is deemed to be a contribution of capital equal to the amount by which the amount agreed upon in the election exceeds the fair market value, at the time of the disposition, of the consideration received by the taxpayer.

History: 1975, c. 22, s. 43; 1997, c. 3, s. 71.
Corresponding Federal Provision: 53(1.1).

DIVISION III
AMOUNTS TO BE DEDUCTED

Amounts to be deducted from adjusted cost base of property.

257. A taxpayer shall, in computing the adjusted cost base of a property at a particular time, deduct the following amounts:

MISCELLANEOUS CASES

(*a*) in the case of a property which the taxpayer disposed of in part after 1971 and before the particular time, the amount established under section 254 for such taxpayer;

(*b*) where sections 485 to 485.18 apply, the amount by which the adjusted cost base is required to be reduced before the particular time;

(*b.*1) any amount required under paragraph *c* of section 259, paragraph *a* of any of sections 259.1 to 259.3 and 296.1, subparagraph *b*.1 of the first paragraph of section 301, subparagraph *a* of the first paragraph of section 543.2 or paragraph *a* of section 553.2 to be deducted in computing the adjusted cost base of the property or any amount by which that adjusted cost base is required to be reduced because of any of sections 485.9 to 485.11;

(*c*) that part of the cost of the property which is deductible in computing the income, otherwise than because of this Title or of section 75.2.1 or 75.3, for any taxation year beginning before the particular time and ending after 31 December 1971;

(*d*) where the property is acquired by the taxpayer after 31 December 1971, the aggregate of

i. the amount by which any assistance, other than prescribed assistance, that the taxpayer has received or is entitled to receive before the particular time from a government, municipality or other public authority in respect of, or for the acquisition of, the property, whether as a grant, subsidy, forgivable loan, deduction from tax not otherwise provided for under this paragraph, investment allowance or as any other form of assistance, exceeds such part of the assistance as has been repaid by the taxpayer before that time in accordance with an obligation to repay all or any part of that assistance, and

ii. the amounts, other than a prescribed amount, deducted by the taxpayer in respect of the property before the particular time under subsection 5 or 6 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in computing his tax payable under the said Act;

(*e*) where the property was received as consideration for a payment or loan referred to in section 383, as it read in respect of the payment or loan, which the taxpayer made or consented to before 20 April 1983 to a joint exploration

corporation, within the meaning of section 382, as a shareholder corporation of such a corporation, in respect of Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses incurred by the joint exploration corporation, or where the property was substituted for such a property, such portion of the payment or loan as may reasonably be considered to relate to an agreed portion referred to in section 381, 406, 417 or 418.13, as it read in respect of the agreed portion;

(*f*) where the property is an indemnity within the meaning of sections 469 to 479, or is deemed to be such an indemnity under those sections, the amount required by subparagraph *b* of the first paragraph of section 471 to be deducted;

(*f*.1) where the property is a debt owing to the taxpayer by a corporation, the amount required by section 511, or sections 517.1 to 517.6 as they applied before 23 May 1985, to be deducted before the particular time in computing the adjusted cost base of that debt;

(*f*.2) the amount by which the amount elected by the taxpayer before the particular time under section 257.2 exceeds any repayment before that time by the taxpayer of an amount received by him as described in section 257.2 that may reasonably be considered to relate to the amount elected where the repayment is made pursuant to a legal obligation to repay all or any part of the amount so received;

(*f*.3) where the property is property of a taxpayer that was subject to a loss restriction event at or before that time, any amount required by subparagraph *a* of the second paragraph of section 736 to be deducted in computing the adjusted cost base of the property;

(*f*.4) where the property is a right to acquire a share of the capital stock of a corporation or a unit of a mutual fund trust under an agreement, any amount required by paragraph *b* of section 1055.1 to be deducted;

(*f*.5) where the property was at the end of 22 February 1994 a non-qualifying immovable property of the taxpayer within the meaning assigned by section 726.6.1 as that section applies to the taxation year 1994, any amount required by paragraph *b* of section 726.9.4 to be deducted in computing the adjusted cost base to the taxpayer of the property;

(*f*.6) where the taxpayer elected under section 726.9.2 in respect of the property, any amount required by section 726.9.5 to be deducted in computing the adjusted cost base to the taxpayer of the property at the particular time;

(*f*.7) where the property was acquired under a derivative forward agreement, any amount deductible in respect of the property under section 157.2.2 in computing the taxpayer's income for a taxation year;

(*f*.8) where the property is disposed of under a derivative forward agreement, any amount deductible in respect of the property under section 157.2.2 in computing the taxpayer's income for the taxation year that includes the particular time;

SHARES OF A CORPORATION

(*g*) where the property is a share of the capital stock of a corporation resident in Canada,

i. any amount received by the taxpayer after 31 December 1971 and before the particular time as a dividend other than a taxable dividend or a dividend in respect of which the corporation has elected in accordance with section 502 or 502.1 and section 503 in respect of the full amount thereof,

ii. any amount required by sections 517.1 to 517.6, as they applied before 23 May 1985, to be deducted before the particular time in computing the adjusted cost base of that share,

iii. any amount received by the taxpayer after 1971 and before the particular time on a reduction of the paid-up capital of the corporation in respect of that share, except to the extent that that amount is deemed by section 508 to be a dividend received by him,

iv. any amount, to the extent that such amount is not proceeds of disposition of a share, received by the taxpayer before that particular time that would, but for section 510.1, be deemed by section 508 to be a dividend received by him, and

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

(*h*) where the property is a share of the capital stock of a joint exploration corporation, within the meaning of section 382, resident in Canada to which the taxpayer has, after 31 December 1971, made a contribution of capital otherwise than by way of a loan, which contribution was included in computing the adjusted cost base of the property by virtue of paragraph *e* of section 255, such portion of the contribution as may reasonably be considered to be part of an agreed portion referred to in section 381, 406, 417 or 418.13, as it read in respect of the agreed portion;

(*h*.1) any amount required by section 419.2 to be deducted before that time in computing the adjusted cost base of the property;

(*i*) where the property is a share, or a right in or to a share, of the capital stock of a corporation acquired before 1 August 1976, an amount equal to the expenses incurred by the taxpayer as consideration to acquire the property, to the extent that such expenses are for the taxpayer Canadian exploration and development expenses under paragraph *e* of section 364, Canadian exploration expenses under

paragraph *e* of section 395, Canadian development expenses under paragraph *e* of section 408 or Canadian oil and gas property expenses under paragraph *c* of section 418.2;

(*j*) where the property is a share of the capital stock of a corporation not resident in Canada,

i. if the corporation is a foreign affiliate of the taxpayer,

(1) any amount required by subparagraph *d* of the first paragraph of section 477 or sections 585 to 588 to be deducted in computing the adjusted cost base to the taxpayer of the share, and

(2) any amount received by the taxpayer before that time, on a reduction of the paid-up capital of the corporation in respect of the share, that is so received after 31 December 1971 and before 20 August 2011, or, where the reduction is a qualifying return of capital, within the meaning of section 577.3, in respect of the share, after 19 August 2011, or

ii. in any other case, any amount received by the taxpayer after 31 December 1971 and before that time on a reduction of the paid-up capital of the corporation in respect of the share;

(*j*.1) *(paragraph repealed)*;

DEBT OBLIGATIONS

(*k*) where the property is a debt obligation, any amount that was deductible by virtue of sections 167 and 168 for any taxation year commencing before that particular time;

INDEXED DEBT OBLIGATIONS

(*k*.1) where the property is an indexed debt obligation,

i. any amount referred to in paragraph *b* of section 125.0.1 in respect of the obligation and deductible in computing the income of the taxpayer for a taxation year beginning before the particular time, and

ii. the amount of any payment that was received or that became receivable by the taxpayer at or before the particular time in respect of an amount that was added under paragraph *h*.0.1 of section 255 to the cost to the taxpayer of the obligation;

PARTNERSHIP

(*l*) when the property is an interest in a partnership,

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

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

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

(3) paragraph *z*.4 of section 87, sections 89 to 91 and 144, section 144.1, as it read before being repealed, section 145, paragraph *j* of section 157, as it read before being struck out, sections 205 to 207, 235, 236.2 to 241, 264, 271, 273, 288 and 293, Division XV of Chapter IV, section 425, paragraphs *g* and *h* of section 489, as they read before being struck out, sections 638.1, 741.2 and 743, section 744.1, as it applied to dispositions of property that occurred before 27 April 1995, and section 744.6,

i.1. an amount in respect of each fiscal period of the partnership ending before the particular time that is the taxpayer's limited partnership loss in respect of the partnership for the taxation year in which that fiscal period ends to the extent that such loss was deducted by the taxpayer in computing his taxable income for any taxation year that commenced before the particular time,

i.2. any amount deemed by section 261.2 to be a loss of the taxpayer,

i.3. where at the particular time the property is not a tax shelter investment as defined in section 851.38 and the taxpayer would be a member described in section 261.1 of the partnership if the fiscal period of the partnership that includes that time ended at that time, the unpaid principal amount of any indebtedness of the taxpayer for which recourse is limited, either immediately or in the future and either absolutely or contingently, and that may reasonably be considered to have been used to acquire the property,

i.4. unless the particular time immediately precedes a disposition of the interest, if the taxpayer is a member of the partnership and the taxpayer has been a specified member of the partnership at all times since becoming a member of the partnership, or the taxpayer is at the particular time a limited partner of the partnership for the purposes of section 261.1,

(1) where the particular time is in the taxpayer's first taxation year for which the taxpayer is eligible to deduct an amount in respect of the partnership under section 217.27, the portion of the amount deducted in computing the taxpayer's income for the taxation year under section 217.27 in respect of the partnership that would be deductible if the definition of "qualifying transitional income" in the first paragraph of section 217.18 were read without reference to its paragraph *b*, and

(2) where the particular time is in any other taxation year, the portion of the amount deducted under section 217.27 in computing the taxpayer's income for the taxation year preceding that other taxation year in respect of the partnership that would be deductible if the definition of "qualifying transitional income" in the first paragraph of section 217.18 were read without reference to its paragraph *b*,

ii. an amount with respect to each fiscal period of the partnership ending after 31 December 1971 and before the particular time, except a fiscal period subsequent to that in which the taxpayer ceased to be a member of the partnership, equal to the share of the taxpayer in the aggregate of Canadian exploration and development expenses, foreign resource pool expenses, Canadian exploration expenses, Canadian development expenses and Canadian oil and gas property expenses incurred by the partnership in the fiscal period and the amounts which, but for paragraph *d* of section 600, would be deductible in computing the income of the partnership for the fiscal period under the Act respecting the application of the Taxation Act (chapter I-4) in respect of exploration and development expenses,

ii.1. where the taxpayer is a corporation or an individual, an amount in respect of each fiscal period of the partnership ending before the particular time, other than a fiscal period subsequent to that in which the taxpayer ceased to be a member of the partnership, equal to the taxpayer's share of the aggregate of all amounts each of which would, but for section 134.2, be deductible in computing the partnership's income for the fiscal period as dues described in subparagraph *a* or *b* of the first paragraph of that section or as a contribution described in subparagraph *c* of that paragraph,

iii. any amount deemed, under section 714 or 752.0.10.11, to be the eligible amount of a gift made by the taxpayer as a member of the partnership at the end of any fiscal period of the partnership ending before that time, or in relation to another partnership of which the taxpayer is deemed to be a member under section 693.2 or the second paragraph of section 752.0.10.11 because the taxpayer is a member of the partnership at the end of such a fiscal period,

iv. every amount received by the taxpayer, after 1971 and before the particular time, as a payment or distribution of his share in the profits or capital of the partnership other than a share under an agreement referred to in section 608,

v. any amount required by sections 614 to 617 to be deducted before that particular time in computing the adjusted cost base to him of his interest in the partnership,

vi. an amount equal to that portion of all prescribed amounts deducted in computing the tax otherwise payable by the taxpayer under a prescribed Act for his taxation years ending before that particular time that may reasonably be attributed to amounts added in respect of the partnership under a prescribed provision of the said Act in computing a prescribed amount relating to the taxpayer,

vii. any amount added pursuant to subsection 4 of section 127.2 of the Income Tax Act in computing his share purchase tax credit for a taxation year ending before or after that time,

viii. an amount equal to 50% of the amount deemed to be designated pursuant to subsection 4 of section 127.3 of the Income Tax Act before that time in respect of each share, debt obligation or right acquired by the partnership and deemed to have been acquired by the taxpayer under that subsection,

ix. an amount equal to the amount of all assistance received by the taxpayer before that time that has resulted in a reduction of the capital cost of a depreciable property to the partnership by virtue of section 101.4,

x. any amount deductible by the taxpayer under section 147.2 or 176.3 in respect of the partnership for a taxation year of the taxpayer ending at or after that time,

xi. any amount added, before the particular time, to the issue base relating to certain issue expenses, within the meaning of section 726.4.17.11, of the taxpayer and determined by reference to an amount included in an amount referred to in subparagraph ii in respect of the taxpayer regarding the partnership, and

xii. any amount required by subparagraph *b* of the first paragraph of section 726.9.6 to be deducted at that time in computing the adjusted cost base to the taxpayer of the interest;

(*m*) where the property is an interest in a partnership to which section 636 or 645 applies, any amount received by the taxpayer in full or partial satisfaction of that interest;

TRUST

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

i. any amount, to the extent that it has become payable before 1 January 1988, paid to the taxpayer by the trust after 31 December 1971 and before the particular time as payment or distribution of capital, otherwise than as proceeds of disposition of the interest or part thereof,

i.1. any amount that has become payable by the trust to the taxpayer after 31 December 1987 and before the particular time in respect of the interest, otherwise than as proceeds of disposition of the interest or part thereof, except that portion of the amount

(1) that was included in computing the taxpayer's income under section 663,

(1.1) that is deemed to be a dividend received by the taxpayer under section 663.4,

(2) from which tax was deducted under Part XIII of the Income Tax Act by reason of paragraph *c* of subsection 1 of section 212 of the said Act, or

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

ii. an amount equal to that portion of all prescribed amounts deducted in computing the tax payable by the taxpayer under a prescribed Act for his taxation years ending before the particular time that may reasonably be attributed to amounts added in respect of the trust under a prescribed provision of the said Act in computing a prescribed amount relating to the taxpayer,

iii. any amount added pursuant to subsection 3 of section 127.2 of the Income Tax Act in computing his share purchase tax credit for a taxation year ending before or after that time,

iv. an amount equal to 50% of the amount deemed to be designated pursuant to subsection 3 of section 127.3 of the Income Tax Act before that time in respect of each share, debt obligation or right acquired by the trust and deemed to have been acquired by the taxpayer under that subsection, and

v. an amount equal to the amount of all assistance received by the taxpayer before that time that has resulted in a reduction of the capital cost of a depreciable property to the trust by virtue of section 101.4;

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

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

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

(*p*) where the property is a capital interest in a trust, any amount that is deducted under section 581 or 583 in computing the taxpayer's income for a taxation year that ends at or before the particular time, in respect of the interest, or that could have been so deducted for such a taxation year but for sections 316.1, 456 to 458, 462.1 to 462.24.1 and 466 to 467.1;

(*p.*1) where the property is a capital interest of the taxpayer in a designated trust, within the meaning of the first paragraph of section 671.5, the aggregate of all amounts each of which is an amount deducted, in respect of that interest, under section 772.15 in computing the tax payable under this Part by the taxpayer or, where the taxpayer is a partnership, by a member of the partnership, for a taxation year that ended before the particular time;

(*q*) where the property is an interest in a segregated fund trust referred to in section 851.2:

i. each amount in respect of that interest that is a capital loss deemed, under section 851.21, to have been allocated to the taxpayer before the particular time, and

ii. each amount in respect of that interest that before the particular time was deemed by section 851.16 to have been a capital loss of the taxpayer;

(*r*) *(paragraph repealed).*

History: 1972, c. 23, s. 238; 1973, c. 17, s. 24; 1974, c. 18, s. 14; 1975, c. 22, s. 44; 1977, c. 26, s. 25; 1978, c. 26, s. 44; 1982, c. 5, s. 59; 1984, c. 15, s. 63; 1985, c. 25, s. 46; 1986, c. 19, s. 43; 1987, c. 67, s. 65; 1988, c. 4, s. 29; 1989, c. 77, s. 24; 1990, c. 59, s. 120; 1992, c. 1, s. 29; 1993, c. 16, s. 114; 1993, c. 64, s. 25; 1994, c. 22, s. 124; 1996, c. 39, s. 73; 1997, c. 3, s. 71; 1997, c. 14, s. 55; 1997, c. 31, s. 39; 1998, c. 16, s. 105; 2001, c. 7, s. 32; 2001, c. 53, s. 48; 2003, c. 2, s. 88; 2004, c. 8, s. 50; 2004, c. 21, s. 69; 2006, c. 13, s. 34; 2007, c. 12, s. 45; 2009, c. 5, s. 88; 2009, c. 15, s. 68; 2011, c. 6, s. 123; 2013, c. 10, s. 22; 2015, c. 21, s. 148; 2015, c. 24, s. 54; 2015, c. 36, s. 16; 2017, c. 1, s. 111; 2020, c. 16, s. 51.

Interpretation Bulletins: IMP. 87-4/R1; IMP. 101-1/R2;IMP. 257-2.

Corresponding Federal Provision: 53(2).

Deemed deduction.

257.1. For the purposes of paragraphs *d*, *l* and *n* of section 257, where a taxpayer has deducted an amount by virtue of subsection 5 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1,

5th Supplement) in computing his tax payable for a taxation year under that Act and that amount may reasonably be attributed to the amounts added in computing the investment tax credit, within the meaning of subsection 9 of the said section 127, determined at the end of the year in respect of the taxpayer and that are related to a property acquired or an expenditure made in a taxation year subsequent to that taxation year, the taxpayer is deemed to have made the deduction in that subsequent taxation year.

History: 1985, c. 25, s. 47; 1986, c. 19, s. 44.

Election.

257.2. For the purposes of paragraph *f*.2 of section 257, where a taxpayer has in a taxation year received an amount that would, but for this section, be included in computing his income under paragraph *w* of section 87 in respect of the cost of a property, other than depreciable property, acquired by him in the year, in the three taxation years preceding the year or in the taxation year following the year, he may elect under this section on or before his filing-due date for the year or, where the property is acquired in the taxation year following the year, for that following year, to reduce the cost of the property by such amount as he may specify, not exceeding the least of

(*a*) the adjusted cost base, determined without reference to paragraph *f*.2 of section 257, at the time the property was acquired;

(*b*) the amount so received by the taxpayer;

(*c*) where the taxpayer has disposed of the property before the year, nil.

History: 1987, c. 67, s. 66; 1994, c. 22, s. 125; 1997, c. 31, s. 40.
Interpretation Bulletins: IMP. 87-4/R1.
Corresponding Federal Provision: 53(2.1).

Amount excluded.

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

History: 2003, c. 2, s. 89.
Corresponding Federal Provision: 53(2)(c)(i) after (C).

257.3. *(Repealed).*

History: 1997, c. 31, s. 41; 2000, c. 5, s. 293; 2013, c. 10, s. 23.

Transitional rule.

257.4. For the purposes of subparagraph 3 of subparagraph i.1 of paragraph *n* of section 257 in respect of a taxpayer's interest in a trust, where a taxation year of the trust that includes 28 February 2000 or 17 October 2000, or that begins after 28 February 2000 and ends before 17 October 2000, ends in the taxpayer's taxation year, that subparagraph 3 shall be read with "the product obtained by multiplying the fraction obtained when 1 is subtracted from the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the trust for its taxation year, by" inserted after "equal to".

History: 2003, c. 2, s. 90.

Capital interest in a trust not resident in Canada.

258. The property referred to in paragraph *o* of section 257 in respect of a trust not resident in Canada is the following:

(*a*) a Canadian resource property;

(*b*) an income interest in a trust resident in Canada;

(*c*) a taxable Canadian property; and

(*d*) a timber resource property.

History: 1975, c. 22, s. 45; 1986, c. 19, s. 45.
Corresponding Federal Provision: 53(2)(i)(i), (iii) to (v) and (j)(i), (iii) to (v).

DIVISION IV
IDENTICAL PROPERTIES AND SPECIAL CASES

Adjusted cost base of identical properties.

259. When at a particular time after 1971 a taxpayer owns a property or a group of identical properties acquired after 1971 and acquires thereafter one or several other properties called "new property" in this section, identical to the first, the following rules apply to determine, at a later date, the adjusted cost base of each such identical property:

(*a*) the taxpayer is deemed to have disposed immediately before the particular time of each first property for an amount equal to its adjusted cost base;

(*b*) the taxpayer is deemed to have acquired each such identical first and new property at the particular time at a mean cost equal to the quotient obtained by dividing the aggregate of the adjusted cost bases of the first properties immediately before the particular time and the cost of the new property,

i. by the number of such identical properties owned by the taxpayer immediately after such particular time, or

ii. in the case of identical properties that are bonds, debentures, bills or notes, or other similar obligations issued by a debtor, by the quotient obtained by dividing the aggregate of the principal amounts of all such properties

immediately after the particular time by the principal amount of the identical property;

(*c*) the taxpayer shall deduct, after the particular time, in computing the adjusted cost base to the taxpayer of each such first and new identical property, an amount equal to the quotient obtained by dividing the aggregate of all amounts deducted under paragraph *b*.1 of section 257 in computing immediately before the particular time the adjusted cost base to the taxpayer of the first properties

i. by the number of such identical properties owned by the taxpayer immediately after the particular time, or

ii. in the case of properties referred to in subparagraph ii of paragraph *b*, by the quotient determined under that subparagraph in respect of the acquisition; and

(*d*) the taxpayer shall add, after the particular time, in computing the adjusted cost base to the taxpayer of each such first and new identical property the amount determined under paragraph *c* in respect of the identical property.

History: 1972, c. 23, s. 239; 1975, c. 22, s. 46; 1990, c. 59, s. 121; 1996, c. 39, s. 75.

Corresponding Federal Provision: 47(1).

Security acquired by a taxpayer.

259.0.1. For the purposes of section 259, a security within the meaning of section 47.18 acquired by a taxpayer after 27 February 2000 is deemed not to be identical to any other security acquired by the taxpayer if

(*a*) the security is acquired in circumstances to which any of sections 49.2, 49.5 and 886 applies or to which section 58.0.1, as it read before being repealed, applies; or

(*b*) the security is a security to which the first paragraph of section 49.2.3 applies.

History: 2003, c. 2, s. 91; 2009, c. 5, s. 89; 2011, c. 34, s. 28.

Corresponding Federal Provision: 47(3).

Recomputation of adjusted cost base on transfers and deemed dispositions.

259.1. Where at any time in a taxation year a person or partnership, in this section referred to as the "vendor", disposes of a specified property and the proceeds of disposition of the property are determined under paragraph *a* of section 247.2, sections 433 to 451, 454 to 462.0.2, section 518 or 552, paragraph *a* of section 553.1, the first or the second paragraph of section 557, the second paragraph of section 614, section 619, 625, 631 or 654, subparagraph *a* of the first paragraph of section 688 or 688.1, paragraph *a* of section 692.8, subparagraph *c* of the second paragraph of section 736 or Chapter I of Title I.1 of Book VI, the following rules apply to the person or partnership, in this section referred to as the "transferee", who acquires or reacquires the property at or immediately after that time:

(*a*) the transferee shall deduct after that time in computing the adjusted cost base to the transferee of the property the amount by which the aggregate of all amounts deducted under paragraph *b*.1 of section 257 in computing, immediately before that time, the adjusted cost base to the vendor of the property, exceeds the amount that would be the vendor's capital gain for the year from that disposition if this Part were read without reference to subparagraph *b* of the first paragraph of section 234 and section 638; and

(*b*) the transferee shall add after that time, in computing the adjusted cost base to the transferee of the property, the amount determined under paragraph *a* in respect of that disposition.

History: 1996, c. 39, s. 76; 1997, c. 3, s. 71; 2001, c. 7, s. 33; 2003, c. 2, s. 92; 2004, c. 8, s. 51; 2004, c. 21, s. 70; 2009, c. 5, s. 90.

Corresponding Federal Provision: 53(4).

Recomputation of adjusted cost base on other transfer.

259.2. The rules provided in the second paragraph apply where

(*a*) at any time in a taxation year a person or partnership, in this section referred to as "the vendor", disposes of a specified property to another person or partnership, in this section referred to as "the transferee";

(*b*) immediately before that time, the vendor and the transferee did not deal with each other at arm's length or would not have dealt with each other at arm's length had this section applied with reference to subparagraph *k* of the first paragraph of section 485.3;

(*c*) paragraph *b* would apply in respect of the disposition if each right referred to in paragraph *b* of section 20 that is a right of the transferee to acquire the specified property from the vendor or a right of the transferee to acquire other property as part of a transaction or event or series of transactions or events that includes the disposition were not taken into account; and

(*d*) the proceeds of the disposition are not determined under any of the provisions referred to in section 259.1.

Rules applicable.

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

(*a*) the transferee shall deduct after that time, in computing the adjusted cost base to the transferee of the property, the amount by which the aggregate of all amounts deducted under paragraph *b*.1 of section 257 in computing, immediately before that time, the adjusted cost base to the vendor of the property exceeds the amount that would be the vendor's capital gain for the year from the disposition if this Part were read without reference to subparagraph *b* of the first paragraph of section 234 and section 638; and

(*b*) the transferee shall add after that time, in computing the adjusted cost base to the transferee of the property, the amount determined under paragraph *a* in respect of the disposition.

History: 1996, c. 39, s. 76; 1997, c. 3, s. 71; 2001, c. 7, s. 34.
Corresponding Federal Provision: 53(5).

Recomputation of adjusted cost base on amalgamation.

259.3. Where a capital property that is a specified property is acquired by a new corporate entity, in this section referred to as the "new corporation", at any time as a result of the amalgamation or merger of two or more corporations, each of which is referred to in this section as a "predecessor corporation",

(*a*) the new corporation shall deduct after that time in computing the adjusted cost base to the new corporation of the capital property the aggregate of all amounts deducted under paragraph *b*.1 of section 257 in computing, immediately before that time, the adjusted cost base to a predecessor corporation of the property, unless those amounts are otherwise deducted under that paragraph *b*.1 in computing the adjusted cost base to the new corporation of the capital property; and

(*b*) the new corporation shall add after that time, in computing the adjusted cost base to the new corporation of the capital property, the amount deducted under paragraph *a* in respect of the acquisition.

History: 1996, c. 39, s. 76; 1997, c. 3, s. 71; 1997, c. 14, s. 56.
Corresponding Federal Provision: 53(6).

260. *(Repealed).*

History: 1972, c. 23, s. 240; 1990, c. 59, s. 122.

260.1. *(Repealed).*

History: 1985, c. 25, s. 48; 1987, c. 67, s. 67.

CHAPTER IV
SPECIAL APPLICATIONS

DIVISION I
BALANCE OF THE ADJUSTED COST BASE

Where amounts to be deducted from the adjusted cost base exceed those to be added.

261. Except where section 261.1 applies, where the aggregate of all amounts required by section 257, except paragraph *l* of that section, to be deducted in computing the adjusted cost base to a taxpayer of any property at any time in a taxation year exceeds the aggregate of the cost to the taxpayer of the property determined for the purpose of computing the adjusted cost base to the taxpayer of that property at that time and of all amounts required by section 255 to be added to the cost to the taxpayer of the property in computing the adjusted cost base to the taxpayer of that property at that time, the following rules apply:

(*a*) subject to section 589.1, the amount of the excess is deemed to be a gain of the taxpayer for the year from the disposition at that time of the property;

(*b*) for the purposes of Chapter V of Title X, the taxpayer is deemed to have disposed of the property at that time; and

(*c*) for the purposes of Title VI.5 of Book IV, the taxpayer is deemed to have disposed of the property in the year.

History: 1972, c. 23, s. 241; 1975, c. 22, s. 47; 1990, c. 59, s. 123; 1993, c. 16, s. 115; 1996, c. 39, s. 77; 2015, c. 21, s. 149.
Interpretation Bulletins: IMP. 257-2.
Corresponding Federal Provision: 40(3).

DIVISION I.1
INTEREST IN A PARTNERSHIP

Deemed gain for certain partners.

261.1. Where, at the end of a fiscal period of a partnership, a member of the partnership is a limited partner of the partnership or is a member of the partnership who was a specified member of the partnership at all times since becoming a member, except where the member's partnership interest was held by the member on 22 February 1994 and is an excluded interest at the end of the fiscal period, and except where paragraph *c* of section 618 or section 642 applies:

(*a*) the amount determined under the second paragraph is deemed to be a gain from the disposition, at the end of the fiscal period, of the member's interest in the partnership; and

(*b*) for the purposes of Title VI.5 of Book IV, the interest is deemed to have been disposed of by the member at that time.

Amount of gain.

The amount to which subparagraph *a* of the first paragraph refers in respect of a member's interest in a partnership at the end of a fiscal period of the partnership is equal to the amount by which the aggregate of all amounts required by section 257 to be deducted in computing the adjusted cost base to the member of the interest in the partnership at that time and, if the partnership is a professional partnership, the amount described in subparagraph i of paragraph *l* of section 257 in relation to the member in respect of the fiscal period exceeds the aggregate of

(*a*) the cost to the member of the interest determined for the purpose of computing the adjusted cost base to the member of that interest at that time;

(*b*) all amounts required by section 255 to be added to the cost to the member of the interest in computing the adjusted cost base to the member of that interest at that time; and

(*c*) if the partnership is a professional partnership, the amount described in subparagraph i of paragraph *i* of

section 255 in relation to the member in respect of the fiscal period.

Professional partnership.

For the purposes of the second paragraph, "professional partnership" means a partnership through which one or more persons carry on the practice of a profession that is governed or regulated under a law of Canada or a province.

History: 1996, c. 39, s. 78; 1997, c. 3, s. 71; 2015, c. 21, s. 150.
Corresponding Federal Provision: 40(3.1) and (3.11).

Deemed loss for certain partners.

261.2. A taxpayer that is a member of a partnership at a particular time corresponding to the end of a fiscal period of the partnership, that is a corporation, an individual other than a trust, or a succession that is a graduated rate estate, and that makes, in relation to that fiscal period, a valid election under subsection 3.12 of section 40 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in respect of the taxpayer's interest in the partnership, is deemed to have a loss from the disposition at the particular time of the taxpayer's interest in the partnership equal to the least of

(*a*) the amount by which the aggregate of all amounts each of which is an amount deemed under section 261.1 to be a gain of the taxpayer from a disposition of the interest before the particular time exceeds the aggregate of all amounts each of which is an amount deemed under this section to be a loss of the taxpayer from a disposition of the interest before the particular time;

(*b*) the adjusted cost base to the taxpayer of the interest at the particular time; and

(*c*) the total of the amount for which the election is made and, if that amount is the maximum amount for which the election can be made, the amount that the taxpayer designates in respect of the interest in the taxpayer's fiscal return filed under this Part for the taxation year that includes the particular time.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 3.12 of section 40 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1996, c. 39, s. 78; 1997, c. 3, s. 71; 2009, c. 5, s. 91; 2017, c. 1, s. 112.
Corresponding Federal Provision: 40(3.12).

Artificial transaction.

261.3. For the purpose of applying sections 255 to 258 at any time in respect of a member of a partnership who would be a member described in section 261.1 of the partnership if the fiscal period of the partnership that includes that time ended at that time, where at any time after 21 February 1994 the member of the partnership makes a contribution of capital to the partnership, the contribution is deemed not to have been made where

(*a*) the partnership or a person or partnership with whom the partnership does not deal at arm's length makes a loan to the member or to a person with whom the member does not deal at arm's length, or pays an amount as a payment or distribution of the member's share in the profits or capital of the partnership, or the member or a person with whom the member does not deal at arm's length becomes indebted to the partnership or a person or partnership with whom the partnership does not deal at arm's length; and

(*b*) it is established, by subsequent events or otherwise, that the loan, payment or indebtedness was made or arose as part of a series of contributions, loans, payments or other similar transactions.

History: 1996, c. 39, s. 78; 1997, c. 3, s. 71.
Corresponding Federal Provision: 40(3.13).

Specified member of a partnership.

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

History: 2000, c. 5, s. 69.
Corresponding Federal Provision: 40(3.131).

Deemed partner.

261.4. For the purposes of section 261.1, a member of a partnership who acquired an interest in the partnership after 22 February 1994 is deemed to have held the interest on 22 February 1994 where the member acquired the interest

(*a*) in circumstances in which

i. subparagraph *a*.1 of the first paragraph of section 440 applied,

ii. the interest was held, on 22 February 1994,

(1) where the member is an individual, by the member's spouse,

(2) where the member is a trust, by the individual by whose will the trust was created, and

iii. the interest was, immediately before the death of the spouse or the individual, as the case may be, an excluded interest;

(*b*) in circumstances in which

i. subparagraph *a*.1 of the first paragraph of section 444 applied,

ii. the member's father or mother held the interest on 22 February 1994, and

iii. the interest was, immediately before the death of the member's father or mother, an excluded interest;

(*c*) in circumstances in which

i. subparagraph *b*.1 of the first paragraph of section 450 applied,

ii. the trust referred to in section 450 or the individual by whose will the trust was created held the interest on 22 February 1994, and

iii. the interest was, immediately before the death of the spouse referred to in section 450, an excluded interest; or

(*d*) before 1 January 1995 pursuant to a document referred to in paragraph *a*, e or f of section 261.7.

History: 1996, c. 39, s. 78; 1997, c. 3, s. 71.

Corresponding Federal Provision: 40(3.18).

Limited partner.

261.5. In section 261.1, a member of a partnership at a particular time is a limited partner of that partnership at that time if, at that time or within three years after that time,

(*a*) by operation of any law governing the partnership arrangement, the liability of the member as a member of the partnership is limited, except by operation of a provision of a statute of Canada or a province that limits the member's liability only for debts and other obligations of the partnership, or any member of the partnership, arising from the misconduct or faults or omissions or negligent acts that another member of the partnership or an employee, agent or mandatary, or representative of that member or of the partnership commits in the course of the partnership business while the partnership is a limited liability partnership referred to in that provision;

(*b*) the member or a person not dealing at arm's length with the member is entitled, either immediately or in the future and either absolutely or contingently, to receive an amount or to obtain a benefit that would be described in paragraph *b* of section 613.3 if that paragraph were read without reference to subparagraphs ii, as it applies before being struck out, and vi thereof;

(*c*) where the member who owns the interest is a corporation, partnership or trust, one of the reasons for the existence of the member can reasonably be considered to be to limit the liability of any person with respect to that interest, and cannot reasonably be considered to be to permit any person who has an interest in the corporation, partnership or trust, as the case may be, to carry on the person's business, other than an investment business, in the most effective manner; or

(*d*) one of the main reasons for the existence of an agreement or other arrangement for the disposition of an interest in the partnership can reasonably be considered to be to attempt to avoid the application of this section to the member.

History: 1996, c. 39, s. 78; 1997, c. 3, s. 71; 2000, c. 5, s. 70; 2001, c. 7, s. 35; 2003, c. 2, s. 93.

Corresponding Federal Provision: 40(3.14).

Excluded interest.

261.6. In this division, an excluded interest in a partnership at any time means an interest in a partnership that actively carries on a business that was carried on by it throughout the period beginning on 22 February 1994 and ending at that time, or that earns income from a property that was owned by it throughout that period, unless in that period there was a substantial contribution of capital to the partnership or a substantial increase in the indebtedness of the partnership.

History: 1996, c. 39, s. 78; 1997, c. 3, s. 71.

Corresponding Federal Provision: 40(3.15).

Amount considered not to be substantial.

261.7. For the purposes of section 261.6, a contribution of capital or an increase in the indebtedness will be considered not to be substantial where

(*a*) the amount was raised pursuant to the terms of a written agreement entered into by a partnership before 22 February 1994 to issue an interest in the partnership and was expended on expenditures contemplated by the agreement before 1 January 1995, or before 2 March 1995 in the case of amounts expended to acquire

i. a film production prescribed for the purposes of subparagraph ii of paragraph *b* of section 613.3 the principal photography of which or, in the case of such a production that is a television series, one episode of the series, commences before 1 January 1995 and the production is completed before 2 March 1995, or

ii. an interest in one or more partnerships all or substantially all of the property of which is a film production referred to in subparagraph i;

(*b*) the amount was raised pursuant to the terms of a written agreement, other than an agreement referred to in

paragraph *a*, entered into by a partnership before 22 February 1994 and was expended on expenditures contemplated by the agreement before 1 January 1995, or before 2 March 1995 in the case of amounts expended to acquire a property described in subparagraph i or ii of paragraph *a*;

(*c*) the amount was used by the partnership before 1 January 1995, or before 2 March 1995 in the case of amounts expended to acquire a property described in subparagraph i or ii of paragraph *a*, to make an expenditure required to be made pursuant to the terms of a written agreement entered into by the partnership before 22 February 1994;

(*d*) the amount was used to repay a loan, debt or contribution of capital that had been received or incurred in respect of an expenditure referred to in any of paragraphs *a* to *c*;

(*e*) the amount was

i. raised before 1 January 1995 pursuant to the terms of a final prospectus, preliminary prospectus, offering memorandum or registration statement filed before 22 February 1994 with a public authority in Canada in accordance with the securities legislation of Canada or of a province and, where required by law, accepted for filing by the public authority, and

ii. expended before 1 January 1995, or before 2 March 1995 in the case of amounts expended to acquire a film production prescribed for the purposes of subparagraph ii of paragraph *b* of section 613.3, or an interest in one or more partnerships all or substantially all of the property of which is such a film production, on expenditures contemplated by the document referred to in subparagraph i that was filed before 22 February 1994;

(*f*) the amount was raised before 1 January 1995 pursuant to the terms of an offering memorandum distributed as part of an offering of securities where

i. the memorandum contained a complete or substantially complete description of the securities contemplated in the offering as well as the terms and conditions of the offering,

ii. the memorandum was distributed before 22 February 1994,

iii. solicitations in respect of the sale of the securities contemplated by the memorandum were made before 22 February 1994,

iv. the sale of the securities was substantially in accordance with the memorandum, and

v. the funds were expended in accordance with the memorandum before 1 January 1995 or, in the case of a partnership all or substantially all of the property of which is property described in subparagraph i or ii of paragraph *a*, before 2 March 1995; or

(*g*) the amount was used for an activity that was carried on by the partnership on 22 February 1994 but not for a significant expansion of the activity nor for the acquisition or production of a film production.

History: 1996, c. 39, s. 78; 1997, c. 3, s. 71; 1999, c. 83, s. 50; 2001, c. 53, s. 49.
Corresponding Federal Provision: 40(3.16).

Presumption.

261.8. For the purposes of section 261.6, a partnership in respect of which any of paragraphs *a* to *f* of section 261.7 applies shall be considered to have actively carried on the business contemplated by the document referred to in any of those paragraphs, or earned income from the property described in any of those paragraphs, throughout the period beginning 22 February 1994 and ending on the earlier of 1 January 1995 and the closing date stipulated in the document.

History: 1996, c. 39, s. 78; 1997, c. 3, s. 71.
Corresponding Federal Provision: 40(3.17).

DIVISION II
GAINS OR LOSSES IN RESPECT OF FOREIGN CURRENCIES

Foreign currency dispositions by an individual.

261.9. If, because of any fluctuation after 31 December 1971 in the value of one or more foreign currencies relative to Canadian currency, an individual other than a trust has realized one or more particular gains or sustained one or more particular losses in a taxation year from dispositions of currency other than Canadian currency and the particular gains or losses would, in the absence of this section, be capital gains or losses described in section 232, the following rules apply:

(*a*) section 232 does not apply to any of the particular gains or losses;

(*b*) the amount determined by the following formula is deemed to be a capital gain of the individual for the year from the disposition of currency other than Canadian currency:

A − (B + $200); and

(*c*) the amount determined by the following formula is deemed to be a capital loss of the individual for the year from the disposition of currency other than Canadian currency:

B − (A + $200).

Interpretation.

In the formulas in subparagraphs *b* and *c* of the first paragraph,

(*a*) A is the total of all the particular gains realized by the individual in the year; and

(*b*) B is the total of all the particular losses sustained by the individual in the year.

History: 2015, c. 21, s. 151.
Corresponding Federal Provision: 39(1.1).

Foreign exchange capital gains and losses.

262. If, because of any fluctuation after 31 December 1971 in the value of one or more foreign currencies relative to Canadian currency, a taxpayer has realized a gain or sustained a loss in a taxation year (other than a gain or loss that would, in the absence of this section, be a capital gain or capital loss to which section 232 or 261.9 applies, or a gain or loss in respect of a transaction or event in respect of shares of the capital stock of the taxpayer), the following rules apply:

(*a*) the amount of the gain (to the extent of the amount of that gain that would not, if section 28 were read without reference to ", other than the taxable capital gains from dispositions of property," in paragraph *a* of that section and without reference to paragraph *b* of that section, be included in computing the taxpayer's income for the year or any other taxation year), is deemed to be a capital gain of the taxpayer for the year from the disposition of currency other than Canadian currency; and

(*b*) the amount of the loss (to the extent of the amount of that loss that would not, if section 28 were read without reference to its paragraph *b*, be deductible in computing the taxpayer's income for the year or any other taxation year), is deemed to be a capital loss of the taxpayer for the year from the disposition of currency other than Canadian currency.

History: 1972, c. 23, s. 242; 2015, c. 21, s. 152.
Corresponding Federal Provision: 39(2).

Deemed gain — parked obligation.

262.0.0.1. For the purposes of section 262, if a debt obligation owing by a taxpayer (in this section and sections 262.0.0.2 and 262.0.0.3 referred to as the "debtor") is denominated in a foreign currency and the debt obligation has become a parked obligation at a particular time, the debtor is deemed at that time to have made the gain, if any, that the debtor otherwise would have made if it had paid an amount at the particular time in satisfaction of the debt obligation equal to

(*a*) if the debt obligation has become a parked obligation at the particular time as a result of its acquisition by the holder of the debt obligation, the amount paid by the holder to acquire the debt obligation; and

(*b*) in any other case, the fair market value of the debt obligation at the particular time.

History: 2019, c. 14, s. 104.
Corresponding Federal Provision: 39(2.01).

Parked obligation.

262.0.0.2. For the purposes of section 262.0.0.1, a debt obligation is a parked obligation at a particular time if

(*a*) at the particular time, the holder of the debt obligation does not deal at arm's length with the debtor or, if the debtor is a corporation, has a significant interest in the debtor;

(*b*) at any time prior to the particular time, a person who held the debt obligation dealt at arm's length with the debtor and, where the debtor is a corporation, did not have a significant interest in the debtor; and

(*c*) it can reasonably be considered that one of the main purposes of the transaction or event or series of transactions or events that results in the debt obligation meeting the condition in paragraph *a* is to avoid the application of section 262.

History: 2019, c. 14, s. 104.
Corresponding Federal Provision: 39(2.02).

Interpretation.

262.0.0.3. For the purposes of sections 262.0.0.1 and 262.0.0.2, the following rules apply:

(*a*) subparagraph *k* of the first paragraph of section 485.3 applies for the purpose of determining whether two persons are related to each other or whether a person is controlled by another person; and

(*b*) subparagraph *c* of the first paragraph of section 485.19 applies for the purpose of determining whether a person has a significant interest in a corporation.

History: 2019, c. 14, s. 104.
Corresponding Federal Provision: 39(2.03).

Conditions for application.

262.0.1. The rules set out in the second paragraph apply if

(*a*) at any time a corporation resident in Canada or a partnership of which such a corporation is a member (such corporation or partnership being in this section and section 262.0.2 referred to as the "borrowing party") has received a loan from, or become indebted to, a creditor that is a foreign affiliate (in this section and section 262.0.2 referred to as a "creditor affiliate") of a qualifying entity or that is a partnership (in this section referred to as a "creditor partnership") of which such an affiliate is a member; and

(*b*) the loan or indebtedness is at a later time repaid, in whole or in part;

(*c*) *(paragraph repealed).*

Upstream loans — transitional set-off.

The rules to which the first paragraph refers, in relation to the borrowing party's capital gain or capital loss in respect of the repayment of the loan or indebtedness that would be determined, in the absence of this section, under section 262, are the following:

(*a*) in the case of a capital gain, the gain is to be reduced,

i. if the creditor is a creditor affiliate, by an amount, not exceeding that capital gain, that is equal to twice the aggregate of all amounts each of which is an amount that would—in the absence of subparagraph ii of paragraph *g* of subsection 2 of section 40 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and paragraph *g*.04 of subsection 2 of section 95 of that Act and on the assumption that the creditor affiliate's capital loss in respect of the repayment of the loan or indebtedness were a capital gain of the creditor affiliate, the creditor affiliate had no other income, loss, capital gain or capital loss for any taxation year, and no other foreign affiliate of a qualifying entity had any income, loss, capital gain or capital loss for any taxation year—be included in computing a qualifying entity's income for the purposes of the Income Tax Act under subsection 1 of section 91 of that Act for its taxation year that includes the last day of the taxation year of the creditor affiliate that includes the later time, or

ii. if the creditor is a creditor partnership, by an amount, not exceeding that capital gain, that is equal to twice the amount that is the total of each amount, determined in respect of a particular member of the creditor partnership that is a foreign affiliate of a qualifying entity, that is equal to the aggregate of all amounts each of which is an amount that would—in the absence of subparagraph ii of paragraph *g* of subsection 2 of section 40 of the Income Tax Act and paragraph *g*.04 of subsection 2 of section 95 of that Act and on the assumption that the creditor partnership's capital loss in respect of the repayment of the loan or indebtedness were a capital gain of the creditor partnership, the particular member had no other income, loss, capital gain or capital loss for any taxation year, and no other foreign affiliate of a qualifying entity had any income, loss, capital gain or capital loss for any taxation year—be included in computing a qualifying entity's income for the purposes of the Income Tax Act under subsection 1 of section 91 of that Act for its taxation year that includes the last day of the taxation year of the particular member that includes the last day of the creditor partnership's fiscal period that includes the later time; and

(*b*) in the case of a capital loss, the amount of the loss is to be reduced,

i. if the creditor is a creditor affiliate, by an amount, not exceeding that capital loss, that is, in relation to the creditor affiliate's capital gain in respect of the repayment of the loan or indebtedness, equal to twice the aggregate of all amounts each of which is an amount that would—in the absence of paragraph *g*.04 of subsection 2 of section 95 of the Income Tax Act and on the assumption that the creditor affiliate had no other income, loss, capital gain or capital loss for any taxation year, and no other foreign affiliate of a qualifying entity had any income, loss, capital gain or capital loss for any taxation year—be included in computing a qualifying entity's income for the purposes of the Income Tax Act under subsection 1 of section 91 of that Act for its taxation year that includes the last day of the taxation year of the creditor affiliate that includes the later time, or

ii. if the creditor is a creditor partnership, by an amount, not exceeding that capital loss, that is, in relation to the creditor partnership's capital gain in respect of the repayment of the loan or indebtedness, equal to twice the amount that is the total of each amount, determined in respect of a particular member of the creditor partnership that is a foreign affiliate of a qualifying entity, that is equal to the aggregate of all amounts each of which is an amount that would—in the absence of paragraph *g*.04 of subsection 2 of section 95 of the Income Tax Act and on the assumption that the particular member had no other income, loss, capital gain or capital loss for any taxation year, and no other foreign affiliate of a qualifying entity had any income, loss, capital gain or capital loss for any taxation year—be included in computing a qualifying entity's income for the purposes of the Income Tax Act under subsection 1 of section 91 of that Act for its taxation year that includes the last day of the taxation year of the particular member that includes the last day of the creditor partnership's fiscal period that includes the later time.

Election.

The first and second paragraphs do not apply in respect of a repayment, in whole or in part, of a loan or indebteness if a valid election was made in respect of the repayment under subsection 2.3 of section 39 of the Income Tax Act.

Transmission of election.

Chapter V.2 of Title II of Book I of Part I applies in relation to an election referred to in the third paragraph. However, for the application of section 21.4.7 to such an election, a taxpayer is deemed to have complied with a requirement of section 21.4.6 if the taxpayer complies with it on or before 23 March 2021.

History: 2015, c. 21, s. 153; 2020, c. 16, s. 52.

Corresponding Federal Provision: 39(2.1).

Qualifying entity.

262.0.2. For the purposes of section 262.0.1, "qualifying entity" means

(*a*) in the case of a borrowing party that is a corporation,

i. the borrowing party,

ii. a corporation resident in Canada of which

(1) the borrowing party is a subsidiary wholly-owned corporation, or

(2) a corporation described in this subparagraph ii is a subsidiary wholly-owned corporation,

iii. a corporation resident in Canada

(1) each share of the capital stock of which is owned by the borrowing party or a corporation described in subparagraph ii or this subparagraph iii, or

(2) all or substantially all of the capital stock of which is owned by one or more corporations resident in Canada that are borrowing parties in respect of the creditor affiliate under section 577.6, or

iv. a partnership each member of which is

(1) a corporation described in any of subparagraphs i to iii, or

(2) another partnership described in this subparagraph iv; and

(*b*) in the case of a borrowing party that is a partnership,

i. the borrowing party,

ii. if each member of the borrowing party is either a corporation resident in Canada (in this subparagraph *b* referred to as the "parent") or a corporation resident in Canada that is a subsidiary wholly-owned corporation, within the meaning of subsection 5 of section 544, of the parent,

(1) the parent, or

(2) a corporation resident in Canada that is a subsidiary wholly-owned corporation, within the meaning of subsection 5 of section 544, of the parent, or

iii. a partnership each member of which is

(1) the borrowing party,

(2) a corporation described in subparagraph ii, or

(3) another partnership described in this subparagraph iii.

Presumption.

For the purposes of subparagraph ii of subparagraph *b* of the first paragraph, a member of a particular partnership is deemed to be a member of any other partnership of which the particular partnership is a member.

History: 2020, c. 16, s. 53.

Application of section 262.2.

262.1. The rule set out in section 262.2 applies for the purpose of computing at a particular time a taxpayer's gain or loss (in this section and section 262.2 referred to as the "new gain" or "new loss", as the case may be), in respect of the whole or any part (in this section and section 262.2 referred to as the "relevant part") of a foreign currency debt of the taxpayer, arising—otherwise than because of the application of section 736.0.0.1—from a fluctuation in the value of the currency of the foreign currency debt, if before the particular time the taxpayer realized a capital gain or loss in respect of the foreign currency debt because of section 736.0.0.1.

History: 2010, c. 5, s. 29; 2017, c. 1, s. 113.
Corresponding Federal Provision: 40(10).

Gain or loss in respect of a foreign currency debt.

262.2. The rule to which section 262.1 refers is the rule according to which the new gain is the positive amount, or the new loss is the negative amount, as the case may be, determined by the formula

A + B – C.

Interpretation.

In the formula in the first paragraph,

(*a*) A is

i. if the taxpayer would, but for any application of section 736.0.0.1, recognize a new gain, the amount of the new gain, determined without reference to this section, or

ii. if the taxpayer would, but for any application of section 736.0.0.1, recognize a new loss, the amount of the new loss, determined without reference to this section, expressed as a negative amount;

(*b*) B is the aggregate of all amounts each of which is that portion of the amount of a capital loss sustained by the taxpayer before the particular time, in respect of the foreign currency debt and because of section 736.0.0.1, that can reasonably be attributed to

i. the relevant part of the foreign currency debt at the particular time, or

ii. the forgiven amount (within the meaning of section 485) in respect of the foreign currency debt at the particular time; and

(*c*) C is the aggregate of all amounts each of which is that portion of the amount of a gain realized by the taxpayer before the particular time, in respect of the foreign currency debt and because of section 736.0.0.1, that can reasonably be attributed to

i. the relevant part of the foreign currency debt at the particular time, or

ii. the forgiven amount (within the meaning of section 485) in respect of the foreign currency debt at the particular time.

History: 2010, c. 5, s. 29; 2017, c. 1, s. 114.
Corresponding Federal Provision: 40(11).

DIVISION II.1
GAINS RELATED TO CHARITABLE GIFTS OF FLOW-THROUGH SHARES

Definitions:

262.3. In this division,

"exemption threshold";
"exemption threshold", of a taxpayer at a particular time in respect of a flow-through share class of property, means the amount determined by the formula

A − B;

"flow-through share class of property";
"flow-through share class of property" means a group of properties,

(*a*) in respect of a class of shares of the capital stock of a corporation, each of which is

i. a share of the class, if any share of the class or any right described in subparagraph ii is, at any time, a flow-through share to any person,

ii. a right to acquire a share of the class, if any share of that class or any right described in this subparagraph is, at any time, a flow-through share to any person, or

iii. a property that is an identical property of a property described in subparagraph i or ii; or

(*b*) each of which is an interest in a partnership, if at any time more than 50% of the fair market value of the partnership's assets is attributable to property included in a flow-through share class of property;

"fresh-start date".
"fresh-start date", of a taxpayer at a particular time in respect of a flow-through share class of property, means

(*a*) in the case of a partnership interest that is included in the flow-through share class of property, 16 August 2011 or, if it is later, the last day, before the particular time, on which the taxpayer held an interest in the partnership; and

(*b*) in the case of any other property that is included in the flow-though share class of property, 22 March 2011 or, if it is later, the last day, before the particular time, on which the taxpayer disposed of all property included in the flow-through share class of property.

Interpretation.

In the formula in the definition of "exemption threshold" in the first paragraph,

(*a*) A is the aggregate of

i. the aggregate of all amounts, each of which would be the cost to the taxpayer, computed without reference to section 419.0.1, of a flow-through share that was included at any time before the particular time in the flow-through share class of property and that was issued by a corporation to the taxpayer on or after the taxpayer's fresh-start date in respect of the flow-through share class of property at that time, other than a flow-through share that the taxpayer was obligated, before 22 March 2011, to acquire pursuant to the terms of a flow-through share agreement entered into between the corporation and the taxpayer, and

ii. the aggregate of all amounts, each of which would be the adjusted cost base to the taxpayer of an interest in a partnership—computed as if subparagraph vii.1 of paragraph i of section 255 and subparagraph ii of paragraph l of section 257, as that subparagraph ii would read if it referred only to Canadian exploration expenses and Canadian development expenses, did not apply to any amount incurred by the partnership in respect of a flow-through share held by the partnership, either directly or indirectly through another partnership—that was included before the particular time in the flow-through share class of property, if

(1) the taxpayer acquired the interest (other than an interest that the taxpayer was obligated, before 16 August 2011, to acquire pursuant to the terms of an agreement in writing entered into by the taxpayer) on or after the taxpayer's fresh-start date in respect of the flow-through share class of property at the particular time, or made a contribution of capital to the partnership after 15 August 2011,

(2) at any time after the time that the taxpayer acquired the interest or made the contribution of capital, the taxpayer is deemed by section 359.18 to have made or incurred an outlay or expense in respect of a flow-through share held by the partnership, either directly or indirectly through another partnership, and

(3) at any time between the time that the taxpayer acquired the interest or made the contribution of capital and the particular time, more than 50% of the fair market value of the assets of the partnership is attributable to property included in a flow-through share class of property; and

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

i. the aggregate of all amounts, each of which is a capital gain from a disposition of a property included in the flow-through share class of property, other than a capital gain referred to in subparagraph *a* of the second paragraph of section 262.4, at an earlier time that is before the particular time and after the first time that the taxpayer acquired a flow-through share referred to in subparagraph i of paragraph *a* or acquired a partnership interest referred to in subparagraph ii of paragraph *a*, and

ii. the exemption threshold of the taxpayer in respect of the flow-though share class of property immediately before the earlier time referred to in subparagraph i.

History: 2012, c. 8, s. 45.

Corresponding Federal Provision: 54 "flow-through share class of property", "fresh-start date" and "exemption threshold".

Rules applying to tax-deferred transactions.

262.4. If, in the course of a transaction or series of transactions to which sections 301 to 301.2, section 454, sections 521 to 526 and 528, section 529, sections 536 to 539, 541 to 543.2, 544 to 555.4, 556 to 564.1 and 565 or 620 to 625 apply, a taxpayer acquires a property (in this section referred to as the "acquired property") that is included in a flow-through share class of property, the following rules apply:

(*a*) if the transfer of the acquired property is part of a gifting arrangement (within the meaning assigned by the first paragraph of section 1079.1) or of a transaction or series of transactions to which sections 620 to 625 apply, or the transferor is a person with whom the taxpayer was, at the time of the acquisition, not dealing at arm's length, there must be added, at the time of the transfer, to the taxpayer's exemption threshold in respect of the flow-through share class of property, and deducted from the transferor's exemption threshold in respect of the flow-through share class of property, the amount determined by the formula

A × B; and

(*b*) if the transferor receives particular shares of the capital stock of the taxpayer as consideration for the acquired property and those particular shares are listed on a designated stock exchange or are shares of a mutual fund corporation, for the purposes of this section and section 262.5 the particular shares are deemed to be flow-through shares of the transferor and there must be added to the transferor's exemption threshold in respect of the flow-through share class of property that includes the particular shares the amount that is determined by the formula in paragraph *a* or that would be so determined if that paragraph applied to the taxpayer.

Interpretation.

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

(*a*) A is the amount by which the transferor's exemption threshold in respect of the flow-through share class of property immediately before the transfer exceeds the capital gain of the transferor as a result of the transfer; and

(*b*) B is the proportion that the fair market value of the acquired property immediately before the transfer is of the fair market value of all property of the transferor immediately before the transfer that is included in the flow-through share class of property.

History: 2012, c. 8, s. 45.

Corresponding Federal Provision: 38.1.

Capital gain from donated flow-through shares.

262.5. If at any time a taxpayer disposes of one or more capital properties that are included in a flow-through share class of property and paragraph *a* or d of section 231.2 applies in respect of the disposition (in this section referred to as the "actual disposition"), the taxpayer is deemed to have realized a capital gain from a disposition at that time of another capital property equal to the lesser of

(*a*) the taxpayer's exemption threshold at that time in respect of the flow-through share class of property; and

(*b*) the aggregate of all amounts each of which is a capital gain from the actual disposition (calculated without reference to this section).

History: 2012, c. 8, s. 45.

Corresponding Federal Provision: 40(12).

DIVISION III
GAINS OR LOSSES RELATING TO BONDS OR DEBENTURES

Gains or losses relating to bonds or debentures.

263. Where a taxpayer has issued any bond, debenture or similar obligation and has at any subsequent time after 1971 purchased the obligation in the open market, in the manner in which any such obligation would normally be purchased by any member of the public,

(*a*) the amount by which the amount for which the obligation was issued exceeds the purchase price paid or agreed to be paid is deemed to be a capital gain of the taxpayer for the taxation year from the disposition of a capital property; and

(*b*) the amount by which the purchase price paid or agreed to be paid for the obligation exceeds the greater of the principal amount of the obligation and the amount for which it was issued is deemed to be a capital loss of the taxpayer for the taxation year from the disposition of a capital property.

Amount deemed to be a capital gain or capital loss.

An amount may be deemed to be a capital gain or a capital loss of a taxpayer under the first paragraph to the extent that the amount would not, if this Part were read without reference to sections 485.12 and 485.13, otherwise be included or be deductible, as the case may be, in computing the taxpayer's income for the year or any other year.

History: 1972, c. 23, s. 243; 1996, c. 39, s. 80.
Corresponding Federal Provision: 39(3).

Losses to corporations from the disposition of bonds or debentures.

264. The loss to a corporation from the disposition of a bond or debenture shall be decreased by the aggregate of the amounts it has received as interest on such bond or debenture, as the case may be, that have not been included in computing its income under paragraph *d* of section 489.

History: 1972, c. 23, s. 244; 1996, c. 39, s. 80; 1997, c. 3, s. 71.
Corresponding Federal Provision: 40(2)(d).

Where capital loss not allowable.

264.0.1. A taxpayer's loss from the disposition at any time to a particular person or partnership, in this section referred to as the "transferee", of an obligation that was, immediately after that time, payable by another person or partnership, in this section referred to as the "debtor", to the transferee shall not be allowable where the taxpayer, the transferee and the debtor are related to each other at that time or would be related to each other at that time if this section applied with reference to subparagraph *k* of the first paragraph of section 485.3.

History: 1996, c. 39, s. 81; 1997, c. 3, s. 71.
Corresponding Federal Provision: 40(2)(e.1).

Capital loss on the settlement or extinguishment of a commercial obligation.

264.0.2. Where a taxpayer sustains a loss on the settlement or extinguishment of a commercial obligation, within the meaning assigned by section 485, issued by a person or partnership and payable to the taxpayer, the loss, where the consideration given by the person or partnership for the settlement or extinguishment of the obligation consists of one or more other commercial obligations issued by the person or partnership to the taxpayer, is deemed to be the amount determined by the formula

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

Interpretation.

For the purposes of the formula in the first paragraph,

(*a*) A is the amount of the taxpayer's loss, otherwise computed, from the disposition of the commercial obligation;

(*b*) B is the total fair market value of the consideration given by the person or partnership for the settlement or extinguishment of the commercial obligation; and

(*c*) C is the total fair market value of the other commercial obligations.

History: 1996, c. 39, s. 81; 1997, c. 3, s. 71.
Corresponding Federal Provision: 40(2)(e.2).

DIVISION III.1
LOSSES DEEMED RELATED TO SHARES

Unused share-purchase tax credit.

264.1. The amount of any unused share-purchase tax credit, within the meaning of subsection 6 of section 127.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), of a taxpayer for a particular taxation year, to the extent that it was not deducted from his tax otherwise payable under Part I of that Act for the immediately preceding taxation year, is deemed to be a capital loss of the taxpayer from a disposition of property for the year immediately following the particular taxation year.

History: 1985, c. 25, s. 49; 1995, c. 49, s. 62.
Corresponding Federal Provision: 39(7).

Unused scientific research and experimental development tax credit.

264.2. The amount of any unused scientific research and experimental development tax credit, within the meaning of subsection 2 of section 127.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), of a corporation for a particular taxation year, to the extent that it was not deducted from its tax otherwise payable under Part I of that Act for the immediately preceding taxation year, is deemed to be a capital loss of the corporation from a disposition of property for the year immediately following the particular taxation year.

History: 1985, c. 25, s. 49; 1987, c. 67, s. 68; 1995, c. 49, s. 63; 1997, c. 3, s. 71.
Corresponding Federal Provision: 39(8).

Unused scientific research and experimental development tax credit.

264.3. The amount of any unused scientific research and experimental development tax credit, within the meaning of paragraph *b* of section 776.6, of an individual for a particular taxation year, to the extent that it was not deducted from his tax otherwise payable under this Part for the immediately preceding taxation year, and in the proportion of 200% of the product obtained by multiplying that amount not so deducted by the inverse proportion of what is determined pursuant to the second paragraph of section 22, 25 or 26, as the case may be, for the particular taxation year, is deemed to be a capital loss of the individual from a disposition of property for the year immediately following the particular taxation year.

History: 1985, c. 25, s. 49; 1987, c. 67, s. 68.

Corresponding Federal Provision: 39(8).

DIVISION III.2
DEDUCTION FROM BUSINESS INVESTMENT LOSS

Amounts to be deducted from business investment loss.

264.4. An individual other than a trust, in computing his business investment loss for a taxation year from the disposition of a particular property, shall deduct an amount equal to the lesser of

(*a*) the amount that would be his business investment loss from the disposition of that particular property if section 236.1 were read without reference to the fourth paragraph thereof;

(*b*) the amount by which the aggregate of the following amounts exceeds the aggregate of all amounts each of which is an amount deducted by the individual by reason of the fourth paragraph of section 236.1 in computing his business investment loss from the disposition of property in taxation years preceding the year, or from the disposition of property other than the particular property in the year:

i. the aggregate of all amounts each of which is twice the amount deducted by the individual under Titles VI.5 and VI.5.1 of Book IV in computing the individual's taxable income for a preceding taxation year that ended before 1 January 1988 or began after 17 October 2000,

ii. the aggregate of all amounts each of which is

(1) 3/2 of the amount deducted by the individual under Titles VI.5 and VI.5.1 of Book IV in computing the individual's taxable income for a preceding taxation year that ended after 31 December 1987 but before 1 January 1990 or that began after 28 February 2000 and ended before 17 October 2000, or

(2) the product obtained by multiplying the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for a preceding taxation year that includes 28 February 2000 or 17 October 2000 by the amount deducted under Titles VI.5 and VI.5.1 of Book IV in computing the individual's taxable income for that preceding taxation year, and

iii. the aggregate of all amounts each of which is 4/3 of the amount deducted by the individual under Titles VI.5 and VI.5.1 of Book IV in computing the individual's taxable income for a preceding taxation year that ended after 31 December 1989 but before 28 February 2000.

Particular amount.

However, where a particular amount was included in computing the individual's income for a taxation year that ended after 31 December 1987 but before 1 January 1990 under subparagraph ii of paragraph *a* of section 105, as it read in respect of that taxation year, the reference in subparagraph 1 of subparagraph ii of subparagraph *b* of the first paragraph to "3/2" shall be read as a reference to "4/3" in respect of that portion of any amount deducted under Title VI.5 of Book IV in respect of the particular amount.

History: 1987, c. 67, s. 68; 1990, c. 59, s. 124; 1993, c. 19, s. 20; 1995, c. 49, s. 64; 2003, c. 2, s. 94.

Corresponding Federal Provision: 39(9).

Amounts to be deducted from business investment loss.

264.5. A trust, in computing its business investment loss for a taxation year from the disposition of a particular property, shall deduct an amount equal to the lesser of

(*a*) the amount that would be its business investment loss from the disposition of that particular property if section 236.1 were read without reference to the fourth paragraph thereof;

(*b*) the amount by which the aggregate of the following amounts exceeds the aggregate of all amounts each of which is an amount deducted by the trust by reason of the fourth paragraph of section 236.1 in computing its business investment loss from the disposition of property in taxation years preceding the year, or from the disposition of property other than the particular property in the year:

i. the aggregate of all amounts each of which is twice the amount designated by it under section 668.1 in respect of a beneficiary in its fiscal return for a preceding taxation year that ended before 1 January 1988 or began after 17 October 2000,

ii. the aggregate of all amounts each of which is

(1) 3/2 of the amount designated by it under section 668.1 in respect of a beneficiary in its fiscal return for a preceding taxation year that ended after 31 December 1987 but before 1 January 1990 or that began after 28 February 2000 and ended before 17 October 2000, or

(2) the product obtained by multiplying the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the trust for a preceding taxation year that includes 28 February 2000 or 17 October 2000 by the amount designated by the trust under section 668.1 in respect of a beneficiary in its fiscal return for that preceding taxation year, and

iii. the aggregate of all amounts each of which is 4/3 of the amount designated by it under section 668.1 in respect of a beneficiary in its fiscal return for a preceding taxation year that ended after 31 December 1989 but before 28 February 2000.

Particular amount.

However, where a particular amount was included in computing the trust's income for a taxation year that ended after 31 December 1987 but before 1 January 1990 under subparagraph ii of paragraph *a* of section 105, as it read in respect of that taxation year, the reference in subparagraph 1 of subparagraph ii of subparagraph *b* of the first paragraph to "3/2" shall be read as a reference to "4/3" in respect of that portion of any amount deducted under Title VI.5 of Book IV in respect of the particular amount.

History: 1987, c. 67, s. 68; 1990, c. 59, s. 125; 1995, c. 49, s. 65; 2003, c. 2, s. 95.

Corresponding Federal Provision: 39(10).

DIVISION III.3
RECOVERY OF BAD DEBTS

Amount deemed to be a taxable capital gain.

264.6. Where an amount is received in a taxation year on account of a debt in respect of which a deduction for bad debts had been made under section 142.1 in computing a taxpayer's income for a preceding taxation year, the amount by which 1/2 of the amount so received exceeds the amount determined under paragraph *i*.1 of section 87 in respect of the amount so received is deemed to be a taxable capital gain of the taxpayer from a disposition of capital property in the year.

History: 1990, c. 59, s. 126; 1995, c. 49, s. 236; 1996, c. 39, s. 82; 2003, c. 2, s. 96.

Corresponding Federal Provision: 39(11).

DIVISION III.4
LOSSES DEEMED TO BE RELATED TO THE REPAYMENT OF ASSISTANCE

Deemed capital loss.

264.7. The aggregate of all amounts paid by a taxpayer in a taxation year each of which is any of the amounts described in the second paragraph, is deemed to be a capital loss of the taxpayer for the year from the disposition of property by the taxpayer in the year and, for the purposes of Title VI.5 of Book IV, that property is deemed to have been disposed of by the taxpayer in the year.

Interpretation.

The amounts referred to in the first paragraph are

(*a*) such part of any assistance described in subparagraph i of paragraph *d* of section 257, in respect of, or for the acquisition by the taxpayer of, a capital property, other than depreciable property, as has been repaid by the taxpayer in the year, where the repayment is made after the disposition of the capital property by the taxpayer and under an obligation to repay all or any part of that assistance; or

(*b*) an amount repaid by the taxpayer in the year in respect of a capital property, other than depreciable property, acquired by the taxpayer that is repaid after the disposition of the capital property by the taxpayer and that would have been a repayment described in paragraph *f*.2 of section 257 had it been made before the disposition of the capital property.

History: 1994, c. 22, s. 126.

Interpretation Bulletins: IMP. 257-2.

Corresponding Federal Provision: 39(13).

DIVISION III.5
TRANSITIONAL RULES RELATING TO THE DISPOSITION OF PROPERTY INCLUDED IN CLASS 14.1 OF SCHEDULE B

Capital gain of a taxpayer resulting from the disposition of an incorporeal capital property.

264.8. The capital gain of a taxpayer resulting from the disposition by the taxpayer, at a particular time, of a property that is included in Class 14.1 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1) in respect of a business of the taxpayer is to be reduced by the amount claimed by the taxpayer, without exceeding the amount referred to in the second paragraph, where

(*a*) the property was, immediately before 1 January 2017, an incorporeal capital property of the taxpayer, within the meaning of section 250, as it read before being repealed;

(*b*) the amount determined under subparagraph ii of subparagraph *a* of the second paragraph of section 107 in respect of the business immediately before 1 January 2017, as that section read before being repealed, is greater than nil;

(*c*) the amount determined under subparagraph *b* of the first paragraph of section 107 in respect of the business immediately before 1 January 2017, as that section read before being repealed, is nil; and

(*d*) no amount is included in computing the taxpayer's income for a taxation year because of subparagraph *d* of the first paragraph of section 93.18.

Amount.

The amount to which the first paragraph refers is equal to the amount by which the amount obtained by multiplying by 2/3 the amount determined under subparagraph ii of subparagraph *a* of the second paragraph of section 107 in respect of the business immediately before 1 January 2017, as that section read before being repealed, exceeds the aggregate of all amounts each of which is an amount claimed under the first paragraph in respect of another disposition at or before the particular time.

History: 2019, c. 14, s. 105.

Corresponding Federal Provision: 40(13) et (14).

Capital gain of a taxpayer resulting from the disposition of an incorporeal capital property.

264.9. The capital gain of an individual resulting from the disposition by the individual, at a particular time, of a property that is included in Class 14.1 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1) in respect of a business of the individual is to be reduced by the amount claimed by the individual, without exceeding the amount described in the second paragraph, where

(*a*) the property was, immediately before 1 January 2017, an incorporeal capital property of the individual, within the meaning of section 250, as it read before being repealed; and

(*b*) the individual's exempt gains balance in respect of the business, within the meaning of section 107.2, as it read before being repealed, is greater than nil for the taxation year that includes 1 January 2017.

Amount.

The amount to which the first paragraph refers is equal to the amount by which twice the amount of the individual's exempt gains balance in respect of the business, within the meaning of section 107.2, as it read before being repealed, for the taxation year that includes 1 January 2017 exceeds the aggregate of

(*a*) if subparagraph *d* of the first paragraph of section 93.18 applies in respect of the business for the individual's taxation year that includes 1 January 2017, the amount determined under subparagraph *d* of the second paragraph of section 105.2, as it read before being repealed, for the purposes of subparagraph *d* of the first paragraph of section 93.18; and

(*b*) the aggregate of all amounts each of which is an amount claimed under the first paragraph in respect of another disposition at or before the particular time.

History: 2019, c. 14, s. 105.
Corresponding Federal Provision: 40(15) et (16).

DIVISION IV
DISPOSITION OF PRECIOUS PROPERTY

Taxable net gain respecting precious property.

265. The taxable net gain from the disposition of precious property for a taxpayer is equal to, subject to the second paragraph, 1/2 of the taxpayer's net gain for the year from the disposition of precious property that is personal-use property and is all or part of any print, etching, drawing, painting, sculpture or other similar work of art, jewellery, rare folio, rare manuscript or rare book, stamp, or coin.

Transitional rule.

However, where the taxation year of the taxpayer includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the fraction "1/2" in the first paragraph shall be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the taxpayer for the year.

History: 1972, c. 23, s. 245; 1990, c. 59, s. 127; 2003, c. 2, s. 97.
Corresponding Federal Provision: 41(1); 54 "listed personal property".

Computing net gain.

266. The net gain contemplated in section 265 is computed:

(*a*) by determining the amount by which the aggregate of all the taxpayer's gains for the year from the disposition of precious property, except prescribed cultural property contemplated in section 232, exceeds the aggregate of his losses for the year from the disposition of precious property; and

(*b*) by deducting from the amount so obtained such portion as the taxpayer may claim of his precious property losses for the seven preceding taxation years and the three following taxation years.

History: 1972, c. 23, s. 246; 1975, c. 22, s. 48; 1985, c. 25, s. 50.
Corresponding Federal Provision: 41(2).

Restriction on deduction under paragraph *a* of s. 266.

267. The deduction provided for in paragraph *b* of section 266 in respect of a precious property loss is deductible for a taxation year only to the extent that it exceeds the aggregate of amounts deducted under that paragraph in respect of that loss for preceding taxation years.

History: 1972, c. 23, s. 247; 1985, c. 25, s. 51.
Corresponding Federal Provision: 41(2)(b)(i),

Where loss deductible.

268. A loss shall not be deducted in respect of precious property before all similar losses have been deducted for previous years.

Restriction.

Such loss shall be deducted from the amount determined under paragraph *a* of section 266 only up to such amount.

History: 1972, c. 23, s. 248.
Corresponding Federal Provision: 41(2)(b)(ii) and (iii).

Computing loss on precious property.

269. For the purposes of this division a loss on precious property for a taxation year shall be computed by subtracting from the aggregate of the taxpayer's losses for the year from the disposition of precious property, the aggregate of his gains for the year from the disposition of precious property, except cultural property contemplated in section 232.

History: 1972, c. 23, s. 249; 1975, c. 22, s. 49.

Corresponding Federal Provision: 41(3).

DIVISION V
WARRANTIES

Dispositions subject to warranty.

270. For the purposes of this Title,

(*a*) if an amount is received or receivable by a person or a partnership (in this section referred to as the "vendor") as consideration for a warranty, covenant or other conditional obligation given or incurred by the vendor in respect of a property (in this section referred to as the "specified property") disposed of by the vendor, the following rules apply:

i. if the amount is received or receivable on or before the specified date, it is deemed to be received as consideration for the disposition of the specified property by the vendor and not to be an amount received or receivable by the vendor as consideration for the obligation, and it is to be included in computing the vendor's proceeds of disposition of the specified property for the taxation year or fiscal period in which the disposition occurred, and

ii. in any other case, it is deemed to be a capital gain of the vendor from the disposition of a property by the vendor that occurs at the earlier of the time when the amount is received or becomes receivable; and

(*b*) if an amount is paid or payable in relation to an outlay or expense made or incurred by the vendor under a warranty, covenant or other conditional obligation given or incurred by the vendor in respect of the specified property disposed of by the vendor, the following rules apply:

i. if the amount is paid or payable on or before the specified date, it is deemed to reduce the consideration for the disposition of the specified property by the vendor and not to be an amount paid or payable by the vendor as consideration for the obligation, and it is to be deducted in computing the vendor's proceeds of disposition of the specified property for the taxation year or fiscal period in which the disposition occurred, and

ii. in any other case, it is deemed to be a capital loss of the vendor from the disposition of a property by the vendor that occurs at the earlier of the time when the amount is paid or becomes payable.

Meaning of "specified date".

For the purposes of the first paragraph, "specified date" means,

(*a*) if the vendor is a partnership, the last day of the vendor's fiscal period in which the vendor disposed of the specified property; and

(*b*) in any other case, the vendor's filing-due date for the vendor's taxation year in which the vendor disposed of the specified property.

History: 1972, c. 23, s. 250; 1986, c. 19, s. 46; 1990, c. 59, s. 128; 2003, c. 2, s. 98; 2015, c. 21, s. 154.

Corresponding Federal Provision: 42.

DIVISION VI
DISPOSITION OF PRINCIPAL RESIDENCE

Gain from the disposition of principal residence.

271. The individual's gain for a taxation year from the disposition of a property that is or was the individual's principal residence at any time after the date, in this section referred to as the "acquisition date", that is the later of 31 December 1971 and the day on which the individual last acquired it, is the amount determined by the formula

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

Interpretation.

For the purposes of the formula in the first paragraph,

(*a*) A is the amount that would, if this Act were read without reference to this section and sections 726.9.2 and 726.9.4, be the individual's gain from the disposition of the property for the year;

(*b*) B is one plus the number of taxation years that end after the acquisition date for which the property was the individual's principal residence and during which the individual was resident in Canada;

(*c*) C is the number of taxation years that end after the acquisition date during which the individual owned the property whether jointly with another person or otherwise; and

(*d*) D is

i. where the acquisition date is before 23 February 1994 and the individual or a spouse of the individual elected under section 726.9.2 in respect of the property or a right therein that was owned, immediately before the disposition, by the individual, 4/3 of the lesser of

(1) the aggregate of all amounts each of which is the taxable capital gain of the individual or of a spouse of the individual that would have resulted from an election by the individual or spouse under section 726.9.2 in respect of the property or right if this Act were read without reference to section 726.9.3 and the amount designated in the election were equal to the amount by which the fair market value of the property or right at the end of 22 February 1994 exceeds the amount designated in the election that was made in respect of the property or right that exceeds 11/10 of its fair market value at that time, and

(2) the aggregate of all amounts each of which is the taxable capital gain of the individual or of a spouse of the individual that would have resulted from an election that was made under section 726.9.2 in respect of the property or right if the property were the principal residence of neither the individual nor the spouse for each particular taxation year unless the property was designated, in a fiscal return for the taxation year that includes 22 February 1994 or for a preceding taxation year, to be the principal residence of either of them for the particular taxation year, and

ii. in any other case, zero.

History: 1972, c. 23, s. 251; 1973, c. 17, s. 25; 1978, c. 26, s. 45; 1996, c. 39, s. 83; 2020, c. 16, s. 54.
Interpretation Bulletins: IMP. 257-2.
Corresponding Federal Provision: 40(2)(b).

Gain from a deemed disposition.

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

History: 2006, c. 13, s. 35.

Disposal of principal residence to spouse or trust for spouse.

272. Where the individual disposes of the individual's principal residence to the individual's spouse or a trust and the presumption referred to in section 440 or 454 applies,

(*a*) the spouse or the trust is deemed to have owned the residence since the individual acquired it; and

(*b*) the residence is deemed to have been the principal residence of the spouse or trust

i. in the case provided for in section 440, for all the years with respect to which the individual could have designated it, in accordance with the third paragraph of section 274, to have been the individual's principal residence, and

ii. in the case provided for in section 454, for all the years for which the residence was the individual's principal residence.

Residence of trust.

In the case of a trust, it is deemed to have been resident in Canada during all the years in which the individual was resident in Canada.

History: 1972, c. 23, s. 252; 1994, c. 22, s. 127; 2001, c. 7, s. 36.
Corresponding Federal Provision: 40(4).

Disposition of farm land including principal residence.

273. An individual's gain from disposition of land used for a farming business that he operates is, if such land includes at any time his principal residence:

(*a*) his gain for the year from the disposition of that part of the land which does not include his principal residence, plus his gain determined for the year under section 271 as derived from the disposition of his principal residence, or

(*b*) if the individual so elects with respect to such land in the prescribed manner, his gain for the year from the disposition of such land including his principal residence, determined without regard to paragraph *a* and section 271, less the aggregate of $1,000 and $1,000 for each taxation year ending after the time referred to in the first paragraph of that section 271 during which such property was his principal residence and during which he was resident in Canada.

History: 1972, c. 23, s. 253; 1978, c. 26, s. 46; 1996, c. 39, s. 84.
Corresponding Federal Provision: 40(2)(c).

Principal residence of an individual other than a personal trust.

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

(*a*) the housing unit is ordinarily inhabited in the year by the individual, his spouse or former spouse or his child; or

(*b*) the individual has made

i. an election referred to in the first paragraph of section 284 that relates to the change in use of the particular property in the year or a preceding taxation year, other than such an election in relation to which the second paragraph of that section applies for the year or a preceding taxation year, or

ii. an election referred to in the first paragraph of section 286.1 that relates to a change in use of the particular property in a subsequent taxation year.

Condition.

The condition referred to in the first paragraph consists in the particular property having been designated by the individual, in accordance with the third paragraph, as being his principal residence for the year and in no other property having been designated, for the purposes of this section and of sections 274.0.1, 275.1, 277 and 285, for the year by

(*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;

(*c*) *(subparagraph repealed)*;

(*d*) *(subparagraph repealed).*

Designation.

The designation referred to in the second paragraph shall be made in the fiscal return the individual is required to file under section 1000 for his taxation year during which he has either disposed of, or has granted an option to purchase, the particular property.

History: 1972, c. 23, s. 254; 1973, c. 17, s. 26; 1975, c. 21, s. 5; 1977, c. 26, s. 26; 1984, c. 15, s. 64; 1986, c. 15, s. 55; 1986, c. 19, s. 47; 1989, c. 5, s. 57; 1994, c. 22, s. 128; 1997, c. 3, s. 71; 1997, c. 85, s. 330; 2000, c. 5, s. 71; 2004, c. 8, s. 52; 2009, c. 5, s. 92.

Corresponding Federal Provision: 54 "principal residence" before (a) and (a), (b), (c) and (d).

Principal residence of an individual who is a personal trust.

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

(*a*) the housing unit was ordinarily inhabited in the calendar year ending in the year by a specified beneficiary of the trust for the year, by the spouse or former spouse of such a beneficiary or by a child of such a beneficiary; or

(*b*) the trust has made

i. an election referred to in the first paragraph of section 284 that relates to the change in use of the particular property in the year or a preceding taxation year, other than such an election in relation to which the second paragraph of that section applies for the year or a preceding taxation year, or

ii. an election referred to in the first paragraph of section 286.1 that relates to a change in use of the particular property in a subsequent taxation year.

Conditions.

The conditions referred to in the first paragraph are as follows:

(*a*) the particular property was designated by the trust, in accordance with the third paragraph, as the trust's principal residence for the year;

(*b*) the trust has specified in the designation each individual, in this section and in section 275.1 referred to as a "specified beneficiary", who, in the calendar year ending in the year,

i. is beneficially interested in the trust, and

ii. except where the trust is entitled to designate the particular property for the year solely by reason of subparagraph *b* of the first paragraph, ordinarily inhabited the housing unit or has a spouse, former spouse or child who ordinarily inhabited the housing unit;

(*c*) no corporation, other than a registered charity, or partnership is beneficially interested in the trust at any time in the year; and

(*d*) no other property has been designated for the purposes of this section and sections 274, 275.1, 277 and 285 for the calendar year ending in the year by

i. a specified beneficiary of the trust for the year,

ii. a person who was throughout that calendar year the spouse of a beneficiary referred to in subparagraph i, other than a spouse who was throughout that calendar year living separate and apart from the beneficiary pursuant to a judicial separation or a written separation agreement,

iii. a person who was the child of a beneficiary referred to in subparagraph i, other than a child who was during that calendar year a married person or a person 18 years of age or over, or

iv. where a beneficiary referred to in subparagraph i was not during that calendar year a married person or a person 18 years of age or over, a person who was the beneficiary's father or mother, or brother or sister, where that brother or sister was not during that calendar year a married person or a person 18 years of age or over.

Designation.

The designation referred to in subparagraph *a* of the second paragraph shall be made in the fiscal return the trust is required to file under section 1000 for its taxation year in which it disposed of the particular property or granted an option to purchase the particular property.

History: 1994, c. 22, s. 129; 1995, c. 49, s. 236; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1997, c. 85, s. 330; 2000, c. 5, s. 72; 2009, c. 5, s. 93; 2009, c. 15, s. 69.

Corresponding Federal Provision: 54 "principal residence" before (a) and (a.1), (b), (c.1) and (d).

Disposition of property held jointly.

274.1. Where a property was owned by an individual, whether jointly with another person or otherwise, at the end of 1981 and continuously thereafter until disposed of by him, the gain determined under section 271 in respect of the disposition of that property shall not exceed the amount by which the aggregate of

(*a*) his gain calculated in accordance with section 271 on the assumption that he had disposed of the property on 31 December 1981 for precedes of disposition equal to its fair market value on that date, and

(*b*) his gain calculated in accordance with section 271 on the assumption that that section applies and that

i. subparagraph *b* of the second paragraph of that section is read without reference to the words "one plus", and

ii. the individual acquired the property on 1 January 1982 at a cost equal to its proceeds of disposition as determined under paragraph *a*, exceeds

(*c*) the amount by which the fair market value of the property on 31 December 1981 exceeds the proceeds of disposition of the property determined without reference to this section.

History: 1984, c. 15, s. 64; 1996, c. 39, s. 85.

Corresponding Federal Provision: 40(6).

Acquisition of property in satisfaction of an interest in a trust.

274.2. Where, in circumstances to which section 688 applies and section 691 does not apply, property has been acquired by a taxpayer in satisfaction of all or any part of his capital interest in a trust, the taxpayer is deemed, for the purposes of sections 271, 274, 274.0.1, 275.1 to 277 and 285, to have owned the property continuously since the trust last acquired it.

History: 1986, c. 19, s. 48; 1994, c. 22, s. 130.

Corresponding Federal Provision: 40(7).

Effect of election under s. 726.9.2.

274.3. Where an election was made under section 726.9.2 in respect of a property of a taxpayer that was the taxpayer's principal residence for the taxation year 1994 or that, in the taxpayer's fiscal return for the taxation year in which the taxpayer disposes of the property or grants an option to acquire the property, is designated as the taxpayer's principal residence, in determining, for the purposes of sections 271, 272, 274.1 and 274.2, the day on which the property was last acquired by the taxpayer and the period throughout which the property was owned by the taxpayer this Act shall be read without reference to section 726.9.2.

History: 1996, c. 39, s. 86.

Corresponding Federal Provision: 40(7.1).

Gain or loss from the disposition of taxable Québec property.

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

A × B / C.

Interpretation.

In the formula provided for in the first paragraph,

(*a*) A is the amount of the gain or loss determined without reference to this section;

(*b*) B is the number of calendar months in the period that begins with May 1995 and ends with the calendar month that includes the time of the disposition; and

(*c*) C is the number of calendar months in the period that begins with the calendar month in which the person last acquired the property and ends with the calendar month that includes the time of the disposition.

History: 2001, c. 7, s. 37; 2004, c. 8, s. 53.

Corresponding Federal Provision: 40(9).

275. *(Repealed).*

History: 1972, c. 23, s. 255; 1986, c. 19, s. 49; 1994, c. 22, s. 131.

Property designated by a trust.

275.1. For the purposes of sections 274 and 274.0.1, a particular property designated by a trust under the second paragraph of section 274.0.1 for a taxation year is deemed to

be property designated by each specified beneficiary of the trust for the calendar year ending in the year.

History: 1986, c. 19, s. 50; 1994, c. 22, s. 132.
Corresponding Federal Provision: 54 "principal residence" (f).

276. *(Repealed).*

History: 1972, c. 23, s. 256; 1973, c. 17, s. 27; 1994, c. 22, s. 133.

Principal residence including subjacent land.

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.

Restriction.

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.

History: 1972, c. 23, s. 257; 1984, c. 15, s. 65; 2004, c. 8, s. 54.
Corresponding Federal Provision: 54 "principal residence" (e).

DIVISION VI.1
LIFE ESTATE IN IMMOVABLE PROPERTY

Disposition of a remainder interest in immovable property.

277.1. Despite any other provision of this Act, if at any time a taxpayer disposes of a remainder interest in immovable property (except as a result of a transaction to which section 459 would otherwise apply or by way of a gift to a qualified donee) to a person or partnership and retains a life estate or an estate pur autre vie (in this division referred to as the "life estate") in the property, the taxpayer is deemed

(*a*) to have disposed at that time of the life estate in the immovable property for proceeds of disposition equal to its fair market value at that time; and

(*b*) to have reacquired the life estate immediately after that time at a cost equal to the proceeds of disposition referred to in paragraph *a*.

History: 1994, c. 22, s. 134; 1995, c. 49, s. 66; 1996, c. 39, s. 88; 1997, c. 3, s. 71; 2005, c. 23, s. 43; 2009, c. 5, s. 94; 2012, c. 8, s. 46; 2019, c. 14, s. 106.
Corresponding Federal Provision: 43.1(1).

Termination of a life estate.

277.2. Where, as a result of an individual's death, a life estate to which section 277.1 has applied is terminated,

(*a*) the holder of the life estate immediately before the death is deemed to have disposed of the life estate immediately before the death for proceeds of disposition equal to the adjusted cost base to that person of the life estate immediately before the death; and

(*b*) where a person who is the holder of the remainder interest in the immovable property immediately before the death was not dealing at arm's length with the holder of the life estate, there shall, after the death, be added in computing the adjusted cost base to that person of the immovable property an amount equal to the lesser of

i. the adjusted cost base of the life estate in the property immediately before the death, and

ii. the amount by which the fair market value of the immovable property immediately after the death exceeds the adjusted cost base to that person of the remainder interest immediately before the death.

History: 1994, c. 22, s. 134; 1996, c. 39, s. 89.
Corresponding Federal Provision: 43.1(2).

DIVISION VII
CAPITAL REPLACEMENT PROPERTY

Replacement property.

278. Despite section 234, this division applies if, 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, in the case of a former property the proceeds of disposition of which are described in section 280, before the end of the second taxation year following the year or, if it is later, before the end of the 24-month period following the year, or, in any other case, before the end of the first taxation year following the year or, if it is later, before the end of the 12-month period following 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 at which the taxpayer has disposed of the former property.

History: 1972, c. 23, s. 258; 1975, c. 22, s. 50; 1978, c. 26, s. 47; 2001, c. 7, s. 38; 2004, c. 8, s. 54; 2009, c. 15, s. 70.
Corresponding Federal Provision: 44(1) part before (e).

Property deemed acquired before end of period.

278.1. For the purposes of section 278, if a taxpayer acquires a capital replacement property for a former property after the end of the period provided for in that section for the acquisition and, in the Minister's opinion, the taxpayer was unable to acquire the capital replacement property before the end of the period because of the specific nature of the former

property, the taxpayer is deemed to have acquired the capital replacement property before the end of the period.

History: 2002, c. 40, s. 24; 2009, c. 15, s. 70.

Election relating to former property.

279. In the case provided for in section 278, if the taxpayer acquires the replacement property referred to in that section in a taxation year and the taxpayer makes a valid election under subsection 1 of section 44 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in respect of the former property or, if section 278.1 applies, the taxpayer so elects in the taxpayer's fiscal return filed in accordance with section 1000 for the taxation year, the following rules apply:

(*a*) the gain for a particular taxation year from the disposition of the former property is deemed to be equal to the amount by which the amount as a reserve that, subject to section 279.1, is equal to the amount determined under the second paragraph or, if section 278.1 applies, the amount by which the amount as a reserve that the taxpayer may claim as a deduction and that does not exceed, subject to section 279.1, the amount determined under the second paragraph, is exceeded by whichever of the following amounts is applicable:

i. if the particular year is the year in which the proceeds of disposition of the former property become due to the taxpayer, the lesser of the amount determined under the third paragraph and the amount determined under the fourth paragraph, or

ii. if the particular year is subsequent to the year in which the proceeds of disposition of the former property become due to the taxpayer, the amount that the taxpayer has deducted under this subparagraph *a* from the amount determined under subparagraph i or this subparagraph ii in computing the taxpayer's gain for the year preceding the particular year from the disposition of the former property; and

(*b*) the cost or, in the case of depreciable property, the capital cost, to the taxpayer, of the replacement property at any time after the time of the disposition of the former property by the taxpayer, is deemed to be the cost otherwise determined, minus the amount by which the amount determined under the third paragraph exceeds the amount determined under the fourth paragraph.

Amount.

The amount referred to in the portion of subparagraph *a* of the first paragraph before subparagraph i is equal, without exceeding the amount from which it must be subtracted, to the least of

(*a*) a reasonable amount as a reserve in respect of the portion of the proceeds of disposition of the former property that is payable to the taxpayer after the end of the particular year as can reasonably be regarded as a portion of the amount determined under subparagraph i of subparagraph *a* of the first paragraph in respect of the property;

(*b*) an amount equal to the product obtained when 1/5 of the amount determined under subparagraph i of subparagraph *a* of the first paragraph in respect of the property is multiplied by the amount by which 4 exceeds the number of preceding taxation years of the taxpayer ending after the disposition of the property; and

(*c*) unless section 278.1 applies, the amount allowed as a deduction for the year under subparagraph iii of paragraph *e* of subsection 1 of section 44 of the Income Tax Act in computing the taxpayer's gain for the particular year from the disposition of the property or, if the amount that is so allowed as a deduction is equal to the maximum amount that the taxpayer may claim as a deduction in that computation under that subparagraph iii in respect of the disposition, the amount that the taxpayer specifies and that is not less than that maximum amount.

Amount.

The first amount to which subparagraph i of subparagraph *a* and subparagraph *b* of the first paragraph refer is equal to the amount by which the proceeds of disposition of the former property exceed the aggregate of the adjusted cost base of the former property to the taxpayer immediately before the disposition and the outlays made or expenses incurred by the taxpayer for the purpose of making the disposition or, in the case of depreciable property, the lesser of such aggregate and the proceeds of disposition of the former property determined without reference to section 280.3.

Amount.

The second amount to which subparagraph i of subparagraph *a* and subparagraph *b* of the first paragraph refer is equal to the amount by which the proceeds of disposition of the former property exceed the aggregate of the cost or, in the case of depreciable property, the capital cost, to the taxpayer, determined without reference to subparagraph *b* of the first paragraph, of the replacement property and the outlays made or expenses incurred by the taxpayer for the purpose of making the disposition.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 1 of section 44 of the Income Tax Act or in relation to an election made under this section before 20 December 2006 but otherwise than as a consequence of the application of section 278.1.

History: 1975, c. 22, s. 51; 1978, c. 26, s. 47; 1982, c. 5, s. 60; 1984, c. 15, s. 66; 1986, c. 15, s. 56; 1996, c. 39, s. 90; 1997, c. 85, s. 330; 2009, c. 5, s. 95; 2010, c. 5, s. 30.

Corresponding Federal Provision: 44(1) after (d).

Computation of the reserve.

279.1. In computing the amount that a taxpayer may deduct under subparagraph *a* of the first paragraph of section 279 in computing the taxpayer's gain from the disposition of a former property of the taxpayer, subparagraph *b* of the second paragraph of that section is to be read as if "1/5" and "4" were replaced by "1/10" and "9", respectively, if the former property is an immovable property in respect of whose disposition the rules set out in sections 460 to 462 applied to the taxpayer and a child of the taxpayer because of section 459.

History: 1984, c. 15, s. 67; 1986, c. 19, s. 51; 2007, c. 12, s. 46; 2009, c. 5, s. 96; 2010, c. 5, s. 31.

Corresponding Federal Provision: 44(1.1).

Deemed time of disposition and compensation; deemed continuous ownership.

280. For the purposes of this Part, if a taxpayer has disposed of a property for which there are proceeds of disposition referred to in any of subparagraphs ii, iii and iv of subparagraph *f* of the first paragraph of section 93, the time of disposition of that property and the time when those proceeds become receivable by the taxpayer are deemed to be the earliest of the following times, and the taxpayer is deemed to have owned the property continuously until that time:

(*a*) the day the taxpayer has agreed to an amount as final compensation for that property;

(*b*) where a claim or other proceeding has been taken before a competent court or tribunal, the day on which the compensation is finally determined by that tribunal or court;

(*c*) where a claim or other proceeding referred to in paragraph *b* has not been taken within two years of the event giving rise to the compensation, the day that is two years following the day of that event;

(*d*) the time at which the taxpayer is deemed, under sections 433 to 451 or subparagraph *b* of the first paragraph of section 785.2, to have disposed of the property; and

(*e*) where the taxpayer is a corporation other than a subsidiary referred to in section 556, the time immediately before the winding-up of the corporation.

History: 1975, c. 22, s. 51; 1977, c. 26, s. 27; 1978, c. 26, s. 47; 1995, c. 49, s. 67; 1997, c. 3, s. 71; 2001, c. 53, s. 260; 2005, c. 23, s. 44; 2009, c. 5, s. 97.

Interpretation Bulletins: IMP. 280-1/R2.

Corresponding Federal Provision: 44(2).

Deemed election.

280.1. A taxpayer who makes an election referred to in subsection 2 of section 96 or the first paragraph of section 279, as the case may be, in respect of a former property that was a depreciable property of the taxpayer, is deemed to also make an election referred to in the first paragraph of section 279 or subsection 2 of section 96, as the case may be, in respect of the same property.

Reassessments.

Notwithstanding sections 1010 to 1011, where a taxpayer has made an election referred to in the first paragraph of section 279, the Minister shall make such reassessments of tax, interest and penalties under this Part as are necessary for any taxation year to take into account that election.

History: 1975, c. 22, s. 51; 1978, c. 26, s. 47; 2002, c. 40, s. 25; 2009, c. 5, s. 98.

Corresponding Federal Provision: 44(4).

Replacement property.

280.2. For the purposes of this division, paragraphs *a* to *d* of subsection 3 of section 96 apply, with the necessary modifications, where it must be determined if a particular capital property of a taxpayer is a replacement property for a former property of the taxpayer.

History: 1978, c. 26, s. 47; 1995, c. 63, s. 261; 2001, c. 7, s. 39; 2001, c. 53, s. 50.

Corresponding Federal Provision: 44(5).

Deemed proceeds of disposition.

280.3. For the purposes of this Title, if a taxpayer has disposed of a former business property that was in part a building and in part the land subjacent to, or immediately contiguous to and necessary for the use of, the building or a right in such a property, and the taxpayer makes a valid election under subsection 6 of section 44 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in relation to the disposition, the amount by which the proceeds of disposition of one such part determined without reference to this section exceed the adjusted cost base to the taxpayer of that part is, without exceeding the total of the amount for which the election is made in respect of that part and, when the amount is the maximum amount for which the election may be made in respect of that part, the amount that the taxpayer specifies in relation to that part in the taxpayer's fiscal return filed under this Part for the taxation year in which the taxpayer acquired a replacement property for the former business property, deemed not to be proceeds of disposition of that part and to be proceeds of disposition of the other part.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 6 of section 44 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1982, c. 5, s. 61; 1986, c. 15, s. 57; 1995, c. 49, s. 68; 2009, c. 5, s. 99; 2020, c. 16, s. 188.

Corresponding Federal Provision: 44(6).

Application of section 235.

280.4. Section 235 applies, with the necessary modifications, to the amount that a taxpayer may deduct under subparagraph *a* of the first paragraph of section 279, from the amount determined under subparagraph i or ii of that subparagraph *a* in computing a gain for a taxation year.

History: 1982, c. 5, s. 61; 1995, c. 63, s. 261; 2009, c. 5, s. 99.
Interpretation Bulletins: 44(7).

DIVISION VII.1
REPLACEMENT SHARES

Definitions:

280.5. In this division,

"adjusted cost base reduction";
"adjusted cost base reduction" of an individual in respect of a replacement share of the individual in respect of a qualifying disposition of the individual means the amount determined by the formula

D × (E / F);

"common share";
"common share" means a share prescribed by regulation for the purposes of paragraph *d* of subsection 1 of section 110 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

"eligible business corporation";
"eligible business corporation" at any time means, subject to section 280.14, a corporation that is, at that time, a taxable Canadian corporation all or substantially all of the fair market value of the assets of which at that time is attributable to assets of the corporation that are

(*a*) assets used principally in an eligible business carried on by the corporation or by an eligible business corporation that is related to the corporation;

(*b*) shares issued by or debt owing by other eligible business corporations that are related to the corporation; or

(*c*) a combination of assets described in paragraphs *a* and *b*;

"eligible pooling arrangement";
"eligible pooling arrangement" in respect of an individual means an agreement in writing made between the individual and another person or partnership, in this definition and section 280.7 referred to as the "investment manager", where the agreement provides for

(*a*) the transfer of funds or other property by the individual to the investment manager for the purpose of making investments on behalf of the individual;

(*b*) the purchase of eligible small business corporation shares with those funds, or the proceeds of a disposition of the other property, within 60 days after receipt of those funds or the other property by the investment manager; and

(*c*) the provision of a statement of account to the individual by the investment manager at the end of each month that ends after the transfer disclosing the details of the investment portfolio held by the investment manager on behalf of the individual at the end of that month and the details of the transactions made by the investment manager on behalf of the individual during the month;

"eligible small business corporation";
"eligible small business corporation" at any time means, subject to section 280.14, a corporation that, at that time, is a Canadian-controlled private corporation all or substantially all of the fair market value of the assets of which at that time is attributable to assets of the corporation that are

(*a*) assets used principally in an eligible business carried on primarily in Canada by the corporation or by an eligible small business corporation that is related to the corporation;

(*b*) shares issued by or debt owing by other eligible small business corporations that are related to the corporation; or

(*c*) a combination of assets described in paragraphs *a* and *b*;

"eligible small business corporation share";
"eligible small business corporation share" of an individual means a common share issued by a corporation to the individual if

(*a*) at the time the share was issued, the corporation was an eligible small business corporation; and

(*b*) immediately before and after the share was issued, the aggregate of the assets of the corporation and corporations related to it did not exceed $50,000,000;

"permitted deferral";
"permitted deferral" of an individual in respect of a qualifying disposition of the individual means the amount determined by the formula

(A / B) × C;

"qualifying disposition";
"qualifying disposition" of an individual, other than a trust, means, subject to section 280.13, a disposition of shares of the capital stock of a corporation where each such share disposed of was

(*a*) an eligible small business corporation share of the individual;

(*b*) throughout the period during which the individual owned the share, a common share of an eligible business corporation; and

(*c*) throughout the 185-day period that ended immediately before the disposition of the share, owned by the individual;

"replacement share";

"replacement share" of an individual in respect of a qualifying disposition of the individual in a taxation year means an eligible small business corporation share of the individual that is

(*a*) acquired by the individual in the year or within 120 days after the end of the year; and

(*b*) designated by the individual to be a replacement share in respect of the qualifying disposition, in accordance with paragraph *b* of the definition of "replacement share" in subsection 1 of section 44.1 of the Income Tax Act, in the fiscal return that the individual filed for the year under Part I of that Act.

Interpretation.

In the formulas provided for in the definitions of "adjusted cost base reduction" and "permitted deferral" in the first paragraph,

(*a*) A is the lesser of

i. the individual's proceeds of disposition from the qualifying disposition, and

ii. the aggregate of all amounts each of which is the cost to the individual of a replacement share in respect of the qualifying disposition;

(*b*) B is the individual's proceeds of disposition from the qualifying disposition;

(*c*) C is the individual's capital gain from the qualifying disposition;

(*d*) D is the permitted deferral of the individual in respect of the qualifying disposition;

(*e*) E is the cost to the individual of the replacement share; and

(*f*) F is the cost to the individual of all the replacement shares of the individual in respect of the qualifying disposition.

Assets.

For the purposes of paragraph *b* of the definition of "eligible small business corporation share" in the first paragraph, the assets of a corporation at any time means the assets that would be shown in its financial statements as of that time if those financial statements were prepared in accordance with generally accepted accounting principles used in Canada at that time, and if the value of an asset of a corporation that is a share issued by or debt owing by a related corporation were nil.

History: 2003, c. 2, s. 99; 2005, c. 1, s. 82.

Corresponding Federal Provision: 44.1(1) "ACB reduction", "active business corporation", "common share", "eligible pooling arrangement", "eligible small business corporation", "eligible small business corporation share", "permitted deferral", "qualifying disposition" and "replacement share".

Rules applicable.

280.6. Subject to the second paragraph, where an individual makes a qualifying disposition in a taxation year, the following rules apply:

(*a*) the individual's capital gain for the year from the qualifying disposition is deemed to be equal to the amount by which the individual's capital gain for the year from the qualifying disposition, determined without reference to this division, exceeds the individual's permitted deferral in respect of the qualifying disposition;

(*b*) in computing the adjusted cost base to the individual of a replacement share of the individual in respect of the qualifying disposition at any time after its acquisition, there shall be deducted the amount of the adjusted cost base reduction of the individual in respect of the replacement share; and

(*c*) where the qualifying disposition was a disposition of a share that was a taxable Canadian property of the individual, the replacement share of the individual in respect of the qualifying disposition is deemed to be, at any time that is within 60 months after the disposition, a taxable Canadian property of the individual.

Filing requirements.

For the purposes of the first paragraph, the individual shall enclose with the fiscal return the individual is required to file for the year under section 1000, the prescribed form along with a copy of every document sent to the Minister of National Revenue attesting the share was designated by the individual in the fiscal return the individual files for the year under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), pursuant to paragraph *b* of the definition of "replacement share" in subsection 1 of section 44.1 of that Act.

History: 2003, c. 2, s. 99; 2011, c. 6, s. 124.

Corresponding Federal Provision: 44.1(2).

Presumption.

280.7. Except for the purposes of the definition of "eligible pooling arrangement" in the first paragraph of section 280.5, any transaction entered into by an investment manager under an eligible pooling arrangement on behalf of an individual is deemed to be a transaction of the individual and not a transaction of the investment manager.

History: 2003, c. 2, s. 99.

Corresponding Federal Provision: 44.1(3).

Death of spouse, father or mother.

280.8. For the purposes of this division, a share of the capital stock of a corporation, acquired by an individual as a consequence of the death of a person who is the individual's spouse, father or mother is deemed to be a share that was

acquired by the individual at the time it was acquired by that person and owned by the individual throughout the period that it was owned by that person, if

(*a*) where the person was the spouse of the individual, the share was an eligible small business corporation share of the person and section 440 applied in respect of the individual in relation to the share; or

(*b*) where the person was the individual's father or mother, the share was an eligible small business corporation share of the father or mother and section 444 applied in respect of the individual in relation to the share.

History: 2003, c. 2, s. 99.

Corresponding Federal Provision: 44.1(4).

Share acquired from a former spouse.

280.9. For the purposes of this division, a share of the capital stock of a corporation, acquired by an individual from a person who was the individual's former spouse as a consequence of the settlement of rights arising out of their marriage, is deemed to be a share that was acquired by the individual at the time it was acquired by that person and owned by the individual throughout the period that it was owned by that person if the share was an eligible small business corporation share and section 454 applied to the individual in respect of the share.

History: 2003, c. 2, s. 99.

Corresponding Federal Provision: 44.1(5).

Exchanged shares.

280.10. For the purposes of this division, if an individual receives shares of the capital stock of a particular corporation that are eligible small business corporation shares of the individual (in this section referred to as the "new shares"), as the sole consideration for the disposition by the individual of shares issued by the particular corporation or by another corporation that were eligible small business corporation shares of the individual (in this section referred to as the "exchanged shares"), the new shares are deemed to have been owned by the individual throughout the period that the exchanged shares were owned by the individual if

(*a*) Division XIII, paragraph *c* of section 528, sections 536 to 539, Chapter V of Title IX or sections 551 to 553.1 and 554 applied in respect of the individual in relation to the new shares; and

(*b*) the aggregate of all amounts each of which is the individual's proceeds of disposition of an exchanged share was equal to the aggregate of all amounts each of which was the individual's adjusted cost base of an exchanged share immediately before the disposition.

History: 2003, c. 2, s. 99; 2009, c. 5, s. 100.

Corresponding Federal Provision: 44.1(6).

Exchanged shares.

280.11. For the purposes of this division, if an individual receives common shares of the capital stock of a particular corporation (in this section referred to as the "new shares"), as the sole consideration for the disposition by the individual of common shares of the particular corporation or of another corporation (in this section referred to as the "exchanged shares"), the new shares are deemed to be eligible small business corporation shares of the individual and shares of the capital stock of an eligible business corporation that were owned by the individual throughout the period that the exchanged shares were owned by the individual if

(*a*) Division XIII, paragraph *c* of section 528, sections 536 to 539, Chapter V of Title IX or sections 551 to 553.1 and 554 applied in respect of the individual in relation to the new shares;

(*b*) the aggregate of all amounts each of which is the individual's proceeds of disposition of an exchanged share was equal to the aggregate of all amounts each of which is the individual's adjusted cost base of an exchanged share immediately before the disposition; and

(*c*) the disposition of the exchanged shares was a qualifying disposition of the individual.

History: 2003, c. 2, s. 99; 2009, c. 5, s. 101.

Corresponding Federal Provision: 44.1(7).

Eligible business carried on.

280.12. For the purposes of each of the definitions in the first paragraph of section 280.5, a property held at a particular time by a corporation that would, if this Act were read without reference to this section, be considered to carry on an eligible business at that time, is deemed to be used or held by the corporation in the course of carrying on that eligible business if the property, or other property for which the property is substituted property, was acquired by the corporation, at any time in the 36-month period that ends at the particular time, because the corporation

(*a*) issued a debt or a share of a class of its capital stock in order to acquire money for the purpose of acquiring property to be used in or held in the course of, or making expenditures for the purpose of, earning income from an eligible business carried on by it;

(*b*) disposed of property used or held by it in the course of carrying on an eligible business in order to acquire money for the purpose of acquiring property to be used in or held in the course of, or making expenditures for the purpose of, earning income from an eligible business carried on by it; or

(*c*) accumulated income derived from an eligible business carried on by it in order to acquire property to be used in or

held in the course of, or to make expenditures for the purpose of, earning income from an eligible business carried on by it.

History: 2003, c. 2, s. 99.
Corresponding Federal Provision: 44.1(8).

Minimum period.

280.13. A disposition of a common share of an eligible business corporation by an individual that, but for this section, would be a qualifying disposition of the individual is deemed not to be a qualifying disposition of the individual unless the eligible business of the corporation referred to in the definition of "eligible business corporation" in the first paragraph of section 280.5 was carried on primarily in Canada

(*a*) at all times in the period that began at the time the individual last acquired the common share and ended at the time of disposition, if that period is less than 730 days; or

(*b*) in any other case, for at least 730 days in the period referred to in paragraph *a*.

History: 2003, c. 2, s. 99.
Corresponding Federal Provision: 44.1(9).

Exclusions.

280.14. For the purposes of this division, an eligible small business corporation and an eligible business corporation do not include a corporation that is

(*a*) a professional corporation;

(*b*) a specified financial institution;

(*c*) a corporation the principal business of which is the leasing, rental, development or sale, or any combination of those activities, of immovable property owned by it; or

(*d*) a corporation more than 50% of the fair market value of the property of which, net of debts incurred to acquire the property, is attributable to immovable property.

History: 2003, c. 2, s. 99.
Corresponding Federal Provision: 44.1(10).

Eligible small business corporation share.

280.15. In determining whether a share owned by an individual is an eligible small business corporation share of the individual, this Part shall be read without reference to sections 247.2 to 247.6.

History: 2003, c. 2, s. 99.
Corresponding Federal Provision: 44.1(11).

Anti-avoidance rule.

280.16. The permitted deferral of an individual in respect of a qualifying disposition of shares issued by a corporation, in this section referred to as "new shares", is deemed to be nil where

(*a*) the new shares, or shares for which the new shares are substituted property, were issued to the individual or a person related to the individual as part of a transaction or event or a series of transactions or events in which

i. shares of the capital stock of a corporation, in this section referred to as the "old shares", were disposed of by the individual or a person related to the individual, or

ii. the paid-up capital of old shares or the adjusted cost base to the individual or to a person related to the individual of the old shares was reduced;

(*b*) the new shares, or shares for which the new shares are substituted property, were issued

i. by the corporation that issued the old shares,

ii. by a corporation that, at or immediately after the time of issue of the new shares, was a corporation that was not dealing at arm's length with the corporation that issued the old shares or with the individual, or

iii. by a corporation that acquired the old shares, or by another corporation related to that corporation, as part of the transaction or event or series of transactions or events that included that acquisition of the old shares; and

(*c*) it is reasonable to conclude that one of the main reasons for the series of transactions or events or a transaction in the series was to permit the individual, a person related to the individual, or the individual and such a person to become eligible to deduct under section 280.6 permitted deferrals in respect of qualifying dispositions of new shares, or shares substituted for the new shares, the aggregate of which would exceed the aggregate of all amounts that those persons would have been eligible to deduct under section 280.6 in respect of permitted deferrals in respect of qualifying dispositions of old shares.

History: 2003, c. 2, s. 99; 2009, c. 5, s. 102.
Corresponding Federal Provision: 44.1(12).

Order of disposition.

280.17. For the purposes of this division, an individual is deemed to dispose of shares that are identical properties in the order in which the individual acquired them.

History: 2009, c. 5, s. 103.
Corresponding Federal Provision: 41.1(3).

DIVISION VIII
PROPERTY HAVING MORE THAN ONE USE

Change of use of property.

281. Where a taxpayer who acquired property for a purpose other than that of gaining or producing income, commences at a later time to use it for that purpose, or vice versa, he is deemed to have disposed of such property at such later time for proceeds equal to its fair market value at that time and to have immediately thereafter acquired it at a cost equal to its fair market value.

History: 1972, c. 23, s. 259; 1990, c. 59, s. 129.
Corresponding Federal Provision: 45(1)(a).

Property used partly to gain income and partly for another purpose.

282. Where property has, since its acquisition by a taxpayer, been regularly used in part for gaining or producing income and in part for some other purpose, the proportion of the property that the use made of it for such other purpose is of its whole use applies in computing the cost of the property or the proceeds of its disposition, as the case may be, to determine the part of such cost or proceeds assignable to that part of the property used for such other purpose.

History: 1972, c. 23, s. 260; 1990, c. 59, s. 130.
Corresponding Federal Provision: 45(1)(b).

Property with more than one use.

283. Where at a particular time there has been an increase or decrease in the relation between the use made by a taxpayer of a property for gaining income and the use made by him of the property for some other purpose, the taxpayer is deemed to have disposed of a property at that time for proceeds equal to the proportion of the fair market value of the property at that time that the amount of the increase or decrease in the use regularly made by the taxpayer of the property for such other purpose is of the whole use made of the property and to have reacquired the property immediately thereafter at a cost equal to those proceeds.

History: 1972, c. 23, s. 261; 1993, c. 16, s. 116.
Corresponding Federal Provision: 45(1)(c).

Applicability to a taxpayer not resident in Canada.

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".

History: 2004, c. 8, s. 55.
Corresponding Federal Provision: 45(1)(d).

Election on change in use of property.

284. For the purposes of this Title and sections 93 to 104, if section 281, to the extent that it concerns a property that begins to be used to gain income, or paragraph *b* of section 99 would otherwise apply for a taxation year in respect of a property of a taxpayer and the taxpayer makes a valid election under subsection 2 of section 45 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in relation to the change in use of the property, the taxpayer is deemed not to have begun to use the property for the purpose of gaining income.

Rescinded election.

However, if a taxpayer rescinds, after 19 December 2006, in accordance with subsection 2 of section 45 of the Income Tax Act, a particular election that the taxpayer made under that subsection 2 in relation to a change in use of a property, the taxpayer is deemed to have begun to use the property for the purpose of gaining income on the first day of the subsequent taxation year referred to in that subsection 2 in respect of the property if

(*a*) the particular election was made after 19 December 2006; or

(*b*) the taxpayer made a valid election under the first paragraph before 20 December 2006 in relation to the change in use of the property and did not rescind that election before that date in accordance with this paragraph.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made or rescinded under subsection 2 of section 45 of the Income Tax Act or in relation to an election made or rescinded under this section before 20 December 2006.

History: 1972, c. 23, s. 262; 1975, c. 22, s. 52; 1995, c. 49, s. 69; 2009, c. 5, s. 104.
Corresponding Federal Provision: 45(2).

Restriction in the case of a principal residence.

285. For the purposes of sections 274 and 274.0.1 and subject to section 286, in no case may a particular property be considered to be the principal residence of a taxpayer for a taxation year by virtue of the application of subparagraph *b* of the first paragraph of either of sections 274 and 274.0.1 if, by virtue solely of the application of that subparagraph *b*, the property would, but for this section, have been the taxpayer's principal residence for four or more preceding taxation years.

History: 1972, c. 23, s. 263; 1990, c. 59, s. 131; 1994, c. 22, s. 135.
Corresponding Federal Provision: 54 "principal residence" (d).

Exception to principal residence rules.

286. A taxation year in which a taxpayer does not inhabit the taxpayer's principal residence by reason of the relocation of the taxpayer's place of employment or that of the taxpayer's spouse while the taxpayer or the taxpayer's spouse is an employee of a person with whom the taxpayer or the

taxpayer's spouse is dealing at arm's length shall not be included in the four years mentioned in section 285, where

(*a*) at any time, the taxpayer's new home is at least 40 kilometres closer to the taxpayer's new place of employment or that of the taxpayer's spouse; and

(*b*) the taxpayer resumes habitation in the taxpayer's principal residence while the taxpayer or the taxpayer's spouse is still an employee of such person or before the end of the taxation year following that in which the taxpayer's employment or that of the taxpayer's spouse terminates, or the taxpayer dies while the taxpayer or the taxpayer's spouse is still an employee of such person.

History: 1975, c. 21, s. 6; 1977, c. 26, s. 28; 1979, c. 18, s. 21; 2004, c. 21, s. 71.
Corresponding Federal Provision: 54.1.

Election to use income property as principal residence.

286.1. If, at any time, a property that was acquired by a taxpayer for the purpose of gaining income ceases to be used for that purpose and becomes the taxpayer's principal residence, sections 281 to 283 do not apply to deem the taxpayer to have disposed of the property at that time and to have reacquired it immediately after that time, if the taxpayer makes a valid election under subsection 3 of section 45 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in relation to the change in use of the property.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 3 of section 45 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1986, c. 19, s. 52; 1990, c. 59, s. 132; 1997, c. 31, s. 42; 2009, c. 5, s. 105.
Corresponding Federal Provision: 45(3).

286.2. *(Repealed).*

History: 1986, c. 19, s. 52; 1990, c. 59, s. 133; 2009, c. 5, s. 106.

DIVISION IX
PERSONAL-USE PROPERTY

Personal-use property.

287. (*1*) For the purposes of this Title, personal-use property includes any property owned in whole or in part by the taxpayer which is used primarily:

(*a*) for his personal use or enjoyment;

(*b*) for the personal use or enjoyment of one or more persons who form part of a group to which the taxpayer and persons related to him belong;

(*c*) if the taxpayer is a trust, for the personal use or enjoyment of the beneficiary under the trust or of a person related to the beneficiary.

"personal-use property".

(2) The expression "personal-use property" also includes any debt of the taxpayer resulting from the disposition of such property and any option to acquire such a property.

Personal-use property of partnership.

(3) The personal-use property of a partnership includes the property of the partnership that is used primarily for the personal use or enjoyment of one or more members of the partnership or of a person related to one of them.

History: 1972, c. 23, s. 264; 1997, c. 3, s. 71.
Corresponding Federal Provision: 54 "personal-use property".

Excluded property.

287.1. For the purposes of this division, an excluded property of a taxpayer means a property acquired by the taxpayer, or by a person with whom the taxpayer does not deal at arm's length, in circumstances in which it is reasonable to conclude that the acquisition of the property relates to an arrangement, plan or scheme that is promoted by another person or partnership and under which it is reasonable to conclude that the property will be the subject of a gift to which section 710 or the definition of "total charitable gifts", "total cultural gifts", "total gifts of qualified property" or "total musical instrument gifts" in the first paragraph of section 752.0.10.1, applies.

History: 2003, c. 2, s. 100; 2006, c. 36, s. 32.
Corresponding Federal Provision: 46(5).

Loss on personal-use property.

288. A loss from the disposition of any personal-use property shall not be allowable as a loss, except in the case of precious property or a debt referred to in section 300.

History: 1972, c. 23, s. 265; 1986, c. 19, s. 53.
Interpretation Bulletins: IMP. 232-2/R1.
Corresponding Federal Provision: 40(2)(g)(iii).

Adjusted cost base and proceeds of disposition.

289. For the purposes of this Title, if a taxpayer disposes of a personal-use property, other than an excluded property disposed of in circumstances to which section 710 or the definition of "total charitable gifts", "total cultural gifts", "total gifts of qualified property" or "total musical instrument gifts" in the first paragraph of section 752.0.10.1 applies, owned by the taxpayer, the following rules apply:

(*a*) the adjusted cost base to the taxpayer of the property immediately before the disposition is deemed to be equal to the greater of $1,000 and the amount otherwise determined to

be its adjusted cost base to the taxpayer immediately before the disposition; and

(*b*) the taxpayer's proceeds of disposition of the property is deemed to be equal to the greater of $1,000 and the taxpayer's proceeds of disposition of the property otherwise determined.

History: 1972, c. 23, s. 266; 2003, c. 2, s. 101; 2006, c. 36, s. 33.
Corresponding Federal Provision: 46(1).

Disposition of part of personal-use property.

290. For the purposes of this Title, if a taxpayer disposes of part of a personal-use property, other than a part of an excluded property disposed of in circumstances to which section 710 or the definition of "total charitable gifts", "total cultural gifts", "total gifts of qualified property" or "total musical instrument gifts" in the first paragraph of section 752.0.10.1 applies, owned by the taxpayer and has retained another part of the property, the following rules apply:

(*a*) the adjusted cost base to the taxpayer, immediately before the disposition, of the part so disposed of is deemed to be equal to the greater of

i. the adjusted cost base, otherwise determined, to the taxpayer, immediately before the disposition, of the part so disposed of, and

ii. that proportion of $1,000 that the amount determined under subparagraph i is of the adjusted cost base, otherwise determined, to the taxpayer, immediately before the disposition, of the whole property; and

(*b*) the proceeds of disposition of the part so disposed of are deemed to be equal to the greater of the proceeds of disposition of that part, otherwise determined, and the amount determined under subparagraph ii of paragraph *a*.

History: 1972, c. 23, s. 267; 2003, c. 2, s. 101; 2006, c. 36, s. 34.
Corresponding Federal Provision: 46(2).

Property ordinarily disposed of as a set.

291. Where several personal-use properties that would ordinarily be disposed of as a set in a single transaction are disposed of in several transactions to a single person or to a group of persons not dealing with each other at arm's length, they are deemed, if the fair market value of all such property before the first transaction is more than $1,000, to be a single personal-use property and each such transaction is deemed to have dealt with a part of such property.

History: 1972, c. 23, s. 268.
Corresponding Federal Provision: 46(3).

Decrease in market value of personal-use property of a corporation, partnership or trust.

292. Where a decrease in the fair market value of a personal-use property of a corporation, partnership or trust may reasonably have had the effect of reducing or changing into a loss the gain that a taxpayer would have realized from the disposition of a share of the capital stock of a corporation, an interest in a trust or in a partnership or of increasing the loss which would have resulted from such disposition, the amount of the gain or loss is deemed that which would have resulted from it, if the decrease had not occurred.

History: 1972, c. 23, s. 269; 1997, c. 3, s. 71.
Corresponding Federal Provision: 46(4).

DIVISION X
LOTTERIES

Prize.

293. The gain or loss of a taxpayer from the disposition of a chance to win a prize or a right to receive an amount as a prize, in connection with a lottery scheme, is deemed nil.

History: 1972, c. 23, s. 270; 1984, c. 15, s. 68; 1988, c. 18, s. 15.
Interpretation Bulletins: IMP. 293-1/R2.
Corresponding Federal Provision: 40(2)(f).

DIVISION XI
OPTIONS TO PURCHASE AND SELL

Granting of options.

294. Subject to section 296, the granting of an option is a disposition of property the adjusted cost base of which to the grantor immediately before he grants it is nil.

Provision not applicable.

This section does not apply in respect of

(*a*) an option to purchase or sell a principal residence;

(*b*) an option granted by a corporation to purchase shares of its capital stock or bonds or debentures to be issued by it;

(*b.*1) an option granted by a trust to purchase units of the trust to be issued by the trust;

(*c*) *(subparagraph repealed).*

History: 1972, c. 23, s. 271; 1985, c. 25, s. 52; 1987, c. 67, s. 69; 1993, c. 16, s. 117; 1996, c. 39, s. 273; 1997, c. 3, s. 71.
Corresponding Federal Provision: 49(1).

Expired options — shares.

295. Where, at a particular time, an option described in subparagraph *b* of the second paragraph of section 294 expires, the corporation that granted the option is deemed to have disposed, at that time for proceeds of disposition equal

to the amount received by it in consideration for the granting of the option, of capital property the adjusted cost base of which to the corporation immediately before that time is deemed to be nil, unless

(*a*) the option is held, at the particular time, by a person who deals at arm's length with the corporation and the option was granted by the corporation to a person who was dealing at arm's length with the corporation at the time that the option was granted; or

(*b*) the option is an option to acquire shares of the capital stock of the corporation in consideration for expenses incurred pursuant to an agreement described in paragraph *e* of any of sections 364, 395 and 408 or in paragraph *c* of section 418.2.

History: 1972, c. 23, s. 272; 1973, c. 17, s. 28; 1975, c. 22, s. 53; 1982, c. 5, s. 62; 1994, c. 22, s. 136; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 2017, c. 1, s. 115.

Corresponding Federal Provision: 49(2).

Expired options — trust units.

295.1. Where, at a particular time, an option granted by a trust and referred to in subparagraph *b*.1 of the second paragraph of section 294 expires, and the option is held at that time by a person who does not deal at arm's length with the trust or was granted to a person who did not deal at arm's length with the trust at the time that the option was granted, the following rules apply:

(*a*) the trust is deemed to have disposed of capital property at the particular time for proceeds of disposition equal to the amount received by it in consideration for the granting of the option; and

(*b*) the adjusted cost base to the trust of that capital property immediately before the particular time is deemed to be nil.

History: 1993, c. 16, s. 118; 2017, c. 1, s. 115.

Corresponding Federal Provision: 49(2.1).

Rules applicable where option exercised.

296. Where an option to purchase or sell is exercised, for the purposes of computing the income of the vendor and the purchaser the granting of the option and the exercise thereof are deemed not to be dispositions of property, and the following rules apply:

(*a*) in the case of an option to purchase, the consideration received by the vendor for such option must be included in computing the proceeds of disposition to him of the property, and the purchaser must include, in computing the cost to him of the property, the adjusted cost base to him of the option or, where paragraph *f* or *j*.3 of section 255 applies in respect of the acquisition of the property by the purchaser because a person who did not deal at arm's length with the purchaser was deemed by reason of the acquisition to have received a benefit under Division VI of Chapter II of Title II, the adjusted cost base to that person of the option immediately before that person last disposed of the option;

(*b*) in the case of an option to sell, the adjusted cost base of the option to the vendor must be deducted in computing the proceeds of disposition to him of the property and the consideration received by the purchaser for such option must be deducted in computing the cost of the property to him.

History: 1972, c. 23, s. 273; 1985, c. 25, s. 53; 1987, c. 67, s. 70; 1990, c. 59, s. 134; 1993, c. 16, s. 119; 2001, c. 53, s. 260; 2003, c. 2, s. 102.

Corresponding Federal Provision: 49(3) and (3.1).

Option to acquire specified property exercised.

296.1. Where at any time a taxpayer exercises an option to acquire a specified property,

(*a*) the taxpayer shall deduct after that time in computing the adjusted cost base to the taxpayer of the specified property the aggregate of all amounts deducted under paragraph *b*.1 of section 257 in computing, immediately before that time, the adjusted cost base to the taxpayer of the option; and

(*b*) the taxpayer shall add, after that time, in computing the adjusted cost base to the taxpayer of the specified property, the amount determined under paragraph *a* in respect of that acquisition.

History: 1996, c. 39, s. 91.

Corresponding Federal Provision: 49(3.01).

Option granted before 23 February 1994.

296.2. Where an individual, other than a trust, who disposes of property pursuant to the exercise of an option that was granted by the individual before 23 February 1994 so elects in the individual's fiscal return for the taxation year in which the disposition occurs, section 296 does not apply in respect of the disposition in computing the income of the individual.

History: 1996, c. 39, s. 91.

Corresponding Federal Provision: 49(3.2).

Option exercised in subsequent taxation year.

297. Where an option granted by a taxpayer in a taxation year is exercised in a subsequent taxation year, the taxpayer may file an amended fiscal return to exclude from his income for the taxation year the amount received as consideration for the option:

(*a*) if he has filed a fiscal return for the taxation year; and

(*b*) if he has filed his amended fiscal return on or before his filing-due date for that subsequent year.

History: 1972, c. 23, s. 274; 1987, c. 67, s. 71; 1990, c. 59, s. 135; 1997, c. 31, s. 43.

Corresponding Federal Provision: 49(4)(b) and (c).

Renewal or extension of an option.

298. Where a taxpayer has granted a renewal or extension of an option referred to in section 294, 295 or 295.1, the following rules apply:

(*a*) for the purposes of the said sections, each renewal or extension is deemed to be an option on the day the renewal or extension is granted;

(*b*) for the purposes of subparagraph iv of subparagraph *b* of the first paragraph of section 248 and sections 295 to 297, the option and each renewal or extension are deemed to be the same option; and

(*c*) section 297 applies to each taxation year in which a renewal or extension was granted.

History: 1975, c. 22, s. 54; 1993, c. 16, s. 120; 2003, c. 2, s. 103.
Interpretation Bulletins: 49(5).

Acquisition of property in satisfaction of an obligation.

298.1. Where a taxpayer acquires a property in satisfaction of an absolute or contingent obligation of a person or partnership to provide the property pursuant to a contract or other arrangement one of the main purposes of which was to establish a right, whether absolute or contingent, to the property and that right was not under the terms of a trust, partnership agreement, share or debt obligation, the satisfaction of the obligation is deemed not to be a disposition of that right.

History: 2001, c. 53, s. 51.
Corresponding Federal Provision: 49.1.

DIVISION XII
BAD DEBTS

Bad debts.

299. Where a taxpayer establishes that a debt owing to him at the end of a taxation year, other than a debt resulting from the disposition of a personal-use property, is a bad debt for the year, he is deemed, if he so elects in the taxpayer's fiscal return filed under this Part for the year, to have disposed of it at that time for proceeds equal to nil and to have reacquired it immediately thereafter at a cost equal to nil.

Bad debts.

The same rule applies where the taxpayer is the owner, at the end of a taxation year, of a share other than a share received by him as consideration in respect of the disposition of personal-use property, of the capital stock of

(*a*) a corporation that has during the year become a bankrupt;

(*b*) a corporation referred to in section 6 of the Winding-up Act (Revised Statutes of Canada, 1985, chapter W-11) that is insolvent within the meaning of that Act and in respect of which a winding-up order under that Act has been made in the year; or

(*c*) a corporation that is insolvent at the end of the year if, at that time,

i. neither the corporation nor a corporation controlled by it carries on business,

ii. the fair market value of the share is nil, and

iii. it is reasonable to expect that the corporation will be dissolved or wound up and will not recommence to carry on any business.

History: 1972, c. 23, s. 275; 1979, c. 18, s. 22; 1987, c. 67, s. 72; 1990, c. 59, s. 136; 1993, c. 16, s. 121; 1995, c. 49, s. 236; 1996, c. 39, s. 92; 1997, c. 3, s. 71.
Interpretation Bulletins: IMP. 299-1/R1.
Corresponding Federal Provision: 50(1)(b)(i) to (iii) and 50(1) in fine.

Deemed disposition in case of business recovery.

299.1. Where a taxpayer is deemed, by reason of subparagraph *c* of the second paragraph of section 299, to have disposed of a share of the capital stock of a corporation at the end of a taxation year and the taxpayer or a person with whom he is not dealing at arm's length owns the share at the earliest time, during the 24-month period immediately following the disposition, that the corporation or a corporation controlled by it carries on business, the taxpayer or the person, as the case may be, is deemed to have disposed of the share at that earliest time for proceeds of disposition equal to its adjusted cost base to the taxpayer, determined immediately before the time he is deemed to have disposed of it by reason of subparagraph *c* of the second paragraph of section 299, and to have reacquired it immediately after that earliest time at a cost equal to those proceeds.

History: 1993, c. 16, s. 122; 1997, c. 3, s. 71.
Corresponding Federal Provision: 50(1.1).

Bad debts regarding personal-use property.

300. Where, at the end of a taxation year, a taxpayer establishes that a debt which is a personal-use property and which is then owing to him by a person with whom he deals at arm's length is a bad debt for the year, such taxpayer is deemed:

(*a*) to have disposed of it at that time for proceeds equal to the excess of the adjusted cost base of such property, immediately before the end of the year, over his gain derived from the disposition of the personal-use property the proceeds of disposition of which included the debt; and

(*b*) to have reacquired it, immediately after the end of that year, at a cost equal to the proceeds established under paragraph *a*.

History: 1972, c. 23, s. 276; 1986, c. 19, s. 54; 1995, c. 49, s. 236.
Corresponding Federal Provision: 50(2).

DIVISION XIII
CONVERSION OF SHARES

Convertible property.

301. Where a share of the capital stock of a corporation is acquired by a taxpayer from the corporation in exchange for a capital property of the taxpayer that is another share of the corporation or a capital property of the taxpayer that is a bond, debenture or note of the corporation the terms of which confer on the holder the right to make the exchange and no consideration other than that share is received by the taxpayer, the following rules apply:

(*a*) except for the purposes of sections 157.6, 280.10 and 280.11 and paragraph *o* of section 594, the exchange is deemed not to be a disposition of property;

(*b*) the cost to the taxpayer of all the shares of a particular class acquired by him on the exchange is deemed to be that proportion of the adjusted cost basis to him of the exchanged capital property immediately before the exchange that the fair market value, of all the shares of the particular class acquired by him on the exchange is of that of all the shares acquired by him on the exchange;

(*b.*1) the taxpayer shall deduct, after the exchange, in computing the adjusted cost base to the taxpayer of a share acquired by the taxpayer on the exchange, the amount determined by the formula

A × B / C;

(*b.*2) the taxpayer shall add, after the exchange, in computing the adjusted cost base to the taxpayer of a share, the amount determined under paragraph *b*.1 in respect of the share;

(*c*) for the purposes of sections 462.11 to 462.24, the exchange is deemed to be a transfer of the exchanged capital property by the taxpayer to the corporation;

(*d*) where the exchanged capital property is taxable Canadian property of the taxpayer, the share acquired by the taxpayer on the exchange is also deemed to be, at any time that is within 60 months after the exchange, taxable Canadian property of the taxpayer.

Interpretation.

For the purposes of the formula in subparagraph *b*.1 of the first paragraph,

(*a*) A is the aggregate of all amounts deducted under paragraph *b*.1 of section 257 in computing, immediately before the exchange, the adjusted cost base to the taxpayer of the exchanged capital property;

(*b*) B is the fair market value, immediately after the exchange, of the share referred to in subparagraph *b*.1 of the first paragraph; and

(*c*) C is the fair market value, immediately after the exchange, of all the shares acquired by the taxpayer on the exchange.

History: 1972, c. 23, s. 277; 1973, c. 17, s. 29; 1975, c. 22, s. 55; 1986, c. 19, s. 55; 1987, c. 67, s. 73; 1995, c. 49, s. 70; 1996, c. 39, s. 93; 1997, c. 3, s. 71; 2001, c. 7, s. 40; 2011, c. 6, s. 125; 2015, c. 36, s. 17.
Interpretation Bulletins: 51(1).

Rules applicable.

301.1. Notwithstanding section 301, where shares of the capital stock of a corporation have been acquired by a taxpayer in exchange for a capital property described in the said section 301, in circumstances such that, but for this section, section 301 would have applied, where the fair market value of the capital property immediately before the exchange exceeds the fair market value of the shares immediately after the exchange, and where it is reasonable to regard any portion of such excess as a benefit that the taxpayer desired to have conferred on a person related to the taxpayer, the following rules apply:

(*a*) the taxpayer is deemed to have disposed of the capital property for proceeds of disposition equal to the lesser of the aggregate of its adjusted cost base to him immediately before the exchange and the excess portion, and the fair market value of the capital property immediately before the exchange;

(*b*) the taxpayer's capital loss from the disposition of the capital property is deemed to be nil; and

(*c*) the cost to the taxpayer of all the shares of a particular class acquired in exchange for the capital property is deemed to be that proportion of the lesser of the adjusted cost base to him of the capital property immediately before the exchange, and the aggregate of the fair market value immediately after the exchange of the shares acquired by him, on the exchange, for the capital property and the amount that, but for paragraph *b*, would have been the taxpayer's capital loss from the disposition of the capital property that the fair market value, immediately after the exchange, of all the shares of the particular class acquired by him on the exchange is of the fair market value of all the shares acquired by him on the exchange.

History: 1982, c. 5, s. 63; 1986, c. 19, s. 56; 1997, c. 3, s. 71; 2005, c. 23, s. 45.
Corresponding Federal Provision: 51(2)(d) to (f).

Application of ss. 301 and 301.1.

301.2. Sections 301 and 301.1 do not apply in respect of an exchange to which section 518, 529 or 541 applies.

History: 1995, c. 49, s. 71.
Corresponding Federal Provision: 51(4).

DIVISION XIII.1
EXCHANGE OF DEBT OBLIGATIONS

Conversion of a debt obligation.

301.3. Where a taxpayer acquires a bond, debenture or note of a debtor, in this section referred to as the "new obligation", in exchange for a capital property of the taxpayer that is another bond, debenture or note of the same debtor that conferred on the holder the right to make the exchange and the principal amount of the new obligation is equal to the principal amount of the exchanged capital property, the cost to the taxpayer of the new obligation and the proceeds of disposition of the exchanged capital property are deemed to be equal to the adjusted cost base to the taxpayer of the exchanged capital property immediately before the exchange.

History: 1996, c. 39, s. 94.
Corresponding Federal Provision: 51.1.

DIVISION XIV
MISCELLANEOUS CASES

Cost of certain property the value of which is included in income.

302. For the purposes of this Title, where a taxpayer acquires property after 31 December 1971, other than property described in the second paragraph, and an amount in respect of its value is included, otherwise than under Division VI of Chapter II of Title II, in computing the taxpayer's taxable income or taxable income earned in Canada, as the case may be, for a taxation year during which the taxpayer was not resident in Canada, or in computing the taxpayer's income for a taxation year throughout which the taxpayer was resident in Canada, the amount so included is to be added in computing the cost to the taxpayer of the property at any time, except to the extent that the amount was otherwise added to the cost or included in computing the adjusted cost base to the taxpayer of the property at or before that time.

Excluded property.

The property to which the first paragraph refers is

(*a*) an annuity contract;

(*b*) a right as a beneficiary under a trust to enforce payment of an amount by the trust to the taxpayer;

(*c*) property acquired in circumstances to which sections 304 and 305 apply; or

(*d*) property acquired from a trust as consideration for all or part of the taxpayer's capital interest in the trust.

History: 1972, c. 23, s. 278; 1975, c. 22, s. 56; 1982, c. 5, s. 64; 1994, c. 22, s. 137; 2001, c. 53, s. 260; 2003, c. 2, s. 104; 2017, c. 1, s. 116.
Corresponding Federal Provision: 52(1).

303. *(Repealed).*

History: 1973, c. 17, s. 31; 1975, c. 22, s. 57; 2001, c. 53, s. 260; 2003, c. 2, s. 105.

Cost of property received as dividend in kind.

304. Where after 1971, a shareholder receives property from a corporation as a dividend payable in kind other than a stock dividend in respect of a share owned by him of the capital stock of the corporation, he is deemed to acquire such property at a cost equal to its fair market value at that time; in such case, the corporation is deemed at the same time to have disposed of the property for proceeds equal to its fair market value.

History: 1972, c. 23, s. 280; 1997, c. 3, s. 71.
Corresponding Federal Provision: 52(2).

Cost of stock dividend.

305. A shareholder of a corporation who receives after 1971 a stock dividend, in respect of a share owned by him of the capital stock of the corporation, is deemed to acquire the share received by him at a cost equal to the aggregate of

(*a*) where the stock dividend is a dividend,

i. in the case of a shareholder that is an individual, the amount of the stock dividend, and

ii. in any other case, the aggregate of

(1) the amount by which the lesser of the amount of the stock dividend and its fair market value exceeds the amount of the dividend that the shareholder may deduct under section 738 in computing the shareholder's taxable income, except any portion of the dividend that, if paid as a separate dividend, would not be subject to section 308.1 because the amount of the separate dividend would not exceed the amount of the income earned or realized by a corporation after 31 December 1971 and before the safe-income determination time, in relation to the transaction or event or series of transactions or events as part of which the dividend is received, that can reasonably be considered to contribute to the capital gain that would have been realized on a disposition at fair market value of the share on which the dividend was received, if the disposition had occurred immediately before the dividend was paid, and

(2) the amount determined by the formula

A + B;

(*a.*1) where the stock dividend is not a dividend, nil, and

(*b*) the amount included under section 112.1 in computing the shareholder's income in respect of the stock dividend.

Formula elements.

In the formula in subparagraph 2 of subparagraph ii of subparagraph *a* of the first paragraph,

(*a*) A is the amount of the deemed gain determined in accordance with paragraph *c* of section 308.1 in respect of the stock dividend; and

(*b*) B is the amount by which the amount of the reduction determined in accordance with subparagraph *b* of the first paragraph of section 308.2.0.2 in respect of the stock dividend to which paragraph *a* of section 308.1 would otherwise apply exceeds the amount determined in accordance with subparagraph *a* in respect of the stock dividend.

History: 1972, c. 23, s. 281; 1974, c. 18, s. 15; 1979, c. 18, s. 23; 1987, c. 67, s. 74; 1993, c. 16, s. 123; 1997, c. 3, s. 71; 2017, c. 1, s. 117; 2019, c. 14, s. 107.
Corresponding Federal Provision: 52(3).

306. *(Repealed).*

History: 1973, c. 17, s. 32; 1990, c. 59, s. 137; 2003, c. 2, s. 106.

Cost of shares received as consideration.

306.1. Despite any other provision of this Act, if a corporation disposes of a property to another corporation in a transaction to which paragraph *l* of subsection 1 of section 219 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applies, the cost to it of a share of a particular class of the capital stock of the other corporation received by it as consideration for the property is deemed to be equal to the lesser of the cost of the share to the corporation otherwise determined immediately after the disposition and the amount by which the paid-up capital of that class increases because of the issuance of that share.

History: 1982, c. 5, s. 65; 1997, c. 3, s. 71; 2009, c. 5, s. 107.
Corresponding Federal Provision: 52(7).

Cost of shares on immigration.

306.2. Notwithstanding any other provision of this Part, the cost of any share of the capital stock of a corporation that becomes resident in Canada at a particular time to any shareholder that is not at that time resident in Canada is deemed to be equal to the fair market value of the share at that time.

Exception.

However, the first paragraph does not apply if the share was taxable Canadian property immediately before the particular time.

History: 1995, c. 49, s. 72; 1997, c. 3, s. 71; 2001, c. 53, s. 52.
Corresponding Federal Provision: 52(8).

Property acquired as lottery prize.

307. The taxpayer who acquires, at any time after 31 December 1971, property as a prize in connection with a lottery, is deemed to acquire such property at a cost equal to its fair market value at that time.

History: 1972, c. 23, s. 282; 1986, c. 19, s. 57.
Interpretation Bulletins: IMP. 293-1/R2.
Corresponding Federal Provision: 52(4).

DIVISION XIV.1
(Repealed).

307.1. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.2. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.3. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.4. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.5. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.6. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.7. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.8. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.9. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.10. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.11. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.12. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.13. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.14. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.15. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.16. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.17. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.18. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.19. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.20. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.21. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.22. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.23. *(Repealed).*

History: 1985, c. 25, s. 54; 1987, c. 67, s. 75.

307.24. *(Repealed).*

History: 1987, c. 67, s. 76; 2001, c. 7, s. 41.

DIVISION XV
ANTI-AVOIDANCE RULE

308. *(Repealed).*

History: 1972, c. 23, s. 283; 1990, c. 59, s. 138.

Definitions:

308.0.1. In this division,

"distribution";
"distribution" means a direct or indirect transfer of property of a corporation, referred to in this division as the "distributing corporation", to one or more corporations, each of which is referred to in this division as a "transferee corporation", where, in respect of each type of property owned by the distributing corporation immediately before the transfer, each transferee corporation receives property of that type the fair market value of which is equal to or approximates the proportion of the fair market value, immediately before the transfer, of all property of that type owned at that time by the distributing corporation that

(*a*) the fair market value, immediately before the transfer, of all the shares of the capital stock of the distributing corporation owned at that time by the transferee corporation is of

(*b*) the fair market value, immediately before the transfer, of all the issued shares of the capital stock of the distributing corporation;

"permitted acquisition";
"permitted acquisition", in relation to a distribution by a distributing corporation, means an acquisition of property by a person or partnership on, or as part of,

(*a*) a distribution, or

(*b*) a permitted exchange or permitted redemption in relation to a distribution by another distributing corporation;

"permitted exchange";
"permitted exchange", in relation to a distribution by a distributing corporation, means

(*a*) an exchange of shares for shares of the capital stock of the distributing corporation to which section 301 or sections 541 to 543 apply or would, if the shares were capital property to the holder thereof, apply, other than an exchange that resulted in an acquisition of control of the distributing corporation by any person or group of persons, and

(*b*) an exchange of shares of the capital stock of the distributing corporation by one or more shareholders of the distributing corporation, each of whom is referred to in this paragraph and the second paragraph as a "participant", for shares of the capital stock of another corporation, referred to in this paragraph and the second paragraph as the "acquirer", in contemplation of the distribution where no share of the capital stock of the acquirer outstanding immediately after the exchange, other than directors' qualifying shares, is owned at that time by any person or partnership other than a participant, and either

i. the acquirer owns, immediately before the distribution, all the shares each of which is a share of the capital stock of the distributing corporation that was owned immediately before the exchange by a participant, or

ii. the fair market value, immediately before the distribution, of each participant's shares of the capital stock of the acquirer is equal to or approximates the amount determined by the formula

$[A \times (B / C)] + D;$

"permitted redemption";
"permitted redemption", in relation to a distribution by a distributing corporation, means

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

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

(*c*) a redemption or purchase for cancellation by the distributing corporation, in contemplation of the distribution, of all the shares of its capital stock each of which is

i. a share of a specified class the cost of which, at the time of its issuance, to its original owner was equal to the fair market value at that time of the consideration for which it was issued, or

ii. a share that was issued, in contemplation of the distribution, by the distributing corporation in exchange for a share described in subparagraph i;

"qualified person";
"qualified person", in relation to a distribution, means a person or partnership with whom the distributing corporation deals at arm's length at all times during the course of the series of transactions or events that includes the distribution if

(*a*) at any time before the distribution,

i. all of the shares of each class of the capital stock of the distributing corporation that includes shares that cause that person or partnership to be a specified shareholder of the distributing corporation (in this definition all of those shares in all of those classes being referred to as the "exchanged shares") are, in the circumstances described in paragraph *a* of the definition of "permitted exchange", exchanged for consideration that consists solely of shares of a specified class of the capital stock of the distributing corporation (in this definition referred to as the "new shares"), or

ii. the terms or conditions of all of the exchanged shares are amended (which shares are in this definition referred to after the amendment as the "amended shares") and the amended shares are shares of a specified class of the capital stock of the distributing corporation;

(*b*) immediately before the exchange or amendment, the exchanged shares are listed on a designated stock exchange;

(*c*) immediately after the exchange or amendment, the new shares or the amended shares, as the case may be, are listed on a designated stock exchange;

(*d*) the exchanged shares would be shares of a specified class if they were not convertible into, or exchangeable for, other shares;

(*e*) the new shares or the amended shares, as the case may be, and the exchanged shares are non-voting in respect of the election of the board of directors of the distributing corporation except in the event of a failure or default under the terms or conditions of the shares; and

(*f*) no holder of the new shares or the amended shares, as the case may be, is entitled to receive on the redemption, cancellation or acquisition of the new shares or the amended shares, as the case may be, by the distributing corporation or by any person with whom the distributing corporation does not deal at arm's length, an amount (other than a premium for early redemption) that is greater than the aggregate of the fair market value of the consideration for which the exchanged shares were issued and the amount of any unpaid dividends on the new shares or on the amended shares, as the case may be;

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

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

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

"specified class";
"specified class" means a class of shares of the capital stock of a distributing corporation where

(*a*) the paid-up capital in respect of the class immediately before the beginning of the series of transactions or events that includes a distribution by the distributing corporation was not less than the fair market value of the consideration for which the shares of that class then outstanding were issued,

(*b*) 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 or shares of the capital stock of a transferee corporation in relation to the distributing corporation,

(*c*) no holder of the shares is 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 (other than a premium for early redemption) that is 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, and

(*d*) 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;

"specified corporation";
"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".
"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*.

Transfer by a specified corporation.

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.

Interpretation.

For the purposes of the formula in subparagraph ii of paragraph *b* of the definition of "permitted exchange" in the first paragraph,

(*a*) A is the fair market value, immediately before the distribution, of all the shares of the capital stock of the acquirer then outstanding, other than shares issued to participants in consideration for shares of a specified class all the shares of which were acquired by the acquirer on the exchange;

(*b*) B is the fair market value, immediately before the exchange, of all the shares of the capital stock of the distributing corporation, other than shares of a specified class none or all of the shares of which were acquired by the acquirer on the exchange, owned at that time by the participant;

(*c*) C is the fair market value, immediately before the exchange, of all the shares, other than shares of a specified class none or all of the shares of which were acquired by the acquirer on the exchange and shares to be redeemed, acquired or cancelled by the distributing corporation pursuant to the exercise of a statutory right of dissent by the holder of the share, of the capital stock of the distributing corporation outstanding immediately before the exchange; and

(*d*) D is the fair market value, immediately before the distribution, of all the shares issued to the participant by the acquirer in consideration for shares of a specified class all of the shares of which were acquired by the acquirer on the exchange.

Rules of application.

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.

History: 1996, c. 39, s. 96; 1997, c. 3, s. 71; 2000, c. 5, s. 73; 2004, c. 8, s. 56; 2009, c. 15, s. 71; 2010, c. 5, s. 32.
Corresponding Federal Provision: 55(1) and 55(3.02).

Deemed proceeds of disposition or capital gain.

308.1. Despite any other provision of this Part, where a corporation resident in Canada (in this section and sections 308.2 to 308.2.0.2 referred to as the "dividend recipient") receives a taxable dividend described in section 308.2 in respect of which it is entitled to a deduction under any of sections 738, 740 and 845, the amount of that dividend, other than the prescribed portion of it, is deemed

(*a*) not to be a dividend received by the dividend recipient;

(*b*) where the dividend is received on a redemption, acquisition or cancellation of a share, by the corporation that issued the share, under section 508 to the extent that it refers to a dividend deemed paid under section 505 or 506, to be proceeds of disposition of that share to the extent that the amount is not otherwise included in computing those proceeds; and

(*c*) where paragraph *b* does not apply in respect of a dividend, to be a gain of the dividend recipient from the disposition of a capital property for the year in which the dividend was received.

History: 1982, c. 5, s. 66; 1997, c. 3, s. 71; 2000, c. 5, s. 74; 2019, c. 14, s. 108.

Corresponding Federal Provision: 55(2) en partie et (2.1) en partie.

Application.

308.2. A taxable dividend to which section 308.1 refers is such a dividend received by a corporation as part of a transaction or event or a series of transactions or events if

(*a*) it can reasonably be considered that

i. one of the purposes of the payment or receipt of the dividend, or, in the case of a dividend referred to in section 506, one of its results, is to effect a significant reduction in the portion of the capital gain that, but for the dividend, would have been realized on a disposition at fair market value of any share of the capital stock of a corporation, if the disposition had occurred immediately before the dividend was paid, or

ii. the dividend (other than a dividend that is received on a redemption, acquisition or cancellation of a share, by the corporation that issued the share, under section 508 to the extent that it refers to a dividend deemed paid under section 505 or 506) was received on a share that is held as capital property by the dividend recipient and one of the purposes of the payment or receipt of the dividend is to effect

(1) a significant reduction in the fair market value of any share, or

(2) a significant increase in the cost of property, such that the amount that is the aggregate of the cost amounts of all properties of the dividend recipient immediately after the dividend was paid is significantly greater than the amount that is the aggregate of the cost amounts of all properties of the dividend recipient immediately before the dividend was paid; and

(*b*) the amount of the dividend exceeds the amount of the income earned or realized by any corporation after 31 December 1971 and before the safe-income determination time, in relation to the transaction or event or series of transactions or events, that can reasonably be considered to contribute to the capital gain that would have been realized on a disposition at fair market value of the share on which the dividend was received, if the disposition had occurred immediately before the dividend was paid.

History: 1982, c. 5, s. 66; 1984, c. 15, s. 69; 1996, c. 39, s. 97; 1997, c. 3, s. 71; 2000, c. 5, s. 75; 2019, c. 14, s. 108.

Corresponding Federal Provision: 55(2) (part) and (2.1) (part).

Amount of the stock dividend.

308.2.0.1. For the purposes of sections 308.1, 308.2 and 308.2.0.2, the amount of a stock dividend and the dividend recipient's entitlement to a deduction under any of sections 738, 740 and 845 in respect of the amount of that dividend are to be determined as if the definition of "amount" in section 1 were read as if the following paragraph were inserted after paragraph *a*:

"(*a*.1) in the case of a stock dividend paid by a corporation, the amount of the stock dividend is equal to the greater of

i. the amount by which the paid-up capital of the corporation that paid the dividend is increased by reason of the payment of the dividend, and

ii. the fair market value of the share or shares issued as a stock dividend at the time of payment;

History: 2019, c. 14, s. 109.

Corresponding Federal Provision: 55(2.2).

Separate taxable dividend.

308.2.0.2. Where the conditions of the second paragraph are met, in respect of a stock dividend, the following rules apply:

(*a*) the amount of the stock dividend is deemed for the purposes of section 308.1 to be a separate taxable dividend to the extent of the portion of the amount that does not exceed the amount of the income earned or realized by any corporation after 31 December 1971 and before the safe-income determination time, in relation to the transaction or event or series of transactions or events, that can reasonably be considered to contribute to the capital gain that would have been realized on a disposition at fair market value of the share on which the dividend was received, if the disposition had occurred immediately before the dividend was paid; and

(*b*) the amount of the separate taxable dividend referred to in subparagraph *a* is deemed to reduce the amount of the income earned or realized by any corporation after 31 December 1971 and before the safe-income determination time, in relation to the transaction or event or series of transactions or events, that can reasonably be considered to contribute to the capital gain that would have been realized on a disposition at fair market value of the share on which the dividend was received, if the disposition had occurred immediately before the dividend was paid.

Application.

The conditions to which the first paragraph refers, in respect of a stock dividend, are as follows:

(*a*) a dividend recipient holds a share in respect of which it receives the stock dividend;

(*b*) the fair market value of the share or shares issued as a stock dividend exceeds the amount by which the paid-up capital of the corporation that paid the stock dividend is increased because of the payment of the dividend; and

(*c*) section 308.1 would apply to the stock dividend if section 308.2 were read without reference to its paragraph *b*.

History: 2019, c. 14, s. 109.

Corresponding Federal Provision: 55(2.3) et (2.4).

Determination of reduction in fair market value of a share.

308.2.0.3. For the purposes of subparagraph 1 of subparagraph ii of paragraph *a* of section 308.2 and for the purpose of determining whether the payment of a dividend caused a significant reduction in the fair market value of any share, the fair market value of the share, determined immediately before the dividend was paid, must be increased by an amount equal to the amount, if any, by which the amount that is the fair market value of the dividend received on the share exceeds the fair market value of the share.

History: 2019, c. 14, s. 109.

Corresponding Federal Provision: 55(2.5).

Exception.

308.2.1. Section 308.1 does not apply, however, to any dividend received by a particular corporation, on a redemption, acquisition or cancellation of a share, by the corporation that issued the share, under section 508 to the extent that it refers to a dividend deemed paid under section 505 or 506, if, as part of a transaction or event or a series of transactions or events as part of which the dividend was received, there was not at a particular time

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

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

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

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

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

i. shares of the capital stock of the dividend-payer corporation, or

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

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

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

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

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

History: 2000, c. 5, s. 76; 2009, c. 15, s. 72; 2015, c. 24, s. 55; 2019, c. 14, s. 110.

Corresponding Federal Provision: 55(3)(a).

Rules applicable.

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

(*a*) "unrelated person" means a person, other than the particular dividend-recipient corporation, to whom that corporation is not related or a partnership any member of which, other than the particular dividend-recipient corporation, is not related to that corporation;

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

(*c*) proceeds of disposition of a property are to be determined without reference to

i. "deemed to be included in the proceeds of disposition of the share under paragraph *b* of section 308.1 or" in section 251, and

ii. Chapter V of Title X;

(*d*) notwithstanding any other provision of this Act, where a person not resident in Canada disposes of a property in a

taxation year and the gain or loss from the disposition is not included in computing the person's taxable income earned in Canada for the year, the person is deemed to have disposed of the property for proceeds of disposition that are less than its fair market value unless, under the income tax laws of the country in which the person is resident, the gain or loss is computed as if the property were disposed of for proceeds of disposition that are not less than its fair market value and the gain or loss so computed is recognized for the purposes of those laws;

(*e*) a significant increase in the total direct interest in a corporation that would, but for this paragraph, be described in paragraph *b* of section 308.2.1 is deemed not to be described in that paragraph if the increase is the result of the issuance of shares of the capital stock of the corporation for consideration that consists solely of money and the shares are redeemed, acquired or cancelled by the corporation before the dividend is received;

(*f*) a disposition of property that would, but for this paragraph, be described in paragraph *a* of section 308.2.1, or a significant increase in the total direct interest in a corporation that would, but for this paragraph, be described in paragraph *b* of section 308.2.1, is deemed not to be described in either of those paragraphs if

i. the dividend-payer corporation was related to the particular dividend-recipient corporation immediately before the dividend was received,

ii. the dividend-payer corporation did not, as part of the series of transactions or events that includes the receipt of the dividend, cease to be related to the particular dividend-recipient corporation,

iii. the disposition or increase occurred before the dividend was received,

iv. the disposition or increase is the result of the disposition of shares to, or the acquisition of shares of, any corporation, and

v. at the time the dividend was received, all the shares of the capital stock of the dividend-payer corporation and of the particular dividend-recipient corporation were owned by the corporation referred to in subparagraph iv, a corporation that controls the corporation referred to in that subparagraph, a corporation controlled by the corporation referred to in that subparagraph or any combination of those corporations; and

(*g*) a winding-up of a subsidiary wholly-owned corporation, in respect of which sections 556 to 564.1 and 565 apply, or an amalgamation, in respect of which section 550.9 applies, of a corporation with one or more subsidiary wholly-owned corporations, is deemed not to result in a significant increase in the total direct interest, or in the total of all direct interests, in one or more subsidiaries, as the case may be.

History: 2000, c. 5, s. 76; 2009, c. 15, s. 73; 2015, c. 24, s. 56; 2019, c. 14, s. 111.

Corresponding Federal Provision: 55(3.01).

Exception.

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

(*a*) in the course of a reorganization in which a distributing corporation made a distribution to one or more transferee corporations and in which either the distributing corporation was wound up or all of the shares of its capital stock owned by each transferee corporation immediately before the distribution were redeemed or cancelled otherwise than on an exchange to which any of sections 301, 518 and 541 to 543 applies; and

(*b*) on a permitted redemption in relation to the distribution referred to in paragraph *a* or on the winding-up of the distributing corporation.

History: 1982, c. 5, s. 66; 1984, c. 15, s. 70; 1985, c. 25, s. 55; 1986, c. 15, s. 58; 1996, c. 39, s. 98; 1997, c. 3, s. 71; 2000, c. 5, s. 77.

Corresponding Federal Provision: 55(3)(b).

Where section 308.3 not applicable.

308.3.1. Section 308.3 does not apply to a dividend where

(*a*) in contemplation of and before a distribution (other than a distribution by a specified corporation) made by a distributing corporation in the course of the reorganization in which the dividend was received, property became property of the distributing corporation, a corporation controlled by it or a predecessor corporation of any such corporation otherwise than as a result of

i. an amalgamation of corporations each of which was related to the distributing corporation,

ii. an amalgamation of a predecessor corporation of the distributing corporation and one or more corporations controlled by that predecessor corporation,

iii. a reorganization in which a dividend was received to which section 308.1 would, but for section 308.3, apply, or

iv. a disposition of property by the distributing corporation, a corporation controlled by it or a predecessor corporation of any such corporation to a corporation controlled by the distributing corporation or a predecessor corporation of the distributing corporation,

v. a disposition of property by a corporation controlled by the distributing corporation or by a predecessor corporation

of the distributing corporation to the distributing corporation or predecessor corporation, as the case may be, or

vi. a disposition of property by the distributing corporation, a corporation controlled by it or a predecessor corporation of any such corporation for consideration that consists only of money or indebtedness that is not convertible into other property, or of any combination thereof;

(*b*) the dividend was received as part of a series of transactions or events in which

i. a person or partnership, referred to in this subparagraph as the "vendor", disposed of property and

(1) the property is a share of the capital stock of a distributing corporation that made a distribution as part of the series or of a transferee corporation in relation to the distributing corporation or property 10% or more of the fair market value of which was, at any time during the course of the series, derived from one or more such shares,

(2) the vendor, other than a qualified person in relation to the distribution, was, at any time during the course of the series, a specified shareholder of the distributing corporation or of the transferee corporation, and

(3) the property or any other property, other than property received by the transferee corporation on the distribution, acquired by any person or partnership in substitution therefor was acquired, otherwise than on a permitted acquisition, permitted exchange or permitted redemption in relation to the distribution, by a person, other than the vendor, who was not related to the vendor or, as part of the series, ceased to be related to the vendor or by a partnership,

ii. control of a distributing corporation that made a distribution as part of the series or of a transferee corporation in relation to the distributing corporation was acquired, otherwise than as a result of a permitted acquisition, permitted exchange or permitted redemption in relation to the distribution, by any person or group of persons; or

iii. in contemplation of a distribution by a distributing corporation, a share of the capital stock of the distributing corporation was acquired, otherwise than on a permitted acquisition or permitted exchange in relation to the distribution or on an amalgamation of two or more predecessor corporations of the distributing corporation, by

(1) a transferee corporation in relation to the distributing corporation or by a person or partnership with whom the transferee corporation did not deal at arm's length from a person to whom the acquirer was not related or from a partnership,

(2) a person or any member of a group of persons who acquired control of the distributing corporation as part of the series,

(3) a particular partnership any interest in which is held, directly or indirectly through one or more partnerships, by a person referred to in subparagraph 2, or

(4) a person or partnership with whom a person referred to in subparagraph 2 or a particular partnership referred to in subparagraph 3 did not deal at arm's length;

(*c*) the dividend was received by a transferee corporation from a distributing corporation that, immediately after the reorganization in the course of which a distribution was made and the dividend was received, was not related to the transferee corporation and the aggregate of all amounts each of which is the fair market value, at the time of acquisition, of a property that satisfies the conditions set out in subparagraphs i and ii is greater than 10% of the fair market value, at the time of the distribution, of all the property, other than money and indebtedness that is not convertible into other property, received by the transferee corporation on the distribution:

i. the property was acquired, as part of the series of transactions or events that includes the receipt of the dividend, by a person, other than the transferee corporation, who was not related to the transferee corporation or, as part of the series, ceased to be related to the transferee corporation, or by a partnership, otherwise than

(1) as a result of a disposition in the ordinary course of business, or before the distribution for consideration that consists solely of money or indebtedness that is not convertible into other property, or of any combination thereof,

(2) on a permitted acquisition in relation to a distribution, or

(3) as a result of an amalgamation of two or more corporations that were related to each other immediately before the amalgamation, and

ii. the property is a property, other than money, indebtedness that is not convertible into other property, a share of the capital stock of the transferee corporation and property more than 10% of the fair market value of which is attributable to one or more such shares,

(1) that was received by the transferee corporation on the distribution,

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

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

(*d*) the dividend was received by a distributing corporation that, immediately after the reorganization in the course of which a distribution was made and the dividend was received, was not related to the transferee corporation that paid the dividend and the aggregate of all amounts each of which is the fair market value, at the time of acquisition, of a property that satisfies the conditions set out in subparagraphs i and ii is greater than 10% of the fair market value at the time of the distribution, of all the property, other than money and indebtedness that is not convertible into other property, owned immediately before that time by the distributing corporation and not disposed of by it on the distribution:

i. the property was acquired, as part of the series of transactions or events that includes the receipt of the dividend, by a person, other than the distributing corporation, who was not related to the distributing corporation or, as part of the series, ceased to be related to the distributing corporation, or by a partnership, otherwise than

(1) as a result of a disposition in the ordinary course of business, or before the distribution for consideration that consists solely of money or indebtedness that is not convertible into other property, or of any combination thereof,

(2) on a permitted acquisition in relation to a distribution, or

(3) as a result of an amalgamation of two or more corporations that were related to each other immediately before the amalgamation, and

ii. the property is a property, other than money, indebtedness that is not convertible into other property, a share of the capital stock of the distributing corporation and property more than 10% of the fair market value of which is attributable to one or more such shares,

(1) that was owned by the distributing corporation immediately before the distribution and not disposed of by it on the distribution,

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

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

History: 1995, c. 49, s. 73; 1996, c. 39, s. 99; 1997, c. 3, s. 71; 2000, c. 5, s. 78; 2009, c. 15, s. 74; 2015, c. 24, s. 57.

Corresponding Federal Provision: 55(3.1).

Rules applicable.

308.3.2. For the purposes of paragraph *b* of section 308.3.1,

(*a*) in determining whether the vendor referred to in subparagraph i of the said paragraph *b* is at a particular time a specified shareholder of a transferee corporation or of a distributing corporation, the references in sections 21.17 and 21.18 to "taxpayer" shall be read as references to "person or partnership", with the necessary modifications;

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

(*c*) subject to paragraph *d*, each particular person who acquired a share of the capital stock of a distributing corporation in contemplation of a distribution by the distributing corporation is deemed, in respect of that acquisition, not to be related to the person from whom the particular person acquired the share unless

i. the particular person acquired all the shares of the capital stock of the distributing corporation that were owned, at any time during the course of the series of transactions or events that included the distribution and before the acquisition, by the other person, or

ii. immediately after the reorganization in the course of which the distribution was made, the particular person was related to the distributing corporation;

(*d*) where a share is acquired by an individual from a personal trust in satisfaction of all or a part of the individual's capital interest in the trust, the individual is deemed, in respect of that acquisition, to be related to the trust;

(*e*) subject to paragraph *f*, where at any time a share of the capital stock of a corporation is redeemed or cancelled, otherwise than on an amalgamation where the only consideration received or receivable for the share by the shareholder on the amalgamation is a share of the capital stock of the corporation formed by the amalgamation, the corporation is deemed to have acquired the share at that time;

(*f*) where a share of the capital stock of a corporation is redeemed, acquired or cancelled by the corporation pursuant to the exercise of a statutory right of dissent by the holder of the share, the corporation is deemed not to have acquired the share;

(*g*) control of a corporation is deemed not to have been acquired by a person or group of persons where it is so acquired solely because of

i. the incorporation of the corporation, or

ii. the acquisition by an individual of one or more shares for the sole purpose of qualifying as a director of the corporation; and

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

History: 1996, c. 39, s. 100; 1997, c. 3, s. 71; 2000, c. 5, s. 79; 2009, c. 15, s. 75.

Corresponding Federal Provision: 55(3.2).

Interpretation of specified shareholder changed.

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

History: 2000, c. 5, s. 80.

Corresponding Federal Provision: 55(3.3).

Specified shareholder.

308.3.4. For the purpose of determining whether a person is a specified shareholder of a corporation for the purposes of the definition of "qualified person" in the first paragraph of section 308.0.1, subparagraph i of paragraph *b* of section 308.3.1 and paragraph *h* of section 308.3.2 when it applies for the purposes of subparagraph iii of paragraph *b* of section 308.3.1, section 21.17 is to be read as if "not less than 10% of the issued shares of any class of the capital stock of the corporation" was replaced by "not less than 10% of the issued shares of any class of the capital stock of the corporation, other than shares of a specified class within the meaning of section 308.0.1,".

History: 2009, c. 15, s. 76.

Corresponding Federal Provision: 55(3.4).

Amalgamation of related corporations.

308.3.5. For the purposes of paragraphs *c* and *d* of section 308.3.1, a corporation formed by an amalgamation of two or more corporations that were related to each other immediately before the amalgamation is deemed to be a continuation of each of the predecessor corporations.

History: 2009, c. 15, s. 76.

Corresponding Federal Provision: 55(3.5).

Share deemed listed on stock exchange.

308.3.6. For the purposes of sections 1094 to 1096 and 1102.4, a share (in this section referred to as the "reorganization share") is deemed to be listed on a designated stock exchange if

(*a*) a dividend, to which section 308.1 does not apply because of section 308.3, is received in the course of a reorganization;

(*b*) in contemplation of the reorganization, the reorganization share is

i. issued to a taxpayer by a public corporation in exchange for another share of that corporation (in this section referred to as the "old share") owned by the taxpayer, and

ii. exchanged by the taxpayer for a share of another public corporation (in this section referred to as the "new share") in an exchange that would be a permitted exchange if the definition of "permitted exchange" in the first paragraph of section 308.0.1 were read without reference to its paragraph *a* and subparagraph ii of its paragraph *b*;

(*c*) immediately before the exchange, the old share is listed on a designated stock exchange and is not taxable Canadian property of the taxpayer; and

(*d*) the new share is listed on a designated stock exchange.

History: 2009, c. 15, s. 76; 2010, c. 5, s. 33.

Corresponding Federal Provision: 55(6).

308.4. *(Repealed).*

History: 1982, c. 5, s. 66; 1984, c. 15, s. 70; 1986, c. 15, s. 59; 1996, c. 39, s. 101.

Avoidance of s. 308.1.

308.5. For the purposes of this division, where it can reasonably be considered that one of the main purposes of one or more transactions or events was to cause two or more persons to be related to each other or to cause a corporation to control another corporation, so that section 308.1 would, but for this section, not apply to a dividend, those persons shall be deemed not to be related to each other or the corporation shall be deemed not to control the other corporation, as the case may be.

History: 1982, c. 5, s. 66; 1986, c. 15, s. 59; 1996, c. 39, s. 102; 1997, c. 3, s. 71.

Corresponding Federal Provision: 55(4).

Rules applicable.

308.6. For the purposes of this division, the following rules apply:

(*a*) where a dividend referred to in sections 308.1 and 308.2 is received by a corporation as part of a transaction or event

or a series of transactions or events, the portion of a capital gain attributable to any income expected to be earned or realized by a corporation after the safe-income determination time for the transaction, event or series of transactions or events is deemed to be a portion of a capital gain attributable to anything other than income;

(*b*) the income earned or realized by a corporation for a period throughout which it was resident in Canada and was not a private corporation is deemed to be the aggregate of

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

ii. the amount by which the amount by which the aggregate of the capital gains of the corporation for the period exceeds the aggregate of its taxable capital gains for the period, exceeds the amount by which the aggregate of the capital losses of the corporation for the period exceeds the aggregate of its allowable capital losses for the period,

iii. the aggregate of all amounts each of which is an amount relating to a business carried on by the corporation at any time in the portion of the period that precedes the beginning of the corporation's first taxation year that ends after 27 February 2000, and each of which is equal to the amount by which the amount determined under the second paragraph is exceeded by the aggregate of

(1) where the period began before the corporation's adjustment time, within the meaning of section 107.1, as it read in that portion of the period, the amount by which the aggregate of the amounts relating to the business that is determined under the third paragraph in respect of the corporation exceeds the aggregate of the amounts relating to the business that is determined under the fourth paragraph in respect of the corporation,

(2) 1/3 of the aggregate of the amounts relating to the business that, in respect of the portion of the period following the corporation's adjustment time but preceding the beginning of the corporation's first taxation year that ends after 27 February 2000, are required to be included in computing the corporation's eligible incorporeal capital amount by reason of subparagraph ii of paragraph *b* of section 107, as that subparagraph read in that portion of the period, and

(3) 1/3 of all amounts required to be included in computing the corporation's income by reason of paragraph *i*.1 of section 87 and that are received in the portion of the period that precedes the beginning of the corporation's first taxation year that ends after 27 February 2000,

iv. the amount by which 1/2 of the aggregate of all amounts each of which is an amount required by paragraph *b* of section 105 to be included in computing the corporation's income in respect of a business carried on by the corporation for a taxation year that is included in the period and that ends after 27 February 2000 but before 18 October 2000, as that paragraph *b* read for that year, exceeds

(1) where the corporation has deducted an amount under section 142.1 in respect of a debt established by it to have become a bad debt in a taxation year that is included in the period and that ends after 27 February 2000 but before 18 October 2000, as that section 142.1 read for that year, or has an allowable capital loss for such a year by reason of the application of section 142.2, as that section 142.2 read for that year, the amount determined by the formula

A + B, and

(2) in any other case, nil, and

v. the amount by which the aggregate of all amounts each of which is an amount required by paragraph *b* of section 105 to be included in computing the corporation's income in respect of a business carried on by the corporation for a taxation year that is included in the period and that ends after 17 October 2000, as that paragraph *b* read for that year, exceeds

(1) where the corporation has deducted an amount under section 142.1 in respect of a debt established by it to have become a bad debt in a taxation year that is included in the period and that ends after 17 October 2000, as that section 142.1 read for that year, or has an allowable capital loss for such a year by reason of the application of section 142.2, as that section 142.2 read for that year, the amount determined by the formula

B + C, and

(2) in any other case, nil;

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

(*d*) the income earned or realized by a corporation (in this subparagraph referred to as the "affiliate") for a period that ends at a time when that corporation is a foreign affiliate of another corporation is deemed to be equal to the lesser of

i. the amount that would, at that time, if the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) were read without reference to subsection 5.6 of section 5905 of those Regulations, be the tax-free surplus balance, within the

meaning of subsection 5.5 of that section 5905, of the affiliate in respect of the other corporation, and

ii. the fair market value at that time of all the issued and outstanding shares of the capital stock of the affiliate;

iii. *(subparagraph repealed)*;

(*e*) in determining whether two or more persons are related to each other, in determining whether a person is at any time a specified shareholder of a corporation and in determining whether control of a corporation has been acquired by a person or group of persons,

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

ii. where at any time a person is related to each beneficiary, other than a registered charity, under a trust who is or may, otherwise than by reason of the death of another beneficiary under the trust, be entitled to share in the income or capital of the trust, the person and the trust are deemed to be related at that time to each other and, for this purpose, a person is deemed to be related to himself,

iii. a person and a trust are deemed not to be related to each other unless they are deemed by paragraph *d* of section 308.3.2 or subparagraph ii to be related to each other or the person is a corporation that is controlled by the trust, and

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

(*f*) unless section 308.2.0.2 applies, where a corporation receives a dividend any portion of which is a taxable dividend (such a portion being referred to in this subparagraph as the "taxable part"), as part of a transaction or event or a series of transactions or events, the following rules apply:

i. a portion of the dividend is deemed to be a separate taxable dividend equal to the lesser of

(1) the taxable part, and

(2) the amount of the income earned or realized by a corporation after 31 December 1971 and before the safe-income determination time, in relation to the transaction or event or series of transactions or events, that can reasonably be considered to contribute to the capital gain that would have been realized on a disposition at fair market value of the share on which the dividend was received, if the disposition had occurred immediately before the dividend was paid, and

ii. the amount by which the taxable part exceeds the amount of the separate taxable dividend referred to in subparagraph i is deemed to be a separate taxable dividend.

Amount referred to.

The amount to which subparagraph iii of subparagraph *b* of the first paragraph refers is equal to the aggregate of

(*a*) where the period, referred to in subparagraph *b* of the first paragraph, began after the corporation's adjustment time but before the beginning of the corporation's first taxation year that ends after 27 February 2000, 1/3 of the corporation's eligible incorporeal capital amount in respect of the business at the beginning of that period;

(*b*) 1/4 of the aggregate of all incorporeal capital amounts in respect of the business payable or disbursed by the corporation in respect of that portion of that period that follows the corporation's adjustment time but precedes the beginning of the corporation's first taxation year that ends after 27 February 2000 and a portion of which was not included in subparagraph *c* of the fourth paragraph;

(*c*) where that period began before the corporation's adjustment time, 1/2 of the amount by which the aggregate of all amounts determined in respect of the corporation under subparagraphs *a* and *b* of the fourth paragraph exceeds the amount determined in respect of the corporation under the third paragraph; and

(*d*) 1/3 of all amounts deducted by the corporation under section 142.1, as that section read in the portion of the period that precedes the beginning of the corporation's first taxation year that ends after 27 February 2000, in respect of debts established by it to have become bad debts during that portion of the period.

Computation.

The first aggregate of the amounts relating to a business referred to in subparagraph 1 of subparagraph iii of subparagraph *b* of the first paragraph, in respect of a corporation, is equal to the aggregate of the amounts relating to the business that, in respect of the portion of the period referred to in that subparagraph 1 that precedes the corporation's adjustment time, are required to be included in computing the corporation's eligible incorporeal capital amount by reason of subparagraph ii of paragraph *b* of section 107, as that subparagraph read during the portion of that period.

Computation.

The second aggregate of the amounts in respect of a business referred to in subparagraph 1 of subparagraph iii of subparagraph *b* of the first paragraph, with regard to a corporation, is the aggregate of

(*a*) the corporation's eligible incorporeal capital amount in respect of the business at the commencement of the period contemplated in such subparagraph 1;

(*b*) one-half of the aggregate of all incorporeal capital amounts in respect of the business payable or disbursed by the corporation during that portion of the period preceding the corporation's adjustment time;

(*c*) 1/2 of the aggregate of the incorporeal capital amounts in respect of the business payable or disbursed by the corporation during the portion of that period that follows the corporation's adjustment time but that precedes the beginning of the corporation's first taxation year that ends after 27 February 2000, to the extent that the aggregate determined under the third paragraph exceeds the aggregate of the amounts determined under subparagraphs *a* and *b*.

Interpretation.

In the formulas provided for in subparagraph 1 of subparagraph iv of subparagraph *b* of the first paragraph and subparagraph 1 of subparagraph v of that subparagraph *b*,

(*a*) A is 1/2 of the amount that would be determined under subparagraph *a* of the second paragraph of section 142.1 in respect of the corporation for the last taxation year that ends in the period, as that section 142.1 read for that year, if no amount had been established to have become a bad debt in a taxation year that ends before 28 February 2000;

(*b*) B is 1/3 of the amount that would be determined under subparagraph *b* of the second paragraph of section 142.1 in respect of the corporation for the last taxation year that ends in the period, as that section 142.1 read for that year, if no amount had been established to have become a bad debt in a taxation year that ends before 28 February 2000; and

(*c*) C is the amount that would be determined under subparagraph *a* of the second paragraph of section 142.1 in respect of the corporation for the last taxation year that ends in the period, as that section 142.1 read for that year, if no amount had been established to have become a bad debt in a taxation year that ends before 28 February 2000.

History: 1982, c. 5, s. 66; 1990, c. 59, s. 139; 1995, c. 49, s. 236; 1996, c. 39, s. 103; 1997, c. 3, s. 71; 1998, c. 16, s. 106; 2000, c. 5, s. 81; 2003, c. 2, s. 107; 2004, c. 8, s. 57; 2005, c. 1, s. 83; 2009, c. 5, s. 108; 2010, c. 25, s. 26; 2015, c. 21, s. 155; 2019, c. 14, s. 112.
Corresponding Federal Provision: 55(5).

TITLE V
OTHER SOURCES OF INCOME

CHAPTER I
RULES OF APPLICATION

Amounts to be included in computing income.

309. Without restricting the generality of section 28, a taxpayer shall include in computing his income for a taxation year the amounts he receives, is deemed to receive or that are allocated to him in such year as provided for in this Title.

History: 1972, c. 23, s. 284.
Corresponding Federal Provision: 56(1).

309.1. *(Repealed).*

History: 1993, c. 16, s. 124; 1995, c. 1, s. 30 [amended by 1997, c. 14, s. 368]; 1995, c. 63, s. 33; 1997, c. 14, s. 58; 1997, c. 85, s. 59 [amended by 2000, c. 5, s. 305].

CHAPTER II
MISCELLANEOUS CASES

Amounts in respect of an R.R.S.P. or R.R.I.F.

310. The amounts that a taxpayer is required to include in computing the taxpayer's income under section 309 include those in respect of a registered retirement savings plan or a registered retirement income fund, to the extent provided for in Title IV of Book VII, those provided for in sections 935.4 to 935.6 and 935.15 to 935.17, those in respect of a registered retirement income fund, to the extent provided for in Title V.1 of Book VII, and those provided for in sections 965.128, 968 and 968.1.

History: 1972, c. 23, s. 285; 1978, c. 26, s. 48; 1979, c. 14, s. 1; 1980, c. 13, s. 20; 1983, c. 44, s. 24; 1990, c. 7, s. 14; 1991, c. 25, s. 59; 1993, c. 64, s. 26; 1994, c. 22, s. 138; 1995, c. 49, s. 74; 1996, c. 39, s. 104; 2000, c. 5, s. 82; 2001, c. 53, s. 53; 2005, c. 23, s. 46; 2006, c. 13, s. 36; 2010, c. 5, s. 34; 2017, c. 29, s. 57.
Corresponding Federal Provision: 56(1)(h), (j) and (t).

Retirement allowance, death benefit and other benefits.

311. The taxpayer must also include any amount received under or as:

(*a*) a retiring allowance, other than an amount received out of or under an employee benefit plan, a retirement compensation arrangement or a salary deferral arrangement;

(*b*) a death benefit;

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

(*c.*1) a benefit under the Act respecting parental insurance (chapter A-29.011);

(*c.*2) an income replacement benefit paid under Part 2 of the Veterans Well-being Act (Statutes of Canada, 2005, chapter 21), if the amount is determined under subsection 1 of section 19.1, paragraph *b* of subsection 1 of section 23 or subsection 1 of section 26.1 of that Act (as modified, where applicable, under Part 5 of that Act);

(*d*) a benefit under regulations made under an Appropriation Act providing for a scheme of transitional assistance benefits to persons employed in the production of products to which the Canada-United States Agreement on Automotive Products, signed on 16 January 1965, applies;

(*e*) a prescribed benefit paid under a government assistance program, except to the extent otherwise required to be included in the taxpayer's income;

(*e.*1) a benefit paid under the Program for Older Worker Adjustment according to the terms of the agreement made following the approval obtained under Order in Council 1396-88 dated 14 September 1988;

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

(*e.*3) financial assistance under a program established by the Canada Employment Insurance Commission under Part II of the Employment Insurance Act, other than an amount attributable to child care expenses;

(*e.*4) financial assistance, other than an amount attributable to child care expenses, under a program, other than a prescribed program, that is

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

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

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

(*e.*5) financial assistance, other than an amount attributable to child care expenses, under a program established by a government or government agency in Canada that provides income replacement benefits similar to income replacement benefits provided under a program established under the Employment Insurance Act;

(*e.*6) the Wage Earner Protection Program Act (Statutes of Canada, 2005, chapter 47) in respect of wages within the meaning of that Act;

(*f*) a benefit under a supplementary unemployment benefit plan, to the extent provided by section 965;

(*g*) a benefit under a deferred profit sharing plan, to the extent provided in Title II of Book VII;

(*h*) a refund from an individual in respect of an amount described in paragraph *g* of section 336;

(*i*) a benefit under a registered education savings plan to the extent provided in sections 904 and 904.1;

(*j*) *(paragraph repealed)*;

(*k*) *(paragraph repealed)*;

(*k.*0.1) an income replacement indemnity or compensation for the loss of financial support under a public compensation plan;

(*k.*0.2) a program established under the authority of the Department of Employment and Social Development Act (Statutes of Canada, 2005, chapter 34) in respect of children who are deceased or missing as a result of an offence, or a probable offence, under the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46);

(*k.*1) *(paragraph repealed)*;

(*k.*2) *(paragraph repealed)*;

(*k.*3) *(paragraph repealed)*;

(*k.*4) *(paragraph repealed)*;

(*k.*5) *(paragraph repealed)*;

(*l*) *(paragraph repealed).*

History: 1972, c. 23, s. 286; 1974, c. 18, s. 16; 1975, c. 21, s. 7; 1979, c. 18, s. 24; 1980, c. 13, s. 21; 1982, c. 5, s. 67; 1984, c. 15, s. 71; 1989, c. 77, s. 25; 1990, c. 7, s. 15; 1991, c. 25, s. 60; 1993, c. 16, s. 125; 1995, c. 49, s. 75; 1995, c. 63, s. 34; 1997, c. 14, s. 290; 1997, c. 85, s. 60; 1998, c. 16, s. 251; 2000, c. 5, s. 83; 2001, c. 51, s. 32; 2002, c. 40, s. 26; 2005, c. 1, s. 84; 2005, c. 23, s. 47; 2005, c. 38, s. 65; 2006, c. 13, s. 37; 2009, c. 5, s. 109; 2010, c. 5, s. 35; 2015, c. 21, s. 156; 2020, c. 16, s. 55.

Corresponding Federal Provision: 56(1)(a), (g), (i), (p), (q) and (r).

Social assistance payments.

311.1. A taxpayer shall also include any amount, other than a prescribed amount, received in the year by the taxpayer as a social assistance payment based on a means,

needs or income test, to the extent that such amount is not otherwise required to be included in computing the taxpayer's income for a taxation year.

Exceptions.

However, a social assistance payment referred to in the first paragraph does not include the portion of an amount received as last resort financial assistance under the Individual and Family Assistance Act (chapter A-13.1.1) or similar government assistance that relates to

(*a*) an amount to meet the needs of children, whether minor or of full age;

(*b*) an amount received as a special benefit to provide for certain particular needs;

(*c*) an amount attributable to child care expenses;

(*d*) *(subparagraph repealed)*;

(*e*) an amount referred to in the second paragraph of section 1029.8.109.4; or

(*f*) if the taxpayer is a person described in the third paragraph participating in an employment-assistance measure or program or a social assistance and support program established under the Individual and Family Assistance Act, an amount received by the taxpayer, as an allowance or reimbursement, in respect of expenses incurred by the taxpayer to travel from the taxpayer's place of residence to the location of activities provided for under the measure or program, including expenses for parking in proximity to the location of the activities.

Rule of application.

The person to whom subparagraph *f* of the second paragraph refers is the person who, for the purposes of the Individual and Family Assistance Act, has demonstrated, in accordance with section 70 of that Act, a capacity for employment that is severely limited.

History: 1984, c. 15, s. 72; 1990, c. 59, s. 140; 1991, c. 25, s. 61; 1993, c. 16, s. 126; 1995, c. 1, s. 31; 1995, c. 63, s. 35; 1997, c. 85, s. 61; 2000, c. 5, s. 84; 2000, c. 39, s. 20; 2001, c. 51, s. 33; 2004, c. 21, s. 72; 2007, c. 12, s. 47; 2011, c. 6, s. 126.

Corresponding Federal Provision: 56(1)(u) and (9).

311.2. *(Repealed).*

History: 2002, c. 40, s. 27; 2005, c. 38, s. 66; 2019, c. 14, s. 113.

Amounts to be included.

312. The taxpayer must also include:

(*a*) *(paragraph repealed)*;

(*b*) *(paragraph repealed)*;

(*b*.0.1) *(paragraph repealed)*;

(*b*.1) *(paragraph repealed)*;

(*b*.2) *(paragraph repealed)*;

(*c*) an amount received as an annuity payment, except

i. an amount otherwise required to be included in computing the taxpayer's income for the year,

ii. an amount with respect to an interest in an annuity contract to which section 92.11 applies, or would apply if the contract had an anniversary day in the year at a time when the taxpayer held the interest,

ii.1. an amount received out of or under an annuity contract issued or effected as a tax-free savings account,

iii. *(subparagraph repealed)*;

(*c*.1) *(paragraph repealed)*;

(*c*.2) an amount received out of or under, or as proceeds of disposition of, an annuity where the payment made for the acquisition of the annuity was

i. deductible in computing the taxpayer's income because of paragraph *f* of section 339 or because of section 923.3, as it read immediately before its repeal,

ii. made in circumstances to which, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), subsection 21 of section 146 of that Act applied, or

iii. made pursuant to or under a deferred profit sharing plan by a trustee under the plan to purchase the annuity for a beneficiary under the plan;

(*d*) an amount received as proceeds of the surrender, cancellation, redemption, sale or other disposition of an income-averaging annuity contract, or an amount deemed to have been received under the first paragraph of section 346;

(*d*.1) an amount received as a payment in full or partial commutation of an income-averaging annuity respecting income from artistic activities or as proceeds of disposition by reason of the cancellation or redemption of an income-averaging annuity respecting income from artistic activities;

(*e*) *(paragraph repealed)*;

(*f*) an amount received as legal costs and expenses awarded by a court on a contestation or appeal relating to an assessment of tax, interest or penalties referred to in paragraph *e* of section 336 or as reimbursement of costs incurred in relation to an assessment, a decision, an application or a notice referred to in paragraph *d*.4 or *e* of

section 336 if, in relation to that assessment, decision, application or notice, an amount has been or may be deducted under paragraph *d*.4 or *e* in computing the taxpayer's income;

(*f*.1) an amount received as an award or reimbursement in respect of judicial or extrajudicial expenses, other than those relating to a partition or settlement of property arising out of, or on a breakdown of, a marriage, paid to collect or establish a right to a retiring allowance or a benefit under a pension plan, other than a benefit under the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan, within the meaning of that Act, in respect of employment;

(*g*) the aggregate of all amounts, other than an amount referred to in paragraph *i* of section 311, an amount received in the course of business and an amount received by virtue of, or in the course of, an office or employment, each of which is an amount received by the taxpayer in the year as a scholarship, fellowship or bursary, or a prize for achievement in a field of endeavour ordinarily carried on by the taxpayer, other than an amount received by the taxpayer from a school board, which relates to the actual costs of periodic transportation incurred by the taxpayer, or by an individual who is a member of the taxpayer's household, in accordance with the budgetary rules established by the Minister of Education, Recreation and Sports for the purpose of applying the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14);

(*h*) the amount by which any grant received by the taxpayer to carry on research or any similar work exceeds the total of expenses incurred by the taxpayer for that purpose in the year, in the preceding year but after obtaining confirmation that the grant would be awarded to the taxpayer, and in the year following the year in which the grant is received, to the extent that those expenses did not reduce an amount received as a grant for another year, other than

i. personal or living expenses incurred by the taxpayer while away from home in the course of carrying on the work except travel expenses, which include the amounts expended for meals and lodging,

ii. expenses in respect of which the taxpayer is reimbursed, or

iii. expenses that are otherwise deductible in computing the taxpayer's income for the year;

(*i*) the aggregate of all amounts each of which is an amount received by the taxpayer in the year under the Apprenticeship Incentive Grant program or the Apprenticeship Completion Grant program administered by the Department of Employment and Social Development of Canada; and

(*j*) an amount received in the year by the taxpayer or by a person who does not deal at arm's length with the taxpayer on account of a debt in respect of which a deduction was made under paragraph *l* of section 336 in computing the taxpayer's income for a preceding taxation year.

History: 1972, c. 23, s. 287; 1973, c. 17, s. 33; 1980, c. 13, s. 22; 1982, c. 5, s. 68; 1982, c. 17, s. 50; 1984, c. 15, s. 73; 1986, c. 15, s. 60; 1986, c. 19, s. 58; 1987, c. 67, s. 77; 1988, c. 4, s. 30; 1988, c. 18, s. 16; 1989, c. 77, s. 26; 1990, c. 59, s. 141; 1991, c. 25, s. 62; 1993, c. 16, s. 127; 1993, c. 64, s. 27; 1994, c. 22, s. 139; 1995, c. 1, s. 32; 1995, c. 49, s. 76; 1997, c. 14, s. 290; 1997, c. 31, s. 44; 1997, c. 85, s. 62; 1998, c. 16, s. 107; 1999, c. 83, s. 51; 2001, c. 51, s. 34; 2002, c. 40, s. 28; 2005, c. 1, s. 85; 2005, c. 23, s. 48; 2005, c. 28, s. 195; 2007, c. 12, s. 48; 2009, c. 5, s. 110; 2010, c. 5, s. 36; 2010, c. 25, s. 27; 2015, c. 21, s. 157; 2014, c. 1, s. 778 [in force: O.C. 1066-2015]; I.N. 2016-01-01 (NCCP); 2017, c. 29, s. 58; 2020, c. 1, s. 312.
Interpretation Bulletins: IMP. 293-1/R2; IMP. 1029.7-1.
Corresponding Federal Provision: 56(1)(d), (d.2), (e), (f), (l), (l.1), (n)(i), (n.1) and (o).

312.1. *(Repealed).*

History: 1990, c. 59, s. 142; 1995, c. 49, s. 236; 1996, c. 39, s. 273; 1998, c. 16, s. 108.
Interpretation Bulletins: IMP. 336-7/R1.

312.2. *(Repealed).*

History: 1993, c. 16, s. 128; 2001, c. 51, s. 35; 2002, c. 40, s. 29.

Definitions:

312.3. In this chapter,

"child support amount";
"child support amount" means any support amount that is not identified in the agreement or order under which it is receivable as being solely for the support of a recipient who is a spouse or former spouse of the payer or who is the father or mother of a child of the payer;

"commencement day";
"commencement day" in respect of an agreement or order means

(*a*) where the agreement or order is made after 30 April 1997, the day it is made; and

(*b*) where the agreement or order is made before 1 May 1997, the day that is after 30 April 1997 and is the earliest of

i. the day specified as the commencement day by the payer and the recipient of the child support amount payable or receivable under the agreement or order, in a valid election made under subparagraph i of paragraph *b* of the definition of "commencement day" in subsection 4 of section 56.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in relation to the agreement or order,

ii. where the agreement or order is varied after 30 April 1997 to change the child support amounts payable

to the recipient, the day on which the first payment of the varied amount is required to be made,

iii. where a subsequent agreement or order is made after 30 April 1997, the effect of which is to change the total child support amounts payable to the recipient by the payer, the commencement day of the first such subsequent agreement or order, and

iv. the day specified in the agreement or order, or any variation of the agreement or order, as the commencement day for the purposes of this Part or, if the day is specified in such a variation made after 19 December 2006, of the Income Tax Act;

"support amount".
"support amount" means, subject to the second paragraph, an amount receivable as an allowance on a periodic basis for the maintenance of the recipient, a child of the recipient or both the recipient and a child of the recipient, if the recipient has discretion as to the use of the amount, and

(*a*) the recipient is the spouse or former spouse of the payer, the recipient and payer are living separate and apart because of the breakdown of their marriage and the amount is receivable under an order of a competent tribunal or under a written agreement; or

(*b*) the payer is the father or mother of a child of the recipient and the amount is receivable under an order made by a competent tribunal in accordance with the laws of a province.

Interpretation.

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

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

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

ii. section 312.4 were disregarded;

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

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subparagraph i of paragraph *b* of the definition of "commencement day" in subsection 4 of section 56.1 of the Income Tax Act or in relation to an election made under subparagraph i of paragraph *b* of the definition of "commencement day" in the first paragraph before 20 December 2006.

History: 1998, c. 16, s. 109; 2000, c. 5, s. 85; 2009, c. 5, s. 111.
Interpretation Bulletins: IMP. 336.0.2-1.
Corresponding Federal Provision: 56.1(4) "child support amount", "commencement day" and "support amount".

Support.

312.4. A taxpayer shall also include the aggregate of all amounts each of which is an amount determined by the formula

A − (B + C).

Interpretation.

In the formula provided for in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is a support amount received after 31 December 1996 and before the end of the year by the taxpayer from a particular person where the taxpayer and the particular person were living separate and apart at the time the amount was received;

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

(*c*) C is the aggregate of all amounts each of which is a support amount received after 31 December 1996 by the taxpayer from the particular person and included in the taxpayer's income for a preceding taxation year.

Exception for spouses of the same sex.

The first and second paragraphs do not apply in respect of an amount received pursuant to an order or a written agreement made before 16 June 1999 where, but for the amendments made to subparagraph *a* of the first paragraph of section 2.2.1 by section 14 of the Act to amend various legislative provisions concerning de facto spouses (1999, chapter 14), this section would not have applied in respect of that amount, except if

(*a*) subparagraph *a* of the first paragraph of section 2.2.1, as amended by section 14 of the Act to amend various legislative provisions concerning de facto spouses, applies to the taxpayer and the particular person before 16 June 1999 because of the third paragraph of section 2.2.1; or

(*b*) the taxpayer and the particular person jointly elect to have the first and second paragraphs of this section and of section 336.0.3 apply after 15 June 1999 in respect of that amount by filing a document signed by the taxpayer and the particular person with the Minister on or before the taxpayer's and the particular person's filing-due date for the taxation year that includes 20 December 2001.

History: 1998, c. 16, s. 109; 2000, c. 5, s. 86; 2001, c. 53, s. 54.

Corresponding Federal Provision: 56(1)(b).

Reimbursement of support payments.

312.5. A taxpayer shall also include any amount received under an order of a competent tribunal as a reimbursement of an amount deducted under any of paragraphs *a* to *b* of subsection 1 of section 336, as it read for that preceding year, in computing the taxpayer's income for a preceding taxation year, or that could have been so deducted were it not for section 334.1, as it read for that preceding year, or deducted under section 336.0.3 in computing the taxpayer's income for the year or a preceding taxation year.

Election by taxpayer.

Despite the first paragraph, a taxpayer is not required to include, if the taxpayer so elects, the portion of the amount referred to in the first paragraph received by the taxpayer that relates to one or more of the taxpayer's eligible taxation years that precede the taxation year 2003 and follow the taxation year 1997.

"eligible taxation year".

For the purposes of the second paragraph, "eligible taxation year" of a taxpayer means a taxation year throughout which the taxpayer was resident in Canada, other than a taxation year that ends in a calendar year in which the taxpayer became a bankrupt or a taxation year included, in whole or in part, in an averaging period determined in respect of the taxpayer for the purposes of Division II of Chapter II of Title I of Book V, as it read before being repealed.

History: 1998, c. 16, s. 109; 2002, c. 40, s. 30; 2004, c. 21, s. 73; 2005, c. 38, s. 67.

Corresponding Federal Provision: 56(1)(c.2).

Deemed support.

313. For the purposes of section 312.4, where an order or agreement, or any variation thereof, provides for the payment of an amount to a taxpayer or for the benefit of the taxpayer, a child in the taxpayer's custody or both the taxpayer and a child in the taxpayer's custody, the amount or any part thereof, when payable, is deemed to be payable to and receivable by the taxpayer and, when paid, is deemed to have been paid to and received by the taxpayer.

History: 1975, c. 21, s. 8; 1982, c. 5, s. 69; 1982, c. 17, s. 51; 1984, c. 15, s. 74; 1986, c. 15, s. 61; 1990, c. 59, s. 143; 1994, c. 22, s. 140; 1995, c. 18, s. 90; 1995, c. 49, s. 236; 1998, c. 16, s. 110; 2003, c. 9, s. 22.

Corresponding Federal Provision: 56.1(1).

Act to facilitate the payment of support.

313.0.0.1. For the purposes of section 312.3, where an order, or any variation thereof, provides for the payment of an amount to a taxpayer or for the benefit of the taxpayer, a child in the taxpayer's custody or both the taxpayer and a child in the taxpayer's custody and the amount or any part thereof is paid by the Minister under the Act to facilitate the payment of support (chapter P-2.2) otherwise than out of the sums collected from the debtor of support, the amount or any part thereof, when paid, is deemed to have been receivable by the taxpayer under the order.

History: 1998, c. 16, s. 111.

Deemed support.

313.0.1. Where an amount, other than an amount that is otherwise a support amount, became payable in a taxation year by a person, in this section and in section 313.0.2 referred to as the "particular person", under an order of a competent tribunal or under a written agreement, in respect of an expense incurred in the year or the preceding taxation year for the maintenance of a taxpayer described in the second paragraph, a child in the taxpayer's custody or both the taxpayer and a child in the taxpayer's custody and the order or agreement provides that subsection 2 of each of sections 56.1 and 60.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) apply to any amount paid or payable thereunder, the amount by which the aggregate of all amounts each of which is such an amount payable exceeds the amount determined under section 313.0.3 is, for the purposes of this chapter, deemed to be an amount payable to and receivable by the taxpayer as an allowance on a periodic basis, and the taxpayer is deemed to have discretion as to the use of that amount.

Interpretation.

The taxpayer to whom the first paragraph refers is

(*a*) the spouse or former spouse of the particular person; or

(*b*) where the amount became payable under an order made by a competent tribunal in accordance with the laws of a province, the father or mother of a child of the particular person.

History: 1986, c. 15, s. 61; 1990, c. 59, s. 143; 1994, c. 22, s. 140; 1995, c. 49, s. 236; 1998, c. 16, s. 112; 2002, c. 40, s. 31; 2003, c. 9, s. 23; 2009, c. 5, s. 112.

Corresponding Federal Provision: 56.1(2) A.

Restriction.

313.0.2. For the purposes of section 313.0.1, an expense does not include an expenditure in respect of a self-contained domestic establishment in which the particular person resides or an expenditure for the acquisition of corporeal property

that is not an expenditure on account of a medical or educational expense or in respect of the acquisition, improvement or maintenance of a self-contained domestic establishment in which the taxpayer described in the second paragraph of that section 313.0.1 resides.

History: 1986, c. 15, s. 61; 1990, c. 59, s. 143; 1994, c. 22, s. 140; 1998, c. 16, s. 112; 2005, c. 1, s. 86.

Corresponding Federal Provision: 56.1(2) A.

Interpretation.

313.0.3. The amount referred to in the first paragraph of section 313.0.1 is the amount by which

(*a*) the aggregate of all amounts each of which is an amount included in the aggregate determined under that paragraph in respect of the acquisition or improvement of a self-contained domestic establishment in which the taxpayer described in the second paragraph of that section 313.0.1 resides, including any payment of principal or interest in respect of a loan made or indebtedness incurred to finance, in any manner whatever, such acquisition or improvement; exceeds

(*b*) the aggregate of all amounts each of which is an amount equal to 20% of the original principal amount of a loan or indebtedness described in paragraph *a*.

History: 1986, c. 15, s. 61; 1990, c. 59, s. 144; 1994, c. 22, s. 141; 1998, c. 16, s. 112.

Corresponding Federal Provision: 56.1(2) B.

313.0.4. *(Repealed).*

History: 1986, c. 15, s. 61; 1990, c. 59, s. 145.

Prior payments.

313.0.5. For the purposes of this chapter, where a written agreement or order of a competent tribunal made at any time in a taxation year provides that an amount received before that time and in the year or the preceding taxation year is to be considered to have been paid and received thereunder, the following rules apply:

(*a*) the amount is deemed to have been received thereunder;

(*b*) the agreement or order is deemed, except for the purpose of this section, to have been made on the day on which the first such amount was received.

Variation.

However, where the agreement or order is made after 30 April 1997 and varies a child support amount payable to the recipient from the last such amount received by the recipient before 1 May 1997, each varied amount of child support received under the agreement or order is deemed to have been receivable under an agreement or order the commencement day of which is the day on which the first payment of the varied amount is required to be made.

History: 1986, c. 15, s. 61; 1995, c. 49, s. 236; 1996, c. 39, s. 273; 1998, c. 16, s. 113.

Corresponding Federal Provision: 56.1(3).

Grants under a prescribed program.

313.1. A taxpayer shall also include the amount of any grant received by him in the year under a prescribed program relating to home insulation or energy conversion or so received in the year by his spouse who resided with him at the time of payment and whose income for the year, determined without reference to this section, section 311.1 and paragraph *d*.1 of section 336, is less than the taxpayer's income so determined for the year, to the extent that paragraph *s* of section 87 does not require the inclusion of such amount in computing the taxpayer's income or that of his spouse for the year or a subsequent year, except where the taxpayer resided with his spouse at the time of payment and the taxpayer's income for the year, determined without reference to this section, section 311.1 and paragraph *d*.1 of section 336, is less than the taxpayer's spouse's income so determined for the year.

History: 1978, c. 26, s. 49; 1982, c. 5, s. 69; 1984, c. 15, s. 74; 1991, c. 25, s. 63; 1993, c. 16, s. 129; 1995, c. 1, s. 33; 1998, c. 16, s. 251.

Corresponding Federal Provision: 56(1)(s) and (9).

313.2. *(Repealed).*

History: 1986, c. 15, s. 62; 1989, c. 5, s. 58; 1993, c. 64, s. 28.

313.3. *(Repealed).*

History: 1986, c. 15, s. 62; 1989, c. 5, s. 59; 1993, c. 64, s. 28.

Benefit.

313.4. A taxpayer shall also include every amount received by him as a benefit in the year out of or under a salary deferral arrangement in respect of another person except to the extent that the amount, or another amount that may reasonably be considered to relate thereto, has been included in computing the income of that other person for the year or for any preceding taxation year.

Applicability.

Notwithstanding the foregoing, the first paragraph does not apply to an amount received by or from a trust governed by a salary deferral arrangement.

History: 1988, c. 18, s. 17.

Corresponding Federal Provision: 56(1)(w).

Retirement compensation arrangement.

313.5. A taxpayer shall also include any amount relating to a retirement compensation arrangement, to the extent provided in sections 890.9 and 890.10.

History: 1989, c. 77, s. 27.
Interpretation Bulletins: IMP. 311-1/R3.
Corresponding Federal Provision: 56(1)(x) to (z) and (11).

Value of certain benefits.

313.6. A taxpayer shall also include the value of benefits received or enjoyed by any person in the year in respect of a workshop, seminar, training program or any similar development program by reason of the taxpayer's membership in a registered national arts service organization, in a recognized arts organization or in a registered cultural or communications organization.

History: 1993, c. 16, s. 130; 1995, c. 1, s. 199; 1997, c. 14, s. 290; 2006, c. 36, s. 35.
Corresponding Federal Provision: 56(1)(aa).

Reserve claimed for debt forgiveness.

313.7. There shall be included in computing an individual's income for a taxation year during which the individual was not a bankrupt the amount deducted under section 346.1 in computing the individual's income for the preceding taxation year.

History: 1996, c. 39, s. 105.
Corresponding Federal Provision: 56.2.

Reserve claimed for debt forgiveness.

313.8. There shall be included in computing a taxpayer's income for a taxation year during which the taxpayer was not a bankrupt the amount deducted under section 346.4 in computing the taxpayer's income for the preceding taxation year.

History: 1996, c. 39, s. 105.
Corresponding Federal Provision: 56.3.

Disposition of a tool of an apprentice mechanic.

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 a property acquired by the taxpayer in circumstances to which section 527.3 or 617.1 applied, the cost of which was included in computing an amount determined under section 75.2.1 or 75.3 in respect of the taxpayer or in respect of a person with whom the taxpayer is not dealing 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

(*a*) the cost to the taxpayer of the property immediately before its disposition; and

(*b*) 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.

History: 2004, c. 8, s. 58; 2007, c. 12, s. 49.
Corresponding Federal Provision: 56(1)(k).

Investment expense.

313.10. An individual, other than a trust that is not a personal trust, shall also include in computing the individual's income for a taxation year an amount equal to the amount by which the individual's investment expense for the year exceeds the individual's investment income for the year.

Foreign specialists.

If the individual benefits for the year from the deduction provided for in any of sections 737.16, 737.18.10 and 737.18.34 in respect of an employment, the amount determined under the first paragraph must be determined with reference to the following rules:

(*a*) in the case of the deduction provided for in section 737.16, any particular amount otherwise included in the investment expense or investment income of the individual for the year, to the extent that that particular amount is taken into account in computing an income realized, or a loss sustained, in a specified period of the individual established under the fourth paragraph of section 65 of the Act respecting international financial centres (chapter C-8.3), in relation to the employment, or is such an income or loss, is deemed to be equal to the product obtained by multiplying that particular amount by the amount by which 100% exceeds the percentage determined under subparagraph 1 of the second paragraph of that section 65 in respect of that period;

(*b*) in the case of the deduction provided for in section 737.18.10, any particular amount otherwise included in the investment expense or investment income of the individual for the year, to the extent that that particular amount is taken into account in computing an income realized, or a loss sustained, in the individual's exemption period, within the meaning of section 737.18.6, in relation to the employment, or is such an income or loss, is deemed to be equal to zero; and

(*c*) in the case of the deduction provided for in section 737.18.34, any particular amount otherwise included in the investment expense or investment income of the individual for the year, to the extent that that particular amount is taken into account in computing an income realized, or a loss sustained, in a specified period of the individual, within the meaning of section 737.18.29, in relation to the employment, or is such an income or loss, is deemed to be equal to the product obtained by multiplying that particular amount by the amount by which 100% exceeds the percentage determined under subparagraph *a* of

the second paragraph of section 737.18.34 in respect of that period.

Interpretation.

In this section, "investment expense" and "investment income" have the meaning assigned by section 336.5.

History: 2005, c. 38, s. 68.

Split-retirement income.

313.11. A taxpayer who is a transferee for the year, within the meaning of the first paragraph of section 336.8, shall also include any amount that is a split-retirement income for the year, determined in respect of the taxpayer for the purposes of Chapter II.1 of Title VI.

Taxpayer who dies.

However, a taxpayer who dies in a taxation year shall include an amount under the first paragraph only in the fiscal return that is required to be filed for the year under this Part, otherwise than because of an election made by the taxpayer's legal representative in accordance with the second paragraph of section 429 or section 681 or 1003.

Taxpayer who becomes bankrupt.

Similarly, a taxpayer who became a bankrupt during a calendar year shall include an amount under the first paragraph only in the fiscal return the taxpayer is required to file under this Part for the taxation year that is deemed, under section 779, to begin on the date of the bankruptcy.

History: 2009, c. 5, s. 113; 2010, c. 25, s. 28.
Corresponding Federal Provision: 56(1)(a.2).

Employee life and health trust.

313.12. A taxpayer shall also include the total of all amounts, each of which is an amount received in the year by the taxpayer that is required to be included in computing the taxpayer's income under section 869.11, except to the extent that the amount is required to be included under section 429 in computing the income for the year by the taxpayer or other person resident in Canada.

History: 2011, c. 6, s. 127.
Corresponding Federal Provision: 56(1)(z.2).

Pooled registered pension plan.

313.13. A taxpayer shall also include any amount that is required to be included in computing the taxpayer's income for the year under Title VI.0.2 of Book VII.

History: 2015, c. 21, s. 158.
Corresponding Federal Provision: 56(1)(z.3).

Tax informant program.

313.14. A taxpayer shall also include any amount received in the year under a contract, to provide information to the Canada Revenue Agency or the Agence du revenu du Québec, entered into by the taxpayer under a program administered by the Canada Revenue Agency or the Agence du revenu du Québec to obtain information relating to tax non-compliance.

History: 2015, c. 36, s. 18; 2019, c. 14, s. 114.
Corresponding Federal Provision: 56(1)(z.4).

CHAPTER III
INDIRECT, DEFERRED AND OTHER PAYMENTS

Indirect payments.

314. A payment or transfer to another person, according to the taxpayer's instructions or with the taxpayer's consent, of money, rights or property for the benefit of the taxpayer or for that of the other person (otherwise than by partition of a retirement pension pursuant to sections 158.3 to 158.8 of the Act respecting the Québec Pension Plan (chapter R-9) or any comparable provision of a similar plan, within the meaning of that Act) is deemed received by the taxpayer and must be included in computing the taxpayer's income to the extent that it would be if the payment or transfer had been made to the taxpayer.

History: 1972, c. 23, s. 288; 1972, c. 26, s. 43; 1989, c. 77, s. 28; 1995, c. 1, s. 34; 2001, c. 7, s. 42; 2009, c. 15, s. 77; 2013, c. 10, s. 24; 2015, c. 21, s. 159.
Corresponding Federal Provision: 56(2).

315. *(Repealed).*

History: 1972, c. 23, s. 289; 1990, c. 59, s. 146.

Transfer or assignment of right to certain amounts.

316. A taxpayer who assigned or transferred before the end of a taxation year to a person with whom the taxpayer was not dealing at arm's length at that time the right to an amount that would otherwise be included in computing the taxpayer's income for the year shall include in computing the taxpayer's income for that year the part of that amount that relates to the period in the year throughout which he was resident in Canada, unless the income is from property that the taxpayer also assigned or transferred or from the portion of a retirement pension partitioned under sections 158.3 to 158.8 of the Act respecting the Québec Pension Plan (chapter R-9) or any comparable provision of a similar plan, within the meaning of that Act.

History: 1972, c. 23, s. 290; 1989, c. 77, s. 29; 1995, c. 1, s. 35; 1995, c. 49, s. 77.
Corresponding Federal Provision: 56(4).

Property loaned to reduce or avoid tax.

316.1. Where a particular individual, other than a trust, or a trust of which the particular individual is a beneficiary, receives a loan from or becomes indebted to a creditor or creditor trust, directly or indirectly by means of a trust or by any other means, and it may reasonably be considered that

one of the main reasons for making the loan or incurring the indebtedness is to reduce or avoid tax by causing income from the loaned property to be included in the income of the particular individual, the following rules apply:

(*a*) any income of the particular individual, for a taxation year, from the loaned property that relates to the period or periods in the year throughout which the creditor or the creditor trust, as the case may be, is resident in Canada and the particular individual is not dealing at arm's length with the creditor or the original transferor in respect of the creditor trust, as the case may be, is deemed to be income of the creditor or creditor trust, as the case may be, for that taxation year and not income of the particular individual;

(*b*) where section 467 applies in respect of the loaned property and income therefrom is deemed to be income of the creditor trust and not income of the particular individual, as provided for in subparagraph *a*, section 467 shall be applied after the application of subparagraph *a*.

Exceptions.

Subparagraph *a* of the first paragraph does not apply, in respect of such income of the individual

(*a*) to the extent that sections 462.1 to 462.4 apply or would, but for section 462.16, apply to such income;

(*b*) in the case of a creditor, to the extent that section 467 applies to such income;

(*c*) in the case of a creditor trust,

i. to the extent that subparagraph *a* of the first paragraph applies to such income in the case of a creditor;

ii. to the extent that section 467 applies to such income otherwise than by reason of subparagraph *b* of the first paragraph.

Definitions:

In this section,

"beneficiary";
"beneficiary" of a trust means an individual who is beneficially interested in the trust;

"creditor";
"creditor", in respect of a particular individual, or of a trust of which the particular individual is a beneficiary, having received a loan or incurred a debt, means the individual, other than a trust, who made the loan or became the creditor and with whom the particular individual does not deal at arm's length;

"creditor trust";
"creditor trust", in respect of a particular individual, or of a trust of which the particular individual is a beneficiary, having received a loan or incurred a debt, means the trust that made the loan or became the creditor and to which property has, directly or indirectly by means of a trust or by any other means, been transferred by another individual, in this section referred to as the "original transferor", who is not a trust, who is resident in Canada at any time in the period during which the loan or indebtedness is outstanding and with whom the particular individual does not deal at arm's length;

"loaned property".
"loaned property", in respect of a particular individual, or of a trust of which the particular individual is a beneficiary, having received a loan or incurred a debt, includes property that the loan or indebtedness enabled or assisted the particular individual, or the trust in which the particular individual is a beneficiary, to acquire, and property substituted for such property or for the loaned property.

History: 1990, c. 59, s. 147; 1993, c. 16, s. 131; 1994, c. 22, s. 142; 1996, c. 39, s. 273.
Interpretation Bulletins: IMP. 293-1/R2.
Corresponding Federal Provision: 56(4.1).

Loans for value.

316.2. Notwithstanding any other provision of this Act, section 316.1 does not apply to any income derived in a particular taxation year, in respect of a loan or indebtedness, where the following conditions are met:

(*a*) interest is charged on the loan or indebtedness at a rate equal to or greater than the lesser of the following rates:

i. the prescribed rate of interest in effect at the time the loan was made or the indebtedness was incurred, and

ii. the rate that would, having regard to all the circumstances, have been agreed on, at the time the loan was made or the indebtedness was incurred, between parties dealing with each other at arm's length;

(*b*) the amount of interest that is payable in respect of the particular taxation year in respect of the loan or indebtedness is paid not later than 30 days after the end of the particular taxation year; and

(*c*) the amount of interest that was payable in respect of each taxation year preceding the particular taxation year in respect of the loan or indebtedness was paid not later than 30 days after the end of each such taxation year.

History: 1990, c. 59, s. 147; 1993, c. 16, s. 131.
Interpretation Bulletins: IMP. 293-1/R2.
Corresponding Federal Provision: 56(4.2).

Loaned property used to repay a loan or to reduce an amount payable.

316.3. For the purposes of section 316.1, where at any time a particular property is used to repay, in whole or in part, a loan or indebtedness that enabled or assisted an individual to acquire another property, there shall be included

in computing the income from the particular property that proportion of the income or loss, as the case may be, derived after that time from the other property or from property substituted therefor that the amount so repaid is of the cost to the individual of the other property.

Restriction.

Notwithstanding the foregoing, nothing in this section shall affect the application of section 316.1 to any income or loss derived from the other property or from property substituted therefor.

History: 1990, c. 59, s. 147; 1993, c. 16, s. 132.
Interpretation Bulletins: IMP. 293-1/R2.
Corresponding Federal Provision: 56(4.3).

Benefit extended to a shareholder of a business investment company.

316.4. Where, in connection with a qualified investment, within the meaning of paragraph *d* of section 965.29, made after 26 April 1990 by a Québec business investment company, within the meaning of paragraph *f* of the said section, in respect of any project, a benefit is extended in a taxation year to an individual who is or is about to become a shareholder thereof, or to a person related to the individual, by a party to the qualified investment, other than the Québec business investment company, or by a third person with an interest in the project, the amount of the benefit shall be included in computing the individual's income for the year.

Particular rules.

However, where the individual contemplated in the first paragraph is a trust governed by a registered retirement savings plan or a registered retirement income fund and the benefit is extended in the year to that individual, to the annuitant, within the meaning of paragraph *b* of section 905.1 or paragraph *d* of section 961.1.5, as the case may be, under the plan or the fund, or to any other person related to the annuitant, the amount of the benefit shall be included in computing the annuitant's income for the year.

History: 1991, c. 8, s. 3.

Sections 314, 316 and 316.1 not applicable.

316.5. This chapter does not apply to any amount that is included in computing an individual's split income for a taxation year.

History: 2001, c. 53, s. 55.
Corresponding Federal Provision: 56(5).

CHAPTER IV
PENSIONS

Pensions and other benefits.

317. A taxpayer shall include any amount received by him as a pension benefit, including

(*a*) the amount of any pension, supplement or allowance under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9) and the amount of any similar payment under a law of a province;

(*b*) the amount of any benefit under the Act respecting the Québec Pension Plan (chapter R-9) and the amount of any similar plan within the meaning of paragraph *u* of section 1 of that Act;

(*c*) the amount of any payment out of or under a specified pension plan; and

(*d*) the amount of any payment out of or under a foreign retirement arrangement established under the laws of a country, except to the extent that the amount would not, if the taxpayer were resident in the country, be subject to the income taxation in the country.

Amounts not to be included in income for the year.

However, the amounts described in the first paragraph do not include

(*a*) the portion of an amount received by the taxpayer out of or under an employee benefit plan that is required by section 47.1 to be included in computing the taxpayer's income, or would be required to be so included if section 47.2 were construed without reference to the words "a return of amounts contributed to the plan by him or a deceased employee of whom he is a legatee by particular title or legal representative";

(*b*) the portion of an amount received out of or under a retirement compensation arrangement that is required by section 313.5, where it refers to an amount provided for in paragraph *a* or *c* of section 890.9, to be included in computing the taxpayer's income;

(*c*) an amount received as a death benefit paid, after 9 May 1996, in accordance with section 168 of the Act respecting the Québec Pension Plan or a similar provision of any similar plan within the meaning of paragraph *u* of section 1 of that Act; or

(*d*) an amount received by the taxpayer out of or under a registered pension plan as a return of all or a portion of a contribution to the plan, to the extent that the amount

i. is a payment made to the taxpayer under subsection 19 of section 147.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or under subparagraph iii of paragraph *d* of section 8502 of the Income Tax Regulations made under that Act, and

ii. is not deducted in computing the taxpayer's income for the year or a preceding taxation year.

History: 1972, c. 23, s. 291; 1975, c. 22, s. 58; 1978, c. 26, s. 50; 1982, c. 5, s. 70; 1984, c. 15, s. 75; 1985, c. 25, s. 56; 1989, c. 77, s. 30; 1993, c. 16, s. 133; 1997, c. 14, s. 59; 2000, c. 5, s. 293; 2001, c. 53, s. 56; 2013, c. 10, s. 25; 2015, c. 21, s. 160.

Corresponding Federal Provision: 56(1)(a)(i).

Exception.

317.1. A taxpayer shall not include, by virtue of section 317, an amount that he may not, by reason of subsection 21 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), include in computing his income for the purposes of that Act.

History: 1995, c. 49, s. 78.

Corresponding Federal Provision: 146(21).

Death benefit.

317.2. An amount referred to in subparagraph *c* of the second paragraph of section 317 shall be included in computing the income of the succession of the contributor in respect of whom it is paid, for the taxation year in which it is paid, whether or not all or part of the amount was paid to a taxpayer other than the succession.

History: 1997, c. 14, s. 60; 1998, c. 16, s. 251.

Corresponding Federal Provision: 56(1)(a.1).

Foreign retirement arrangement.

317.3. If an amount in respect of a foreign retirement arrangement is, as a result of a transaction, an event or a circumstance, considered to be distributed to an individual under the income tax laws of the country in which the arrangement is established, the amount is, for the purposes of subparagraph *d* of the first paragraph of section 317, deemed to be received by the individual as a payment out of the arrangement in the taxation year that includes the time of the transaction, event or circumstance.

History: 2009, c. 5, s. 114.

Corresponding Federal Provision: 56(12).

Pension and other benefits.

318. Where a taxpayer receives a payment under a retirement plan to which he has contributed the investment income of which has already been exempted from taxation under the Income War Tax Act (Revised Statutes of Canada, 1927, chapter 97) by reason of an election of the trustee or corporation administering such plan, he may include in computing his income only the amount remaining after subtracting from the payment the greater of the following two proportions of the said payment:

(*a*) that the aggregate of the amounts paid by him under the plan during the period of such exemption is to the aggregate of all the amounts paid by him under the plan, and

(*b*) that the aggregate of the amounts so paid by him under the plan during the period of exemption with simple interest at 3% per annum computed from the end of the year of the payment of each sum so paid to the beginning of the payment of the pension benefit is to the aggregate of all the amounts paid by him under the plan with simple interest computed at the same rate and in the same manner.

History: 1972, c. 23, s. 292; 1991, c. 25, s. 176; 1997, c. 3, s. 71.

Corresponding Federal Provision: 57(1) and (2).

Restriction where partial contribution under pension plan.

319. Where the payment contemplated in section 318 has been received for a period for which the taxpayer has contributed only partially, the said section is applicable only to that part of the payment which may reasonably be regarded as having been received in respect of the part of the period for which he has contributed under the plan and the remainder must be included in computing his income for the year without any deduction.

History: 1972, c. 23, s. 293; 1991, c. 25, s. 176.

Corresponding Federal Provision: 57(3).

Certain payments received under a pension plan.

320. A taxpayer who, between 15 August 1944 and 31 December 1945, made a contribution exceeding $300 under a registered retirement plan in respect of services rendered while he was not a contributor must include in computing his income the payment he receives under such plan after deducting the proportion of it that his contribution less $300 is of the aggregate of the amounts paid under such plan.

History: 1972, c. 23, s. 294; 1973, c. 17, s. 34; 1991, c. 25, s. 176.

Corresponding Federal Provision: 57(4).

Payment received on death of contributor.

321. A person who receives a payment under a plan contemplated in section 318 or 320 pursuant to the death of the taxpayer must include in computing his income for the year only that part of such payment which would have been included under this chapter in computing the income of such taxpayer if he had received such amount under the plan.

History: 1972, c. 23, s. 295.

Corresponding Federal Provision: 57(5).

CHAPTER V
GOVERNMENT ANNUITIES AND LIKE ANNUITIES

Payments of government and similar annuities.

322. (*1*) In determining the amount that shall be included in respect of payments he receives in a taxation year under contracts entered into before 26 May 1932 with the Government of Canada or under annuity contracts like those provided in the Government Annuities Act (Revised Statutes of Canada, 1970, chapter G-6), entered into before such date

with the government of a province or a corporation incorporated or licensed to carry on an annuities business in Canada, the taxpayer may deduct from the aggregate of the amounts he has received the lesser of:

(*a*) $5,000; and

(*b*) the aggregate of the amounts that would have been received if such contracts had remained in force on the conditions existing immediately before 25 June 1940, without the exercise of any option or contractual right to increase the amount of the annuity by the payment of an additional sum or premium unless such additional sum or premium had been paid before such date.

Other deductions.

(2) The taxpayer may also deduct the lesser of $1,200 and the aggregate contemplated in paragraph *b* of subsection 1 if the contracts were entered into after 25 May 1932 and before 25 June 1940.

History: 1972, c. 23, s. 296; 1997, c. 3, s. 71; 1997, c. 14, s. 61.
Corresponding Federal Provision: 58(1) and (2).

Case where taxpayer allowed both deductions under s. 322.

323. If the taxpayer is entitled to both deductions provided for in section 322, he shall not make a deduction under subsection 2 of section 322 if the amount deductible under subsection 1 of section 322 is $1,200 or more, but he may, if such deduction is less than $1,200, make a deduction computed as though subsection 2 of section 322 applied to all the contracts entered into before 25 June 1940.

History: 1972, c. 23, s. 297.
Corresponding Federal Provision: 58(3).

Capital element.

324. The capital element of a payment of annuities, for the purposes of paragraph *f* of section 336, is computed in respect of what remains after deducting from the aggregate of the payments of annuities to which this chapter applies for a taxation year the deductions provided for by sections 322 and 323.

History: 1972, c. 23, s. 298; 1998, c. 16, s. 251.
Corresponding Federal Provision: 58(4).

Where spouses each receive annuity payments.

325. Where spouses have each received annuity payments in respect of which they may make a deduction under this chapter, the amount deductible may be computed as if their annuities belonged to a single person; it may be deducted by either of them or apportioned between them in such manner as may be agreed by them or, in case of disagreement, as the Minister may determine.

History: 1972, c. 23, s. 299.
Corresponding Federal Provision: 58(5).

Registered pension plan.

326. This chapter does not apply to an amount received out of or under a registered pension plan.

History: 1972, c. 23, s. 300; 1991, c. 25, s. 64.
Corresponding Federal Provision: 58(6).

Annuity increased.

327. For the purposes of this chapter, an annuity is deemed to have been increased after 24 June 1940 if, since, the amount which is payable under the contract has been increased whether by higher periodic payments, by increasing the number of payments or otherwise.

History: 1972, c. 23, s. 301.
Corresponding Federal Provision: 58(7).

CHAPTER VI
RESOURCE PROPERTY

328. *(Repealed).*

History: 1975, c. 22, s. 59; 1986, c. 19, s. 59.

329. *(Repealed).*

History: 1972, c. 23, s. 302; 1973, c. 18, s. 7; 1975, c. 22, s. 60; 1980, c. 13, s. 23; 1982, c. 5, s. 71; 1986, c. 19, s. 59.

329.1. *(Repealed).*

History: 1982, c. 5, s. 71; 1986, c. 19, s. 59.

Amount to include in computing income.

330. A taxpayer must include in computing his income for a taxation year:

(*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;

(*b*) the amount deducted pursuant to sections 357 and 358 in computing his income for the preceding taxation year;

(*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;

(*d*) the amount by which the aggregate of all amounts deducted under section 399 in computing his cumulative Canadian exploration expenses at the end of the year exceeds the total of the aggregate of all amounts included under section 398 in computing his cumulative Canadian exploration expenses at the end of the year and the aggregate determined under subparagraph i of paragraph *a* of section 418.31.1 in respect of the taxpayer for the year;

(*e*) the amount by which the total of the aggregate of all amounts deducted under section 412 in computing his cumulative Canadian development expenses at the end of the year and the amount designated by him for the year for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) under subsection 14.2 of section 66 thereof exceeds the total of the aggregate of all amounts included under section 411 in computing his cumulative Canadian development expenses at the end of the year and the aggregate determined under subparagraph i of paragraph *b* of section 418.31.1 in respect of the taxpayer for the year;

(*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;

(*f*) any amount contemplated in paragraph *b* of section 419.3; and

(*g*) any amount contemplated in section 419.4.

History: 1975, c. 22, s. 61; 1985, c. 25, s. 57; 1986, c. 19, s. 60; 1987, c. 67, s. 78; 1993, c. 16, s. 134; 2004, c. 8, s. 59.

Corresponding Federal Provision: 59(1), (2) and (3.2), 66(10.4)(b)(ii) and (c), 66(12.4)(b), 66.1(1), 66.2(1) and 66.21(3).

Partnership.

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.

History: 2004, c. 8, s. 60.

Corresponding Federal Provision: 59(1.1).

331. *(Repealed).*

History: 1972, c. 23, s. 303; 1973, c. 18, s. 8; 1975, c. 22, s. 62; 1980, c. 13, s. 24; 1986, c. 19, s. 61.

332. *(Repealed).*

History: 1972, c. 23, s. 304; 1975, c. 22, s. 63; 1980, c. 13, s. 25; 1986, c. 19, s. 61.

Computation of income.

332.1. A taxpayer shall include in computing his income for a taxation year, the aggregate of

(*a*) the amount obtained by applying the stated percentage to 33 1/3% of each amount that is described in section 332.1.1 and in respect of which the consideration given by him was a property, other than a share, depreciable property of a prescribed class or a Canadian resource property, or services the cost of which may reasonably be regarded as having been an expenditure that was added in computing the earned depletion base of the taxpayer or of a predecessor corporation where the taxpayer is a successor corporation to the predecessor;

(*b*) the amount obtained by applying the stated percentage to 33 1/3% of each amount determined under section 332.2 in respect of a disposition of depreciable property of a prescribed class, other than a disposition of such property that had been used by the taxpayer to any person with whom the taxpayer was not dealing at arm's length, of the taxpayer after 11 December 1979 and in the year, the capital cost of which was added in computing the earned depletion base of the taxpayer or of a person with whom he was not dealing at arm's length or in computing the earned depletion base of a predecessor corporation where the taxpayer is a successor corporation to the predecessor;

(*c*) 33 1/3% of each amount determined under section 332.2 in respect of a disposition of depreciable property of a prescribed class that is bituminous sands equipment, other than a disposition of such property that had been used by the taxpayer to any person with whom the taxpayer was not dealing at arm's length, of the taxpayer in the year but after 11 December 1979 and before 1 January 1990, the capital

cost of which was added in computing the supplementary depletion base of the taxpayer or of a person with whom he was not dealing at arm's length or in computing the supplementary depletion base of a predecessor corporation where the taxpayer is a successor corporation to the predecessor;

(*d*) 50% of each amount determined under section 332.2 in respect of a disposition of depreciable property of a prescribed class that is enhanced recovery equipment, other than a disposition of such property that had been used by the taxpayer to any person with whom the taxpayer was not dealing at arm's length, of the taxpayer in the year but after 11 December 1979 and before 1 January 1990, the capital cost of which was added in computing the supplementary depletion base of the taxpayer or of a person with whom he was not dealing at arm's length or in computing the supplementary depletion base of a predecessor corporation where the taxpayer is a successor corporation to the predecessor;

(*e*) 66 2/3% of each amount that became receivable by him in the year but after 11 December 1979 and before 1 January 1990 and in respect of which the consideration given by the taxpayer was a property, other than a share or a Canadian resource property, or services the cost of which may reasonably be regarded as having been an expenditure in connection with an oil or gas well in respect of which an amount was included in computing the taxpayer's exploration base or in computing the exploration base of a predecessor corporation where the taxpayer is a successor corporation to the predecessor;

(*f*) the amount obtained by applying the stated percentage to 33 1/3% of each amount that became receivable by him in the year but after 19 April 1983 and in respect of which the consideration given by him was a property, other than a share, depreciable property of a prescribed class or a Canadian resource property, or services the cost of which may reasonably be regarded as having been an expenditure that was added in computing the resource exploration base of the taxpayer or of a specified predecessor of the taxpayer;

(*g*) the amount obtained by applying the stated percentage to 33 1/3% of each amount that became receivable by him in the year but after 31 December 1986 and in respect of which the consideration given by him was a property, other than a share, depreciable property of a prescribed class or a Canadian resource property, or services the cost of which may reasonably be regarded as having been an expenditure that was added in computing the oil and gas exploration base of the taxpayer or of a specified predecessor of the taxpayer.

History: 1982, c. 5, s. 72; 1985, c. 25, s. 58; 1986, c. 15, s. 63; 1986, c. 19, s. 62; 1988, c. 18, s. 18; 1989, c. 77, s. 31; 1990, c. 59, s. 148; 1997, c. 3, s. 71; 1997, c. 14, s. 62.

Corresponding Federal Provision: 59(3.3).

Amount receivable.

332.1.1. For the purposes of paragraph *a* of section 332.1, an amount contemplated therein in respect of a taxpayer for a taxation year is

(*a*) an amount that became receivable by the taxpayer in the year but after 31 December 1983 other than an amount that would have been a Canadian oil and gas exploration expense if it had been an expense incurred by him at the time it became receivable;

(*b*) an amount that became receivable by the taxpayer in the year but after 31 December 1983, that would have been a Canadian oil and gas exploration expense described in paragraph *b* or *b*.1 of section 395 in respect of a qualified tertiary oil recovery project if it had been an expense incurred by him at the time it became receivable; or

(*c*) an amount equal to 30% of an amount that became receivable by the taxpayer in the year but during the calendar year 1984 that would have been a Canadian oil and gas exploration expense, other than an expense described in paragraph *b* of section 395 in respect of a qualified tertiary oil recovery project, incurred in respect of non-conventional lands if it had been an expense incurred by him at the time it became receivable.

History: 1986, c. 15, s. 64.

Corresponding Federal Provision: 59(3.3)(a)(i) to (iii).

Amount referred to in par. *b*, *c*, or *d* of s. 332.1.

332.2. For the purposes of paragraph *b*, *c* or *d* of section 332.1, the amount in respect of a disposition of a property referred to therein is equal to the lesser of the capital cost of the property to the taxpayer, the person with whom he was not dealing at arm's length or the predecessor, as the case may be, computed without reference to section 180 or 182, and the proceeds of disposition of the property.

History: 1982, c. 5, s. 72; 1985, c. 25, s. 58.

Corresponding Federal Provision: 59(3.3)(b), (c) and (d).

Interpretation:

332.3. For the purposes of sections 332.1 and 332.2 and this section,

(*a*) *(paragraph repealed)*;

(*b*) *(paragraph repealed)*;

"stated percentage";

(*b*.1) "stated percentage" means

i. in respect of an amount described in paragraph *a*, *f* or *g* of section 332.1 that became receivable by a taxpayer,

(1) 100% where the amount became receivable before 1 July 1988,

(2) 50% where the amount became receivable after 30 June 1988 but before 1 January 1990, and

(3) 0% where the amount became receivable after 31 December 1989; and

ii. in respect of the disposition described in paragraph *b* of section 332.1 of a depreciable property of a taxpayer,

(1) 100% where the property was disposed of before 1 July 1988,

(2) 50% where the property was disposed of after 30 June 1988 but before 1 January 1990; and

(3) 0% where the property was disposed of after 31 December 1989;

"specified predecessor";
(*c*) "specified predecessor" of a taxpayer means a person who is a predecessor of the taxpayer or of a person who is a specified predecessor of the taxpayer;

"successor corporation".
(*d*) "successor corporation" means a corporation that has, after 7 November 1969, acquired, in any manner whatever, except pursuant to an amalgamation that is described in subsection 4 of section 544 or a winding-up to which the rules in sections 556 to 564.1 and 565 apply, from another person, in this section and in sections 332.1 and 332.2 referred to as the "predecessor corporation", all or substantially all of the Canadian resource properties of the predecessor corporation in circumstances in which section 418.16, any of sections 418.18 to 418.21 or section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4), to the extent that that section refers to subsection 25 of section 29 of the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement), applies to that corporation.

History: 1982, c. 5, s. 72; 1985, c. 25, s. 58; 1986, c. 19, s. 63; 1989, c. 77, s. 32; 1990, c. 59, s. 149; 1997, c. 3, s. 24; 1998, c. 16, s. 251.
Corresponding Federal Provision: 59(3.4).

Variation of stated percentage.

332.4. Notwithstanding paragraph *b*.1 of section 332.3, the stated percentage in respect of a particular amount that became receivable by a taxpayer within 60 days after 31 December 1989 and in respect of which the consideration given by him was a property or services shall be 50% where the person to whom the consideration was given is a corporation that, on or before 31 December 1989, had issued, or had undertaken to issue, a flow-through share and that renounces under section 359.8, effective on 31 December 1989, an amount in respect of Canadian exploration expenses that includes an expenditure in respect of that particular amount.

History: 1990, c. 59, s. 150; 1997, c. 3, s. 71.
Corresponding Federal Provision: 59(3.5).

Interpretation.

333. In this chapter, the expression "proceeds of disposition" has the meaning assigned by section 251.

Interpretation.

Similarly, the expressions "exploration base", "resource exploration base", "oil and gas exploration base", "supplementary depletion", "earned depletion", "Canadian oil and gas exploration expense", "bituminous sands equipment", "enhanced recovery equipment", "qualified tertiary oil recovery project", and "non-conventional lands" have, for the purposes of this chapter, the meaning assigned to them by regulation.

History: 1975, c. 22, s. 64; 1982, c. 5, s. 73; 1985, c. 25, s. 59; 1986, c. 15, s. 65; 1988, c. 18, s. 19; 2003, c. 2, s. 108.
Corresponding Federal Provision: 59(5) and (6).

Election relating to involuntary disposition of resource property.

333.1. If in a particular taxation year proceeds of disposition, described in subparagraph iv of subparagraph *f* of the first paragraph of section 93, of any Canadian resource property are deemed, under section 280, to have become receivable by a taxpayer and the taxpayer makes a valid election under section 59.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in relation to those proceeds, the taxpayer shall deduct in computing the taxpayer's income for the year an amount equal to the least of

(*a*) the aggregate of all such proceeds so becoming receivable by him in the year, to the extent that they have been included in the amount referred to in subparagraph i of paragraph *b* of section 412 or 418.6 in respect of the taxpayer;

(*b*) the amount required to be included in computing the taxpayer's income for the year by virtue of paragraph *e* of section 330;

(*c*) the taxpayer's income for the year computed without reference to this section or to sections 333.2 and 333.3;

(*d*) the aggregate of the amount allowed as a deduction in computing the taxpayer's income for the year for the purposes of the Income Tax Act under paragraph *a* of section 59.1 of that Act in relation to that election and, if the amount that is so allowed as a deduction is equal to the maximum amount that the taxpayer may claim as a deduction in that computation under that paragraph in relation to that election, the amount that the taxpayer designates in the taxpayer's fiscal return filed under this Part for the year.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under section 59.1 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1978, c. 26, s. 51; 1980, c. 13, s. 26; 1982, c. 5, s. 74; 1993, c. 16, s. 135; 2001, c. 53, s. 260; 2009, c. 5, s. 115.
Corresponding Federal Provision: 59.1(a).

Amount to be included in computing income following election.

333.2. A taxpayer shall include, in computing the taxpayer's income for the taxation year in respect of which the taxpayer made the election referred to in the first paragraph of section 333.1, the amount by which the amount deducted under that section exceeds the aggregate of Canadian exploration expenses, Canadian development expenses and Canadian oil and gas property expenses that the taxpayer incurred in the taxpayer's 10 taxation years that follow the year and that the taxpayer either designated before 20 December 2006 in accordance with this section, or designates after 19 December 2006 in accordance with subparagraph ii of paragraph *b* of section 59.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), except that, for the purposes of this paragraph, the expenses so designated after 19 December 2006 are to be adjusted, if applicable, in a manner that is satisfactory to the Minister to take into account the difference between the amount allowed as a deduction in computing the taxpayer's income for the year for the purposes of that Act under paragraph *a* of section 59.1 of that Act and the amount deducted under section 333.1.

Reassessment by Minister.

Despite sections 1010 to 1011, the Minister shall make a reassessment to redetermine the tax, interest and penalties to be paid by the taxpayer under this Part as is required in respect of any taxation year to give effect to the inclusion referred to in the first paragraph.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to a designation made under subparagraph ii of paragraph *b* of section 59.1 of the Income Tax Act or in relation to a designation made under this section before 20 December 2006.

History: 1978, c. 26, s. 51; 1982, c. 5, s. 75; 2009, c. 5, s. 116.
Corresponding Federal Provision: 59.1(b).

Expenses deemed not to be expenses.

333.3. Canadian exploration expenses, Canadian development expenses and Canadian oil and gas property expenses incurred by a taxpayer in a taxation year and referred to in the first paragraph of section 333.2 are deemed not to be such expenses, except for the purposes of sections 386, 387, 391, 392 and 392.1 and for the purpose of computing the taxpayer's earned depletion base within the meaning of the regulations made under section 360.

History: 1978, c. 26, s. 51; 1982, c. 5, s. 76; 2009, c. 5, s. 116.
Corresponding Federal Provision: 59.1(c).

CHAPTER VII
RESTRICTIVE COVENANTS

Definitions:

333.4. In this chapter,

"eligible corporation";
"eligible corporation", of a taxpayer, means a taxable Canadian corporation of which the taxpayer holds, directly or indirectly, shares of the capital stock;

"eligible individual";
"eligible individual", in respect of a vendor, at any time means an individual (other than a trust) who is related to the vendor and who is 18 years of age or over at that time;

"eligible interest";
"eligible interest", of a taxpayer, means capital property of the taxpayer that is

(*a*) a partnership interest in a partnership that carries on a business;

(*b*) a share of the capital stock of a corporation that carries on a business; or

(*c*) a share of the capital stock of a corporation 90% or more of the fair market value of which is attributable to eligible interests in another corporation;

"goodwill amount";
"goodwill amount", of a taxpayer, means an amount that the taxpayer has received or may become entitled to receive and that would be required, but for this chapter, to be included in the proceeds of disposition of a property included in Class 14.1 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1), or an amount to which section 93.18 applies, in respect of a business carried on by the taxpayer through an establishment located in Canada;

"restrictive covenant";
"restrictive covenant", of a taxpayer, means an agreement entered into, an undertaking made, or a waiver of an advantage or right by the taxpayer, whether legally enforceable or not, that affects, or may affect, in any way whatever, the acquisition or provision of property or services by the taxpayer or by another taxpayer that does not deal at arm's length with the taxpayer, other than an agreement or undertaking

(*a*) that disposes of the taxpayer's property; or

(*b*) that is in satisfaction of an obligation described in section 298.1 that is not a disposition, unless the obligation being satisfied is in respect of a right to property or services that the taxpayer acquired for less than its fair market value;

"taxpayer".
"taxpayer" includes a partnership.

History: 2009, c. 5, s. 117 [amended by 2015, . 21, s. 796]; 2015, c. 21, s. 161; 2019, c. 14, s. 115.
Corresponding Federal Provision: 56.4(1).

Amount received or receivable.

333.5. A taxpayer shall include, in computing the taxpayer's income for a taxation year, the aggregate of all amounts each of which is an amount in respect of a restrictive covenant of the taxpayer that is received or receivable in the year by the taxpayer or by a taxpayer with whom the taxpayer does not deal at arm's length, other than an amount that has been included in computing the taxpayer's income under this section for a preceding taxation year or the taxpayer's eligible corporation's income under this section for the year or a preceding taxation year.

When not included in computing income.

If the first paragraph applies to include, in computing a taxpayer's income, an amount received or receivable by another taxpayer, the amount must not be included in computing the other taxpayer's income.

History: 2009, c. 5, s. 117 [amended by 2015, . 21, s. 796].
Corresponding Federal Provision: 56.4(2).

Non-application of section 333.5.

333.6. Section 333.5 does not apply to an amount received or receivable by a particular taxpayer in a taxation year in respect of a restrictive covenant granted by the particular taxpayer to another taxpayer (in this section and section 333.7 referred to as the "purchaser") with whom the particular taxpayer deals at arm's length, determined without reference to paragraph *b* of section 20, if

(*a*) the amount has been included in computing the particular taxpayer's income for the year under sections 32 to 47.17 or would have been so included in computing the particular taxpayer's income if the amount had been received in the year;

(*b*) the amount would, but for this chapter, be required to be included in the proceeds of disposition of a property included in Class 14.1 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1), or is an amount to which section 93.18 applies, in respect of the business to which the restrictive covenant relates, and the particular taxpayer makes a valid election under paragraph *b* of subsection 3 of section 56.4 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 to have that paragraph *b* apply in respect of the restrictive covenant; or

(*c*) subject to section 333.11, the amount directly relates to the particular taxpayer's disposition of property that is, at the time of the disposition, an eligible interest in the partnership or corporation that carries on the business to which the restrictive covenant relates, or that is at that time an eligible interest under paragraph *c* of the definition of "eligible interest" in section 333.4 if the other corporation referred to in that paragraph *c* carries on the business to which the restrictive covenant relates, and

i. the disposition is to the purchaser or to a person related to the purchaser,

ii. the amount is consideration for an undertaking by the particular taxpayer not to provide, directly or indirectly, property or services in competition with the property or services provided or to be provided by the purchaser or by a person related to the purchaser,

iii. the restrictive covenant may reasonably be considered to have been granted to maintain or preserve the value of the eligible interest disposed of to the purchaser,

iv. if the restrictive covenant is granted after 17 July 2005, section 506 does not apply to the disposition,

v. the amount is added to the particular taxpayer's proceeds of disposition, within the meaning assigned by section 251, for the purpose of applying this Part to the disposition of the particular taxpayer's eligible interest, and

vi. the particular taxpayer and the purchaser make a valid election under subparagraph vi of paragraph *c* of subsection 3 of section 56.4 of the Income Tax Act;

vii. *(paragraph replaced).*

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 3 of section 56.4 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 2009, c. 5, s. 117 [amended by 2015, . 21, s. 796]; 2015, c. 21, s. 162; 2019, c. 14, s. 116.
Corresponding Federal Provision: 56.4(3).

Amount paid or payable by purchaser.

333.7. An amount paid or payable by a purchaser for a restrictive covenant is

(*a*) if the amount is required because of sections 32 to 47.17 to be included in computing the income of an employee of the purchaser, to be considered to be wages paid or payable by the purchaser to the employee;

(*b*) if an election has been made under subparagraph *b* of the first paragraph of section 333.6 in respect of the amount, to be considered to be incurred by the purchaser on account of capital for the purpose of determining the cost of the property or for the purposes of section 93.15, as the case may be, and

not to be an amount paid or payable for the purposes of the other provisions of this Part; and

(*c*) if an election has been made under subparagraph *c* of the first paragraph of section 333.6, in respect of the amount and the amount relates to the purchaser's acquisition of property that is, immediately after the acquisition, an eligible interest of the purchaser, to be included in computing the cost to the purchaser of that eligible interest and considered not to be an amount paid or payable for the purposes of the other provisions of this Part.

History: 2009, c. 5, s. 117 [amended by 2015, . 21, s. 796]; 2019, c. 14, s. 117.

Corresponding Federal Provision: 56.4(4).

Restrictive covenant granted by employee.

333.8. Section 421 does not apply to deem consideration to be an amount received or receivable by an individual for a restrictive covenant granted by the individual if

(*a*) the restrictive covenant is granted by the individual to another taxpayer (in this section referred to as the "purchaser") with whom the individual deals at arm's length;

(*b*) the restrictive covenant directly relates to the acquisition from one or more other persons (in this section and section 333.13 referred to as the "vendors") by the purchaser of a right in the individual's employer, in a corporation related to that employer or in a business carried on by that employer;

(*c*) the individual deals at arm's length with the employer and with the vendors;

(*d*) the restrictive covenant is an undertaking by the individual not to provide, directly or indirectly, property or services in competition with property or services provided or to be provided by the purchaser or by a person related to the purchaser in the course of carrying on the business to which the restrictive covenant relates;

(*e*) no proceeds are received or receivable by the individual for granting the restrictive covenant; and

(*f*) the amount that can reasonably be regarded as being the consideration for the restrictive covenant is received or receivable only by the vendors.

History: 2009, c. 5, s. 117 [amended by 2015, . 21, s. 796]; 2015, c. 21, s. 163; 2020, c. 16, s. 56.

Corresponding Federal Provision: 56.4(6).

Realization of goodwill amount and disposition of property.

333.9. Subject to section 333.12, section 421 does not apply to deem consideration to be an amount received or receivable by a taxpayer for a restrictive covenant granted by the taxpayer if

(*a*) the restrictive covenant is granted by the taxpayer (in this section and section 333.10 referred to as the "vendor") to

i. another taxpayer (in this section referred to as the "purchaser") with whom the vendor deals at arm's length, determined without reference to paragraph *b* of section 20 at the time of the grant of the restrictive covenant, or

ii. another person who is an eligible individual in respect of the vendor at the time of the grant of the restrictive covenant;

(*b*) where subparagraph i of subparagraph *a* applies, the restrictive covenant is an undertaking of the vendor not to provide, directly or indirectly, property or services in competition with the property or services provided or to be provided by the purchaser, or by a person related to the purchaser, in the course of carrying on the business to which the restrictive covenant relates, and

i. the amount that can reasonably be regarded as being consideration for the restrictive covenant is

(1) included by the vendor in computing a goodwill amount of the vendor, or

(2) received or receivable by a corporation that was an eligible corporation of the vendor when the restrictive covenant was granted and included by the eligible corporation in computing a goodwill amount of the eligible corporation in respect of the business to which the restrictive covenant relates, or

ii. it is reasonable to conclude that the restrictive covenant is integral to an agreement in writing,

(1) under which the vendor or the vendor's eligible corporation disposes of property (other than property to which subparagraph 2 applies) to the purchaser, or the purchaser's eligible corporation, for consideration that is received or receivable by the vendor, or by the vendor's eligible corporation, as the case may be, or

(2) under which shares of the capital stock of a corporation (in this section and section 333.13 referred to as the "target corporation") are disposed of to the purchaser or to another person that is related to the purchaser and with whom the vendor deals at arm's length, determined without reference to paragraph *b* of section 20;

(*c*) where subparagraph ii of subparagraph *a* applies, the restrictive covenant is an undertaking of the vendor not to provide, directly or indirectly, property or services in competition with the property or services provided or to be provided by the eligible individual, or by an eligible corporation of the eligible individual, in the course of carrying on the business to which the restrictive covenant relates, the conditions of the second paragraph are met and

i. the amount that can reasonably be regarded as being consideration for the restrictive covenant is

(1) included by the vendor in computing a goodwill amount of the vendor, or

(2) received or receivable by a corporation that was an eligible corporation of the vendor when the restrictive covenant was granted and included by the eligible corporation in computing a goodwill amount of the eligible corporation in respect of the business to which the restrictive covenant relates, or

ii. it is reasonable to conclude that the restrictive covenant is integral to an agreement in writing

(1) under which the vendor or the vendor's eligible corporation disposes of property (other than property to which subparagraph 2 applies) to the eligible individual, or the eligible individual's eligible corporation, for consideration that is received or receivable by the vendor, or by the vendor's eligible corporation, as the case may be, or

(2) under which shares of the capital stock of the vendor's eligible corporation (in this section and section 333.13 referred to as the "family corporation") are disposed of to the eligible individual or to the eligible individual's eligible corporation;

(*d*) no proceeds are received or receivable by the vendor for granting the restrictive covenant;

(*e*) section 506 does not apply in respect of the disposition of a share of the target corporation or the family corporation, as the case may be;

(*f*) the restrictive covenant can reasonably be regarded to have been granted to maintain or preserve the fair market value of

i. the benefit of the expenditure derived from the goodwill amount referred to in subparagraph i of subparagraph *b* or *c* and for which a joint election referred to in subparagraph *g* was made,

ii. the property referred to in subparagraph 1 of subparagraph ii of subparagraph *b* or *c*, or

iii. the shares referred to in subparagraph 2 of subparagraph ii of subparagraph *b* or *c*; and

(*g*) a valid joint election is made under paragraph *g* of subsection 7 of section 56.4 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the restrictive covenant.

Conditions.

The conditions to which subparagraph *c* of the first paragraph refers are as follows:

(*a*) the vendor is resident in Canada at the time the restrictive covenant is granted and at the time of the disposition referred to in subparagraph ii of subparagraph *c* of the first paragraph; and

(*b*) the vendor does not, at any time after the grant of the restrictive covenant and whether directly or indirectly in any manner whatever, have a right in the family corporation or in the eligible corporation of the eligible individual, as the case may be.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 7 of section 56.4 of the Income Tax Act.

History: 2009, c. 5, s. 117 [amended by 2015, . 21, s. 796]; 2015, c. 21, s. 164; 2020, c. 16, s. 57.

Corresponding Federal Provision: 56.4(7).

Application of section 333.9.

333.10. For the purposes of section 333.9, subparagraph 1 of subparagraph ii of each of subparagraphs *b* and *c* of the first paragraph of that section applies to the grant of a restrictive covenant only if

(*a*) the consideration that can reasonably be regarded as being in part the consideration for the restrictive covenant is received or receivable by the vendor or the vendor's eligible corporation, as the case may be, as consideration for the disposition of the property; and

(*b*) where all or part of the consideration can reasonably be regarded as being for a goodwill amount, section 333.5, subparagraph *b* of the first paragraph of section 333.6 and subparagraph i of subparagraphs *b* and *c* of the first paragraph of section 333.9 apply to that consideration.

Application of section 422.

In determining whether the conditions of subparagraph *c* of the first paragraph of section 333.9 have been met, and for the purposes of section 422, in respect of a restrictive covenant granted by a vendor, the fair market value of a property is the amount that could reasonably be regarded as being the fair market value of the property if the restrictive covenant were part of the property.

History: 2009, c. 5, s. 117 [amended by 2015, . 21, s. 796]; 2015, c. 21, s. 164.

Corresponding Federal Provision: 56.4(8).

Anti-avoidance rule.

333.11. Subparagraph *c* of the first paragraph of section 333.6 does not apply to an amount that would, but for sections 333.5 to 333.14, be included in computing a taxpayer's income from a source that is an office or

employment or a business or property under paragraph a of section 28.

History: 2009, c. 5, s. 117 [amended by 2015, . 21, s. 796]; 2015, c. 21, s. 164.
Corresponding Federal Provision: 56.4(9).

Anti-avoidance rule.

333.12. Section 333.9 does not apply in respect of a taxpayer's grant of a restrictive covenant if one of the results of not applying section 421 to the consideration received or receivable in respect of the restrictive covenant would be that paragraph *a* of section 28 would not apply to consideration that would, but for sections 333.5 to 333.14, be included in computing a taxpayer's income from a source that is an office or employment or a business or property.

History: 2009, c. 5, s. 117 [amended by 2015, . 21, s. 796]; 2015, c. 21, s. 164.
Corresponding Federal Provision: 56.4(10).

Clarification if section 333.8 or 333.9 applies.

333.13. If section 333.8 or 333.9 applies in respect of a restrictive covenant, the following rules apply:

(*a*) the amount referred to in paragraph *f* of section 333.8 is to be added in computing the amount received or receivable by the vendors as consideration for the disposition of the right referred to in paragraph *b* of section 333.8; and

(*b*) the amount that can reasonably be regarded as being in part consideration received or receivable for a restrictive covenant to which subparagraph 2 of subparagraph ii of subparagraph *b* or *c* of the first paragraph of section 333.9 applies is to be added in computing the consideration that is received or receivable by each taxpayer who disposes of shares of the target corporation, or of shares of the family corporation, as the case may be, to the extent of the portion of the consideration that is received or receivable by that taxpayer.

History: 2009, c. 5, s. 117 [amended by 2015, . 21, s. 796]; 2015, c. 21, s. 164; 2020, c. 16, s. 58.
Corresponding Federal Provision: 56.4(12).

Non-application of section 270.

333.14. Section 270 does not apply to an amount received or receivable as consideration for a restrictive covenant.

History: 2009, c. 5, s. 117 [amended by 2015, . 21, s. 796]; 2015, c. 21, s. 164.
Corresponding Federal Provision: 56.4(14).

333.15. *(Repealed).*

History: 2009, c. 5, s. 117 [amended by 2015, . 21, s. 796]; 2015, c. 21, s. 165.

333.16. *(Repealed).*

History: 2009, c. 5, s. 117 [amended by 2015, . 21, s. 796]; 2015, c. 21, s. 165.

TITLE VI
DEDUCTIONS IN COMPUTING INCOME

CHAPTER I
RULES OF APPLICATION

Deductions allowed.

334. A taxpayer may deduct, in computing his income for a taxation year, the amounts provided in this Title.

History: 1972, c. 23, s. 305.
Corresponding Federal Provision: 60 before (a).

334.1. *(Repealed).*

History: 1995, c. 1, s. 36; 1997, c. 85, s. 63.
Interpretation Bulletins: IMP. 336-1/R3; IMP. 336-5/R1.

Individual absent from Canada but resident in Québec.

335. If an individual is, throughout all or part of a taxation year, absent from Canada but resident in Québec and Chapter IX.0.1 applies in respect of the individual for the year or that part of the year, section 358.0.1 shall be read without reference in subparagraphs 9 and 10 of subparagraph ii of subparagraph *a* of its second paragraph to "in Canada" and without reference in its third paragraph to ", including, if the payee is an individual referred to in subparagraph 10 of subparagraph ii of that subparagraph *a*, the Social Insurance Number of the latter individual", if the expenses referred to therein have been paid to a person not resident in Canada.

History: 1977, c. 26, s. 29; 1985, c. 25, s. 60; 1986, c. 15, s. 66; 1986, c. 19, s. 64; 1991, c. 25, s. 65; 1995, c. 1, s. 37; 1997, c. 85, s. 64; 2001, c. 53, s. 57; 2003, c. 2, s. 109; 2005, c. 38, s. 69.
Corresponding Federal Provision: 64.1.

CHAPTER II
MISCELLANEOUS CASES

Amounts included.

336. The amounts referred to in section 334 include

(*a*) *(paragraph repealed)*;

(*a.*0.1) *(paragraph repealed)*;

(*a.*1) *(paragraph repealed)*;

(*b*) *(paragraph repealed)*;

(*b.*0.1) *(paragraph repealed)*;

(*b.*1) *(paragraph repealed)*;

(*c*) an amount equal to annual interest accruing within the taxation year in respect of succession duties, inheritance taxes or estate taxes;

(*d*) an amount described in any of paragraphs *a*, *c*, *c*.1 and *e* to *e*.6 of section 311 or in section 311.1 or 311.2, as that section read before being repealed, the amount of any pension, supplement or allowance paid under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9) or the amount of any benefit paid under the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of that Act, received by an individual and included in computing the individual's income for the year or a preceding taxation year, to the extent of the amount repaid by the individual in the year otherwise than because of Part VII of the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1), Part VII of the Employment Insurance Act (Statutes of Canada, 1996, chapter 23) or Part I.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), except if the tax, interest and penalties that may reasonably be attributed to that amount have been remitted under section 94.0.4 of the Tax Administration Act (chapter A-6.002);

(*d*.0.1) an amount paid in the year by the taxpayer to a registered pension plan or to a pooled registered pension plan if

i. the taxpayer is an individual,

ii. the amount is paid as a repayment of an amount received under the plan that was included in computing the taxpayer's income for the year or a preceding taxation year and in respect of which any of the following conditions is met, or as interest in respect of such a repayment:

(1) it is reasonable to consider that the amount was paid under the plan as a consequence of an error and not as an entitlement to benefits, or

(2) it was determined, after the payment of the amount under the plan, that the taxpayer was not entitled to the amount as a consequence of a settlement of a dispute in respect of the taxpayer's employment, and

iii. no portion of the amount is deductible under paragraph *c* of section 70 or any of sections 922, 923 and 923.0.1 in computing the taxpayer's income for the year;

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

(*d*.1.1) an amount repaid by the taxpayer in the year as a consequence of the application of section 89 of the Individual and Family Assistance Act (chapter A-13.1.1), section 110 of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001), section 37 of the Act respecting income security (chapter S-3.1.1) or a similar provision of a law of a province other than Québec, to the extent that the amount has been included, under section 311.1, in computing the income of another person for the year or a preceding taxation year, except if the tax, interest and penalties that may reasonably be attributed to that amount have been remitted under section 94.0.4 of the Tax Administration Act;

(*d*.2) an amount repaid by the taxpayer in the year pursuant to section 90 of the Individual and Family Assistance Act, section 102 of the Act respecting income support, employment assistance and social solidarity, section 35 of the Act respecting income security or a similar provision of a law of a province other than Québec, to the extent that the amount has been included, under section 311.1, in computing the taxpayer's income for the year or a preceding taxation year, except if the tax, interest and penalties that may reasonably be attributed to that amount have been remitted under section 94.0.4 of the Tax Administration Act;

(*d*.2.1) the aggregate of all amounts each of which is an amount that the taxpayer is required to pay for the year as a consequence of the application of section 1129.66.3 in relation to an amount that was included in computing the taxpayer's income because of section 904 for the year or for a preceding taxation year;

(*d*.3) the aggregate of all amounts each of which is an amount paid in the year by the taxpayer as a repayment, under the Canada Education Savings Act (Statutes of Canada, 2004, chapter 26) or under a designated provincial program within the meaning of section 890.15, of an amount included because of section 904 in computing the taxpayer's income for the year or a preceding taxation year;

(*d*.3.0.1) the aggregate of all amounts each of which is an amount paid in the year as a repayment under the Apprenticeship Incentive Grant program or the Apprenticeship Completion Grant program administered by the Department of Employment and Social Development of Canada of an amount that was included in computing the taxpayer's income because of paragraph *i* of section 312 for the year or a preceding taxation year;

(*d*.3.0.2) the aggregate of all amounts each of which is an amount paid in the year as a repayment of an amount that was included, because of section 313.14, in computing the taxpayer's income for the year or a preceding taxation year;

(*d*.3.1) an amount paid in the year by the taxpayer as a repayment of an amount included in computing the taxpayer's income for the year or a preceding taxation year under paragraph *k*.0.1 of section 311;

(*d.*3.2) the aggregate of all amounts each of which is an amount paid in the year as a repayment of an amount that was included because of paragraph *k*.0.2 of section 311 in computing the taxpayer's income for the year or a preceding taxation year;

(*d.*4) an amount paid in the year by the taxpayer as fees or expenses incurred for the review, under section 1029.8.61.39, or the contestation, under section 1029.8.61.41, of a decision of Retraite Québec;

(*e*) an amount paid in the year by the taxpayer as fees or expenses incurred for preparing, presenting or proceeding with an objection, contestation or appeal relating to

i. an assessment of tax, interest or penalties under this Act, a similar Act of Canada or of a province other than Québec,

ii. an assessment of any income tax deductible by the taxpayer under sections 772.2 to 772.13 or any interest or penalty with respect thereto,

iii. an assessment or a decision under the Act respecting the Québec Pension Plan or a similar plan within the meaning of the said Act,

iv. a decision of the Canada Employment Insurance Commission under the Employment Insurance Act or an appeal of such a decision to the Social Security Tribunal,

v. an assessment under the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5),

vi. a decision under the Act respecting property tax refund (chapter R-20.1),

vii. a notice under the Act respecting municipal taxation (chapter F-2.1),

viii. a request for payment under the Land Transfer Duties Act (chapter D-17),

ix. a decision under the Shelter Allowance Program for the elderly adopted under the Act respecting the Société d'habitation du Québec (chapter S-8),

x. an assessment under Chapter III.1 of the Act respecting labour standards (chapter N-1.1), or

xi. an assessment under the Act to promote workforce skills development and recognition (chapter D-8.3);

xii. an assessment or a decision under the Act respecting parental insurance (chapter A-29.011);

(*e.*1) an amount equal to the amount by which the lesser of the following amounts exceeds the portion of the aggregate described in subparagraph i in respect of the taxpayer that may reasonably be considered to have been deductible under this paragraph in computing the taxpayer's income for a preceding taxation year:

i. the aggregate of the judicial or extrajudicial expenses, other than those relating to a partition or settlement of property arising out of, or on the breakdown of, a marriage, paid by the taxpayer in the year or any of the seven preceding taxation years to collect or establish a right to an amount of a benefit under a pension plan, other than a benefit under the Act respecting the Québec Pension Plan or a similar plan, within the meaning of the said Act, in respect of the employment of the taxpayer or a deceased individual of whom the taxpayer was a dependent, legal representative or relation, or a retiring allowance of the taxpayer or a deceased individual of whom the taxpayer was a dependent, legal representative or relation, and

ii. the amount by which the aggregate of all amounts each of which is a benefit or retiring allowance described in subparagraph i that is received after 31 December 1985, in respect of which judicial or extrajudicial expenses described in the said subparagraph i were paid, and that is included in computing the taxpayer's income for the year or a preceding taxation year, or an amount included in computing the taxpayer's income under paragraph *f*.1 of section 312 for the year or a preceding taxation year, exceeds the aggregate of all amounts each of which is an amount deducted under paragraphs *d*, *d*.0.1, *d*.1 and *d*.2 of section 339 in computing the taxpayer's income for the year or a preceding taxation year, to the extent that the latter amount may reasonably be considered to have been deductible as a consequence of the receipt of an amount that is a benefit or retiring allowance referred to in this subparagraph;

(*f*) in the case of an annuity payment included under paragraph *c* of section 312 in computing the taxpayer's income for the year, the capital element corresponding

i. to the amount determined in the manner prescribed as representing a capital return, if the annuity is of a contractual nature, and

ii. if the annuity is paid under a provision of a will or trust, to the portion of the payment not derived from the income of the succession or trust, the burden of proof being on the annuitant;

(*g*) in the case of an individual, an amount paid by him in the year to a person with whom he was dealing at arm's length if

i. such amount has been included in computing his income for the year or a preceding taxation year as an amount contemplated in paragraph *g* or *h* of section 312 paid to him by such person,

ii. at the time the amount was paid by such person to the individual, a condition was stipulated for the individual to fulfil,

iii. as a result of the failure of the individual to fulfil the condition, he was required to repay the amount to such person,

iv. during the period for which the amount referred to in subparagraph i was paid, the individual provided no services to such person as an employee, except occasionally, and

v. such amount was paid to the individual for the purpose of enabling him to further his education;

(*h*) *(paragraph repealed)*;

(*i*) the aggregate of repayments made by the taxpayer in the year in respect of a policy loan, within the meaning of paragraph *a*.1.1 of section 966, made under a life insurance policy, not exceeding the amount by which the aggregate of all amounts required by section 968 and by reason of such policy loan made after 31 March 1978 in respect of that policy to be included in computing the taxpayer's income for the year or a preceding taxation year exceeds the aggregate of all repayments made by the taxpayer in respect of a policy loan that were deductible in computing the taxpayer's income for a preceding taxation year;

(*j*) the amount of tax payable by the taxpayer for the year under Part I.2 of the Income Tax Act;

(*k*) an amount paid by an individual before the end of the year as interest or repayment of the principal relating to a loan granted, in respect of a program of studies, under a prescribed assistance program, to the extent that the amount has not been deducted in computing his income for a preceding taxation year and does not exceed the amount by which the amount of the loan reconciled in accordance with the assistance program exceeds the aggregate of all amounts each of which is an amount deducted under this paragraph in computing his income for any such year, and provided that

i. the individual has obtained a diploma attesting to the successful completion of the program of studies and has filed a copy of it with the financial institution designated for the purposes of the assistance program before the end of the year and on or before the second anniversary of the expected completion of the studies related to the assistance program,

ii. the amount is paid after the tenth working day, within the meaning assigned by the assistance program, after the Friday of the week during which the studies related to the assistance program were completed, and

iii. the amount is paid on or before the tenth anniversary of the signature of the loan repayment agreement provided for in the assistance program;

(*l*) the debts owing to a taxpayer that the taxpayer establishes to have become bad debts in the year in respect of an amount included in computing the taxpayer's income for a preceding taxation year because of the application of section 35.1 or 333.5.

History: 1972, c. 23, s. 306; 1973, c. 18, s. 9; 1974, c. 18, s. 17; 1975, c. 21, s. 9; 1978, c. 26, s. 52; 1979, c. 18, s. 25; 1980, c. 13, s. 27; 1982, c. 5, s. 77; 1982, c. 17, s. 52; 1982, c. 56, s. 11; 1984, c. 15, s. 76; 1985, c. 25, s. 61; 1986, c. 15, s. 67; 1986, c. 19, s. 65; 1990, c. 59, s. 151; 1991, c. 25, s. 66; 1992, c. 1, s. 30; 1993, c. 15, s. 95; 1993, c. 16, s. 136; 1993, c. 19, s. 21; 1993, c. 64, s. 29; 1994, c. 22, s. 143; 1995, c. 1, s. 38 [amended by 1997, c. 14, s. 369]; 1995, c. 18, s. 91; 1995, c. 49, s. 79; 1995, c. 63, s. 36; 1997, c. 14, s. 63; 1997, c. 31, s. 45; 1997, c. 63, s. 110; O.C. 1677-97; 1997, c. 85, s. 65; 1998, c. 16, s. 114; 1999, c. 40, s. 258; 1999, c. 89, s. 53; O.C. 149-2000; 2000, c. 5, s. 87; 2000, c. 39, s. 21; 2001, c. 51, s. 36; 2001, c. 53, s. 58; 2002, c. 40, s. 32; 2004, c. 21, s. 74; 2005, c. 1, s. 87; 2005, c. 38, s. 70; 2006, c. 13, s. 38; 2007, c. 3, s. 68; 2007, c. 12, s. 50; 2009, c. 5, s. 118; 2009, c. 15, s. 78; 2010, c. 5, s. 37; 2011, c. 1, s. 28; 2010, c. 31, s. 175; 2011, c. 6, s. 128; 2015, c. 21, s. 166; 2015, c. 36, s. 19; 2014, c. 1, s. 778 [in force: O.C. 1066-2015]; 2015, c. 20, s. 61 [in force: O.C. 1034-2015]; I.N. 2016-12-01; 2017, c. 29, s. 59; 2019, c. 14, s. 118; 2020, c. 16, s. 59; 2020, c. 12, s. 145.

Interpretation Bulletins: IMP. 293-1/R2.

Corresponding Federal Provision: 60(a), (d), (f), (n) to (q), (s), (v), (v.1), (w), (x) and (z.1).

336.0.1. *(Repealed).*

History: 1990, c. 59, s. 152; 1995, c. 49, s. 236; 1996, c. 39, s. 273; 1998, c. 16, s. 115.

Interpretation Bulletins: IMP. 336-7/R1.

Definitions:

336.0.2. In this chapter,

"child support amount";
"child support amount" means any support amount that is not identified in the agreement or order under which it is payable as being solely for the support of a recipient who is a spouse or former spouse of the payer or who is the father or mother of a child of the payer;

"commencement day";
"commencement day" in respect of an agreement or order has the meaning assigned by the first paragraph of section 312.3;

"support amount".
"support amount" means, subject to the second paragraph and except for the purposes of subparagraphs *a* to *b* of the first paragraph of section 336.0.5, an amount payable as an allowance on a periodic basis for the maintenance of the recipient, a child of the recipient or both the recipient and a child of the recipient, if the recipient has discretion as to the use of the amount, and

(*a*) the recipient is the spouse or former spouse of the payer, the recipient and payer are living separate and apart because of the breakdown of their marriage and the amount is payable

under an order of a competent tribunal or under a written agreement; or

(*b*) the payer is the father or mother of a child of the recipient and the amount is payable under an order made by a competent tribunal in accordance with the laws of a province.

Interpretation.

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

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

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

ii. section 312.4 were disregarded; and

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

History: 1998, c. 16, s. 116; 2000, c. 5, s. 88; 2005, c. 1, s. 88.
Corresponding Federal Provision: 56.1(4) and 60.1(4).

Support.

336.0.3. A taxpayer may, in computing the income of the taxpayer for a taxation year, deduct the aggregate of all amounts each of which is an amount determined by the formula

A − (B + C).

Interpretation.

In the formula provided for in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is a support amount paid after 31 December 1996 and before the end of the year by the taxpayer to a particular person, where the taxpayer and the particular person were living separate and apart at the time the amount was paid;

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

(*c*) C is the aggregate of all amounts each of which is a support amount paid by the taxpayer to the particular person after 31 December 1996 and deductible in computing the taxpayer's income for a preceding taxation year.

Exception for spouses of the same sex.

The first and second paragraphs do not apply in respect of an amount paid pursuant to an order or a written agreement made before 16 June 1999 where, but for the amendments made to subparagraph *a* of the first paragraph of section 2.2.1 by section 14 of the Act to amend various legislative provisions concerning de facto spouses (1999, chapter 14), this section would not have applied in respect of that amount, except if

(*a*) subparagraph *a* of the first paragraph of section 2.2.1, as amended by section 14 of the Act to amend various legislative provisions concerning de facto spouses, applies to the taxpayer and the particular person before 16 June 1999 because of the third paragraph of section 2.2.1; or

(*b*) the taxpayer and the particular person jointly elect to have the first and second paragraphs of this section and of section 312.4 apply after 15 June 1999 in respect of that amount by filing a document signed by the taxpayer and the particular person with the Minister on or before the taxpayer's and the particular person's filing-due date for the taxation year that includes 20 December 2001.

History: 1998, c. 16, s. 116; 2000, c. 5, s. 89; 2001, c. 53, s. 59.
Corresponding Federal Provision: 60(b).

Repayment of support payments.

336.0.4. A taxpayer may, in computing the income of the taxpayer for a taxation year, deduct the amount by which an amount paid by the taxpayer in the year or one of the two preceding taxation years under an order of a competent tribunal as a repayment of an amount included under any of paragraphs *a* to *b*.1 of section 312, as it read for a preceding taxation year, in computing the taxpayer's income for that preceding year, or that should have been so included had the taxpayer not made the election provided for in section 309.1, as it read for that preceding year, or included under section 312.4 in computing the taxpayer's income for the year or a preceding taxation year, to the extent that the amount was not deducted in computing the taxpayer's income for a preceding taxation year, exceeded the portion of the amount in respect of which section 334.1 applied for a preceding taxation year, as that section read for that preceding year.

History: 1998, c. 16, s. 116.
Corresponding Federal Provision: 60(c.2).

Judicial and extrajudicial expenses.

336.0.5. A taxpayer may, in computing income for a taxation year, deduct any amount paid by the taxpayer as judicial or extrajudicial expenses incurred for any of the following purposes, to the extent that the taxpayer has not been reimbursed, is not entitled to be reimbursed, and did not deduct the amount in computing income for a preceding taxation year:

(*a*) for the purpose of collecting an amount owing to the taxpayer that is a support amount as defined in the first paragraph of section 312.3;

(*a.*1) for the purpose of determining the original right to receive an amount that is a support amount as defined in the first paragraph of section 312.3;

(*b*) for the purpose of obtaining a review of the right to receive an amount that is a support amount as defined in the first paragraph of section 312.3;

(*b.*1) for the purpose of determining the original obligation to pay an amount that is a support amount; and

(*c*) for the purpose of obtaining a review of the obligation to pay an amount that is a support amount.

Conditions for application.

The first paragraph applies only if the judicial or extrajudicial expenses referred to in that paragraph were incurred by the taxpayer or, where the taxpayer is required to pay such expenses under an order of a competent court, by the taxpayer's spouse or former spouse or by the father or mother of the taxpayer's child.

History: 1998, c. 16, s. 116; 2005, c. 1, s. 89; 2014, c. 1, s. 778 [in force: O.C. 1066-2015]; 2017, c. 29, s. 60.

Interpretation Bulletins: IMP. 336.0.5-1/R1.

Deemed support.

336.0.6. For the purposes of section 336.0.3, where an order or agreement, or any variation thereof, provides for the payment of an amount by a taxpayer to a person or for the benefit of the person, a child in the person's custody or both the person and a child in the person's custody, the amount or any part thereof, when payable, is deemed to be payable to and receivable by that person and, when paid, is deemed to have been paid to and received by that person.

History: 1998, c. 16, s. 116; 2003, c. 9, s. 24.

Corresponding Federal Provision: 60.1(1).

Act to facilitate the payment of support.

336.0.7. For the purposes of sections 336.0.2 and 336.0.3, where an order, or any variation thereof, provides for the payment of an amount by a taxpayer to a person or for the benefit of the person, a child in the person's custody or both the person and a child in the person's custody, the amount or any part thereof is paid by the Minister under the Act to facilitate the payment of support (chapter P-2.2) otherwise than out of the sums collected from the taxpayer, and in a particular taxation year the taxpayer reimburses the Minister for all or any part of that amount, the amount so reimbursed is deemed to have been payable in that year under the order and to have been paid to and received by the person in that year.

History: 1998, c. 16, s. 116.

Last resort assistance.

336.0.8. For the purposes of sections 336.0.2 and 336.0.3, if an order or agreement, or any variation of the order or agreement, provides for the payment of an amount by a taxpayer to a person or for the benefit of the person, a child in the person's custody or both the person and a child in the person's custody, a benefit is paid by the Minister of Employment and Social Solidarity under Chapter I or II of Title II of the Individual and Family Assistance Act (chapter A-13.1.1), Chapter I of Title II of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001) or Chapter II of the Act respecting income security (chapter S-3.1.1) because the taxpayer fails to pay all or part of the amount that the taxpayer is required to pay, and in a taxation year the taxpayer repays all or part of that benefit to the Minister of Employment and Social Solidarity, the amount so repaid is deemed to have been payable in that year under the order or agreement and to have been paid to and received by the person in that year.

History: 1998, c. 16, s. 116; 2000, c. 39, s. 22; 2001, c. 44, s. 30; 2007, c. 12, s. 51.

Deemed support.

336.1. Where an amount, other than an amount that is otherwise a support amount, became payable by a taxpayer in a taxation year under an order of a competent tribunal or under a written agreement, in respect of an expense incurred in the year or the preceding taxation year for the maintenance of a person described in the second paragraph, a child in the person's custody or both the person and a child in the person's custody and the order or agreement provides that subsection 2 of each of sections 56.1 and 60.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) apply to any amount paid or payable thereunder, the amount by which the aggregate of all amounts each of which is such an amount payable exceeds the amount determined under section 336.3 is deemed, for the purposes of this chapter, to be an amount payable by the taxpayer to and receivable by the person as an allowance on a periodic basis, and the person is deemed to have discretion as to the use of that amount.

Interpretation.

The person to whom the first paragraph refers is

(*a*) the spouse or former spouse of the taxpayer; or

(*b*) where the amount became payable under an order made by a competent tribunal in accordance with the laws of a province, the father or mother of a child of the taxpayer.

History: 1986, c. 15, s. 68; 1990, c. 59, s. 153; 1994, c. 22, s. 144; 1995, c. 49, s. 236; 1998, c. 16, s. 117; 2002, c. 40, s. 33; 2003, c. 9, s. 25; 2009, c. 5, s. 119.

Corresponding Federal Provision: 60.1(2) before and after B.

Restriction.

336.2. For the purposes of section 336.1, an expense does not include an expenditure in respect of a self-contained domestic establishment in which the taxpayer mentioned in the first paragraph of that section resides or an expenditure for the acquisition of corporeal property that is not an expenditure on account of a medical or educational expense or in respect of the acquisition, improvement or maintenance of a self-contained domestic establishment in which the person described in the second paragraph of that section resides.

History: 1986, c. 15, s. 68; 1990, c. 59, s. 153; 1994, c. 22, s. 144; 1998, c. 16, s. 117; 2005, c. 1, s. 90.

Corresponding Federal Provision: 60.1(2) A before (a) (part).

Interpretation.

336.3. The amount referred to in the first paragraph of section 336.1 is equal to the amount by which

(*a*) the aggregate of all amounts each of which is an amount included in the aggregate determined under that paragraph in respect of the acquisition or improvement of a self-contained domestic establishment in which the person described in the second paragraph of that section 336.1 resides, including any payment of principal or interest in respect of a loan made or indebtedness incurred to finance, in any manner whatever, such acquisition or improvement; exceeds

(*b*) the aggregate of all amounts each of which is an amount equal to 20% of the original principal amount of a loan or indebtedness described in paragraph *a*.

History: 1986, c. 15, s. 68; 1990, c. 59, s. 154; 1994, c. 22, s. 145; 1998, c. 16, s. 117.

Corresponding Federal Provision: 60.1(2) B.

Prior payment.

336.4. For the purposes of this chapter, where a written agreement or order of a competent tribunal made at any time in a taxation year provides that an amount paid before that time and in the year or the preceding taxation year is to be considered to have been paid and received thereunder, the following rules apply:

(*a*) the amount is deemed to have been paid thereunder; and

(*b*) the agreement or order is deemed, except for the purpose of this section, to have been made on the day on which the first such amount was paid.

Variation.

However, where the agreement or order is made after 30 April 1997 and varies a child support amount payable to the recipient from the last such amount paid to the recipient before 1 May 1997, each varied amount of child support paid under the agreement or order is deemed to have been payable under an agreement or order the commencement day of which is the day on which the first payment of the varied amount is required to be made.

History: 1986, c. 15, s. 68; 1995, c. 49, s. 236; 1996, c. 39, s. 273; 1998, c. 16, s. 117.

Corresponding Federal Provision: 60.1(3).

Definitions:

336.5. In this section and sections 336.6 and 336.7,

"additional investment expense";

"additional investment expense" of an individual for a taxation year means the aggregate of

(*a*) the amount determined in respect of the individual for the year under subparagraph 2 of subparagraph iii of subparagraph *a*.2 of the first paragraph of section 726.6;

(*b*) where the year begins after 19 March 2007 and the amount determined in respect of the individual for the year by the formula in subparagraph *a* of the first paragraph of section 726.7 is equal to zero, the aggregate of the individual's net capital losses for other taxation years deducted, without reference to subparagraph *b* of the first paragraph of section 729.1, under section 729 in computing the individual's taxable income for the year;

(*c*) where the maximum amount that the individual could deduct under Title VI.5 of Book IV in computing the individual's taxable income for the year, if no reference were made to this paragraph, paragraphs *c*.1 and *c*.2 and subparagraphs 2 to 2.2 of subparagraph vi of subparagraph *e* of the first paragraph of section 726.6, enacted by paragraph *c* of the definition of "investment income", is greater than zero and equal to the amount determined in respect of the individual for the year by the formula in subparagraph *a* of the first paragraph of section 726.7, and the individual deducts under that Title VI.5 in computing the individual's taxable income for the year an amount equal to the maximum amount, the aggregate of the individual's net capital losses for other taxation years deducted, without reference to subparagraph *b* of the first paragraph of section 729.1, under section 729 in computing the individual's taxable income for the year;

(*c*.1) where paragraphs *b* and *c* do not apply and the amount that would be determined in respect of the individual for the year by the formula in subparagraph *a* of the first paragraph of section 726.7, if the formula were read as if "$500,000" was replaced by "$250,000", is equal to zero, the amount that

would be determined in respect of the individual for the year under subparagraph vi of subparagraph *a*.2 of the first paragraph of section 726.6 if the amount resulting from a designation made by a trust under section 668 were taken into account, despite the exception provided for in section 668 in respect of Title VI.5 of Book IV and if the amount determined in respect of the individual for the year under subparagraph 1 of subparagraph ii of subparagraph *b* of the first paragraph of section 726.6 were determined, for the purposes of subparagraph 2 of subparagraph i of subparagraph *b* of the first paragraph of section 726.6, without reference to qualified farm property, eligible small business corporation shares and qualified fishing property disposed of before 19 March 2007;

(*c*.2) where paragraph *c* does not apply, where the maximum amount that the individual could deduct under Title VI.5 of Book IV in computing the individual's taxable income for the year in respect of property disposed of before 19 March 2007, if no reference were made to this paragraph and subparagraph 2.2 of subparagraph vi of subparagraph *e* of the first paragraph of section 726.6, enacted by paragraph *c* of the definition of "investment income", is greater than zero and equal to the amount that would be determined in respect of the individual for the year by the formula in subparagraph *a* of the first paragraph of section 726.7, if the formula were read as if "$500,000" was replaced by "$250,000", and where the individual deducts under that Title VI.5 in computing the individual's taxable income for the year an amount at least equal to the maximum amount, the amount that would be determined in respect of the individual for the year under subparagraph vi of subparagraph *a*.2 of the first paragraph of section 726.6 if the amount resulting from a designation made by a trust under section 668 were taken into account, despite the exception provided for in section 668 in respect of that Title VI.5 and if the amount determined in respect of the individual for the year under subparagraph 1 of subparagraph ii of subparagraph *b* of the first paragraph of section 726.6 were determined, for the purposes of subparagraph 2 of subparagraph i of subparagraph *b* of the first paragraph of section 726.6, without reference to qualified farm property, eligible small business corporation shares and qualified fishing property disposed of before 19 March 2007; and

(*d*) in cases other than those provided for in paragraphs *b* to *c*.2, the amount that would be determined in respect of the individual for the year under subparagraph vi of subparagraph *a*.2 of the first paragraph of section 726.6 if the amount resulting from a designation made by a trust under section 668 were taken into account, despite the exception provided for in section 668 in respect of Title VI.5 of Book IV;

"investment expense";
"investment expense" of an individual for a taxation year means the investment expense of the individual for that year within the meaning that would be assigned to that expression by subparagraph *a*.2 of the first paragraph of section 726.6 if,

(*a*) the portion of that subparagraph *a*.2 before subparagraph i were read as follows:

"(*a*.2) "investment expense" of an individual for a taxation year means the aggregate of";

(*a*.1) for the purposes of subparagraph i of that subparagraph *a*.2, any amount deducted by the individual under paragraph *a* of section 141 in computing the individual's income for the year from a property were equal to zero;

(*b*) the amount determined under subparagraph 2 of subparagraph iii of that subparagraph *a*.2 were equal to zero;

(*c*) for the purposes of subparagraph iv of that subparagraph *a*.2, any amount deducted in respect of the following expenses were equal to zero:

i. expenses renounced in respect of a flow-through share that was

(1) issued as a consequence of an investment made on or before 11 March 2005 or of an application for a receipt for the preliminary prospectus or an application for an exemption from filing a prospectus made on or before that date, or

(2) acquired out of the proceeds of a public issue of securities that are interest in a partnership issued as a consequence of an investment made on or before 11 March 2005 or of an application for a receipt for the preliminary prospectus or an application for an exemption from filing a prospectus made on or before that date, and

ii. expenses described in section 336.5.1 that were not renounced in respect of a flow-through share and were incurred after 11 March 2005 by a partnership, or that were renounced in respect of a flow-through share that was

(1) issued as a consequence of an investment made after 11 March 2005 or of an application for a receipt for the preliminary prospectus or an application for an exemption from filing a prospectus made after that date, or

(2) acquired out of the proceeds of a public issue of securities that are interest in a partnership issued as a consequence of an investment made after 11 March 2005 or of an application for a receipt for the preliminary prospectus or an application for an exemption from filing a prospectus made after that date;

(*d*) for the purposes of subparagraph v of that subparagraph *a*.2, the loss from renting or leasing a property were equal to zero; and

(*e*) the amounts determined under subparagraphs vi and vii of that subparagraph *a*.2 were equal to zero;

"investment income";
"investment income" of an individual for a taxation year means the investment income of the individual for that year

within the meaning that would be assigned to that expression by subparagraph *e* of the first paragraph of section 726.6 if,

(*a*) for the purposes of subparagraphs i and iv of that subparagraph *e*, an amount included in computing the individual's income for the year under section 94 in respect of a property the income from which would be income from the renting or leasing of a property were equal to zero;

(*b*) for the purposes of subparagraph iv of that subparagraph *e*, the income from the renting or leasing of a property were equal to zero;

(*c*) subparagraph vi of that subparagraph *e* were read as follows:

"vi. the amount by which the aggregate of all amounts, including the amount resulting from a designation made by a trust under section 668, despite the exception provided for in section 668 in respect of this Title, that are included under paragraph *b* of section 28, in respect of capital gains and capital losses, in computing the individual's income for the year, exceeds

(1) where the year begins after 19 March 2007 and the amount determined in respect of the individual for the year by the formula in subparagraph *a* of the first paragraph of section 726.7 is equal to zero, an amount equal to zero,

(2) where the maximum amount that the individual could deduct under this Title in computing the individual's taxable income for the year, if no reference were made to this subparagraph 2, subparagraphs 2.1 and 2.2 and paragraphs *c* to *c*.2 of the definition of "additional investment expense" in section 336.5, is greater than zero and equal to the amount determined in respect of the individual for the year by the formula in subparagraph *a* of the first paragraph of section 726.7, and the individual deducts under this Title in computing the individual's taxable income for the year an amount equal to the maximum amount, the amount deducted by the individual in computing the individual's taxable income for the year under this Title,

(2.1) where subparagraphs 1 and 2 do not apply and the amount that would be determined in respect of the individual for the year by the formula in subparagraph *a* of the first paragraph of section 726.7, if the formula were read as if "$500,000" was replaced by "$250,000", is equal to zero, the amount that would be determined in respect of the individual for the year under subparagraph i of subparagraph *b* if the amount resulting from a designation made by a trust under section 668 were taken into account, despite the exception provided for in section 668 in respect of this Title and if, for the purposes of subparagraph 2 of that subparagraph i, no reference were made to qualified farm property, eligible small business corporation shares and qualified fishing property disposed of before 19 March 2007,

(2.2) where subparagraph 2 does not apply, where the maximum amount that the individual could deduct under this Title in computing the individual's taxable income for the year in respect of property disposed of before 19 March 2007, if no reference were made to this subparagraph 2.2 and to paragraph *c*.2 of the definition of "additional investment expense" in section 336.5, is greater than zero and equal to the amount that would be determined in respect of the individual for the year by the formula in subparagraph *a* of the first paragraph of section 726.7, if the formula were read as if "$500,000" was replaced by "$250,000", and where the individual deducts under this Title in computing the individual's taxable income for the year an amount at least equal to the maximum amount, the amount that would be determined in respect of the individual for the year under subparagraph i of subparagraph *b* if the amount resulting from a designation made by a trust under section 668 were taken into account, despite the exception provided for in section 668 in respect of this Title and if, for the purposes of subparagraph 2 of that subparagraph i, no reference were made to qualified farm property, eligible small business corporation shares and qualified fishing property disposed of before 19 March 2007, and

(3) in any other case, the amount that would be determined in respect of the individual for the year under subparagraph i of subparagraph *b* if the amount resulting from a designation made by a trust under section 668 were taken into account, despite the exception provided for in section 668 in respect of this Title.";

"total investment expense";
"total investment expense" of an individual for a taxation year means the aggregate of the individual's investment expense for the year and the individual's additional investment expense for the year;

"unused portion of the total investment expense".
"unused portion of the total investment expense" of an individual for a taxation year means

(*a*) in the case of a taxation year subsequent to the taxation year 2003, the aggregate of the amount included in computing the individual's income for the year under section 313.10 and the amount included in computing the individual's taxable income for the year under section 737.0.1; and

(*b*) in any other case, an amount equal to zero.

History: 2005, c. 38, s. 71; 2007, c. 12, s. 52; 2009, c. 5, s. 120; 2009, c. 15, s. 79; 2011, c. 1, s. 29; 2015, c. 24, s. 58.

Expenses referred to.

336.5.1. The expenses to which subparagraph ii of paragraph *c* of the definition of "investment expense" in section 336.5 refers are the following:

(*a*) Canadian exploration expenses that would be described in paragraph *a*.1 or *c*.1 of section 395 if the reference in those paragraphs to "Canada", wherever it appears, were a reference to "Québec";

(*a*.1) Canadian exploration expenses that would be described in paragraph *c*.3 of section 395 if, for the purposes of sections 395.2 and 395.3, the reference in paragraph *c*.1 of section 395 to "Canada" were a reference to "Québec";

(*a*.2) Canadian exploration expenses that would be described in paragraph *c*.4 or *c*.5 of section 395 if the reference in paragraph *c*.1 of that section to "Canada" were a reference to "Québec";

(*b*) Canadian exploration expenses that would be described in paragraph *d* of section 395 if the reference in that paragraph to "expenses described in paragraphs *a* to *b*.1 and *c* to *c*.2" were replaced by a reference to "expenses that would be described in paragraphs *a*.1 and *c*.1 if the reference in those paragraphs to "Canada", wherever it appears, were a reference to "Québec"";

(*c*) Canadian renewable and conservation expenses, within the meaning of section 399.7, to the extent that the expenses were incurred in respect of work carried out in Québec as part of a project relating to a business carried on in Québec;

(*d*) Canadian development expenses that would be described in any of paragraphs *a*, *a*.1 and *b*.0.1 to *b*.1 of section 408 if the reference in those paragraphs to "Canada", wherever it appears, were a reference to "Québec";

(*e*) Canadian development expenses that would be described in paragraph *d* of section 408 if the reference in that paragraph to "any expense described in paragraphs *a* to *c*" were replaced by a reference to "any expense that would be described in paragraphs *a*, *a*.1 and *b*.0.1 to *b*.1 if the reference in those paragraphs to "Canada", wherever it appears, were a reference to "Québec""; and

(*f*) expenses incurred in Québec that, because of section 726.4.12, are not expenses referred to in subparagraph i of paragraph *a* of section 726.4.10.

History: 2007, c. 12, s. 53; 2011, c. 1, s. 30; 2015, c. 24, s. 59.

Unused portions of the total investment expense.

336.6. An individual, other than a trust that is not a personal trust, may deduct in computing the individual's income for a particular taxation year the unused portions of the total investment expense of the individual for the taxation years that precede the particular year and those for the three taxation years that follow the particular year, up to the amount by which the amount of the individual's investment income for the particular year exceeds the individual's total investment expense for the particular year.

Death of individual.

However, for the purpose of computing the individual's income for the taxation year in which the individual died and for the preceding taxation year, the first paragraph is to be read as if "for the taxation years that precede the particular year and those for the three taxation years that follow the particular year, up to the amount by which the amount of the individual's investment income for the particular year exceeds the individual's total investment expense for the particular year" was replaced by "for all of the individual's taxation years".

History: 2005, c. 38, s. 71.

Deductibility.

336.7. No amount is deductible under section 336.6 in respect of an unused portion of the total investment expense for a taxation year until the unused portions of the total investment expense for the preceding taxation years have been deducted.

Condition.

In addition, an unused portion of the total investment expense may be deducted for a taxation year under section 336.6 only if it exceeds the aggregate of the amounts deducted in its respect for the preceding taxation years under that section.

History: 2005, c. 38, s. 71.

CHAPTER II.1
SPLITTING RETIREMENT INCOME

Definitions:

336.8. In this chapter,

"eligible retirement income";
"eligible retirement income" of an individual for a taxation year means the total of

(*a*) the aggregate of all amounts each of which is an amount included in computing the individual's income for the year and that is described in section 752.0.8, or that would be so described if section 752.0.10 were read without reference to its paragraph *f*; and

(*b*) the lesser of

i. the aggregate of all amounts each of which is a payment made in the year to the individual out of or under a retirement compensation arrangement that provides benefits that supplement the benefits provided under a registered pension plan (other than an individual pension plan for the purposes of Part LXXXIII of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement)), and in respect of a life annuity attributable to periods of employment for which benefits are also provided to the individual under the registered pension plan, and

ii. the amount by which the defined benefit limit (as defined by subsection 1 of section 8500 of the Income Tax Regulations made under the Income Tax Act) for the year multiplied by 35 exceeds the amount determined under paragraph *a*;

(*c*) the lesser of

i. the aggregate of all amounts received by the individual in the year on account of

(1) a retirement income security benefit paid under Part 2 of the Veterans Well-being Act (Statutes of Canada, 2005, chapter 21), or

(2) an income replacement benefit paid under Part 2 of the Veterans Well-being Act, if the amount is determined under subsection 1 of section 19.1, paragraph *b* of subsection 1 of section 23 or subsection 1 of section 26.1 of that Act (as modified, where applicable, under Part 5 of that Act), and

ii. the amount by which the defined benefit limit (as defined by subsection 1 of section 8500 of the Income Tax Regulations made under the Income Tax Act) for the year multiplied by 35 exceeds the aggregate of the amounts determined under paragraphs *a* and *b*;

"eligible spouse";
"eligible spouse" of an individual for a taxation year means the person who is the individual's eligible spouse for the year within the meaning of sections 776.41.1 to 776.41.4;

"joint election";
"joint election" for a taxation year means an election made jointly for the year in the prescribed form by a transferor and the transferee who is the transferor's eligible spouse for the year, and filed with the Minister with both the transferor's and the transferee's fiscal returns for the year on or before their respective filing-due dates for the year;

"split-retirement income amount";
"split-retirement income amount" in respect of a transferor and a transferee for a taxation year means the amount elected by the transferor and the transferee in a joint election for the year not exceeding 50% of the transferor's eligible retirement income for the year;

"transferee";
"transferee" for a taxation year means an individual who

(*a*) is resident in Canada at the end of the year; and

(*b*) is a transferor's eligible spouse for the year;

"transferor".
"transferor" for a taxation year means an individual who

(*a*) receives eligible retirement income for the year;

(*b*) is resident in Canada at the end of the year; and

(*c*) has reached 65 years of age before the end of the year.

End of transferee's or transferor's taxation year.

For the purposes of section 336.9 and the definitions of "transferee" and "transferor" in the first paragraph, the taxation year of an individual that is the year in which the individual dies or ceases to be resident in Canada is deemed to end immediately before the individual's death or at the end of the last day on which the individual was resident in Canada.

History: 2009, c. 5, s. 121; 2012, c. 8, s. 47; 2015, c. 21, s. 167; 2019, c. 14, s. 119; 2020, c. 16, s. 60.
Corresponding Federal Provision: 60.03(1).

Individual resident in Canada outside Québec.

336.9. For the purpose of applying this chapter, for a taxation year, to a transferor and to the transferee who is the transferor's eligible spouse for the year, if either of them is resident in Canada outside Québec at the end of that year, section 336.8 is to be read

(*a*) as if the definitions of "joint election" and "split-retirement income amount" in the first paragraph were replaced by the following definitions:

""joint election" for a taxation year means a valid election made jointly for the year by a transferor and the transferee who is the transferor's eligible spouse for the year, for the purposes of section 60.03 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in accordance with the definition of "joint election" in subsection 1 of that section;

""split-retirement income amount" in respect of a transferor and a transferee for a taxation year means the amount elected by the transferor and the transferee in a joint election for the year not exceeding the amount determined by the formula

0.5A × B / C;"; and

(*b*) as if the following paragraph was added after the second paragraph:

"In the definition of "split-retirement income amount" in the first paragraph,

(*a*) A is the transferor's eligible retirement income for the taxation year;

(*b*) B is the number of months in the transferor's taxation year during which the transferor was the transferee's spouse; and

(*c*) C is the number of months in the transferor's taxation year."

Copy of joint election.

The individual who is resident in Québec at the end of the year shall send a copy of the joint election with the fiscal return the individual is required to file for the year under this Part.

Transferor's spouse deemed eligible.

If, for a taxation year, a transferor makes an election described in the definition of "joint election" in subsection 1

of section 60.03 of the Income Tax Act with an individual other than the transferor's eligible spouse for the year and either of them is resident in Canada outside Québec at the end of that year, that other individual is, for the purposes of the first paragraph and of section 336.8, deemed to be the transferor's eligible spouse for the year.

Non-application of this chapter.

This chapter does not apply, for a taxation year, to the eligible spouse of a transferor, if both of them are resident in Québec at the end of the year, and if the presumption in the third paragraph applies to another individual with whom the transferor made the election referred to in that paragraph for the year.

Federal election deemed made under this chapter.

For the purposes of this Part, an election described in the definition of "joint election" in the first paragraph of section 336.8, enacted by the first paragraph, is deemed to be made under this chapter.

History: 2009, c. 5, s. 121.

Tax-exempt person.

336.10. For the purposes of section 336.8, a person is deemed not to be the eligible spouse of an individual for a taxation year if the person is exempt from tax for the year under section 982 or 983 or under any of subparagraphs *a* to *d* and *f* of the first paragraph of section 96 of the Tax Administration Act (chapter A-6.002).

History: 2009, c. 5, s. 121; 2010, c. 31, s. 175.

Deduction of split-retirement income.

336.11. A taxpayer who is a transferor for a taxation year may deduct, in computing the taxpayer's income for that year, any amount that is a split-retirement income amount for the year in respect of the taxpayer.

Taxpayer who dies.

However, a taxpayer who dies in a taxation year may deduct an amount under the first paragraph in computing the taxpayer's income for the year only in the taxpayer's fiscal return that is required to be filed for the year under this Part, otherwise than because of an election made by the taxpayer's legal representative in accordance with the second paragraph of section 429 or section 681 or 1003.

History: 2009, c. 5, s. 121.
Corresponding Federal Provision: 60(c).

Joint election.

336.12. For the purposes of subparagraph ii of subparagraphs *a* and *b* of the first paragraph of section 752.0.7.4, the following rules apply if a transferor and a transferee make a joint election for a taxation year:

(*a*) the amount described in the second paragraph of section 752.0.7.4 in respect of the transferor for the year is deemed to be equal to the result obtained by subtracting from that amount otherwise determined the portion of that amount that is the proportion that the split-retirement income amount in respect of the transferor for the year is of the eligible retirement income of the transferor for the year; and

(*b*) the amount described in the second paragraph of section 752.0.7.4 in respect of the transferee for the year is deemed to be equal to the result obtained by adding to that amount otherwise determined the amount subtracted in accordance with paragraph *a* for the year.

History: 2009, c. 5, s. 121; 2019, c. 14, s. 120.
Corresponding Federal Provision: 60.03(2).

False declaration.

336.13. A joint election is invalid if the Minister establishes that a transferor or a transferee has knowingly or under circumstances amounting to gross negligence made a false declaration in the joint election.

Exception.

However, the first paragraph does not apply in respect of an election described in the definition of "joint election" in the first paragraph of section 336.8, enacted by the first paragraph of section 336.9.

History: 2009, c. 5, s. 121.
Corresponding Federal Provision: 60.03(4).

CHAPTER III
(Repealed).

337. *(Repealed).*

History: 1972, c. 23, s. 307; 1984, c. 15, s. 77; 1985, c. 25, s. 62; 1990, c. 59, s. 155; 1992, c. 1, s. 31; 1993, c. 16, s. 370; 1994, c. 22, s. 350; 1997, c. 85, s. 66 [amended by 2000, c. 5, s. 306].

337.1. *(Repealed).*

History: 1991, c. 8, s. 5; 1994, c. 40, s. 457; O.C. 1354-94; 1997, c. 85, s. 66 [amended by 2000, c. 5, s. 306].

338. *(Repealed).*

History: 1972, c. 23, s. 308; 1984, c. 15, s. 78; 1985, c. 25, s. 63; 1990, c. 59, s. 156; 1991, c. 8, s. 6; 1993, c. 16, s. 137; 1994, c. 22, s. 146; 1997, c. 85, s. 66 [amended by 2000, c. 5, s. 306].

CHAPTER IV
CONTRIBUTIONS, PREMIUMS AND CERTAIN TRANSFERS

Deductible amounts.

339. A taxpayer may also deduct:

(*a*) *(paragraph repealed)*;

(*b*) any amount deductible under Title IV of Book VII or section 965.0.16.1 in computing his income for the year;

(*c*) *(paragraph repealed)*;

(*c.*1) any amount that is deductible under Title V.1 of Book VII in computing the income of the taxpayer for the year;

(*d*) the amount that, by virtue of paragraph *j* of section 60 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), is allowed as a deduction for the year in computing his income for the purposes of the said Act;

(*d.*0.1) for his taxation year 1988, such particular part of the aggregate of all amounts each of which is an amount received by him before 28 March 1988 that can reasonably be considered to be a payment in respect of an actuarial surplus under a defined benefit provision, within the meaning of section 965.0.1, of a registered pension plan and that is included in computing his income for the year under section 317, other than any portion of the amount deducted by him under section 339.5 in computing his income for the year,

i. as is designated by the taxpayer in his fiscal return for the year under this Part, and

ii. as does not exceed the aggregate of all amounts each of which is an amount, to the extent that it was not deducted in computing his income for a preceding taxation year, paid by him in the year or within 60 days after the end of the year

(1) as a contribution to or under a registered pension plan for his benefit, other than the portion thereof deductible under paragraph *d* or *d.*1, paragraph *c* of section 70 or section 72.1 in computing his income for the year, or

(2) as a premium under a registered retirement savings plan under which he is the annuitant, within the meaning of paragraph *b* of section 905.1, other than the portion thereof that has been designated for the purposes of paragraph *d*, *d.*1 or *f*;

(*d.*0.2) an amount equal to the lesser of

i. the aggregate of the following amounts, other than the portion of that aggregate that is deductible under paragraph *c* of section 70 or paragraph *d*.0.3 in computing the taxpayer's income for the year:

(1) all contributions made in the year by the taxpayer to a registered pension plan in respect of eligible service of the taxpayer before 1 January 1990 under the plan, where the taxpayer was obliged under the terms of an agreement in writing entered into before 28 March 1988 to make the contributions, and

(2) the amounts paid in the year by the taxpayer to a registered pension plan as a repayment under a prescribed statutory provision of an amount received from the plan that was included under section 309 in computing the taxpayer's income for a taxation year ending before 1 January 1990, where the taxpayer was obliged as a consequence of a written election made before 28 March 1988 to make the repayment, or as interest in respect of the repayment; and

ii. the aggregate of all amounts each of which is an amount paid out of or under a registered pension plan as part of a series of periodic payments and included under section 309 in computing the taxpayer's income for the year, other than the portion of that aggregate that can reasonably be considered to have been designated by the taxpayer for the purposes of paragraph *j*.2 of section 60 of the Income Tax Act;

(*d.*0.3) an amount equal to the lesser of

i. the aggregate of all amounts each of which is an amount paid in the year or a preceding taxation year by the taxpayer to a registered pension plan that was not deductible in computing the taxpayer's income for a preceding taxation year and that was paid as a repayment under a prescribed statutory provision of an amount received from the plan that was included under section 309 in computing the taxpayer's income for a taxation year ending before 1 January 1990, or as interest in respect of the repayment, and

ii. the amount by which $5,500 exceeds the amount deducted under paragraph *c* of section 70 in computing the taxpayer's income for the year;

(*d.*0.4) the aggregate of all amounts each of which is an amount paid in the year by the taxpayer to a registered pension plan as a repayment under a prescribed statutory provision of an amount received from the plan that was included under section 309 in computing the taxpayer's income for a taxation year ending after 31 December 1989, and that can reasonably be considered not to have been designated by the taxpayer for the purposes of paragraph *j*.2 of section 60 of the Income Tax Act, or as interest in respect of the repayment, except such portion of the aggregate that was deductible under paragraph *c* of section 70 in computing the taxpayer's income for the year;

(*d.*1) the amount that, by virtue of paragraph *j*.1 of section 60 of the Income Tax Act, is allowed as a deduction for the year in computing his income for the purposes of the said Act;

(*d.*2) the amount that, by virtue of paragraph *j*.2 of section 60 of the Income Tax Act, is allowed as a deduction for the year in computing his income for the purposes of the said Act;

(*e*) *(paragraph repealed)*;

(*f*) the amount that, by virtue of paragraph *l* of section 60 of the Income Tax Act, is allowed as a deduction for the year in computing his income for the purposes of the said Act;

(*f.*1) the amount allowed as a deduction for the year in computing the taxpayer's income for the purposes of the Income Tax Act under paragraph m of section 60 of that Act as payments to a registered disability savings plan;

(*g*) *(paragraph repealed)*;

(*h*) any amount deductible under section 890.12 in computing his income for the year;

(*i*) *(paragraph repealed)*;

(*i.*1) the amount by which the amount equal to the product obtained by multiplying the amount payable by the taxpayer for the year as a premium on the taxpayer's business income under the Act respecting parental insurance (chapter A-29.011) by the proportion that the premium rate referred to in subparagraph 1 of the first paragraph of section 6 of that Act is of the premium rate referred to in subparagraph 3 of that paragraph, is exceeded by the amount payable by the taxpayer for the year as a premium on the taxpayer's business income under that Act, other than an amount, in respect of that amount payable by the taxpayer for the year, in relation to a business of the taxpayer, as that premium, if all of the taxpayer's income from that business is not required to be included in computing the taxpayer's income for the year or is deductible in computing the taxpayer's taxable income for the year under any of sections 725, 737.16, 737.18.10, 737.18.34 and 737.22.0.10; and

(*j*) subject to section 339.0.1, the aggregate of

i. the aggregate of all amounts each of which is 50% of the amount payable by the taxpayer for the year on account of the base contribution in respect of self-employed earnings under the Act respecting the Québec Pension Plan (chapter R-9) or on account of a similar contribution under any similar plan within the meaning of paragraph *u* of section 1 of that Act,

ii. the aggregate of all amounts each of which is an amount payable by the taxpayer for the year on account of the first or second additional contribution in respect of self-employed earnings under the Act respecting the Québec Pension Plan or on account of a similar contribution under any similar plan within the meaning of paragraph *u* of section 1 of that Act, and

iii. the aggregate of all amounts each of which is an amount payable by the taxpayer for the year on account of the employee's first or second additional contribution under the Act respecting the Québec Pension Plan or on account of a similar contribution under any similar plan within the meaning of paragraph *u* of section 1 of that Act.

History: 1972, c. 23, s. 309; 1973, c. 17, s. 35; 1974, c. 18, s. 18; 1975, c. 21, s. 10; 1977, c. 26, s. 30; 1978, c. 26, s. 53; 1979, c. 18, s. 26; 1982, c. 5, s. 78; 1982, c. 56, s. 12; 1983, c. 44, s. 25; 1984, c. 15, s. 79; 1986, c. 15, s. 69; 1988, c. 18, s. 20; 1989, c. 77, s. 33; 1991, c. 25, s. 67; 1993, c. 15, s. 96; 1993, c. 64, s. 30; 1993, c. 64, s. 249; 1994, c. 22, s. 147; 1999, c. 83, s. 52; 2001, c. 51, s. 37; 2003, c. 9, s. 26; 2005, c. 23, s. 49; 2005, c. 38, s. 72; 2009, c. 5, s. 122; 2010, c. 25, s. 29; 2011, c. 6, s. 129; 2013, c. 10, s. 26; 2019, c. 14, s. 121.

Corresponding Federal Provision: 60(i) to (j.04), (j.1)(i) and (ii), (j.2), (l) (part), (m), (r) and (t) to (v) and 60.02.

Non-taxable income.

339.0.1. A taxpayer shall not include the following amounts in the aggregate described in paragraph *j* of section 339 for a taxation year:

(*a*) an amount payable by the taxpayer for the year in relation to a business of the taxpayer, on account of a contribution referred to in subparagraph i or ii of that paragraph *j*, if all of the taxpayer's income for the year from that business is not required to be included in computing the taxpayer's income for the year or is deductible in computing the taxpayer's taxable income for the year under any of sections 725, 737.16 and 737.22.0.10; and

(*b*) an amount payable by the taxpayer for the year in relation to an office or employment of the taxpayer, on account of a contribution referred to in subparagraph iii of that paragraph *j*, if all of the taxpayer's income for the year from that office or employment is not required to be included in computing the taxpayer's income for the year or is deductible in computing the taxpayer's taxable income for the year under any of sections 725, 737.16, 737.21, 737.22.0.0.3, 737.22.0.0.7, 737.22.0.3, 737.22.0.4.7, 737.22.0.7 and 737.22.0.10.

History: 2019, c. 14, s. 122.

339.1. *(Repealed).*

History: 1984, c. 15, s. 80; 1989, c. 77, s. 34; 1991, c. 25, s. 68.

339.2. *(Repealed).*

History: 1984, c. 15, s. 80; 1991, c. 25, s. 68.

339.3. *(Repealed).*

History: 1986, c. 15, s. 70; 1991, c. 25, s. 68.

Interpretation Bulletins: IMP. 339-1.

339.4. *(Repealed).*

History: 1988, c. 18, s. 21; 1991, c. 25, s. 68.

CHAPTER IV.1
ADDITIONAL VOLUNTARY CONTRIBUTIONS

Refund of undeducted past service additional voluntary contributions.

339.5. A taxpayer may deduct in computing the taxpayer's income for a taxation year an amount equal to the aggregate of the following amounts:

(*a*) if the taxation year ends before 1 January 1991, the aggregate of all amounts each of which is that portion of an amount paid to the taxpayer before 1 January 1991 and included in computing the taxpayer's income for the year or a preceding taxation year by reason of section 310, to the extent that that section refers to Title IV of Book VII, paragraph k of section 311 or section 317, that may reasonably be considered as a refund of additional voluntary contributions made by the taxpayer before 9 October 1986 to a registered pension plan for the taxpayer's benefit in respect of services rendered by the taxpayer before the year in which the contributions were made, to the extent that the contributions were not deducted in computing the taxpayer's income for any taxation year; and

(*b*) the least of

i. $3,500,

ii. the aggregate of all amounts each of which is an amount included after 31 December 1986 in computing the taxpayer's income for the year by reason of section 310, to the extent that that section refers to Title IV or V.1 of Book VII, paragraph *c*.2 of section 312 or section 317, and

iii. the balance of the annuitized voluntary contributions of the taxpayer at the end of the year.

History: 1991, c. 25, s. 69; 2010, c. 5, s. 38.
Corresponding Federal Provision: 60.2(1).

Balance of the annuitized voluntary contributions.

339.6. For the purposes of section 339.5, the balance of the annuitized voluntary contributions of the taxpayer at the end of a taxation year is equal to the amount by which

(*a*) such part of the aggregate of all amounts each of which is an additional voluntary contribution made by the taxpayer to a registered pension plan before 9 October 1986 in respect of services rendered by him before the year in which the contribution was made, to the extent that the contribution was not deducted in computing his income for any taxation year, as may reasonably be considered as having been used before 9 October 1986 to acquire or provide an annuity for the taxpayer's benefit under a registered pension plan or registered retirement savings plan, or as having been transferred before 9 October 1986 to a registered retirement income fund under which the taxpayer was the annuitant, within the meaning of paragraph *d* of section 961.1.5, at the time of the transfer, exceeds

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

i. an amount deducted in computing his income for a preceding taxation year under paragraph *b* of section 339.5, or

ii. an amount deducted in computing his income for the year or a preceding taxation year under paragraph *a* of section 339.5, to the extent that the amount can reasonably be considered to be in respect of a refund of additional voluntary contributions included in determining the aggregate under paragraph *a*.

History: 1991, c. 25, s. 69.
Corresponding Federal Provision: 60.2(2).

CHAPTER V
(REPEALED)

340. *(Repealed).*

History: 1972, c. 23, s. 310; 1973, c. 17, s. 36; 1991, c. 25, s. 70; 2011, c. 6, s. 130.

341. *(Repealed).*

History: 1973, c. 17, s. 36; 2011, c. 6, s. 130.

CHAPTER VI
INCOME-AVERAGING ANNUITIES

Payments to acquire income-averaging annuity.

342. An individual resident in Canada may deduct in computing his income for a year, an amount which he pays in the year or within 60 days following the end of the year for the acquisition of an income-averaging annuity for himself, under a contract with a person licensed or otherwise authorized by the laws of Canada or a province to carry on in Canada or in a province an annuities business or to offer trustee services there, to the extent that such amount has not already been deducted the preceding year.

History: 1972, c. 23, s. 311; 1972, c. 26, s. 44.
Corresponding Federal Provision: 61(1)(a) and (4) "income-averaging annuity contract" before (a).

Conditions respecting an income-averaging annuity.

343. To be entitled to the deduction provided in section 342, the individual must acquire the income-averaging annuity by

(*a*) a single payment described in the second paragraph and made under the terms of a contract

i. which entitles him to receive, during a period beginning not later than ten months after the date of such payment, either an annuity for life or such annuity with a guaranteed term for a number of years not exceeding the lesser of 15 and the difference between 85 and his age at the time the annuity

commences to be paid to him, or an annuity for such guaranteed term; and

ii. which shall not provide for payments other than the single payment by the individual and the equal annuity payments which must be paid to him annually or at more frequent periodic intervals; or

(*b*) a single payment made in respect of his taxation year 1981, other than a single payment contemplated in subparagraph *a* according to the terms of a contract

i. providing that all the payments to the individual under the contract must be made before 1 January 1983; and

ii. providing no other payment than the single payment by the individual and the payments described in subparagraph i.

Single payment.

The single payment contemplated in subparagraph *a* of the first paragraph is a single payment made

(*a*) before 13 November 1981; or

(*b*) after 12 November 1981 in accordance with an agreement in writing entered into before 13 November 1981 to make such a payment in respect of his taxation year 1981, or pursuant to an arrangement in writing made before that date to have funds withheld before 1 January 1982 from any of the individual's remuneration described in paragraph *a* of section 344 and earned or received before the latter date and to be paid by or on behalf of the individual.

History: 1972, c. 23, s. 312; 1974, c. 18, s. 19; 1984, c. 15, s. 81.
Corresponding Federal Provision: 61(4) "income-averaging annuity contract" (a) to (c).

Maximum allowable deduction.

344. The amount which an individual may deduct under section 342 shall not exceed:

(*a*) the aggregate of:

i. the amounts contemplated in section 345 less any deduction allowable for the year under paragraphs *d*, *e* and *f* of section 339; and

ii. the excess of the amount determined for the year under paragraph *b* of section 28 over the aggregate of his allowable business investment losses for the year;

iii. the excess of the amount included in computing his income for the year under sections 330 and 331 over the aggregate of the amounts deducted in that computation under sections 333.1, 357, 358 and 362 to 418.12 and section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4);

iv. his income for the year from the production of literary, dramatic, musical or artistic work; and

v. his income for the year from his activities as an athlete, a musician or a public entertainer such as a theatre, motion picture, radio or television artist; less:

(*b*) the amounts which the individual is to receive within the 12 months beginning on the date when the first payment is to be paid to him in respect of each income-averaging annuity.

History: 1972, c. 23, s. 313; 1973, c. 18, s. 10; 1975, c. 22, s. 65; 1978, c. 26, s. 54; 1980, c. 13, s. 28; 1982, c. 5, s. 79; 1998, c. 16, s. 251.
Corresponding Federal Provision: 61(1)(b).

Payments toward income-averaging annuity.

345. The amounts mentioned in subparagraph i of paragraph *a* of section 344 are the following:

(*a*) a single payment which the individual receives in the year:

i. under a pension plan, upon the death, withdrawal or retirement of an employee or former employee, upon the winding up of the plan in full satisfaction of all rights of the participant in the plan or, when an amendment to the plan confers on him the right to receive such payment, although he continues to participate in it;

ii. upon his retirement as an employee in recognition of long service, if such payment is not contemplated by subparagraph i of paragraph *a*;

iii. pursuant to an employees profit sharing plan in full satisfaction of all his rights in or under the plan, to the extent that this payment is required to be included in computing his income for the year in which the payment was received; or

iv. pursuant to a deferred profit sharing plan upon the death, withdrawal or retirement of an employee or former employee, to the extent that this payment is required to be included in computing his income for the year in which the payment was received;

(*b*) a payment made to an individual in the year of his retirement or in the following year, in consideration of loss of office or employment, if such payment is made by an employer to the individual as an employee or former employee;

(*c*) a payment made to the individual as a death benefit, if such payment is made in the year of death or within one year after that year;

(*d*) an amount included in computing the individual's income for the year under paragraph *l* of section 311 and sections 93 to 110.1, 186, 187, 196 or 197, 684 or 955;

(*e*) an amount included in computing the individual's income under section 929, but only to the extent that such amount is a refund of premiums, under a registered retirement savings plan, where the individual receives such amount on or after the death of the person who was, immediately before his death, the annuitant thereunder;

(*f*) the benefit which the individual is deemed to have received under Division VI of Chapter II of Title II;

(*g*) the excess over $500 of an amount received by the individual in the year as a prize for achievement in a field of endeavour which he ordinarily carries on;

(*h*) a payment made in the year to an individual under paragraph *b* of subsection 2 of section 51 of the Judges Act (Revised Statutes of Canada, 1985, chapter J-1);

(*i*) a payment that the individual receives in the year, under an order or decision of a competent court, as salary or wages owing by his employer or former employer, if part of that payment is received in respect of a previous year;

(*j*) an amount included in computing the individual's income for the year under paragraph *c* of section 46 of the Act respecting the application of the Taxation Act (chapter I-4), but only where the individual has not claimed a deduction in that computation under paragraph *a* of the said section 46; and

(*k*) where the individual ceased to be a member of a partnership in the year or the preceding year and where, in computing his income therefrom for that preceding year, he made the election provided for in paragraph *c* of section 215, the amount included in computing his income for the year under paragraph *a* of section 28, to the extent that, having regard to all the circumstances, including the proportion in which the members of the partnership have agreed to share the profits of the partnership, such amount may reasonably be considered to be his share of the work in progress of the partnership at the time he ceased to be a member thereof if, during the remainder of the year in which he ceased to be a member thereof and in the following year, he did not become employed in the business carried on by the partnership, carry on a business that is a profession or become a member of another partnership carrying on a business that is a profession.

History: 1972, c. 23, s. 314; 1973, c. 18, s. 11; 1975, c. 21, s. 11; 1977, c. 26, s. 31; 1980, c. 13, s. 29; 1982, c. 5, s. 80; 1988, c. 18, s. 22; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 2001, c. 53, s. 260; 2003, c. 2, s. 110.

Corresponding Federal Provision: 61(2).

Where income-averaging annuity ceases to qualify as such.

346. Where, at a particular time, an income-averaging annuity ceases to qualify as such otherwise than by virtue of the surrender, cancellation, redemption, sale or disposition of such contract, the individual is deemed to have received at that time as proceeds of disposition of the contract an amount equal to its fair market value at that time, and to have acquired immediately thereafter a contract other than an income-averaging annuity at a cost corresponding to that fair market value.

Presumption.

Any payment under an income-averaging annuity contract to which a deceased individual was entitled under the contract before he died and that is made under that contract after his death is deemed to be a payment made under such a contract.

History: 1972, c. 23, s. 315; 1977, c. 26, s. 32.

Corresponding Federal Provision: 61.1(1) and (2).

CHAPTER VI.0.1
INCOME-AVERAGING ANNUITIES RESPECTING INCOME FROM ARTISTIC ACTIVITIES

Deduction.

346.0.1. An individual who is, in a taxation year, a recognized artist may deduct, in computing income for the year, an amount that the individual pays in the year or within 60 days after the end of the year to acquire an income-averaging annuity respecting income from artistic activities from a person described in the fourth paragraph, to the extent that that amount has not been deducted for the preceding year.

Maximum amount.

However, the amount that an individual may deduct for a taxation year under the first paragraph may not exceed an amount equal to the amount obtained by subtracting, from the portion of the individual's income for the year that may reasonably be considered to be attributable to artistic activities in respect of which the individual is a recognized artist, the aggregate of $25,000 and the amount that the individual may deduct for the year under section 726.26.

Recognized artist.

In this section, "recognized artist" means an individual who is a professional artist, within the meaning of the Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (chapter S-32.01), or an artist, within the meaning of the Act respecting the professional status and conditions of engagement of performing, recording and film artists (chapter S-32.1).

Person referred to.

A person to whom the first paragraph refers is a person who is licensed or otherwise authorized by the laws of Québec or Canada to carry on an annuities business in Québec or offer trustee services in Québec, and who is authorized by the Minister, in accordance with section 346.0.3, to offer an

income-averaging annuity respecting income from artistic activities for the purposes of this chapter.

History: 2005, c. 23, s. 50; 2006, c. 36, s. 36.

Conditions.

346.0.2. No individual may deduct an amount under section 346.0.1 unless the contract under which the individual acquires an income-averaging annuity respecting income from artistic activities is consistent with the standard contract previously approved by the Minister and provides for stipulations consistent with the following provisions:

(*a*) the income-averaging annuity respecting income from artistic activities is acquired in consideration for a single payment;

(*b*) the income-averaging annuity respecting income from artistic activities is payable, at least once a year or at more frequent periodic intervals, in equal payments sufficient to ensure its full payment over a period not exceeding seven years from the date on which the first payment is made, which payment must be made not later than ten months after the date on which the single payment referred to in paragraph *a* is made;

(*c*) the individual is entitled to request, at any time, the full or partial commutation of the income-averaging annuity respecting income from artistic activities;

(*d*) the income-averaging annuity payments respecting income from artistic activities may only be made to the individual or, after the individual's death, to a person designated by the individual under the contract, the individual's succession or any of the beneficiaries of the individual's succession, as the case may be;

(*e*) except in case of death, the rights of the individual as annuitant may not be disposed of otherwise than by the redemption or cancellation of the income-averaging annuity respecting income from artistic activities by the debtor; and

(*f*) the rights of the individual as annuitant may not be given or transferred as security in any manner whatsoever.

History: 2005, c. 23, s. 50.

Authorized person.

346.0.3. For the purposes of the fourth paragraph of section 346.0.1, the Minister may authorize a person to offer an income-averaging annuity respecting income from artistic activities if

(*a*) the person first submitted to the Minister for approval a standard contract containing stipulations consistent with the provisions mentioned in paragraphs *a* to *f* of section 346.0.2; and

(*b*) the person undertakes with the Minister that any annuity contract the person enters into with an individual to enable the individual to benefit from the deduction under section 346.0.1 be consistent with that standard contract.

History: 2005, c. 23, s. 50.

Presumption in the event of death.

346.0.4. If an individual dies and an amount the individual was entitled to receive before dying under an income-averaging annuity contract respecting income from artistic activities is paid after the individual's death under that contract, that amount is deemed to be an amount paid under such a contract.

History: 2005, c. 23, s. 50.

CHAPTER VI.1
DEBT FORGIVENESS

Reserve for debt forgiveness for individuals resident in Canada.

346.1. There may be deducted in computing the income for a taxation year of an individual, other than a trust, resident in Canada throughout the year such amount as the individual claims not exceeding the amount determined by the formula

A + B − 0.2 (C − $40,000).

Interpretation.

For the purposes of the formula in the first paragraph,

(*a*) A is the amount by which the aggregate of all amounts each of which is an amount that, because of the application of sections 485 to 485.18 to an obligation payable by the individual, or a partnership of which the individual was a member, was included under section 485.13 in computing the income of the individual for the year or the income of the partnership for a fiscal period that ends in the year, to the extent that, where the amount was included in computing income of a partnership, it relates to the individual's share of that income, exceeds the aggregate of all amounts deducted because of paragraph *a* of section 485.15 in computing the individual's income for the year;

(*b*) B is the amount included under section 313.7 in computing the individual's income for the year; and

(*c*) C is the greater of $40,000 and the individual's income for the year, determined without reference to this section, section 313.7, paragraph *j* of section 336, section 485.13 and paragraph *a* of section 485.15.

History: 1996, c. 39, s. 106; 1997, c. 3, s. 71; 1998, c. 16, s. 251.
Corresponding Federal Provision: 61.2.

Deduction for insolvency with respect to corporations.

346.2. Subject to section 346.3, there shall be deducted in computing the income for a taxation year of a corporation that is not exempt from tax under this Part on its taxable income, the lesser of

(*a*) the amount by which the aggregate of all amounts each of which is an amount that, because of the application of sections 485 to 485.18 to a commercial obligation, within the meaning assigned by section 485, issued by the corporation, or a partnership of which the corporation was a member, was included under section 485.13 in computing the income of the corporation for the year or the income of the partnership for a fiscal period that ends in the year, to the extent that the amount, where it was included in computing income of a partnership, relates to the corporation's share of that income, exceeds the aggregate of all amounts deducted because of paragraph *a* of section 485.15, in computing the corporation's income for the year; and

(*b*) the amount determined by the formula

A − 2 (B − C − D − E).

Interpretation.

For the purposes of the formula in subparagraph *b* of the first paragraph,

(*a*) A is the amount determined under subparagraph *a* of the first paragraph in respect of the corporation for the year;

(*b*) B is the aggregate of

i. the fair market value of the assets of the corporation at the end of the year,

ii. the amounts paid before the end of the year on account of the corporation's tax payable under this Part or any of Parts III.11, IV, IV.1, VI, VI.1 and VII for the year or on account of a tax payable by the corporation for the year, under any of Parts I, I.3, II, VI and XIV of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or under any similar part of an Act of a province other than Québec, and

iii. all amounts paid by the corporation in the 12-month period preceding the end of the year to a person with whom the corporation does not deal at arm's length

(1) as a dividend, other than a stock dividend,

(2) on a reduction of paid-up capital in respect of any class of shares of its capital stock,

(3) on a redemption, acquisition or cancellation of its shares, or

(4) as a distribution or appropriation in any manner whatever to or for the benefit of the shareholders, to the extent that the distribution or appropriation cannot reasonably be considered to have resulted in a reduction in the amount otherwise determined under subparagraph *c* in respect of the corporation for the year;

(*c*) C is the total liabilities of the corporation at the end of the year determined in accordance with the rules set out in the third paragraph and without reference to any tax payable by the corporation for the year under this Part and Parts III.11, IV, IV.1, VI, VI.1 and VII or to a tax payable by the corporation for the year under any of Parts I, I.3, II, VI and XIV of the Income Tax Act or under any similar part of an Act of a province other than Québec,

(*d*) D is the aggregate of all amounts each of which is the principal amount at the end of the year of a distress preferred share, within the meaning assigned by section 485, issued by the corporation; and

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

Determination of total liabilities.

For the purposes of subparagraph *c* of the second paragraph, except as otherwise provided therein, the total liabilities of a corporation shall

(*a*) where the corporation is not an insurance corporation, a federal credit union or a bank to which subparagraph *b* or *c* applies and the balance sheet as of the end of the year was prepared in accordance with generally accepted accounting principles and was presented to the shareholders of the corporation, be considered to be the total liabilities shown on that balance sheet;

(*b*) where the corporation is a bank, a federal credit union or an insurance corporation that is required to report to the Superintendent of Financial Institutions of Canada and the balance sheet as of the end of the year was accepted by the Superintendent, be considered to be the total liabilities shown on that balance sheet;

(*c*) where the corporation is an insurance corporation that is required to report to the superintendent of insurance or other similar officer or authority of the province under whose laws the corporation is incorporated, or the Autorité des marchés financiers, and the balance sheet as of the end of the year was accepted by that officer or authority, be considered to be the total liabilities shown on that balance sheet; and

(*d*) in any other case, be considered to be the amount that would be shown as total liabilities of the corporation at the

end of the year on a balance sheet prepared in accordance with generally accepted accounting principles.

Restriction.

Subparagraph *c* of the second paragraph and the third paragraph apply, subject to section 7.12.

History: 1996, c. 39, s. 106; 1997, c. 3, s. 71; 1997, c. 14, s. 64; 2000, c. 5, s. 90; 2002, c. 45, s. 520; O.C. 45-2004; 2004, c. 37, s. 90; 2013, c. 10, s. 27.

Corresponding Federal Provision: 61.3(1).

Anti-avoidance.

346.3. Section 346.2 does not apply in respect of a corporation for a taxation year where property was transferred in the 12-month period preceding the end of the year or the corporation became indebted in that period and it can reasonably be considered that one of the reasons for the transfer or the indebtedness was to increase the amount that the corporation would, but for this section, be entitled to deduct under that section 346.2.

History: 1996, c. 39, s. 106; 1997, c. 3, s. 71.

Corresponding Federal Provision: 61.3(3).

Reserve for debt forgiveness for corporations and others.

346.4. There may be deducted as a reserve in computing the income for a taxation year of a taxpayer that is a corporation or trust resident in Canada throughout the year or a person not resident in Canada who carried on business through a fixed place of business in Canada at the end of the year such amount as the taxpayer claims not exceeding the least of

(*a*) the amount determined by the formula

A − B;

(*b*) the aggregate of

i. 4/5 of the amount that would be determined under subparagraph *a* of the second paragraph in respect of the taxpayer for the year if that value did not take into account amounts included or deducted in computing the taxpayer's income for any preceding taxation year,

ii. 3/5 of the amount that would be determined under subparagraph *a* of the second paragraph in respect of the taxpayer for the year if that value did not take into account amounts included or deducted in computing the taxpayer's income for the year or any preceding taxation year other than the last preceding taxation year,

iii. 2/5 of the amount that would be determined under subparagraph *a* of the second paragraph in respect of the taxpayer for the year if that value did not take into account amounts included or deducted in computing the taxpayer's income for the year or any preceding taxation year, other than the second last preceding taxation year, and

iv. 1/5 of the amount that would be determined under subparagraph *a* of the second paragraph in respect of the taxpayer for the year if that value did not take into account amounts included or deducted in computing the taxpayer's income for the year or any preceding taxation year, other than the third last preceding taxation year; and

(*c*) where the taxpayer is a corporation that commences to wind up in the year, otherwise than in circumstances to which the rules in sections 556 to 564.1 and 565 apply, zero.

Interpretation.

For the purposes of the formula in subparagraph *a* of the first paragraph,

(*a*) A is the amount by which the aggregate of all amounts each of which is an amount that, because of the application of sections 485 to 485.18 to a commercial obligation, within the meaning assigned by section 485, issued by the taxpayer, or a partnership of which the taxpayer was a member, was included under section 485.13 in computing the income of the taxpayer for the year or a preceding taxation year or of the partnership for a fiscal period that ends in that year or preceding year, to the extent that, where the amount was included in computing income of a partnership, it relates to the taxpayer's share of that income, exceeds the aggregate of

i. all amounts deducted under paragraph *a* of section 485.15 in computing the taxpayer's income for the year or a preceding taxation year, and

ii. all amounts deducted under section 346.2 in computing the taxpayer's income for the year or a preceding taxation year; and

(*b*) B is the amount by which the amount determined under subparagraph *a* in respect of the taxpayer for the year exceeds the aggregate of

i. the amount that would be determined under subparagraph *a* in respect of the taxpayer for the year if that value did not take into account amounts included or deducted in computing the taxpayer's income for any preceding taxation year, and

ii. the amount included under section 313.8 in computing the taxpayer's income for the year.

History: 1996, c. 39, s. 106; 1997, c. 3, s. 71.

Corresponding Federal Provision: 61.4.

CHAPTER VII
MOVING EXPENSES

347. *(Repealed).*

History: 1972, c. 23, s. 316; 1986, c. 15, s. 71; 1994, c. 22, s. 350; 2001, c. 53, s. 60.

Deduction of moving expenses.

348. An individual may deduct in computing the individual's income for a taxation year amounts paid by the individual as moving expenses incurred in respect of an eligible relocation, to the extent that

(*a*) they were not paid on the individual's behalf because of, or in the course of, the individual's office or employment;

(*b*) they were not deductible because of this chapter in computing the individual's income for the preceding taxation year;

(*c*) the aggregate of those amounts does not exceed

i. where the eligible relocation occurs to enable the individual to carry on a business or to be employed at a new work location, the aggregate of the individual's income for the year from the individual's employment at the new work location or from carrying on the business at the new work location and the amount included in computing the individual's income for the year under paragraph *e*.6 of section 311 in respect of the individual's employment at the new work location, and

ii. where the eligible relocation occurs to enable the individual to be a student in full-time attendance enrolled in a program at a post-secondary level at a location of a university, college or other educational institution, the aggregate of all amounts included in computing the individual's income for the year under paragraph *h* of section 312; and

(*d*) any reimbursement or allowance received by the individual in respect of those expenses is included in computing the individual's income.

History: 1972, c. 23, s. 317; 1972, c. 26, s. 45; 1979, c. 18, s. 27; 1986, c. 15, s. 72; 1986, c. 19, s. 66; 1994, c. 22, s. 350; 2001, c. 53, s. 61; 2002, c. 40, s. 34; 2009, c. 5, s. 123; 2010, c. 5, s. 39.
Corresponding Federal Provision: 62(1).

Moving expenses for students.

349. An individual may deduct in computing the individual's income for a taxation year, under section 348, an amount that the individual would be entitled to deduct under section 348 if paragraphs *a* and *b*.1 of the definition of "eligible relocation" in section 349.1 were read as follows:

"(*a*) the relocation occurs to enable the individual to be a student in full-time attendance enrolled in a program at a post-secondary level at a location of a university, college or other educational institution, that institution being in this chapter referred to as "the new work location";";

"(*b*.1) except if the individual is absent from Canada but resident in Québec, either or both the old residence and the new residence are in Canada; and".

History: 1972, c. 23, s. 318; 1994, c. 22, s. 350; 1997, c. 14, s. 65; 2001, c. 53, s. 61; 2009, c. 5, s. 124; 2015, c. 21, s. 168.
Corresponding Federal Provision: 62(2).

"eligible relocation".

349.1. In this chapter, "eligible relocation" means a relocation of an individual where

(*a*) the relocation occurs to enable the individual to carry on a business or to be employed at a location that is in Canada, except if the individual is absent from Canada but resident in Québec, or to be a student in full-time attendance enrolled in a program at a post-secondary level at a location of a university, college or other educational institution, that location and that institution being in this chapter referred to as "the new work location";

(*b*) before the relocation, the individual ordinarily resided at a residence (in this chapter referred to as "the old residence") and, after the relocation, the individual ordinarily resided at a residence (in this chapter referred to as "the new residence");

(*b*.1) except if the individual is absent from Canada but resident in Québec, both the old residence and the new residence are in Canada; and

(*c*) the distance between the old residence and the new work location is not less than 40 kilometres greater than the distance between the new residence and the new work location.

History: 2001, c. 53, s. 62; 2009, c. 5, s. 125; 2015, c. 21, s. 169.
Corresponding Federal Provision: 248(1) "eligible relocation".

Meaning of "moving expenses".

350. For the purposes of section 348, expenses incurred by an individual as moving expenses are

(*a*) travel costs, including a reasonable amount for meals and lodging, in the course of moving the individual and other members of the individual's household;

(*b*) the cost to the individual of transporting or storing household effects in the course of moving;

(*c*) the cost of meals and lodging near the individual's old residence or new residence for the individual and other

members of the individual's household for a period not exceeding 15 days;

(*d*) the cost to the individual of cancelling the lease of the individual's old residence;

(*e*) the selling costs of the individual's old residence;

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

(*g*) interest, property taxes, insurance premiums and the cost of heating and utilities in respect of the old residence, to the extent of the lesser of $5,000 and the total of such expenses of the individual for the period

i. throughout which the old residence is neither ordinarily occupied by the individual or by any other person who ordinarily resided with the individual at the old residence immediately before the move nor rented by the individual to any other person, and

ii. in which reasonable efforts are made to sell the old residence; and

(*h*) the cost of revising legal documents to reflect the address of the individual's new residence, of replacing drivers' licenses and personal vehicle permits, excluding any cost for vehicle insurance, and of connecting or disconnecting utilities.

History: 1972, c. 23, s. 319; 1978, c. 26, s. 55; 1991, c. 25, s. 71; 1994, c. 22, s. 148; 1997, c. 85, s. 67; 2000, c. 5, s. 91; 2001, c. 53, s. 63; 2003, c. 2, s. 111; 2009, c. 5, s. 126.

Corresponding Federal Provision: 62(3).

CHAPTER VII.1
INDIVIDUALS RESIDING IN REMOTE AREAS

Individuals residing in remote areas.

350.1. An individual who, throughout a period, in this chapter referred to as the "qualifying period", of not less than six consecutive months commencing or ending in a taxation year, has resided in one or more particular areas each of which was a prescribed northern zone or prescribed intermediate zone for the year, and who encloses the prescribed form containing the prescribed information with the fiscal return the individual is required to file for the year under section 1000, may deduct, in computing the individual's income for the year, the amount determined in respect of the individual under section 350.2.

History: 2003, c. 9, s. 27.

Corresponding Federal Provision: 110.7(1) before (a).

Computation of deduction.

350.2. The amount to which section 350.1 refers is equal to the aggregate of

(*a*) the aggregate of all amounts each of which is the product obtained by applying the specified percentage for the year for the particular area in which the individual resided to the amount received, or to the value of a benefit received or enjoyed, in the year by the individual because of the individual's employment in the particular area by a person with whom the individual was dealing at arm's length in respect of travel expenses incurred by the individual or another individual who was a member of the individual's household during the part of the year in which the individual resided in the particular area, to the extent that

i. the amount received or the value of the benefit, as the case may be, does not exceed a prescribed amount in respect of the individual for the period of the year in which the individual resided in the particular area, is included and is not otherwise deducted in computing the individual's income for the year or any other taxation year, and is not taken into account in determining an amount deducted under section 752.0.11 for the year or any other taxation year,

ii. the travel expenses were incurred in respect of trips made in the year by the individual or another individual who was a member of the individual's household during the part of the year in which the individual resided in the particular area, and

iii. neither the individual nor a member of the individual's household is at any time entitled to a reimbursement or any form of assistance, other than a reimbursement or assistance included in computing the income of the individual or the member, in respect of travel expenses to which subparagraph ii applies; and

(*b*) the lesser of

i. 20% of the individual's income for the year, computed without reference to this chapter, and

ii. the aggregate of all amounts each of which is equal to the amount obtained by applying the specified percentage for the year for the particular area in which the individual resided to the aggregate of

(1) $11.00 multiplied by the number of days in the year included in the qualifying period in which the individual resided in the particular area, and

(2) $11.00 multiplied by the number of days in the year included in that portion of the qualifying period throughout which the individual maintained and resided in a self-contained domestic establishment in the particular area, except any day taken into account for the purpose of

computing an amount deducted under this subparagraph *b* by another person who resided on that day in the establishment.

Specified percentage.

For the purposes of the first paragraph, the specified percentage for a taxation year for a particular area is

(*a*) 100%, where the area is a prescribed northern zone for the year for the purposes of section 350.1; and

(*b*) 50%, where the area is a prescribed intermediate zone for the year for the purposes of section 350.1.

History: 2003, c. 9, s. 27; 2009, c. 15, s. 80; 2017, c. 29, s. 61.
Corresponding Federal Provision: 110.7(1)(a) and (b).

Restriction.

350.3. The aggregate of the amounts determined under subparagraph *a* of the first paragraph of section 350.2 for an individual in respect of travel expenses incurred in a taxation year in respect of the individual or another individual who is a member of the individual's household, shall not be in respect of more than two trips made by each of those individuals in the year, other than trips to obtain medical services that are not available in the locality in which the individual resided.

History: 2003, c. 9, s. 27.
Corresponding Federal Provision: 110.7(2).

Restriction.

350.4. The amount determined under subparagraph ii of subparagraph *b* of the first paragraph of section 350.2 in respect of an individual for a taxation year in relation to a particular area shall not exceed the amount by which the aggregate of the amounts otherwise determined under that subparagraph ii for the year in relation to that particular area exceeds the value of expenses, or an allowance in respect of expenses incurred by the individual, for the individual's board and lodging in the particular area, other than at a work site described in subparagraph *d*.1 of the first paragraph of section 421.2, that

(*a*) would, but for subparagraph i of paragraph *a* of section 42, be included in computing the individual's income for the year; and

(*b*) may reasonably be attributable to that portion of the qualifying period that is in the year and during which the individual maintained a self-contained domestic establishment as principal place of residence in an area other than a prescribed northern zone or a prescribed intermediate zone for the year for the purposes of section 350.1.

Interpretation.

For the purpose of determining whether the condition set out in subparagraph *a* of the first paragraph is satisfied, no account shall be taken of paragraph *g* of section 39.

History: 2003, c. 9, s. 27; 2005, c. 1, s. 91; 2009, c. 15, s. 81.
Corresponding Federal Provision: 110.7(3).

Restriction.

350.5. Where on any particular day an individual resides in more than one particular area referred to in section 350.2, for the purposes of that section, the individual is deemed to reside in only one such area on that day.

History: 2003, c. 9, s. 27.
Corresponding Federal Provision: 110.7(4).

Rules applicable.

350.6. If an individual is, at any time in a taxation year, a foreign researcher within the meaning of section 737.19, a foreign researcher on a postdoctoral internship within the meaning of section 737.22.0.0.1, a foreign expert within the meaning of section 737.22.0.0.5, a foreign specialist within the meaning of section 737.22.0.1 or 737.22.0.4.1, a foreign professor within the meaning of section 737.22.0.5, an eligible individual within the meaning of section 737.22.0.9 or a foreign farm worker within the meaning of section 737.22.0.12, the following rules apply for the purpose of computing the amount that the individual may deduct under section 350.1 for the year:

(*a*) if the individual has included in computing the individual's income for the year an amount received, or the value of a benefit received or enjoyed, by the individual and the amount or value is both described in subparagraph *a* of the first paragraph of section 350.2 and included in the individual's eligible income for the year, in relation to an employment, within the meaning of any of sections 737.19, 737.22.0.0.1, 737.22.0.0.5, 737.22.0.1, 737.22.0.4.1 and 737.22.0.5, as the case may be, in the amount determined in respect of the individual for the year under section 737.22.0.10, or in the individual's work income for the year, in relation to an employment, within the meaning of section 737.22.0.12, the amount or value, as the case may be, is deemed to be nil;

(*b*) for the purposes of subparagraphs 1 and 2 of subparagraph ii of subparagraph *b* of the first paragraph of section 350.2, the number of days in the year included in the qualifying period in which the individual resided in the particular region does not include a day included in the individual's research activity period, the individual's eligible activity period or the individual's specialized activity period, in relation to an employment, within the meaning of any of sections 737.19, 737.22.0.0.1, 737.22.0.0.5, 737.22.0.1, 737.22.0.4.1 and 737.22.0.5, as the case may be; and

(*c*) subparagraph *b* of the first paragraph of section 350.2 does not apply to an individual to whom section 737.22.0.10 or 737.22.0.13 applies for the year.

History: 2003, c. 9, s. 27; 2004, c. 21, s. 75; 2006, c. 36, s. 37; 2013, c. 10, s. 28.

Corresponding Federal Provision: 110.7(5).

CHAPTER VIII
(Repealed).

351. *(Repealed).*

History: 1972, c. 23, s. 320; 1976, c. 18, s. 4; 1979, c. 38, s. 10; 1984, c. 15, s. 82; 1985, c. 25, s. 64; 1986, c. 15, s. 73; 1989, c. 5, s. 60; 1993, c. 16, s. 138; 1993, c. 64, s. 31; 1995, c. 1, s. 39 [amended by 2000, c. 5, s. 303].

352. *(Repealed).*

History: 1972, c. 23, s. 321; 1976, c. 18, s. 5; 1979, c. 38, s. 11; 1985, c. 25, s. 64; 1986, c. 15, s. 74; 1988, c. 4, s. 31; 1988, c. 18, s. 23; 1989, c. 5, s. 61; 1994, c. 22, s. 149; 1995, c. 1, s. 39.

353. *(Repealed).*

History: 1972, c. 23, s. 322; 1975, c. 21, s. 12; 1976, c. 18, s. 6; 1979, c. 38, s. 12; 1985, c. 25, s. 64; 1986, c. 15, s. 75; 1994, c. 22, s. 150; 1995, c. 1, s. 39.

354. *(Repealed).*

History: 1972, c. 23, s. 323; 1975, c. 21, s. 13; 1985, c. 25, s. 64; 1986, c. 15, s. 76; 1988, c. 4, s. 32; 1989, c. 5, s. 62; 1990, c. 7, s. 16; 1991, c. 8, s. 7; 1992, c. 1, s. 32; 1994, c. 22, s. 151; 1995, c. 1, s. 39.

355. *(Repealed).*

History: 1972, c. 23, s. 324; 1972, c. 26, s. 46; 1985, c. 25, s. 64; 1986, c. 15, s. 77; 1988, c. 4, s. 33; 1989, c. 5, s. 63; 1994, c. 22, s. 152; 1995, c. 1, s. 39.

355.1. *(Repealed).*

History: 1989, c. 5, s. 64; 1993, c. 16, s. 139; 1995, c. 1, s. 39.

356. *(Repealed).*

History: 1972, c. 23, s. 325; 1985, c. 25, s. 64; 1986, c. 15, s. 78; 1995, c. 1, s. 39.

356.0.1. *(Repealed).*

History: 1986, c. 15, s. 78; 1995, c. 1, s. 39.

356.1. *(Repealed).*

History: 1981, c. 24, s. 14; 1985, c. 25, s. 64; 1986, c. 15, s. 79.

356.2. *(Repealed).*

History: 1981, c. 24, s. 14; 1985, c. 25, s. 64.

CHAPTER IX
(Repealed).

357. *(Repealed).*

History: 1972, c. 23, s. 326; 1975, c. 22, s. 66; 1977, c. 26, s. 33; 1978, c. 26, s. 56; 1984, c. 15, s. 83.

358. *(Repealed).*

History: 1975, c. 22, s. 67; 1982, c. 5, s. 81; 1984, c. 15, s. 83.

CHAPTER IX.0.1
DEDUCTION FOR GOODS AND SERVICES TO SUPPORT A DISABLED PERSON

Disability supports deduction.

358.0.1. An individual who files with the individual's fiscal return under this Part for a taxation year, other than a return filed under the second paragraph of section 429 or any of sections 681, 782 and 1003, a prescribed form containing the prescribed information may deduct in computing the individual's income for the year the lesser of

(*a*) the amount determined by the formula

A − B; and

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

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

ii. the individual's income for the year from a business carried on either alone or as a partner actively engaged in the business,

iii. an amount included under any of paragraphs *e*.2 to *e*.6 of section 311 or paragraph *g* or *h* of section 312 in computing the individual's income for the year, or

iv. the amount determined under the third paragraph, where the individual is attending an educational institution referred to in section 358.0.2, or a secondary school, at which the individual is enrolled in an educational program;

(*c*) *(subparagraph repealed).*

Interpretation.

In the formula in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is an amount paid by the individual in the year and that

i. was paid to enable the individual to perform the duties of an office or employment, to carry on a business either alone or as a partner actively engaged in the business, to carry on research or any similar work in respect of which the

individual received a grant, or to attend an educational institution referred to in section 358.0.2, or a secondary school, at which the individual is enrolled in an educational program,

ii. was paid

(1) where the individual has a speech or hearing impairment, for the cost of sign-language interpretation services or real time captioning services and to a person engaged in the business of providing such services,

(2) where the individual is deaf or mute, for the cost of a teletypewriter or similar device, including a telephone ringing indicator, prescribed by a practitioner, to enable the individual to make and receive telephone calls,

(3) where the individual is blind, for the cost of a device or equipment, including synthetic speech systems, Braille printers, and large-print on-screen devices, prescribed by a practitioner, and designed to be used by blind individuals in the operation of a computer,

(4) where the individual is blind, for the cost of an optical scanner or similar device, prescribed by a practitioner, and designed to be used by blind individuals to enable them to read print,

(5) where the individual is mute, for the cost of an electronic speech synthesizer, prescribed by a practitioner, and designed to be used by mute individuals to enable them to communicate by use of a portable keyboard,

(6) where the individual has an impairment in mental or physical functions, for the cost of note-taking services and to a person engaged in the business of providing such services, if the individual has been certified in writing by a practitioner to be a person who, because of that impairment, requires those services,

(7) where the individual has an impairment in physical functions, for the cost of voice recognition software, if the individual has been certified in writing by a practitioner to be a person who, because of that impairment, requires that software,

(8) where the individual has a learning disability or an impairment in mental functions, for the cost of tutoring services that are rendered to, and supplementary to the primary education of, the individual and to a person ordinarily engaged in the business of providing such services to persons who are not related to the person, if the individual has been certified in writing by a practitioner to be a person who, because of that disability or impairment, requires those services,

(9) where the individual has a perceptual disability, for the cost of talking textbooks used by the individual in connection with the individual's enrolment at a secondary school in Canada or at an educational institution described in section 358.0.2, if the individual has been certified in writing by a practitioner to be a person who, because of that disability, requires those textbooks,

(10) where the individual has an impairment in mental or physical functions, for the cost of attendant care services provided in Canada and to a person who is neither the individual's spouse nor under 18 years of age, if the individual is a taxpayer in respect of whom subparagraphs *a* to *c* of the first paragraph of section 752.0.14 apply for the year, or if the individual has been certified in writing by a practitioner to be a person who is, and is likely to be indefinitely, dependent on others for personal needs and care and who as a result requires a full-time attendant,

(11) where the individual has a severe and prolonged impairment in mental or physical functions, for the cost of job coaching services, excluding job placement or career counselling services, and to a person engaged in the business of providing such services if the individual has been certified in writing by a practitioner to be a person who, because of that impairment, requires those services,

(12) where the individual is blind or has a severe learning disability, for the cost of reading services and to a person engaged in the business of providing such services, if the individual has been certified in writing by a practitioner to be a person who, because of that impairment or disability, requires those services,

(13) where the individual is blind and profoundly deaf, for the cost of deaf-blind intervening services and to a person engaged in the business of providing such services,

(14) where the individual has a speech impairment, for the cost of a device that is a Bliss symbol board, or a similar device, that is prescribed by a practitioner to help the individual communicate by selecting the symbols or spelling out words,

(15) where the individual is blind, for the cost of a device that is a Braille note-taker, prescribed by a practitioner, to allow the individual to take notes, with the help of a keyboard, that the device can read back to the individual, or print or display in Braille,

(16) where the individual has a severe and prolonged impairment in physical functions that markedly restricts the individual's ability to use his or her arms or hands, for the cost of a device that is a page turner prescribed by a practitioner to help the individual to turn the pages of a book or other bound document, and

(17) where the individual is blind, or has a severe learning disability, for the cost of a device or software that is prescribed by a practitioner and designed to enable the individual to read print, and

iii. is not included in computing a deduction under sections 752.0.11 to 752.0.13.0.1 for any taxpayer and for any taxation year; and

(*b*) B is the aggregate of all amounts each of which is the amount of a reimbursement or any other form of assistance, other than a prescribed amount or an amount that is included in computing a taxpayer's income and that is not deductible in computing the taxpayer's taxable income, that any taxpayer is or was entitled to receive in respect of an amount described in subparagraph *a*.

Amount referred to.

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

(*a*) $15,000;

(*b*) the product obtained by multiplying $375 by the number of weeks in the year during which the individual attends the educational institution or secondary school; and

(*c*) the amount by which the individual's income for the year, determined without reference to this section, exceeds the aggregate of all amounts each of which is an amount determined under any of subparagraphs i to iii of subparagraph *b* of the first paragraph in respect of the individual for the year.

Proof of payment.

However, the payment of an amount described in subparagraph *a* of the second paragraph may be included in computing a deduction under the first paragraph only if proof of payment of the amount is given by filing with the Minister one or more receipts issued by the payee, including, if the payee is an individual referred to in subparagraph 10 of subparagraph ii of that subparagraph *a*, the Social Insurance Number of the latter individual.

History: 1991, c. 25, s. 72; 1993, c. 16, s. 140; 1993, c. 64, s. 32; 1996, c. 39, s. 273; 1997, c. 14, s. 66; 1997, c. 31, s. 46; 2000, c. 5, s. 92; 2001, c. 51, s. 38; 2003, c. 2, s. 112; 2005, c. 38, s. 74; 2006, c. 36, s. 39; 2009, c. 5, s. 127; 2010, c. 5, s. 40.

Corresponding Federal Provision: 64.

Educational institution.

358.0.2. The educational institution to which section 358.0.1 refers is

(*a*) an educational institution in Canada that is

i. a university, college or other educational institution designated by the Lieutenant Governor in Council of a province under the Canada Student Loans Act (Revised Statutes of Canada, 1985, chapter S-23), designated by an appropriate authority under the Canada Student Financial Assistance Act (Statutes of Canada, 1994, chapter 28), or designated by the Minister of Education, Recreation and Sports or the Minister of Higher Education, Research, Science and Technology for the purposes of the Act respecting financial assistance for education expenses (chapter A-13.3), or

ii. recognized by the Minister to be an educational institution providing courses, other than courses designed for university credit, that furnish a person with skills for, or improve a person's skills in, an occupation;

(*b*) a university outside Canada at which the individual was enrolled in a course leading to a degree, for a period of at least three consecutive weeks; or

(*c*) an educational institution in the United States that is a university, college or other institution providing post-secondary education, if the individual resided in Canada throughout the year near the boundary between Canada and the United States, and commuted between the individual's residence and that educational institution.

History: 2003, c. 2, s. 113; 2005, c. 28, s. 195; 2005, c. 38, s. 75; 2012, c. 8, s. 48; 2013, c. 28, s. 139.

Corresponding Federal Provision: 118.6(1) "designated educationnal institution".

CHAPTER IX.0.2
DEDUCTION TO WORKERS

Deduction for work-related expenses.

358.0.3. An individual, other than a trust, may deduct in computing the individual's income for a taxation year the lesser of $1,000 and 6% of the aggregate of all amounts each of which is any of the following amounts, other than an amount described in the second paragraph:

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

(*b*) the amount by which the individual's income for the year from any business the individual carries on either alone or as a partner actively engaged in the business exceeds the aggregate of the individual's losses for the year from such businesses;

(*c*) an amount included in computing the individual's income for the year under paragraph *e*.2 or *e*.6 of section 311; or

(*d*) an amount included in computing the individual's income for the year under paragraph *h* of section 312.

Amount referred to.

The amount to which the first paragraph refers is

(*a*) an amount included in computing the individual's income for the year from an office or employment held by

the individual as an elected member of a municipal council, a member of the council or executive committee of a metropolitan community, regional county municipality or other similar body established under an Act of Québec, a member of a municipal utilities commission or corporation or any other similar body administering such utilities, a member of a school service centre's board of directors or a member of a public or separate school board or any other similar body administering a school district;

(*b*) an amount included in computing the individual's income for the year from an office held by the individual as a member of the National Assembly, the House of Commons of Canada, the Senate or the legislature of another province;

(*b.*1) an amount included in computing the individual's income for the year from a previous office or employment, if each of the amounts that make up the income is the value of a benefit received or enjoyed by the individual in the year because of that office or employment; or

(*c*) if the individual is an Indian, within the meaning assigned to that expression by section 725.0.1, the amount the individual included in computing the individual's income for the year and that is described in paragraph *e* of section 725.

History: 2005, c. 38, s. 76; 2006, c. 36, s. 40; 2010, c. 5, s. 41; 2015, c. 21, s. 170; 2020, c. 1, s. 281.

CHAPTER IX.0.3
INDEMNITIES RELATING TO CLINICAL TRIALS

Deduction for clinical trial-related indemnities.

358.0.4. An individual, other than a trust, may deduct, in computing the individual's income for a taxation year, the lesser of $1,500 and the aggregate of all amounts each of which is

(*a*) the amount of an indemnity described in the second paragraph and included under any of sections 32 to 58.3 in computing the individual's income for the year from an office or employment; or

(*b*) the amount of an indemnity described in the second paragraph and included in computing the individual's income for the year from a business.

Interpretation.

The indemnity to which subparagraphs *a* and *b* of the first paragraph refer means an indemnity paid to an individual who participates as a clinical trial subject in such a trial carried on by another person or partnership in accordance with the standards set by the Food and Drug Regulations made under the Food and Drugs Act (Revised Statutes of Canada, 1985, chapter F-27).

History: 2011, c. 1, s. 31.

CHAPTER IX.1
(Repealed).

DIVISION I
(Repealed).

358.1. *(Repealed).*

History: 1988, c. 4, s. 34; 1988, c. 18, s. 24; 1989, c. 5, s. 65.

358.2. *(Repealed).*

History: 1988, c. 4, s. 34; 1988, c. 18, s. 24; 1989, c. 5, s. 65.

358.3. *(Repealed).*

History: 1988, c. 4, s. 34; 1989, c. 5, s. 65.

358.4. *(Repealed).*

History: 1988, c. 4, s. 34; 1989, c. 5, s. 65.

DIVISION II
(Repealed).

§1. — *(Repealed).*

358.5. *(Repealed).*

History: 1988, c. 4, s. 34; 1989, c. 5, s. 65; 1990, c. 7, s. 17.

§2. — *(Repealed).*

358.6. *(Repealed).*

History: 1988, c. 4, s. 34; 1989, c. 5, s. 65.

358.7. *(Repealed).*

History: 1988, c. 4, s. 34; 1989, c. 5, s. 65.

358.8. *(Repealed).*

History: 1988, c. 4, s. 34; 1989, c. 5, s. 65.

358.9. *(Repealed).*

History: 1988, c. 4, s. 34; 1989, c. 5, s. 65.

§3. — *(Repealed).*

358.10. *(Repealed).*

History: 1988, c. 4, s. 34; 1989, c. 5, s. 65.

358.11. *(Repealed).*

History: 1988, c. 4, s. 34; 1989, c. 5, s. 65.

DIVISION III
(Repealed).

358.12. *(Repealed).*

History: 1988, c. 4, s. 34; 1989, c. 5, s. 65.

358.13. *(Repealed).*

History: 1989, c. 5, s. 66; 1990, c. 7, s. 18; 1995, c. 63, s. 37.