chapter I-3

TAXATION ACT

PART I
INCOME TAX

BOOK I
INTERPRETATION AND RULES OF GENERAL APPLICATION

TITLE I
INTERPRETATION

Definitions:

1. In this Part and in the regulations, unless the context indicates a different meaning, the expression:

"Act establishing a labour-sponsored fund";
"Act establishing a labour-sponsored fund" means

(*a*) 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

(*b*) the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (chapter F-3.2.1);

"additional voluntary contribution";
"additional voluntary contribution" to a registered pension plan means a contribution that is made by a member to the plan, that is used to provide benefits under a money purchase provision, within the meaning of section 965.0.1, of the plan and that is not required as a general condition of membership in the plan;

"adjusted cost base";
"adjusted cost base" has the meaning assigned by Chapter III of Title IV of Book III;

"advocate";
"advocate" means an advocate or a notary and, in another Canadian province, a barrister or a solicitor;

"allowable business investment loss";
"allowable business investment loss" has the meaning given to it by section 231;

"allowable capital loss";
"allowable capital loss" has the meaning assigned by section 231;

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

"amateur athlete trust";
"amateur athlete trust" has the meaning assigned by subparagraph *a* of the second paragraph of section 851.34;

"amortized cost";
"amortized cost" of a loan or lending asset has the meaning assigned by sections 21.26 and 21.27;

"amount";
"amount" means money, rights or things expressed in terms of an amount of money or their value in terms of money, except that

(*a*) in any case where section 187.2 or 187.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), paragraph *b*.1 of the definition of "amount" in subsection 1 of section 248 of that Act, as it reads in its application after 16 July 2005 and in relation to a taxation year of a taxpayer that begins before 1 January 2013, or any of sections 21.4.3, 21.10, 21.10.1, 740.1 to 740.3.1 and 740.5 applies to a stock dividend, 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 paid as a stock dividend at the time of payment;

(*b*) in any other case, the amount of any stock dividend is equal to 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;

"annuity";
"annuity" includes an amount payable on a periodic basis whether payable at intervals longer or shorter than a year, under a contract, will, trust or otherwise;

"assessment";
"assessment" includes a reassessment and an additional assessment;

"aunt";
"aunt" of a taxpayer includes the spouse of the taxpayer's uncle;

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

"automobile";
"automobile" means a motor vehicle that is designed or adapted primarily to carry individuals on highways and streets and that has a seating capacity for not more than the driver and 8 passengers, but does not include

(*a*) an ambulance,

(*a.*1) a clearly marked emergency medical response vehicle that is used, in connection with or in the course of an individual's office or employment with an emergency medical response or ambulance service, to carry emergency medical equipment together with one or more emergency medical attendants or paramedics,

(*b*) a motor vehicle acquired or leased primarily for use as a taxi, a bus used in a business of transporting passengers or a hearse used in the course of a business of arranging or managing funerals,

(*c*) except for the purposes of sections 36 to 47.17, a motor vehicle acquired or leased to be sold or leased in the course of carrying on a business of selling or leasing motor vehicles or a motor vehicle used for the purpose of transporting passengers in the course of carrying on a business of arranging or managing funerals, and

(*d*) a motor vehicle

i. of a type commonly called a van or pick-up truck or a similar vehicle

(1) that has a seating capacity for not more than the driver and two passengers and that, in the taxation year in which it is acquired or leased, is used primarily for the transportation of goods or equipment in the course of gaining or producing income, or

(2) the use of which, in the taxation year in which it is acquired or leased, is all or substantially all for the transportation of goods, equipment or passengers in the course of gaining or producing income, or

ii. of a type commonly called a pick-up truck that, in the taxation year in which it is acquired or leased, is used primarily for the transportation of goods, equipment or passengers in the course of gaining or producing income at one or more locations in Canada that are

(1) described in subparagraph i or ii of paragraph *a* of section 42, in respect of any of the occupants of the vehicle, and

(2) at least 30 kilometres outside the nearest point on the boundary of the nearest population centre, as defined by the last census dictionary published by Statistics Canada before the year, that has a population of at least 40,000 individuals as determined in the last census published by Statistics Canada before the year;

"balance-due day";
"balance-due day" of a taxpayer for a taxation year means

(*a*) where the taxpayer is a corporation, the last day of the two-month period ending after the end of the year;

(*b*) where the taxpayer is a trust,

i. in the case where the taxation year of the trust ended immediately before the time at which the trust was subject to a loss restriction event, the day that is

(1) if the particular time at which the taxation year ends occurs in a calendar year and after the end of another taxation year that ended on 15 December of that calendar year because of an election provided for in section 1121.7, 90 days after the end of the other taxation year,

(2) if subparagraph 1 does not apply and the trust's particular taxation year that begins immediately after the particular time ends in the calendar year that includes the particular time, the balance-due day of the trust for the particular taxation year, and

(3) if subparagraphs 1 and 2 do not apply, 90 days after the end of the calendar year that includes the particular time, and

ii. in any other case, the day that is 90 days after the end of the taxation year;

(*c*) where the taxpayer is a person who died in the year, or after the end of the year but on or before 30 April in the following calendar year, the later of 30 April in that calendar year and the day that is six months after the day of death;

(*d*) in the case of any other person, 30 April in the following calendar year;

"bank";
"bank" means a bank within the meaning of section 2 of the Bank Act (other than a federal credit union) or an authorized foreign bank;

"bankrupt";
"bankrupt" has the meaning assigned by the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3);

"bankruptcy";
"bankruptcy" has the meaning assigned by the Bankruptcy and Insolvency Act;

"benefit under a deferred profit sharing plan";
"benefit under a deferred profit sharing plan" received by a taxpayer in a taxation year means the total of all the amounts received by the taxpayer in the year from a trustee under the plan, minus any amounts deductible under sections 883 and 884 in computing the taxpayer's income for the year;

"bituminous sands";
"bituminous sands" means sands or other rock materials containing naturally occurring hydrocarbons, other than coal, which hydrocarbons have

(*a*) a viscosity, determined in a prescribed manner, equal to or greater than 10,000 centipoise; or

(*b*) a density, determined in a prescribed manner, equal to or less than 12 degrees API;

"borrowed money";
"borrowed money" includes the proceeds to a taxpayer from the sale of a post-dated bill drawn by the taxpayer on a bank;

"brother";
"brother" of a taxpayer includes the brother of the taxpayer's spouse and the spouse of the taxpayer's sister;

"business";
"business" includes a profession, calling, trade, manufacture or undertaking of any kind whatsoever and, except for the purposes of subparagraph *a* of the first paragraph of section 164, section 250.4 and subparagraph *i* of the second

paragraph of section 726.6.1, an adventure or concern in the nature of trade but does not include an office or employment;

"Canada";
"Canada" includes

(*a*) the sea bed and subsoil of the submarine areas adjacent to the coasts of Canada in respect of which the Government of Canada or of a province grants a right, licence or privilege to explore for, drill for or take any minerals, petroleum, natural gas or any related hydrocarbons; and

(*b*) the seas and airspace above the submarine areas referred to in paragraph *a* in respect of any activities carried on in connection with the exploration for or exploitation of any resource referred to in that paragraph;

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

"Canadian-controlled private corporation";
"Canadian-controlled private corporation" has the meaning assigned by section 21.19;

"Canadian corporation";
"Canadian corporation" has the meaning assigned by paragraph *l* of section 570;

"Canadian development expenses";
"Canadian development expenses" has the meaning assigned by sections 408 to 410;

"Canadian exploration and development expenses";
"Canadian exploration and development expenses" has the meaning assigned by sections 364 to 366;

"Canadian exploration expenses";
"Canadian exploration expenses" has the meaning assigned by sections 395 to 397;

"Canadian oil and gas property expense";
"Canadian oil and gas property expense" has the meaning assigned by sections 418.2 to 418.4;

"Canadian partnership";
"Canadian partnership" has the meaning assigned by section 599;

"Canadian resource property";
"Canadian resource property" has the meaning assigned by section 370;

"capital dividend";
"capital dividend" has the meaning assigned by sections 502 to 502.0.4;

"capital interest";
"capital interest" in a trust by a taxpayer has the meaning assigned by section 683;

"capital property";
"capital property" has the meaning assigned by section 249;

"cash method";
"cash method" has the meaning assigned by section 194;

"cemetery care trust";
"cemetery care trust" has the meaning assigned by section 979.19;

"certified archival centre";
"certified archival centre" means an archival centre certified by Bibliothèque et Archives nationales du Québec and the certification of which is in force;

"charity";
"charity" means a charitable organization or charitable foundation, within the meaning of section 985.1;

"child";
"child" of a taxpayer includes:

(*a*) *(subparagraph repealed)*;

(*b*) a person who is wholly dependent on the taxpayer for support and of whom the taxpayer has, or immediately before such person attained the age of 19 years did have, in law or in fact, the custody and control;

(*c*) the spouse of a child of the taxpayer; and

(*d*) a child of the taxpayer's spouse;

"common share";
"common share" means a share the holder of which is not precluded, upon the reduction or redemption of the capital stock, from participating in the assets of the corporation beyond the amount then paid for that share plus a fixed premium and a defined rate of dividend;

"compensation for the loss of financial support";
"compensation for the loss of financial support" means a benefit payable under a public compensation plan in the form of a pension or a lump sum in lieu of a pension that is granted following the death of the victim of an accident, employment injury or bodily injury to a person who, under the terms of the public compensation plan, is the victim's surviving spouse or a person who is considered to have been the victim's dependant;

"corporation incorporated in Canada";
"corporation incorporated in Canada" includes any corporation incorporated in any region of Canada before or after it became part of Canada;

"cost amount";
"cost amount" to a taxpayer of any property at any time means

(*a*) in the case of depreciable property of a prescribed class, the amount that would be that proportion of the undepreciated capital cost to the taxpayer of property of that class at that time that the capital cost to the taxpayer of the property is of the capital cost to the taxpayer of all property of that class that has not been disposed of by the taxpayer before that time if section 99 were read without reference to paragraph *d*.1 thereof and if paragraph *b* and subparagraph i of paragraph *d* of that section were read as follows:

"(b) subject to section 284, where a taxpayer, having acquired property for some other purpose, begins at a particular time to use it to gain income, the taxpayer is deemed to have acquired it at that particular time at a capital cost to the taxpayer equal to the fair market value of the property at that time;";

"i. where the proportion of the use made of the property to gain income has increased at a particular time, the taxpayer is deemed to have acquired at that time depreciable property of that class at a capital cost equal to the proportion of the fair market value of the property at that time that the amount of the increase in the use regularly made by the taxpayer of the property to gain income is of the whole of the use made of it;";

(*b*) in the case of capital property, other than depreciable property, of the taxpayer, its adjusted cost base to the taxpayer at that time;

(*c*) in the case of property described in an inventory of the taxpayer, its value at that time as determined for the purpose of computing the taxpayer's income;

(*c.*1) where the taxpayer is a financial institution, within the meaning assigned by section 851.22.1, in its taxation year that includes that time and the property is mark-to-market property, within the meaning assigned by that section, for the year, the cost to the taxpayer of the property;

(*d*) *(paragraph repealed)*;

(*d.*1) where the property was a loan or lending asset, other than a net income stabilization account, a farm income stabilization account or a property in respect of which any of paragraphs *b* to *c*.1 and *d*.2 applies, the amortized cost of the property to the taxpayer at that time;

(*d.*2) where the taxpayer is a financial institution within the meaning assigned by section 851.22.1 in its taxation year that includes that time and the property is a specified debt obligation within the meaning assigned by that section, other than a mark-to-market property within the meaning assigned by that section for the year, the tax basis, within the meaning assigned by section 851.22.7, of the property to the taxpayer at that time;

(*e*) where the property was a right of the taxpayer to receive an amount, other than property that is a debt the amount of which was deducted under section 141 in computing the taxpayer's income for a taxation year that ended before that time, a net income stabilization account, a farm income stabilization account, a right in respect of which any of paragraphs *b* to *c*.1, *d*.1 and *d*.2 applies, or a right to receive production, as defined in section 158.1, to which a matchable expenditure, as defined in section 158.1, relates, the amount the taxpayer has a right to receive;

(*e.*1) in the case of a policy loan, within the meaning assigned by subparagraph *h* of the first paragraph of section 835, of an insurer or an interest of a beneficiary under an environmental trust, an amount equal to zero;

(*f*) in any other case, the cost to the taxpayer of the property as determined for the purpose of computing the taxpayer's income, except to the extent that that cost has been deducted in computing the taxpayer's income for any taxation year ending before that time;

"death benefit";
"death benefit" has the meaning assigned by section 3;

"deferred amount";
"deferred amount" at the end of a taxation year under a salary deferral arrangement in respect of an individual has the meaning assigned by section 47.17;

"deferred profit sharing plan";
"deferred profit sharing plan" has the meaning assigned by section 870;

"depreciable property";
"depreciable property" has the meaning assigned by subparagraph *c* of the first paragraph of section 93;

"derivative forward agreement";
"derivative forward agreement", of a taxpayer, means an agreement entered into by the taxpayer to purchase or sell a capital property if

(*a*) the term of the agreement exceeds 180 days or the agreement is part of a series of agreements with a term that exceeds 180 days;

(*b*) in the case of a purchase agreement, the difference between the fair market value of the property delivered on settlement, including partial settlement, of the agreement and the amount paid for the property is attributable, in whole or in part, to an underlying interest (including a value, price, rate, variable, index, event, probability or thing) other than

i. revenue, income or cash flow in respect of the property over the term of the agreement, changes in the fair market value of the property over the term of the agreement, or any similar criteria in respect of the property, or

ii. if the purchase price is denominated in the currency of a country other than Canada, changes in the value of the Canadian currency relative to that other currency; and

(*c*) in the case of a sale agreement,

i. the difference between the sale price of the property and the fair market value of the property at the time the agreement is entered into by the taxpayer is attributable, in whole or in part, to an underlying interest (including a value, price, rate, variable, index, event, probability or thing) other than

(1) revenue, income or cash flow in respect of the property over the term of the agreement, changes in the fair market value of the property over the term of the agreement, or any similar criteria in respect of the property, or

(2) if the sale price is denominated in the currency of a country other than Canada, changes in the value of the Canadian currency relative to that other currency, and

ii. the agreement is part of an arrangement that has the effect —or would have the effect if the agreements that are part of the arrangement and that were entered into by persons or partnerships not dealing at arm's length with the taxpayer were entered into by the taxpayer instead of those non-arm's length persons or partnerships—of eliminating a majority of the taxpayer's risk of loss and opportunity for profit or gain in respect of the property for a period of more than 180 days;

"designated insurance property";
"designated insurance property" has the meaning assigned by section 818;

"designated stock exchange";
"designated stock exchange" means a stock exchange, or that part of a stock exchange, for which a designation made or deemed to be made by the Minister of Finance of Canada under section 262 of the Income Tax Act is in effect;

"development bond";
"development bond" has the meaning assigned by section 119.2;

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

"dividend";
"dividend" includes a stock dividend, other than a stock dividend that is paid to a corporation or to a mutual fund trust by a corporation that is not resident in Canada;

"dividend rental arrangement";
"dividend rental arrangement" of a person or a partnership (in this definition referred to as the "person") means

(*a*) any arrangement entered into by the person where it can reasonably be considered that

i. the main reason for the person entering into the arrangement is to enable the person to receive a dividend on a share of the capital stock of a corporation, other than a dividend on a prescribed share or on a share described in section 21.6.1 or an amount deemed, by reason of the first paragraph of section 119, to be received as a dividend on a share of the capital stock of a corporation, and

ii. under the arrangement another person or partnership bears the risk of loss or enjoys the opportunity for gain or profit with respect to the share in any material respect;

(*b*) any arrangement under which

i. a corporation at any time receives on a particular share a taxable dividend that would, but for section 740.4.1, be deductible in computing its taxable income for the taxation year that includes that time, and

ii. the corporation or a partnership of which the corporation is a member is obligated to pay to another person or partnership an amount as compensation for each of the following dividends that, if paid, would be deemed under section 21.32 to have been received by that other person or partnership, as the case may be, as a taxable dividend:

(1) the dividend described in subparagraph i,

(2) a dividend on a share that is identical to the particular share, or

(3) a dividend on a share that, during the term of the arrangement, can reasonably be expected to provide to a holder of the share the same or substantially the same proportionate risk of loss or opportunity for gain or profit as the particular share;

(*c*) any synthetic equity arrangement in respect of a dividend rental arrangement share of the person; or

(*d*) one or more arrangements (other than arrangements described in paragraph *c*) entered into by the person, the connected person referred to in paragraph *a* of the definition of "synthetic equity arrangement" or by any combination of the person and connected persons, if

i. the arrangements have the effect, or would have the effect if each arrangement entered into by a connected person were entered into by the person, of eliminating all or substantially all of the risk of loss and opportunity for gain or profit in respect of a dividend rental arrangement share of the person,

ii. as part of a series of transactions that includes these arrangements, a tax-indifferent investor, or a group of tax-indifferent investors each member of which is affiliated with every other member, obtains all or substantially all of the risk of loss and opportunity for gain or profit in respect of the dividend rental arrangement share or an identical share, within the meaning of section 745.3, and

iii. it is reasonable to conclude that one of the purposes of the series of transactions is to obtain the result described in subparagraph ii;

"dividend rental arrangement share";
"dividend rental arrangement share" of a person or partnership means a share

(*a*) that is owned by the person or partnership;

(*b*) in respect of which the person or partnership is deemed to have received a dividend under section 21.32 and is provided with all or substantially all of the risk of loss and opportunity for gain or profit under an arrangement;

(*c*) that is held by a trust under which the person or partnership is a beneficiary and in respect of which the person or partnership is deemed to have received a dividend as a result of a designation by the trust under section 666;

(*d*) in respect of which the person or partnership is deemed to have received a dividend under section 498; or

(*e*) in any other case, in respect of which the person or partnership is (or would be in the absence of section 740.4.1) entitled to a deduction under section 738 in relation to dividends received on the share;

"eligible dividend";
"eligible dividend" means an amount, in respect of a person resident in Canada, that is deemed to be a taxable dividend received by the person under section 603.1 or 663.4, or a portion of a taxable dividend that is paid by a corporation resident in Canada, that is received by a person resident in Canada and that

(*a*) is designated, in accordance with subsection 14 of section 89 of the Income Tax Act, as an eligible dividend for the purposes of that Act; or

(*b*) if the taxable dividend is included in a particular amount that is deemed to be a dividend or taxable dividend, corresponds, without exceeding the particular amount, to the portion, designated, in accordance with subsection 14 of section 89 of the Income Tax Act, as an eligible dividend for the purposes of that Act, of the amount, corresponding to the particular amount, that is deemed to be a dividend or taxable dividend for the purposes of that Act;

"eligible funeral arrangement";
"eligible funeral arrangement" has the meaning assigned by section 979.19;

"eligible relocation";
"eligible relocation" has the meaning assigned by section 349.1;

"emission obligation";
"emission obligation" means an obligation to surrender an emission allowance, or an obligation that can otherwise be satisfied through the use of an emission allowance, under a law of Québec, Canada or another province governing emissions of regulated substances;

"emission allowance";
"emission allowance" means an allowance, credit or similar instrument that represents a unit of emission that can be used to satisfy a requirement under the laws of Québec, Canada or another province governing emissions of regulated substances, such as greenhouse gas emissions;

"employee";
"employee" means any person employed or holding an office;

"employee benefit plan";
"employee benefit plan" has the meaning assigned by section 47.6;

"employee life and health trust"

"employee life and health trust" has the meaning assigned by section 869.2;

"employee trust";
"employee trust" has the meaning assigned by sections 47.7 to 47.9;

"employer";
"employer", in relation to an employee, means the person from whom the employee receives remuneration;

"employment";
"employment" means the position of an individual in the service of some other person, including the State, Her Majesty or a foreign state or sovereign;

"environmental trust";
"environmental trust" has the meaning assigned by the first paragraph of section 1129.51;

"establishment";
"establishment" has the meaning assigned to it by sections 12 to 16.2;

"exempt income";
"exempt income" means property received or acquired by a person in such circumstances that it is, because of any provision of this Part, not included in computing the person's income, but does not include a dividend on a share;

"farm income stabilization account";
"farm income stabilization account" means an account of a person or partnership under the Farm Income Stabilization Account program established under the Act respecting La Financière agricole du Québec (chapter L-0.1);

"farming";
"farming" includes livestock raising or exhibiting, maintaining of horses for racing, raising of poultry, fur farming, dairy farming, fruit growing and the keeping of bees, but does not include an office or employment under a person engaged in the business of farming;

"farm loss";
"farm loss" has the meaning assigned by section 728.2;

"federal credit union";
"federal credit union" has the meaning assigned by section 2 of the Bank Act;

"filing-due date";
"filing-due date" of a taxpayer for a taxation year means the day on or before which the taxpayer's fiscal return under this Part for the year is required to be filed or would be required to be filed if tax under this Part were payable by the taxpayer for the year;

"fiscal law";
"fiscal law" means a fiscal law within the meaning of the Tax Administration Act (chapter A-6.002);

"fishing";
"fishing" includes fishing for or catching shell fish, crustaceans and marine animals but does not include an office or employment under a person engaged in the business of fishing;

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

"foreign accrual property income";
"foreign accrual property income" has the meaning assigned by section 579;

"foreign affiliate";
"foreign affiliate" has the meaning assigned by section 571;

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

"foreign currency debt";
"foreign currency debt" has the meaning assigned by section 736.0.0.2;

"foreign exploration and development expenses";
"foreign exploration and development expenses" has the meaning assigned by sections 372 and 372.1;

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

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

"foreign resource property";
"foreign resource property" has the meaning assigned by section 373;

"foreign retirement arrangement";
"foreign retirement arrangement" means a prescribed plan or arrangement;

"former business property";
"former business property" of a taxpayer means a capital property of the taxpayer that was used by the taxpayer or a person related to the taxpayer primarily for the purpose of gaining or producing income from a business and that was immovable property of the taxpayer, a right in such property or a property that is the subject of a valid election referred to in subparagraph *c* of the first paragraph of section 96.0.2, but does not include

(*a*) immovable property owned by the taxpayer, whether jointly with another person or otherwise, and used by the taxpayer in the taxation year to which the expression "former business property" is being applied principally for the purpose of gaining or producing gross revenue that is rent, other than property either leased by the taxpayer to a person related to the taxpayer and used by that related person principally for any other purpose, or leased by the taxpayer or the related person to a lessee, in the ordinary course of a business of the taxpayer or the related person of selling goods or rendering services, under a contract by which the lessee undertakes to use the property to carry on the business of selling or promoting the sale of the goods or services of the taxpayer or the related person,

(*b*) land subjacent to a property referred to in paragraph *a*,

(*c*) land contiguous to land referred to in paragraph *b* that is a parking area, driveway, yard or garden or that is otherwise necessary for the use of the property referred to in paragraph *a*, or

(*d*) a leasehold interest in any property described in paragraphs *a*, *b* and *c*;

"goods and services tax";
"goods and services tax" means the tax payable under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15);

"graduated rate estate";
"graduated rate estate" has the meaning assigned by section 646.0.1;

"grandfather";
"grandfather" of a taxpayer includes the grandfather of the taxpayer's spouse and the spouse of the taxpayer's grandmother;

"grandfathered share";
"grandfathered share" has the meaning assigned by sections 21.11.20 and 21.11.21;

"grandmother";
"grandmother" of a taxpayer includes the grandmother of the taxpayer's spouse and the spouse of the taxpayer's grandfather;

"great-aunt";
"great-aunt" of a taxpayer includes the spouse of the taxpayer's great-uncle;

"great-uncle";
"great-uncle" of a taxpayer includes the spouse of the taxpayer's great-aunt;

"gross revenue";
"gross revenue" of a taxpayer for a taxation year means the aggregate of:

(*a*) all amounts received or receivable in the year, depending on the method regularly followed by the taxpayer in computing the taxpayer's income, otherwise than as or on account of capital; and

(*b*) all amounts, other than amounts referred to in paragraph *a*, included in computing the taxpayer's income from a business or property for the year by virtue of section 89, 92 or 92.1 or any of sections 92.11 to 92.19;

(*c*) *(paragraph repealed)*;

"group term life insurance policy";
"group term life insurance policy" means a group life insurance policy under which the only amounts payable by the insurer are

(*a*) amounts payable on the death or disability of individuals whose lives are insured because of, or in the course of, their office or employment or former office or employment, and

(*b*) policy dividends or experience rating refunds;

"home relocation loan";
"home relocation loan" means a loan made to an individual or the individual's spouse in circumstances where the individual has commenced employment at a new work location in Canada and by reason thereof has moved from the old residence in Canada at which, before the move, the individual ordinarily resided to a new residence in Canada at which, after the move, the individual ordinarily resides, if

(*a*) the distance between the old residence and the new work location is at least 40 kilometres greater than the distance between the new residence and the new work location;

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

(*c*) the loan is received in the circumstances described in section 487.1, or would have been so received if the second paragraph of section 487.1 had applied to the loan at the time it was received; and

(*d*) the loan is designated by the individual to be a home relocation loan, but in no case shall more than one loan in respect of a particular move, or more than one loan at any particular time, be designated as a home relocation loan by the individual;

"income-averaging annuity";
"income-averaging annuity" has the meaning assigned by sections 342 and 343;

"income-averaging annuity respecting income from artistic activities";
"income-averaging annuity respecting income from artistic activities" in relation to an individual means, except for the purposes of Chapter VI.0.1 of Title VI of Book III, an annuity established under a contract that meets the conditions set out in section 346.0.2 and in respect of which the individual has deducted an amount in computing the individual's income under section 346.0.1;

"income bond" or "income debenture";

"income bond" or "income debenture" has the meaning assigned by sections 21.12 to 21.15;

"income interest";
"income interest" in a trust by a taxpayer has the meaning assigned by section 683;

"income replacement indemnity";
"income replacement indemnity" means a benefit paid under a public compensation plan to compensate a total or partial disability affecting a person's capacity to perform the duties of an office or employment or to carry on a business either alone or as a partner actively engaged in the business, or to compensate the loss of a benefit under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23), unless, under the terms of the public compensation plan, no employer, whether required or not to pay all or part of the benefit, may be reimbursed for the expense incurred by the employer in that respect; for that purpose, a benefit computed by reference to a person's recognized earnings under the public compensation plan is deemed a benefit paid to compensate the total or partial disability affecting the person's capacity to perform the duties of an office or employment or to carry on a business either alone or as a partner actively engaged in the business;

"indexed debt obligation";
"indexed debt obligation" means a debt obligation the terms or conditions of which provide for an adjustment to an amount payable in respect of the obligation for a period during which the obligation was outstanding that is determined by reference to a change in the purchasing power of money;

"individual";
"individual" means a person other than a corporation;

"insurance corporation";
"insurance corporation" has the same meaning as "insurer";

"insurance policy";
"insurance policy" includes a life insurance policy;

"insurer";
"insurer" means a corporation carrying on an insurance business;

"international financial centre";
"international financial centre" has the meaning assigned by section 6 of the Act respecting international financial centres (chapter C-8.3);

"international shipping";
"international shipping" means the operation of a ship owned or leased by a person or partnership (in this definition referred to as the "operator") that is used, either directly or as part of a pooling arrangement, primarily in transporting passengers or goods in international traffic—determined as if, in the case of a voyage between Canada and a place outside Canada, any port or other place on the Great Lakes or St. Lawrence River is in Canada—including the chartering of the ship, provided that one or more persons related to the operator (if the operator and each such person is a corporation), or persons or partnerships affiliated with the operator (in any other case), has complete possession, control and command of the ship, and any activity incident to or pertaining to the operation of the ship, but does not include

(*a*) the offshore storing or processing of goods;

(*b*) fishing;

(*c*) laying cable;

(*d*) salvaging;

(*e*) towing;

(*f*) tug-boating;

(*g*) offshore oil and gas activities (other than the transportation of oil and gas), including exploration and drilling activities;

(*h*) dredging; or

(*i*) leasing a ship to a lessee that has complete possession, control and command of the ship, unless the lessor or a corporation, trust or partnership affiliated with the lessor has an eligible interest, within the meaning of section 11.1.1.4, in the lessee;

"international traffic";
"international traffic" means, in respect of a person or partnership carrying on a transportation business, a voyage made in the course of that business if the principal purpose of the voyage is to transport persons or goods between two places outside Canada or between Canada and a place outside Canada;

"inter vivos trust";
"*inter vivos* trust" means a trust other than a testamentary trust;

"inventory";
"inventory" means a description of property the cost or value of which is relevant in computing a taxpayer's income from a business for a taxation year or would have been so relevant if the income from the business had not been computed in accordance with the cash method and includes

(*a*) with respect to a farming business, all of the livestock held in the course of carrying on the business; and

(*b*) an emission allowance;

"investment corporation";
"investment corporation" has the meaning assigned by Book I of Part III;

"investment in a SIFT wind-up entity";
"investment in a SIFT wind-up entity" means

(*a*) if the SIFT wind-up entity is a trust and subject to paragraph *c*, a capital interest (determined without reference to section 7.11.1) in the trust;

(*b*) if the SIFT wind-up entity is a partnership and subject to paragraph *c*, an interest as a member of the partnership where, by operation of any law governing the arrangement in respect of the partnership, the liability of the member as a member of the partnership is limited; and

(*c*) if all of the interests described in paragraphs *a* and *b* are described by reference to units, the part of the interest represented by such a unit;

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

"law";
"law" includes any Act other than an Act of the Parliament of Québec;

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

"lending assets";
"lending assets" means a bond, debenture, note, hypothecary claim, mortgage, agreement of sale or any other indebtedness, or a prescribed share, but does not include a prescribed property;

"leveraged insurance policy";
"leveraged insurance policy" means a life insurance policy (other than an annuity contract) where

(*a*) an amount is or may become

i. payable, under the terms of a borrowing, to a person or partnership that has been assigned an interest in the policy or in an investment account in respect of the policy, or

ii. payable, within the meaning of subparagraph *j* of the first paragraph of section 835, under a policy loan, within the meaning of paragraph *a*.1.1 of section 966, made in accordance with the terms and conditions of the policy; and

(*b*) either

i. the return credited to an investment account in respect of the policy is determined by reference to the rate of interest on the borrowing or policy loan, as the case may be, described in paragraph *a* and would not be credited to the account if the borrowing or policy loan, as the case may be, were not in existence, or

ii. the maximum amount of an investment account in respect of the policy is determined by reference to the amount of the borrowing or policy loan, as the case may be, described in paragraph *a*;

"leveraged insured annuity policy";
"leveraged insured annuity policy" means a life insurance policy (other than an annuity contract) where

(*a*) a particular person or partnership is obligated after 20 March 2013 to repay an amount to another person or partnership (in this definition referred to as the "lender") at a time determined by reference to the death of a particular individual whose life is insured under the policy; and

(*b*) the lender is assigned an interest in

i. the policy, and

ii. an annuity contract the terms of which provide that annuity payments are to continue for a period that ends no earlier than the death of the particular individual;

"life insurance business";
"life insurance business" includes the business of issuing contracts in respect of which all or any part of the issuer's reserves vary depending upon the fair market value of a specified group of assets, and an annuities business, carried on by a life insurer;

"life insurance corporation";
"life insurance corporation" has the same meaning as "life insurer";

"life insurance policy";
"life insurance policy" has the meaning assigned by subparagraph *e* of the first paragraph of section 835;

"life insurance policy in Canada";
"life insurance policy in Canada" has the meaning assigned by subparagraph *e*.1 of the first paragraph of section 835;

"life insurer";
"life insurer" means a corporation carrying on a life insurance business other than a business referred to in the definition of "life insurance business", even if it also carries on a business so described;

"limited partnership loss";
"limited partnership loss" in respect of the partnership has the meaning assigned by sections 613.1 and 726.4.17.11;

"majority-interest partner";
"majority-interest partner", of a particular partnership at any time, means a person or partnership (in paragraphs *a* and *b* referred to as the "taxpayer")

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

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

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

"mineral resource";
"mineral resource" means a base or precious metal deposit, a coal deposit, a bituminous sands deposit or oil shale deposit, or a mineral deposit in respect of which the principal mineral extracted is

(*a*) an industrial mineral contained in a non-bedded deposit, as certified by the Minister of Natural Resources and Wildlife;

(*b*) ammonite gemstone, calcium chloride, diamond, gypsum, halite, kaolin or sylvite;

(*c*) silica that is extracted from sandstone or quartzite;

"mortgage investment corporation";
"mortgage investment corporation" has the meaning assigned by section 1108;

"motor vehicle";
"motor vehicle" means an automotive vehicle designed or adapted to be used on highways and streets, other than a trolleybus or a vehicle designed or adapted to be operated exclusively on rails;

"municipality";
"municipality" includes a metropolitan community and the Kativik Regional Government, established under the Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1);

"mutual fund corporation";
"mutual fund corporation" has the meaning assigned by Book III of Part III;

"mutual fund trust";
"mutual fund trust" has the meaning assigned by Book IV of Part III;

"net capital loss";
"net capital loss" has the meaning assigned by section 730;

"net income stabilization account";
"net income stabilization account" means

(*a*) an account of a taxpayer under the net income stabilization account program under the Farm Income Protection Act (Statutes of Canada, 1991, chapter 22); or

(*b*) an account of a taxpayer under the Agri-Québec program under the Act respecting La Financière agricole du Québec;

"nephew";
"nephew" of a taxpayer includes the nephew of the taxpayer's spouse;

"niece";
"niece" of a taxpayer includes the niece of the taxpayer's spouse;

"NISA Fund No. 2";

"NISA Fund No. 2" means

(*a*) the portion of a taxpayer's net income stabilization account, under the Farm Income Protection Act, that is described in paragraph b of subsection 2 of section 8 of that Act and that can reasonably be considered to be attributable to a program that allows the funds in the account to accumulate; or

(*b*) the portion of a taxpayer's net income stabilization account, under the Act respecting La Financière agricole du Québec, that is referred to as "Fund 2" under the Agri-Québec program;

"non-capital loss";
"non-capital loss" has the meaning assigned by section 728;

"non-resident-owned investment corporation";
"non-resident-owned investment corporation" has the meaning assigned by Book V of Part III;

"office";
"office" means the position of an individual entitling the individual to a fixed or ascertainable stipend or remuneration and includes a judicial office, the office of a minister of the State or Crown, the office of a member of a legislative assembly, a member of the Senate or House of Commons of Canada or a member of an executive council and any other office, the incumbent of which is elected by popular vote or is elected or appointed in a representative capacity, and also includes the position of member of the board of directors of a corporation even where the individual neither performs administrative functions within the corporation nor receives stipends or a remuneration to hold that position;

"oil or gas well";
"oil or gas well" means any well, other than an exploratory probe or a well drilled from below the surface of the earth, drilled for the purpose of producing petroleum or natural gas or of determining the existence, location, extent or quality of a natural accumulation of petroleum or natural gas, but, for the purpose of applying sections 93 to 104 and 130 and any regulations made for the purpose of paragraph *a* of section 130 in respect of property acquired after 6 March 1996, does not include a well for the extraction of material from a deposit of bituminous sands or oil shales;

"paid-up capital";
"paid-up capital" has the meaning assigned by paragraph *a* of section 570, except for the purposes of Title VI.2 of Book VII and Title V of Book IX, excluding sections 1045 to 1049;

"passenger vehicle";
"passenger vehicle" means an automobile acquired after 17 June 1987, other than an automobile acquired after that date pursuant to an obligation in writing entered into before 18 June 1987, and an automobile leased under a lease entered into, extended or renewed after 17 June 1987;

"pension benefit";
"pension benefit" includes any amount received under a pension plan, including, except for the purposes of section 317, any amount received under a pooled registered pension plan, and also includes any payment made to a beneficiary under the plan, or to an employer or former employer of the beneficiary in accordance with the conditions of the plan, following any change made in it or resulting from its winding-up;

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

"personal or living expenses";
"personal or living expenses" includes:

(*a*) the expenses of properties maintained by any person for the use or benefit of the taxpayer or any person connected with the taxpayer by blood relationship, marriage or adoption, but does not include expenses in respect of properties maintained in connection with a business carried on for profit or with a reasonable expectation of profit;

(*b*) the expenses, premiums or other costs of an insurance policy, annuity contract or other like contract if the proceeds of the policy or contract are payable to or for the benefit of the taxpayer or a person connected with the taxpayer by blood relationship, marriage or adoption; and

(*c*) expenses of properties maintained by a succession or trust for the benefit of the taxpayer as one of the beneficiaries;

"personal services business";
"personal services business" means a services business carried on by a corporation in a taxation year where an employee who provides services on behalf of the corporation, referred to in this definition and in section 135.2 as an "incorporated employee", or a person related to an incorporated employee is a specified shareholder of the corporation and the incorporated employee could reasonably be regarded as an employee of the person or partnership to whom or to which the services were provided but for the existence of the corporation, unless

(*a*) the corporation employs in the business throughout the year more than five full-time employees; or

(*b*) the amount received or receivable by the corporation in the year for the services provided is paid or payable by a corporation with which it was associated during that year;

"personal trust";
"personal trust" has the meaning assigned by section 649.1;

"personal-use property";
"personal-use property" has the meaning assigned by section 287;

"pooled registered pension plan";
"pooled registered pension plan" or "PRPP" means a plan that has been accepted for the purposes of the Income Tax Act by the Minister of National Revenue as a PRPP and whose registration is in force;

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

"precious property";
"precious property" means a property contemplated in section 265;

"preferred share";
"preferred share" means a share other than a common share;

"prescribed class";
"prescribed class" means a class prescribed under subparagraph *e* of the first paragraph of section 1086;

"principal amount";
"principal amount" in relation to any obligation means the amount that, under the terms of the obligation or any agreement relating thereto, is the maximum amount or maximum aggregate amount, as the case may be, payable on account of the obligation by the issuer thereof, otherwise than as or on account of interest or as or on account of any premium payable by the issuer conditional upon the exercise by the issuer of a right to redeem the obligation before the maturity thereof;

"private corporation";
"private corporation" has the meaning assigned by paragraph *n* of section 570;

"private foundation";
"private foundation" has the meaning assigned by paragraph *e* of section 985.1;

"private health services plan";
"private health services plan" means a contract of insurance in respect of medical expenses, hospital expenses or any combination of such expenses, or a medical care insurance plan or hospital care insurance plan or both a medical care and hospital care insurance plan, to the extent that the contract or plan essentially applies to expenses described in section 752.0.11.1 and that all or substantially all of the premium or any other consideration payable for coverage provided under the contract or plan is attributable to such expenses, except any such contract or plan established by or pursuant to a law of a province that establishes a health care insurance plan that is a health care insurance plan within the meaning of section 2 of the Canada Health Act (Revised Statutes of Canada, 1985, chapter C-6);

"professional corporation";
"professional corporation" means a corporation that carries on the professional practice of an accountant, dentist, advocate, physician, veterinarian or chiropractor;

"profit sharing plan";
"profit sharing plan" has the meaning assigned by section 852, except for the purposes of Title III.1 of Book V;

"property";
"property" means property of any kind whatever whether movable or immovable, corporeal or incorporeal, and also includes a share, a right of any kind whatever, the work in progress of a business that is a profession and the goodwill of a business referred to in section 93.14;

"property of the bankrupt";
"property of the bankrupt" has the meaning assigned by the Bankruptcy and Insolvency Act;

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

"public compensation plan";
"public compensation plan" means a plan established under a law of Québec or of another jurisdiction, or a regulation under such a law, that provides for the payment of benefits following an accident, employment injury, bodily injury or death or in order to prevent bodily injury, other than the Act respecting the Québec Pension Plan (chapter R-9), the Canada Pension Plan (Revised Statutes of Canada, 1985, chapter C-8) or any other law establishing a plan equivalent to that established under the Act respecting the Québec Pension Plan;

"public corporation";
"public corporation" has the meaning assigned by paragraph *o* of section 570;

"public foundation";
"public foundation" has the meaning assigned by paragraph *f* of section 985.1;

"qualified business";
"qualified business", in respect of any business carried on by a taxpayer resident in Canada, means any business carried on by the taxpayer other than a specified investment business or a personal services business;

"qualified donee";
"qualified donee" has the meaning assigned by section 999.2;

"qualifying trust annuity";
"qualifying trust annuity" has the meaning assigned by section 21.43;

"Québec museum";
"Québec museum" means a museum situated in Québec and any other museum that is a recognized museum at the time the gift is made.

"Québec sales tax";
"Québec sales tax" means the tax payable under Title I of the Act respecting the Québec sales tax (chapter T-0.1);

"recognized arts organization";
"recognized arts organization" means an arts organization that was recognized, before 30 June 2006, by the Minister on the recommendation of the Minister of Culture and Communications and whose recognition is in force, but does not include a registered charity and an arts organization that is a registered cultural or communications organization under the second paragraph of section 985.35.12;

"recognized derivatives exchange";
"recognized derivatives exchange" means a person or partnership recognized or registered under the securities laws of a province to carry on the business of providing the facilities necessary for the trading of options, swaps, futures

contracts or other financial contracts or instruments whose market price, value, delivery obligations, payment obligations or settlement obligations are derived from, referenced to or based on an underlying interest;

"recognized gift with reserve of usufruct or use";
"recognized gift with reserve of usufruct or use" by a taxpayer in relation to a work of art or a cultural property described in the third paragraph of section 232, means the gift by the taxpayer of the work of art or the cultural property, other than immovable property, that meets the following conditions:

(*a*) the gift is a gift *inter vivos* whereby the taxpayer disposes of the bare ownership of the work of art or the cultural property but retains the usufruct or right of use;

(*b*) in the case of a work of art, other than cultural property described in the third paragraph of section 232, the gift is made to a Québec museum;

(*c*) in the case of cultural property described in the third paragraph of section 232, the gift is made to an institution or a public authority in Canada which is, at the time of the gift, designated under subsection 2 of section 32 of the Cultural Property Export and Import Act (Revised Statutes of Canada, 1985, chapter C-51) for general purposes or for a specified purpose related to that cultural property, to a certified archival centre or a recognized museum;

(*d*) the usufruct or right of use is established only for the taxpayer and is not successive;

(*e*) the usufruct or right of use is established for the lifetime of the taxpayer, where the taxpayer is an individual, or for a term not exceeding 30 years;

(*f*) the taxpayer was the sole owner of the work of art or the cultural property immediately before the gift was made; and

(*g*) the deed of gift provides that

i. the taxpayer may not dispose of the taxpayer's usufruct or right of use without the consent of the bare owner,

ii. the taxpayer shall keep the work of art or the cultural property in a place designated in the deed of gift and shall move it only with the consent of the bare owner and under the terms and conditions determined by the bare owner,

iii. the taxpayer shall keep the work of art or the cultural property insured against ordinary risks for the duration of the usufruct or right of use and undertake to inform the bare owner without delay of the deterioration or disappearance of the work of art or the cultural property,

iv. the bare owner may, where the work of art or the cultural property deteriorates,

(1) decide to restore it, in which case the bare owner shall designate the person for that purpose, who will be remunerated out of the proceeds of the insurance referred to in subparagraph iii, or

(2) decide not to restore it, in which case the bare owner may claim from the taxpayer the proceeds of the insurance referred to in subparagraph iii that the taxpayer will be required to give to the bare owner within 10 days of the receipt of the written confirmation of the decision, and

v. the usufruct or right of use is extinguished where the work of art or the cultural property disappears and the taxpayer may claim the proceeds of the insurance referred to in subparagraph iii;

"recognized museum";
"recognized museum" means a museum that is recognized by the Minister of Culture and Communications and whose recognition is in force;

"recognized political education organization";
"recognized political education organization" has the meaning assigned by section 985.36;

"recognized stock exchange";
"recognized stock exchange" means

(*a*) a designated stock exchange; or

(*b*) a stock exchange, other than a designated stock exchange, located in Canada or in a country that is a member of the Organisation for Economic Co-operation and Development that entered into a tax agreement (within the meaning that would be assigned to that expression by this section if the Gouvernement du Québec had not entered into an agreement referred to in the definition of that expression) with the Government of Canada;

"registered Canadian amateur athletic association";
"registered Canadian amateur athletic association" at any time means a Canadian amateur athletic association within the meaning of section 985.23.1 that is registered as such with the Minister at that time or that is deemed to be registered in accordance with the second paragraph of section 985.23.6;

"registered charity";
"registered charity" at any time means a charitable organization within the meaning of section 985.1, a private foundation or a public foundation, that is at that time registered with the Minister as a charitable organization within the meaning of that section 985.1, a private foundation or a public foundation, or that is deemed to be so registered in accordance with sections 985.5 to 985.5.2;

"registered cultural or communications organization";
"registered cultural or communications organization" at any time means an organization that is, at that time, registered as such with the Minister in accordance with section 985.35.12;

"registered disability savings plan";
"registered disability savings plan" has the meaning assigned by Title III.1 of Book VII;

"registered education savings plan";
"registered education savings plan" has the meaning assigned by Title III of Book VII;

"registered museum";
"registered museum" at any time means a museum that, at that time, is registered as such with the Minister in accordance with section 985.35.2;

"registered national arts service organization";
"registered national arts service organization", at any time, means a national arts service organization that is deemed to be registered at that time by the Minister under section 985.24 and whose registration is in force;

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

"registered Québec amateur athletic association";
"registered Québec amateur athletic association" at any time means a Québec amateur athletic association within the meaning of section 985.23.1 that is registered as such with the Minister at that time;

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

"registered retirement plan";
"registered retirement plan" means an employees' superannuation plan accepted before 1 January 1986 by the Minister for registration for the purposes of this Part in respect of its constitution and operations for the taxation year under consideration;

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

"registered securities dealer";
"registered securities dealer" means a person authorized to trade in securities, in the capacity of an agent or principal, without any restriction as to the types or kinds of securities in which that person may trade by reason of the fact that the person

(*a*) is registered or licensed under the laws of a province; or

(*b*) meets the following conditions:

i. the person is registered with, or licensed by, a competent authority other than the competent authority of a province, and

ii. the person obtained from the Autorité des marchés financiers or from a securities commission or similar body an exemption from registration pursuant to the laws of a province;

"registered supplementary unemployment benefit plan";
"registered supplementary unemployment benefit plan" has the meaning assigned by subsection 3 of section 962;

"regulation";
"regulation" means a regulation made by the Government under this Part;

"restricted farm loss";
"restricted farm loss" has the meaning assigned by section 207;

"restricted financial institution";
"restricted financial institution" means

(*a*) a bank;

(*b*) a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering its services as trustee;

(*c*) a savings and credit union;

(*d*) an insurance corporation;

(*e*) a corporation whose principal business is the lending of money to persons with whom it is dealing at arm's length or the purchasing of debt obligations issued by such persons, or a combination thereof;

(*e.*1) a corporation referred to in paragraph *g* of the definition of "financial institution" in subsection 1 of section 181 of the Income Tax Act;

(*f*) a corporation that is controlled by one or more corporations described in any of paragraphs *a* to *e*.1;

"retirement compensation arrangement";
"retirement compensation arrangement" has the meaning assigned by section 890.1;

"retirement income fund";
"retirement income fund" has the meaning assigned by subsection 1 of section 146.3 of the Income Tax Act;

"retirement savings plan";
"retirement savings plan" has the meaning assigned by subsection 1 of section 146 of the Income Tax Act;

"retiring allowance";
"retiring allowance" means an amount, other than an amount received as a consequence of the death of an employee, a pension benefit or a benefit referred to in subparagraph *d* of the third paragraph of section 38, received by a taxpayer or, after the taxpayer's death, by a dependent or a relative of the taxpayer or by the legal representative of the taxpayer

(*a*) on or after retirement of the taxpayer from an office or employment in recognition of the taxpayer's long service; or

(*b*) in respect of the loss of an office or employment of the taxpayer, whether or not received as, on account of or in lieu of damages or pursuant to an order or judgment of a competent tribunal;

"salary deferral arrangement";
"salary deferral arrangement" in respect of an individual has the meaning assigned by sections 47.15 and 47.16;

"salary or wages";
"salary or wages", except in section 32, means the income of a taxpayer from an office or employment as computed under Title II of Book III and includes all fees received by the taxpayer for services not rendered in the course of the taxpayer's business, but does not include pension benefits or retiring allowances;

"savings and credit union";
"savings and credit union" has the meaning assigned by section 797;

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

"self-contained domestic establishment";
"self-contained domestic establishment" means a dwelling-house, apartment or other similar place of residence in which a person as a general rule sleeps and eats;

"servant";
"servant" means a person engaged in employment;

"share";
"share" means a share or fraction of a share of the capital stock of a corporation and includes a share or fraction of a share of the capital of a prescribed cooperative or of a savings and credit union;

"shareholder";
"shareholder" includes any person entitled to receive payment of a dividend;

"short-term preferred share";
"short-term preferred share" has the meaning assigned by sections 21.11.11 to 21.11.13;

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

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

"SIFT trust wind-up event";
"SIFT trust wind-up event" means a distribution by a particular trust resident in Canada of property to a taxpayer in respect of which the following conditions are met:

(*a*) the distribution occurs before 1 January 2013;

(*b*) there is a resulting disposition of all of the taxpayer's interest as a beneficiary under the particular trust;

(*c*) the particular trust is

i. a SIFT wind-up entity,

ii. a trust whose only beneficiary throughout the period (in this definition referred to as the "qualifying period") that begins on 14 July 2008 and that ends at the time of the distribution is another trust that throughout the qualifying period

(1) is resident in Canada, and

(2) is a SIFT wind-up entity or a trust described in this subparagraph ii, or

iii. a trust whose only beneficiary at the time of distribution is another trust that throughout the qualifying period

(1) is resident in Canada,

(2) is a SIFT wind-up entity or a trust described in subparagraph ii, and

(3) is a majority-interest beneficiary (within the meaning that would be assigned by section 21.0.1 if paragraphs *a* and *b* of the definition of "majority-interest beneficiary" were read as if "50%" was replaced by "25%") of the particular trust;

(*d*) the particular trust ceases to exist immediately after the distribution or immediately after the last of a series of SIFT trust wind-up events (determined without reference to this paragraph) of the particular trust that includes the distribution; and

(*e*) the property was not acquired by the particular trust as a result of

i. a transfer or an exchange that is a qualifying exchange (within the meaning of the first paragraph of section 785.4) or a qualifying disposition (within the meaning of section 692.5) that is made after 2 February 2009 and that is from any person other than a SIFT wind-up entity, or

ii. the transfer or the exchange, to which Division XIII of Chapter IV of Title IV of Book III, any of Chapters IV to IX of Title IX of Book III, Chapter X of Title XII of that Book or Title I.2 of Book VI applies, of another property acquired as a result of a transfer or an exchange described in subparagraph i or this subparagraph;

"SIFT wind-up corporation";
"SIFT wind-up corporation", in respect of a SIFT wind-up entity (in this definition referred to as a "particular entity"), means at a particular time a corporation

(*a*) that, at any time that is after 13 July 2008 and before the earlier of the particular time and 1 January 2013, owns all of the investments in the particular entity, each of which is an investment in a SIFT wind-up entity, or

(*b*) the shares of the capital stock of which are at or before the particular time distributed as part of a SIFT trust wind-up event of the particular entity;

"SIFT wind-up entity";
"SIFT wind-up entity" means a trust or partnership that at any time in the period that began on 31 October 2006 and that ended on 14 July 2008 is

(*a*) a SIFT trust or a trust that would be a SIFT trust but for subsection 3 of section 534 of the Act giving effect to the

Budget Speech delivered on 24 May 2007, to the 1 June 2007 Ministerial Statement Concerning the Government's 2007–2008 Budgetary Policy and to certain other budget statements (2009, chapter 5);

(*b*) a SIFT partnership or a partnership that would be a SIFT partnership but for subsection 3 of section 534 of the Act giving effect to the Budget Speech delivered on 24 May 2007, to the 1 June 2007 Ministerial Statement Concerning the Government's 2007–2008 Budgetary Policy and to certain other budget statements; or

(*c*) a real estate investment trust, within the meaning of the first paragraph of section 1129.70;

"sister";
"sister" of a taxpayer includes the sister of the taxpayer's spouse and the spouse of the taxpayer's brother;

"small business bond";
"small business bond" has the meaning assigned by section 119.15;

"small business corporation";
"small business corporation", at any particular time, means, subject to section 726.6.2 and on the assumption, for the purposes of this definition, that the fair market value of a net income stabilization account or of a farm income stabilization account is deemed to be nil, a Canadian-controlled private corporation all or substantially all of the fair market value of the assets of which is attributable to assets that are, at that time,

(*a*) used principally in a qualified business carried on primarily in Canada by the corporation or by a corporation related to it;

(*b*) shares of the capital stock of a small business corporation connected with the corporation within the meaning of the regulations;

(*c*) indebtedness of a corporation described in paragraph *b*, or

(*d*) assets described in subparagraphs *a* to *c*;

"specified employee";
"specified employee" of a person means an employee of the person who is a specified shareholder of the person or who does not deal at arm's length with the person;

"specified financial institution";
"specified financial institution", at a particular time, means

(*a*) a bank;

(*b*) a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering its services as trustee;

(*c*) a savings and credit union;

(*d*) an insurance corporation;

(*e*) a corporation whose principal business is the lending of money to persons with whom it is dealing at arm's length or the purchasing of debt obligations issued by such persons, or a combination thereof;

(*e*.1) a corporation referred to in paragraph *g* of the definition of "financial institution" in subsection 1 of section 181 of the Income Tax Act;

(*f*) a corporation that is controlled by one or more corporations referred to in any of paragraphs *a* to *e*.1 and, for the purposes of this paragraph, one corporation is controlled by another corporation if more than 50% of its issued share capital having full voting rights under all circumstances belongs to the other corporation, to persons with whom the other corporation does not deal at arm's length, or to the other corporation and persons with whom the other corporation does not deal at arm's length;

(*g*) a corporation that is related to a particular corporation referred to in any of paragraphs *a* to *f*, other than a particular corporation referred to in paragraph *e* or *e*.1 the principal business of which is the factoring of trade accounts receivable that the particular corporation acquired from a related person, that arose in the course of an eligible business carried on by a person, in this paragraph referred to as the "business entity", related at that time to the particular corporation, and that at no particular time before that time were held by a person other than a person who was related to the business entity and, for the purposes of this paragraph, where in the case of two or more corporations it may reasonably be considered, having regard to all the circumstances, that one of the main reasons for the separate existence of those corporations in a taxation year is to limit or avoid the application of any of sections 740.1, 740.2 to 740.3.1 and 845, those corporations are deemed to be related to each other and to each other corporation to which any such corporation is related;

"specified individual";
"specified individual" has the meaning assigned by section 766.3.3;

"specified investment business";
"specified investment business" has the meaning assigned by section 771.1;

"specified member";
"specified member" of a partnership in a fiscal period or taxation year of the partnership, as the case may be, means

(*a*) any member of the partnership who is a limited partner, within the meaning assigned by section 613.6, of the partnership at any time in the fiscal period or taxation year;

(*b*) any member of the partnership, other than a member who is actively engaged in those activities of the partnership business that are other than the financing of the partnership business, or is carrying on a business similar to that carried on by the partnership in its taxation year, otherwise than as a member of a partnership, on a regular, continuous and substantial basis throughout that part of the fiscal period or taxation year during which the business of the partnership is ordinarily carried on and during which the member is a member of the partnership;

"specified mutual fund trust";
"specified mutual fund trust", at any time, means a mutual fund trust other than a mutual fund trust in respect of which it can reasonably be considered, having regard to all the circumstances, including the terms and conditions of the units of the trust, that the aggregate of all amounts each of which is the fair market value, at that time, of a unit issued by the trust and held by a person exempt from tax under sections 980 to 999.1 is all or substantially all of the aggregate of all amounts each of which is the fair market value, at that time, of a unit issued by the trust;

"specified pension plan";
"specified pension plan" means a prescribed arrangement;

"specified shareholder";
"specified shareholder" has the meaning assigned by sections 21.17 and 21.18;

"specified synthetic equity arrangement";
"specified synthetic equity arrangement" in respect of a dividend rental arrangement share of a person or partnership means one or more arrangements that

(*a*) have the effect of providing to a person or partnership all or any portion of the risk of loss or opportunity for gain or profit in respect of the dividend rental arrangement share and, to that end, opportunity for gain or profit includes rights to, benefits from and distributions on a share; and

(*b*) can reasonably be considered to have been entered into in connection with a synthetic equity arrangement, in respect of the dividend rental arrangement share, or in connection with another specified synthetic equity arrangement, in respect of the dividend rental arrangement share;

"specified tax consequence";
"specified tax consequence" for a taxation year means

(*a*) the consequence of the exclusion from the income or the deduction of an amount referred to in the first paragraph of section 1044;

(*b*) the consequence of a reduction under section 359.15 of an amount purported to be renounced by a corporation after the beginning of the year to a person or partnership under section 359.2 or 359.2.1 because of the application of section 359.8, determined as if the purported renunciation would, but for section 359.15, have been effective only where the requirements in paragraphs *b* and *c* of section 359.8 and the following requirements had been satisfied:

i. the purported renunciation occurred in the first three months of a particular calendar year,

ii. the effective date of the purported renunciation was the last date of the calendar year preceding the particular calendar year,

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

iv. the amount does not exceed the amount by which the consideration for which the share was issued exceeds the aggregate of all other amounts purported by the corporation to have been renounced under section 359.2 or 359.2.1 in respect of that consideration, and

v. the form prescribed for the purpose of section 359.12 in respect of the purported renunciation is filed by the corporation with the Minister before 1 May of the particular calendar year;

(*c*) the consequence of an adjustment or a reduction described in section 1042.1;

"split income";
"split income" has the meaning assigned by section 766.3.3;

"stock dividend";
"stock dividend" includes any dividend, determined without reference to the definition of "dividend" in this section, paid by a corporation to the extent that it is paid by the issuance of shares of any class of the capital stock of the corporation;

"subsidiary controlled corporation";
"subsidiary controlled corporation" means a corporation more than 50% of the issued capital stock of which having full voting rights under all circumstances belongs to the corporation to which it is subsidiary;

"subsidiary wholly-owned corporation";
"subsidiary wholly-owned corporation" means a corporation all the issued capital stock of which except directors' qualifying shares, belongs to the corporation to which it is subsidiary;

"succession";
"succession" has the meaning assigned by section 646 and includes, for common law, an estate;

"supplementary unemployment benefit plan";
"supplementary unemployment benefit plan" has the meaning assigned by subsection 1 of section 962;

"synthetic disposition arrangement";
"synthetic disposition arrangement", in respect of a property owned by a taxpayer, means one or more agreements or other arrangements that

(*a*) are entered into by the taxpayer or by a person or partnership that does not deal at arm's length with the taxpayer;

(*b*) have the effect, or would have the effect if entered into by the taxpayer instead of the person or partnership described in paragraph *a*, of eliminating all or substantially all the taxpayer's risk of loss and opportunity for profit or gain in respect of the property for a definite or indefinite period of time; and

(*c*) can, in respect of any agreement or arrangement entered into by a person or partnership that does not deal at arm's length with the taxpayer, reasonably be considered to have been entered into, in whole or in part, with the purpose of obtaining the effect described in paragraph *b*;

"synthetic disposition period";
"synthetic disposition period", of a synthetic disposition arrangement, means a definite or indefinite period of time during which the synthetic disposition arrangement has, or would have, the effect described in paragraph *b* of the definition of "synthetic disposition arrangement";

"synthetic equity arrangement chain";
"synthetic equity arrangement chain" in respect of a share owned by a person or partnership means a synthetic equity arrangement—or a synthetic equity arrangement in combination with one or more specified synthetic equity arrangements—where

(*a*) no party to the synthetic equity arrangement or a specified synthetic equity arrangement, if any, is a tax-indifferent investor; and

(*b*) each other party to these arrangements is affiliated with the person or partnership;

"synthetic equity arrangement";
"synthetic equity arrangement" in respect of a dividend rental arrangement share of a person or partnership (in this definition referred to as the "particular person") means one or more arrangements that

(*a*) meet the following conditions:

i. they are entered into by the particular person, by a person or partnership that does not deal at arm's length with, or is affiliated with, the particular person (in this definition referred to as a "connected person") or by any combination of the particular person and connected persons, with one or more persons or partnerships (in this definition referred to as a "counterparty" and in section 740.4.3 referred to as a "counterparty" or an "affiliated counterparty", as the case may be),

ii. they have the effect, or would have the effect, if each arrangement entered into by a connected person were entered into by the particular person, of providing all or substantially all of the risk of loss and opportunity for gain or profit in respect of the dividend rental arrangement share to a counterparty or a group of counterparties each member of which is affiliated with every other member and, to that end, opportunity for gain or profit includes rights to, benefits from and distributions on a share, and

iii. if entered into by a connected person, they can reasonably be considered to have been entered into with the knowledge, or where there ought to have been the knowledge, that the effect described in subparagraph ii would result; and

(*b*) are not

i. an agreement that is traded on a recognized derivatives exchange unless it can reasonably be considered that, at the time the agreement is entered into

(1) the particular person or the connected person, as the case may be, knows or ought to have known that the agreement is part of a series of transactions that has the effect of providing all or substantially all of the risk of loss and opportunity for gain or profit in respect of the dividend rental arrangement share to a tax-indifferent investor, or a group of tax-indifferent investors each member of which is affiliated with every other member, or

(2) one of the main reasons for entering into the agreement is to obtain the benefit of a deduction in respect of a payment, or a reduction of an amount that would otherwise have been included in computing income, under the agreement, that corresponds to an expected or actual dividend in respect of a dividend rental arrangement share,

ii. one or more arrangements that, but for this subparagraph, would be a synthetic equity arrangement, in respect of a share owned by the particular person (in this subparagraph referred to as the "synthetic short position"), if

(1) the particular person has entered into one or more arrangements (in this subparagraph referred to as the "synthetic long position") that have the effect of providing all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share to the particular person, other than an arrangement under which the share is acquired or an arrangement under which the particular person receives a deemed dividend and is provided with all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share,

(2) the synthetic short position has the effect of offsetting all amounts included or deducted in computing the income of the particular person with respect to the synthetic long position, and

(3) the synthetic short position was entered into for the purpose of obtaining the effect referred to in subparagraph 2, or

iii. an agreement to purchase the shares of a corporation, or a purchase agreement that is part of a series of agreements to purchase the shares of a corporation, under which a counterparty or a group of counterparties each member of which is affiliated with every other member acquires control of the corporation that has issued the shares being purchased, unless the main reason for incorporating, establishing or operating the corporation is to have this subparagraph apply;

"tar sands";
"tar sands" means a mineral extracted, otherwise than by a well, from a mineral resource that is a deposit of bituminous sands or oil shales and, for the purpose of applying sections 93 to 104 and 130 and any regulations made under paragraph *a* of section 130 in respect of property acquired after 6 March 1996, includes material extracted by a well from a deposit of bituminous sands or oil shales;

"tax agreement";
"tax agreement" with a country other than Canada at any time means an agreement for the elimination of double taxation on income, between the Government of Québec and the government of the country, which has the force of law in Québec at that time or, in the absence of such an agreement, a comprehensive agreement or convention for the elimination of double taxation on income, between the Government of Canada and the government of the country, which has the force of law in Canada at that time;

"tax-agreement-protected business";
"tax-agreement-protected business" of a taxpayer at any time means a business in respect of which any income of the taxpayer for a period that includes that time would, because of a tax agreement with a country other than Canada, be exempt from tax under this Part;

"tax-agreement-protected property";
"tax-agreement-protected property" of a taxpayer at any time means property any income or gain from the disposition of which by the taxpayer at that time would, because of a tax agreement with a country other than Canada, be exempt from tax under this Part;

"tax-free savings account";
"tax-free savings account" or "TFSA" at any time means an arrangement accepted as such at that time by the Minister of National Revenue for the purposes of the Income Tax Act, in accordance with subsection 5 of section 146.2 of that Act;

"tax-indifferent investor";
"tax-indifferent investor", at any time, means a person or partnership that is at that time

(*a*) a person exempt from tax under sections 980 to 999.1;

(*b*) a person not resident in Canada, other than a person to which all amounts paid or credited under a synthetic equity arrangement or a specified synthetic equity arrangement may reasonably be attributed to the business carried on by the person in Canada through an establishment;

(*c*) a trust resident in Canada (other than a specified mutual fund trust) if any of the interests as a beneficiary under the trust is not a fixed interest, within the meaning of section 21.0.5, in the trust (in this definition referred to as a "discretionary trust");

(*d*) a partnership if more than 10% of the fair market value of all interests in which can reasonably be considered to be held, directly or indirectly through one or more trusts or partnerships, by any combination of persons described in any of paragraphs *a* to *c*; or

(*e*) a trust resident in Canada (other than a specified mutual fund trust or a discretionary trust) if more than 10% of the fair market value of all interests as beneficiaries under the trust can reasonably be considered to be held, directly or indirectly through one or more trusts or partnerships, by any combination of persons described in paragraph *a* or *c*;

"tax shelter";
"tax shelter" has the meaning assigned by section 1079.1;

"taxable Canadian corporation";
"taxable Canadian corporation" has the meaning assigned by paragraph *m* of section 570;

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

(*a*) a Canadian resource property;

(*b*) a timber resource property;

(*c*) an income interest in a trust resident in Canada;

(*d*) a right to a share of the income or loss of a partnership under an agreement referred to in section 608; and

(*e*) a life insurance policy in Canada;

"taxable capital gain";
"taxable capital gain" has the meaning assigned by section 231;

"taxable dividend";
"taxable dividend" has the meaning assigned by paragraph *g* of section 570;

"taxable income";
"taxable income" has the meaning assigned by section 24 or 26.1, as the case may be, and in no case may the taxpayer's taxable income be less than $0;

"taxable net gain";
"taxable net gain" from the disposition of precious property has the meaning assigned by section 265;

"taxable preferred share";
"taxable preferred share" has the meaning assigned by sections 21.11.14 to 21.11.16;

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

(*a*) a Québec resource property within the meaning of paragraph *d* of section 1089,

(*b*) a timber resource property situated in Québec, including at any particular time a right in and an option in respect of the property,

(*c*) an income interest in a trust resident in Québec,

(*d*) a right to a share in the income or loss of a partnership having an establishment in Québec under an agreement described in section 608, and

(*e*) a life insurance policy issued or subscribed by an insurer on the life of a person resident in Québec at the time of the issue or subscription;

"taxation year";
"taxation year" means

(*a*) in the case of a corporation, a fiscal period;

(*b*) in the case of a succession that is a graduated rate estate, the particular period for which the succession's accounts are made up for purposes of assessment under this Part, which particular period must end at the end of the period that includes that time and for which the accounts are made up for purposes of assessment under the Income Tax Act; and

(*c*) in any other case, a calendar year;

"taxpayer";
"taxpayer" includes any person whether or not liable to pay tax;

"term preferred share";
"term preferred share" has the meaning assigned by sections 21.5 to 21.9.4.1;

"testamentary trust";
"testamentary trust" has the meaning assigned by section 677;

"timber resource property";
"timber resource property" has the meaning assigned by subparagraph *d* of the first paragraph of section 93;

"Treasury Board";
"Treasury Board" means the Conseil du trésor continued under the Public Administration Act (chapter A-6.01);

"trust";
"trust" has the meaning assigned by section 646;

"uncle";
"uncle" of a taxpayer includes the spouse of the taxpayer's aunt;

"undepreciated capital cost";
"undepreciated capital cost" of depreciable property of a prescribed class of a taxpayer has the meaning assigned by section 93;

"undepreciable property";
"undepreciable property" means any property other than depreciable property;

"unit trust";
"unit trust" has the meaning assigned by section 649;

"written separation agreement".
"written separation agreement" includes an agreement by which a person agrees to make payments on a periodic basis for the maintenance of a former spouse, child or both, after the marriage has been dissolved whether the agreement was made before or after the marriage was dissolved.

History: 1972, c. 23, s. 1; 1972, c. 26, s. 31; 1973, c. 17, s. 1; 1973, c. 18, s. 1; 1975, c. 21, s. 1; 1975, c. 22, s. 1; 1977, c. 5, s. 14; 1977, c. 26, s. 1; 1978, c. 26, s. 1; 1979, c. 18, s. 1; 1979, c. 38, s. 1; 1979, c. 81, s. 20; 1980, c. 13, s. 1; 1982, c. 5, s. 1; 1982, c. 17, s. 47; 1982, c. 56, s. 8; 1983, c. 44, s. 13; 1984, c. 15, s. 1; 1985, c. 25, s. 17; 1986, c. 15, s. 31; 1986, c. 19, s. 1; 1987, c. 21, s. 7; 1987, c. 67, s. 4; 1988, c. 4, s. 17; 1988, c. 18, s. 2; 1989, c. 5, s. 20; 1989, c. 77, s. 2; 1990, c. 59, s. 3; 1991, c. 7, s. 13; 1991, c. 25, s. 2; 1992, c. 1, s. 6; 1993, c. 16, s. 1; 1993, c. 19, s. 12; 1993, c. 64, s. 4; 1994, c. 13, s. 15; 1994, c. 22, s. 41; 1995, c. 1, s. 11; 1995, c. 49, s. 1; 1995, c. 63, s. 12; 1996, c. 39, s. 8; 1997, c. 3, s. 13; 1997, c. 14, s. 10; 1997, c. 31, s. 2; 1997, c. 85, s. 32; 1998, c. 16, s. 4; 1999, c. 83, s. 26; 1999, c. 86, s. 75; 1999, c. 89, s. 53; O.C. 149-2000; 2000, c. 5, s. 4; 2000, c. 8, s. 152; O.C. 1027-2000; 2000, c. 56, s. 218(12); 2001, c. 7, s. 1; 2001, c. 51, s. 17; 2001, c. 53, s. 1; 2002, c. 45, s. 517; O.C. 45-2004; 2003, c. 2, s. 2; 2003, c. 8, s. 6; 2003, c. 9, s. 10; 2004, c. 8, s. 4; 2004, c. 21, s. 37; 2004, c. 25, s. 70; O.C. 1295-2005; 2004, c. 37, s. 90; 2005, c. 1, s. 20; 2005, c. 23, s. 30; 2005, c. 38, s. 44; 2006, c. 3, s. 35; 2006, c. 13, s. 24; 2006, c. 36, s. 20; 2007, c. 12, s. 20; O.C. 1159-2008; 2009, c. 5, s. 6; 2009, c. 15, s. 25; 2009, c. 24, s. 90; 2010, c. 5, s. 9; 2010, c. 25, s. 4; 2010, c. 31, s. 175; 2011, c. 6, s. 110; O.C. 1093-2011; 2011, c. 34, s. 11; 2012, c. 8, s. 34; 2013, c. 10, s. 12; 2015, c. 21, s. 92; 2015, c. 24, s. 9; 2017, c. 1, s. 63; 2017, c. 29, s. 15; 2019, c. 14, s. 55; 2020, c. 16, s. 23.

Interpretation Bulletins: IMP. 1-5/R2; IMP. 135.2-1/R1; IMP. 232-2/R1; IMP. 520.1-1/R1; IMP. 521.2-1/R1; IMP. 996-3/R1; TVQ. 1-9/R1.

Corresponding Federal Provision: I.T.A. 2(2), 13(21), 14(1) and (5), 15.1(3); 15.2(3), 20(1), 28(1), 31(1.1), 38, 41, 54, 61(4), 66(15), 66.1(6), 66.2(5), 66.4(5), 66.21(1), 83, 89(1), 95(1), 96(2.1), 102, 104(1); 108(1) and (2), 111(8), 115(1), 120.4(1), 125(7), 130(3), 130.1(6), 131(8), 132(6), 133(8), 137(6), 138(12), 143.1(1), 144(1), 145(1), 146(1), 146.1(1), 146.3(1), 147(1), 148.1(1), 149.1(1), 232(1), 237.1(1), 248(1), 249(1), 252(1) and (2) and 255; I.T.R. 400(2).

Interpretation.

1.0.1. In this Act and the regulations, where a provision applies in a common law context, the following rules apply:

(*a*) a reference to movable property or immovable property must be read, with the necessary modifications, as including a reference to personal property or real property, respectively;

(*b*) a reference to corporeal property or incorporeal property must be read, with the necessary modifications, as including a reference to tangible property or intangible property, respectively; and

(*c*) a reference to a right in a property must be read, with the necessary modifications, as including a reference to an interest in a property and a reference to a right in or to a property as including a reference to an interest or a right in a property.

History: 2020, c. 16, s. 24.

.Right in an immovable property.

1.1. In this Act and the regulations, a real right in an immovable property includes a lease on such property, and for common law purposes, a leasehold interest in immovable property, but does not include a right, as security only, derived by virtue of a hypothecary claim, mortgage, agreement of sale or other similar obligation.

History: 1978, c. 26, s. 2; 1993, c. 64, s. 5; 1996, c. 39, s. 9; 2005, c. 1, s. 21; 2020, c. 16, s. 25.
Corresponding Federal Provision: 248(4).

Substituted property.

1.2. For the purposes of this Part, other than paragraph *a* of section 618, the following rules apply:

(*a*) if property is acquired in substitution for a particular property that is disposed of or exchanged and if subsequently, by one or more transactions, other property is acquired in substitution for that property or for property already acquired in substitution, any property so acquired is deemed to have been substituted for the particular property; and

(*b*) any share received as a stock dividend on another share of the capital stock of a corporation is deemed to be property substituted for that other share.

History: 1982, c. 5, s. 2; 1987, c. 67, s. 5; 1993, c. 19, s. 13; 1996, c. 39, s. 10; 1997, c. 3, s. 71; 1998, c. 16, s. 5; 2009, c. 15, s. 26.
Corresponding Federal Provision: 248(5).

Class of shares issued in series.

1.3. For the purposes of this Part, where a corporation issues shares of a class of its capital stock in one or more series, a reference to the class shall be read, with the necessary modifications, as a reference to a series of the class.

History: 1984, c. 15, s. 2; 1987, c. 21, s. 8; 1990, c. 59, s. 4; 1995, c. 63, s. 261; 1997, c. 3, s. 71; 2017, c. 29, s. 16.
Corresponding Federal Provision: 248(6).

1.4. *(Repealed).*

History: 1985, c. 25, s. 18; 1988, c. 18, s. 3.

Series of transactions or events.

1.5. For the purposes of this Part, where there is a reference to a series of transactions or events, the series is deemed to include any related transactions or events completed in contemplation of the series.

History: 1987, c. 67, s. 6.
Corresponding Federal Provision: 248(10).

Property available for use.

1.6. Except as otherwise provided in this Part, property is considered to have become available for use for the purposes of this Part at the time at which it has, or would have if it were depreciable property, become available for use for the purposes of section 93.6.

History: 1993, c. 16, s. 2.
Corresponding Federal Provision: 248(19).

Interpretation.

1.7. In this Act and the regulations, a legal person, whether or not established for pecuniary gain, is designated by the word "corporation".

History: 1997, c. 3, s. 14.
Interpretation Bulletins: IMP. 996-3/R1.
Corresponding Federal Provision: 248(1) "corporation".

"agreed proportion".

1.8. In this Act and the regulations, "agreed proportion", in respect of a member of a partnership for a fiscal period of the partnership, means the proportion that the member's share of the income or loss of the partnership for the partnership's fiscal period is of the partnership's income or loss for that fiscal period, on the assumption that, if the income and loss of the partnership for that fiscal period are nil, the partnership's income for that fiscal period is equal to $1,000,000.

History: 2009, c. 5, s. 7.
Corresponding Federal Provision: 248(1) "specified proportion".

TITLE II
RULES OF GENERAL APPLICATION

CHAPTER I
GENERALITIES

Reference to the father or mother.

2. Unless the context indicates otherwise, for the purposes of this Part and the regulations, words referring to the father or mother of a taxpayer include a person whose child the taxpayer is, a person whose child the taxpayer had previously been within the meaning of paragraph *b* of the definition of "child" in section 1, or a person who is the father or mother of the taxpayer's spouse.

History: 1972, c. 23, s. 2; 1973, c. 17, s. 2; 1994, c. 22, s. 42; 1995, c. 1, s. 12; 1997, c. 85, s. 33; 2006, c. 36, s. 21.
Corresponding Federal Provision: 252(2)(a).

Ownership of a property indeterminate owing to a matrimonial regime.

2.1. In this Act and the regulations, unless otherwise provided, where the ownership of a property is indeterminate owing to a matrimonial regime, the following rules apply:

(*a*) where the property was, immediately before the regime was entered into, the property of one of the spouses subject to the regime, it is deemed to remain the property of that spouse; and

(*b*) in other cases, the property is deemed to be the property of the spouse who administers it under the regime.

History: 1979, c. 38, s. 2.
Corresponding Federal Provision: 248(22).

Partition of property.

2.1.1. For the purposes of this Part and subject to sections 2.1, 2.1.2, 2.1.3 and 456.1, where at any time a property owned by two or more persons is the subject of a partition, the following rules apply, notwithstanding any retroactive or declaratory effect of such partition:

(*a*) each such person who had a right in the property immediately before that time is deemed not to have disposed at that time of that proportion, not exceeding 1, of the right that the fair market value of that person's right in the property immediately after that time is of the fair market value of that person's right in the property immediately before that time;

(*b*) each such person who has a right in the property immediately after that time is deemed not to have acquired at that time that proportion of the right that the fair market value of that person's right in the property immediately before that time is of the fair market value of that person's right in the property immediately after that time;

(*c*) each such person who had a right in the property immediately before that time is deemed to have had until that time, and to have disposed at that time of, that proportion of the person's right to which subparagraph *a* does not apply;

(*d*) each such person who has a right in the property immediately after that time is deemed not to have had before that time, and to have acquired at that time, that proportion of the person's right to which subparagraph *b* does not apply; and

(*e*) subparagraphs *a* to *d* do not apply where the right of the person is a right in fungible corporeal property described in that person's inventory.

Fair market value of an undivided interest.

For the purposes of this section, where a right in the property is an undivided right, the fair market value of the right at any time is deemed to be equal to that proportion of the fair market value of the property at that time that the right is of all the undivided rights in the property.

History: 1993, c. 16, s. 3; 1995, c. 49, s. 2; 2005, c. 1, s. 22; 2020, c. 16, s. 26.
Corresponding Federal Provision: 248(20).

Partition of property.

2.1.2. Where a property owned by two or more persons is the subject of a partition among such persons and, as a consequence thereof, each such person has, in the property, a new right the fair market value of which immediately after the partition, expressed as a percentage of the fair market value of all the rights in the property immediately after the partition, is equal to the fair market value of that person's undivided right immediately before the partition, expressed as a percentage of the fair market value of all the undivided rights in the property immediately before the partition, the following rules apply:

(*a*) section 2.1.1 does not apply to the property, and

(*b*) the new right of each such person is deemed to be a continuation of that person's undivided right in the property immediately before the partition.

Special rules.

For the purposes of this section, the following rules apply:

(*a*) subdivisions of a building or of a parcel of land that are established in the course of, or in contemplation of, a partition and that are co-owned by the same persons who co-owned the building or the parcel of land, or by their assignees, shall be regarded as one property; and

(*b*) where a right in the property is or includes an undivided right, the fair market value of the right must be determined without regard to any discount or premium that may apply to a minority or majority right in the property.

History: 1993, c. 16, s. 3; 2005, c. 1, s. 23; 2020, c. 16, s. 27.
Corresponding Federal Provision: 248(21).

Transfers after death.

2.1.3. For the purposes of this Part and the regulations, where, as a consequence of the laws of a province relating to spouses' interests in respect of property as a result of marriage, property is, after the death of an individual,

(*a*) transferred or distributed to a person who was the individual's spouse at the time of the death, or acquired by that person, the property is deemed to have been so transferred, distributed or acquired, as the case may be, as a consequence of the death; or

(*b*) transferred or distributed to the individual's succession, or acquired by the individual's succession, the property is deemed to have been so transferred, distributed or acquired,

as the case may be, immediately before the time that is immediately before the death.

History: 1995, c. 49, s. 3; 1998, c. 16, s. 251; 2009, c. 5, s. 8.
Corresponding Federal Provision: 248(23.1).

Extended meaning of "spouse" and "former spouse".

2.2. For the purposes of the definitions of "joint spousal trust" and "post-1971 spousal trust" in section 1, sections 2.1, 312.3, 312.4, 313 to 313.0.5, 336.0.2, 336.0.3, 336.0.6 to 336.4, 440 to 441.2, 454, 454.1, 456.1, 462.0.1, 462.0.2 and 651, the definition of "pre-1972 spousal trust" in section 652.1, sections 653, 656.3, 656.3.1, 656.5, 657, 660, 890.0.1 and 913, subparagraph *b* of the second paragraph of section 961.17, sections 965.0.9 and 965.0.11, Title VI.0.2 of Book VII, sections 971.2 and 971.3 and Divisions II.11.3, II.11.6 and II.11.7 of Chapter III.1 of Title III of Book IX, "spouse" and "former spouse" of a particular individual include another individual who is a party to an annulled or annullable marriage, as the case may be, with the particular individual.

History: 1984, c. 15, s. 3; 1986, c. 15, s. 32; 1991, c. 25, s. 3; 1993, c. 16, s. 4; 1993, c. 19, s. 14; 1994, c. 22, s. 43; 1998, c. 16, s. 6; 2002, c. 6, s. 141; 2003, c. 2, s. 3; 2004, c. 21, s. 38; 2005, c. 38, s. 45; 2011, c. 1, s. 11; 2011, c. 34, s. 12; 2015, c. 21, s. 93.
Corresponding Federal Provision: 252(3).

Reference to a spouse or to marriage.

2.2.1. In this Act and the regulations,

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

(*b*) references to marriage shall be read as if a conjugal relationship between two individuals who are, because of subparagraph *a* or of a civil union, spouses of each other were a marriage;

(*c*) provisions that apply to a person who is married apply to a person who is, because of subparagraph *a* or of a civil union, a spouse of a taxpayer; and

(*d*) provisions that apply to a person who is unmarried do not apply to a person who is, because of subparagraph *a* or of a civil union, a spouse of a taxpayer;

(*e*) references to a matrimonial regime include a civil union regime.

Presumption.

For the purposes of subparagraph *a* of the first paragraph, where at any time the taxpayer and the person referred to in that subparagraph cohabit in a conjugal relationship, they are deemed to be so cohabiting at any particular time after that time, unless they were not cohabiting at the particular time for a period of at least 90 days that includes the particular time because of a breakdown of their conjugal relationship.

Election to be spouse or former spouse.

Subparagraph *a* of the first paragraph, as amended by section 14 of the Act to amend various legislative provisions concerning de facto spouses (1999, chapter 14), applies, notwithstanding section 40 of that Act, from a particular time of the taxation year 1998 or the part of the taxation year 1999 preceding 16 June, to a taxpayer and a person of the same sex that would have been the person's spouse at that time if the Act to amend various legislative provisions concerning de facto spouses had then been in force, where the taxpayer and the person made jointly a valid election under section 144 of the Modernization of Benefits and Obligations Act (Statutes of Canada, 2000, chapter 12) for the taxation year that includes the particular time.

Filing requirements.

A copy of every document sent to the Minister of National Revenue in connection with the election referred to in the third paragraph must be filed with the Minister on or before the taxpayer's and the person's filing-due date for the taxation year that includes 21 October 2015.

Assessments.

Notwithstanding sections 1010 to 1011, the Minister shall make such assessments, reassessments or additional assessments of tax, interest and penalties and such determinations and redeterminations as are necessary for any taxation year to take into account the application of the third paragraph.

History: 1994, c. 22, s. 44; 1995, c. 1, s. 13; 1995, c. 49, s. 4; 1999, c. 14, s. 14; 2000, c. 5, s. 5; 2001, c. 53, s. 2; 2002, c. 6, s. 142; 2015, c. 21, s. 94.
Interpretation Bulletins: IMP. 336-7/R1.
Corresponding Federal Provision: 248(1) "common-law partner".

2.2.2. *(Repealed).*

History: 1994, c. 22, s. 44; 2000, c. 5, s. 6.

Pension plan.

2.3. Where a document has been issued or a contract has been entered into before 31 July 1997 purporting to create, to establish, to extinguish or to be in substitution for, a taxpayer's right to an amount or amounts, immediately or in the future, out of or under a pension plan, the following rules apply:

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

(*b*) where the rights created or established by the document or contract are not rights provided for by the pension plan or rights to a payment or payments out of the pension plan, the taxpayer is deemed to have received an amount out of or under the pension plan equal to the value of the rights created or established by the document or contract when the document was issued or the contract was entered into.

History: 1991, c. 25, s. 4; 2000, c. 5, s. 7.
Corresponding Federal Provision: 254.

"Death benefit".

3. "Death benefit" means the amount by which the aggregate of amounts received by a taxpayer in a taxation year upon or after the death of an employee in recognition of the employee's service in an office or employment exceeds the amount determined under section 4.

History: 1972, c. 23, s. 3; 1982, c. 17, s. 48; 1986, c. 19, s. 2.
Corresponding Federal Provision: 248(1) "death benefit" before (a).

Computation.

4. The amount which a taxpayer shall subtract from the amount determined under section 3 is,

(*a*) where the taxpayer is the only person who has received an amount under section 3, the lesser of

i. the aggregate of all amounts so received by the taxpayer in the year, and

ii. the amount, if any, by which $10,000 exceeds the aggregate of all amounts received by the taxpayer in preceding taxation years upon or after the death of the employee in recognition of the employee's service in an office or employment;

(*b*) in all other cases, the lesser of

i. the aggregate of all amounts so received by the taxpayer in the year, and

ii. such proportion of $10,000 as the aggregate described in subparagraph i is of the aggregate of all amounts received by all taxpayers at any time upon or after the death of the employee in recognition of the employee's service in an office or employment.

History: 1972, c. 23, s. 4; 1986, c. 19, s. 2; 1994, c. 22, s. 45; 1997, c. 14, s. 11.
Corresponding Federal Provision: 248(1) "death benefit" (a) and (b).

Reference to a taxation year.

5. When in this Part, a reference is made to a taxation year by identifying it with a calendar year, this reference contemplates the taxation year which coincides with that calendar year or ends therein.

History: 1972, c. 23, s. 5.
Corresponding Federal Provision: 249(1) after (a) and (b).

5.1. *(Repealed).*

History: 1990, c. 59, s. 5; 1997, c. 3, s. 15; 2009, c. 15, s. 27.

5.2. *(Repealed).*

History: 1990, c. 59, s. 5; 1997, c. 3, s. 71; 2009, c. 15, s. 27.

Reference to a taxation year.

6. The reference to a taxation year ending in another year includes a reference to a taxation year the end of which coincides with that of such other year.

Reference to a fiscal period.

The reference to a fiscal period ending in a taxation year includes a reference to a fiscal period the end of which coincides with the end of that taxation year.

History: 1972, c. 23, s. 6; 1986, c. 15, s. 33; 1996, c. 39, s. 11.
Corresponding Federal Provision: 249(2).

Fiscal period exceeding 365 days.

6.1. If a corporation's fiscal period referred to in the second or fourth paragraph of section 7 exceeds 365 days, otherwise than because of an election described in paragraph *c* of subsection 3.1 or 4 of section 249 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), and for that reason the corporation does not have a taxation year that ends in a particular calendar year, for the purposes of this Part the corporation's first taxation year ending in the calendar year that follows the particular calendar year is deemed to end on the last day of the particular calendar year.

History: 1979, c. 18, s. 2; 1997, c. 3, s. 71; 2009, c. 5, s. 9.
Corresponding Federal Provision: 249(3).

Canadian-controlled private corporation.

6.1.1. If at a particular time a corporation becomes or ceases to be a Canadian-controlled private corporation, otherwise than because of an acquisition of control to which section 6.2 would, but for this section, apply and

subsections 3.1 and 4 of section 249 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) do not apply to the corporation in respect of the change of status, the following rules apply:

(*a*) the corporation's taxation year that would, but for this section, include the particular time is deemed to end immediately before that time; and

(*b*) a new taxation year of the corporation is deemed to begin at the particular time and end at the time at which the corporation's taxation year (determined for the purposes of the Income Tax Act) that includes the particular time, ends.

Additional rules.

Chapter V.2 applies in relation to an election made under subparagraph iii of paragraph *c* of subsection 3.1 of section 249 of the Income Tax Act.

History: 2009, c. 5, s. 10.
Corresponding Federal Provision: 249(3.1).

Loss restriction event — year end.

6.2. For the purposes of this Part, if at a particular time a taxpayer (other than a corporation that is a foreign affiliate of a taxpayer resident in Canada and that did not carry on a business in Canada in its last taxation year beginning before the particular time) is subject to a loss restriction event and, where the taxpayer is a corporation or a succession that is a graduated rate estate, subsection 4 of section 249 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) does not apply to the taxpayer in respect of the loss restriction event, the following rules apply:

(*a*) the taxpayer's taxation year that would, but for this subparagraph, have included the particular time is deemed to have ended immediately before that time; and

(*b*) a new taxation year of the taxpayer is deemed to begin at the particular time and, where the taxpayer is a corporation, end at the time at which the taxpayer's taxation year (determined for the purposes of the Income Tax Act) that includes the particular time, ends;

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

Additional rules.

Chapter V.2 applies in relation to an election made under paragraph *b* of subsection 4 of section 249 of the Income Tax Act.

History: 1989, c. 77, s. 3; 1993, c. 16, s. 5; 1995, c. 49, s. 5; 1996, c. 39, s. 12; 1997, c. 3, s. 71; 2004, c. 8, s. 5; 2009, c. 5, s. 11; 2017, c. 1, s. 64; 2017, c. 29, s. 17.
Corresponding Federal Provision: 249(4).

Taxation year of a testamentary trust.

6.2.1. If the taxation year, determined for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), of a testamentary trust is deemed to end, in accordance with subsection 4.1 of section 249 of that Act and for the purposes of that Act, immediately before a particular time, a new taxation year of the trust is deemed, if the trust exists at the particular time, to begin at the particular time.

History: 2017, c. 1, s. 65.
Corresponding Federal Provision: 249(4.1).

Graduated rate estate.

6.3. Subject to the second paragraph, the period for which the accounts of a succession that is a graduated rate estate are made up for purposes of assessment under this Part may not exceed 12 months and no change in the time at which that period ends may be made without the concurrence of the Minister.

Limitation.

However, the first paragraph does not apply in respect of a period for which the accounts of a succession that is a graduated rate estate are made up for purposes of assessment under this Part that, in accordance with paragraph *b* of the definition of "taxation year" in section 1, ends at the time at which the period for which the succession's accounts are made up for the purposes of assessment under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) ends.

Rules of application.

For the purposes of paragraph *b* of the definition of "taxation year" in section 1, the period, including a particular day, for which the accounts of a succession that is a graduated rate estate are made up for purposes of assessment under the Income Tax Act is deemed to end at the time at which the taxation year of the succession that includes that day is deemed to end, for the purposes of that Act.

History: 2009, c. 5, s. 12; 2017, c. 1, s. 66.
Corresponding Federal Provision: 249(5).

6.4. *(Repealed).*

History: 2009, c. 5, s. 12; 2017, c. 1, s. 67.
Corresponding Federal Provision: 249(6).

"fiscal period".

7. Subject to the second, third and fourth paragraphs, in this Part and the regulations, unless the context indicates otherwise, "fiscal period" of a business or a property of a person or partnership means the period for which the person's or partnership's accounts in respect of the business or property are made up for purposes of assessment under this Part.

Fiscal period beginning before 20 December 2006.

A fiscal period of a business or property of a person or partnership, other than a fiscal period referred to in the third or fourth paragraph, may not end

(*a*) in the case of a business or a property of a corporation, more than 53 weeks after the period began;

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

i. a business or property of an individual, other than an individual in respect of whom any of sections 980 to 999.1 applies or other than a trust,

i.1. a business or property of a trust, other than a mutual fund trust if the fiscal period is one in respect of which subparagraph *c* of the first paragraph of section 1121.7, as it read in respect of the fiscal period, applies or other than a succession that is a graduated rate estate,

ii. a business or property of a partnership of which an individual (other than an individual in respect of whom any of sections 980 to 999.1 applies or other than a succession that is a graduated rate estate), a professional corporation, or a partnership in respect of which this subparagraph ii applies, would, if the fiscal period ended at the end of the calendar year in which the period began, be a member in the fiscal period, or

iii. a business or property of a professional corporation that would, if the fiscal period ended at the end of the calendar year in which the period began, be in the fiscal period a member of a partnership in respect of which subparagraph ii applies;

(*c*) in any other case, more than 12 months after the period began.

Fiscal period beginning after 20 December 2006.

A fiscal period of a business or property of a person or partnership that consists in a period that begins at a particular time after 20 December 2006 must end at the end of the period, including that time, that is a fiscal period of the business or property for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

Fiscal period that includes 20 December 2006.

In addition, the particular fiscal period of a business or property of a person or partnership that consists in a period that includes 20 December 2006 must end at the end of the period, including that day, that is a fiscal period of the business or property for the purposes of the Income Tax Act, unless the fiscal period of the business or property (determined for the purposes of the Income Tax Act) that includes 20 December 2006, ends, in the case of a corporation, more than 53 weeks after the time at which the particular fiscal period begins and, in any other case, more than 12 months after that time.

Deemed end.

For the purposes of the third and fourth paragraphs, a fiscal period of a corporation that, for the purposes of the Income Tax Act, includes a particular day is deemed to end at the time at which the taxation year of the corporation that includes that day is deemed to end, for the purposes of that Act.

Activities deemed a business.

For the purposes of this section, the activities of a person in respect of whom any of sections 980 to 999.1 applies are deemed to be a business.

History: 1972, c. 23, s. 7; 1997, c. 3, s. 71; 1997, c. 31, s. 3; 2001, c. 53, s. 3; 2004, c. 8, s. 6; 2009, c. 5, s. 13; 2017, c. 1, s. 68.
Corresponding Federal Provision: 249.1(1).

Not a member of a partnership.

7.0.1. For the purposes of subparagraph ii of subparagraph *b* of the second paragraph of section 7 and of section 7.0.3, a person or partnership that would not have a share of any income or loss of a partnership for a fiscal period of the partnership, if the fiscal period ended at the end of the calendar year in which it began, is deemed not to be a member of the partnership in that fiscal period.

History: 1997, c. 31, s. 4.
Corresponding Federal Provision: 249.1(2).

Subsequent fiscal periods.

7.0.2. Where a fiscal period of a business or a property of a person or partnership ends at a particular time, the subsequent fiscal period of the business or property of the person or partnership is deemed to begin immediately after that time.

History: 1997, c. 31, s. 4.
Corresponding Federal Provision: 249.1(3).

Election concerning end of fiscal period.

7.0.3. Where a business is carried on, throughout the period of time that began at the beginning of a particular fiscal period referred to in the second paragraph of section 7, of the business, that includes a particular day, and ended at the end of the calendar year in which the fiscal period began, by an individual, otherwise than as a member of a partnership, or by an individual as a member of a partnership if, throughout that period of time, each member of the partnership is an individual and the partnership is not a member of another partnership, and where the individual

makes, after 19 December 2006, a valid 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 fiscal period or a previous fiscal period, subparagraph *b* of the second paragraph of section 7 does not apply to the particular fiscal period and the particular fiscal period must end at the end of the period that includes the particular day and that is a fiscal period of the business for the purposes of the Income Tax Act.

Additional rules.

Chapter V.2 applies in relation to an election made under subsection 4 of section 249.1 of the Income Tax Act in respect of a fiscal period referred to in the second paragraph of section 7 or in relation to an election made under this section before 20 December 2006.

History: 1997, c. 31, s. 4; 2009, c. 5, s. 14.
Corresponding Federal Provision: 249.1(4).

Exception.

7.0.4. The first paragraph of section 7.0.3 does not apply to a particular fiscal period of a business where, in a preceding fiscal period or throughout the period of time that began at the beginning of the particular fiscal period and ended at the end of the calendar year in which the particular fiscal period began, the expenditures made in the course of carrying on the business were primarily the cost or capital cost of tax shelter investments, within the meaning of section 851.38.

History: 1997, c. 31, s. 4; 2001, c. 7, s. 2; 2009, c. 5, s. 15.
Corresponding Federal Provision: 249.1(5).

Revocation of election.

7.0.5. The first paragraph of section 7.0.3 does not apply to a fiscal period of a business carried on by an individual if the individual makes, after 19 December 2006, a valid election under subsection 6 of section 249.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) that applies in respect of the fiscal period.

Additional rules.

Chapter V.2 applies in relation to an election made under subsection 6 of section 249.1 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1997, c. 31, s. 4; 2009, c. 5, s. 16.
Corresponding Federal Provision: 249.1(6).

Change of fiscal period.

7.0.6. For the purposes of this Part, no change in the time when a fiscal period referred to in the second paragraph of section 7 ends may be made without the concurrence of the Minister.

History: 1997, c. 31, s. 4; 2009, c. 5, s. 17.
Corresponding Federal Provision: 249.1(7).

Death of taxpayer or taxpayer's spouse.

7.1. A transfer, distribution or acquisition of property is deemed, for the purposes of this Part, to be made as a consequence of the death of a taxpayer or of the taxpayer's spouse if it is made

(*a*) under or as a consequence of the terms of the will or other testamentary instrument of the taxpayer or the taxpayer's spouse or as a consequence of the law governing the intestacy of the taxpayer or the taxpayer's spouse; or

(*b*) as a consequence of a disclaimer, release or surrender by a person who was a beneficiary under the will or other testamentary instrument or on the intestacy of the taxpayer or the taxpayer's spouse.

History: 1986, c. 19, s. 3; 1994, c. 22, s. 46; 1996, c. 39, s. 273; 1998, c. 16, s. 7; 2009, c. 5, s. 18.
Corresponding Federal Provision: 248(8)(a) and (b).

Presumption.

7.2. A release or surrender by a person who was a beneficiary under the will or other testamentary instrument or on the intestacy of a taxpayer with respect to any property that was property of the taxpayer immediately before the taxpayer's death is deemed, for the purposes of this Part, not to be a disposition of the property by that person.

History: 1986, c. 19, s. 3; 1994, c. 22, s. 47; 1998, c. 16, s. 8.
Corresponding Federal Provision: 248(8)(c).

"release or surrender".

7.3. For the purposes of sections 7.1 and 7.2, the expression "release or surrender" means

(*a*) a release or surrender made under the laws of a province other than Québec, that does not direct in any manner who is entitled to benefit therefrom and that is made within the period ending 36 months after the death of the taxpayer or, where written application therefor has been made to the Minister by the taxpayer's legal representative within that period, within such longer period as the Minister considers reasonable in the circumstances;

(*b*) a gift *inter vivos* made under the laws of Québec of a right in, or a property of, a succession that is made within the period referred to in paragraph *a* to the person or persons who would have benefited if the donor had made a renunciation of the succession that was not made in favour of any person.

History: 1986, c. 19, s. 3; 2020, c. 16, s. 28.
Corresponding Federal Provision: 248(9) "release or surrender".

"disclaimer".

7.4. In section 7.1, "disclaimer" means a disclaimer made under the laws of a province other than Québec and includes a renunciation of a succession made under the laws of Québec that is not made in favour of any person, but does not include any disclaimer or renunciation, as the case may be, made after the period ending 36 months after the death of the taxpayer unless written application therefor has been made to the Minister by the taxpayer's legal representative before the expiry of that period and the disclaimer or renunciation, as the case may be, is made within such longer period as the Minister considers reasonable.

History: 1986, c. 19, s. 3; 1995, c. 49, s. 6; 1996, c. 39, s. 273.
Corresponding Federal Provision: 248(9) "disclaimer".

Trust deemed to be created by will.

7.4.1. In this Part and the regulations, a trust is deemed to be created by an individual's will if the trust is created by an order of a court in relation to the individual's succession made under any law of a province that provides for the relief or support of dependants of an individual.

History: 1994, c. 22, s. 48; 1998, c. 16, s. 251.
Corresponding Federal Provision: 248(9.1).

Property vested indefeasibly.

7.4.2. For the purposes of this Part and the regulations, property is deemed not to have become vested indefeasibly in an individual other than a trust or in a trust under which the taxpayer's spouse is a beneficiary, where the trust is created by the will of the taxpayer, unless the property became so vested before the death of the individual or of the taxpayer's spouse, as the case may be.

History: 1994, c. 22, s. 48.
Corresponding Federal Provision: 248(9.2).

Negative amounts.

7.5. Except as otherwise provided in this Part, where an amount or a number is required under this Part to be determined or calculated by or in accordance with an algebraic formula, if the amount or number when so determined or calculated would, but for this section, be a negative amount or number, it is deemed to be nil.

History: 1989, c. 5, s. 21.
Corresponding Federal Provision: 257.

Tax agreements.

7.6. Notwithstanding any other provision of this Act, where the Minister and another person who is a party to a convention or agreement referred to in subsection 1 of section 115.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) have entered into a particular agreement with respect to the taxation of the other person in relation to matters referred to in the convention or agreement, all determinations made in accordance with the terms and conditions of the particular agreement are deemed to be in accordance with this Act.

Transfer of rights and obligations.

Where rights and obligations under the particular agreement described in the first paragraph have been transferred to another person with the concurrence of the Minister, that other person is deemed, for the purposes of the first paragraph, to have entered into the particular agreement with the Minister.

History: 1989, c. 77, s. 4; 1994, c. 22, s. 49.
Corresponding Federal Provision: 115.1(1) and (2).

Identical obligations.

7.7. For the purposes of this Part, one bond, debenture, bill, note or similar obligation issued by a person is identical to another such obligation issued by that person if both are identical in respect of all rights, either immediately or in the future and either absolutely or contingently, attaching thereto, except as regards the principal amount of the obligation.

History: 1990, c. 59, s. 6.
Corresponding Federal Provision: 248(12).

Interest in a trust or partnership.

7.8. For the purposes of sections 21.4.3, 21.5 to 21.11, paragraph *f* of section 21.11.16, sections 21.12 to 21.16, 508, where the latter section applies to a reduction of the paid-up capital in respect of a term preferred share, 508.1 and 740.7, where after 12 November 1981 a person has an interest in a trust or partnership, whether directly or indirectly through an interest in any other trust or partnership or in any manner whatever, that person is deemed to be a beneficiary of the trust or a member of the partnership, as the case may be.

History: 1990, c. 59, s. 6; 1997, c. 3, s. 71.
Corresponding Federal Provision: 248(13).

Deemed trust.

7.9. For the purposes of this Part and the regulations, the following rules apply in respect of a property that is, at any time, subject to a usufruct, right of use or substitution:

(*a*) the usufruct, right of use or substitution, as the case may be, is deemed to be at that time a trust or, if the usufruct, right of use or substitution, as the case may be, is created by will, a trust created by will;

(*b*) the property is deemed

i. if the usufruct, right of use or substitution, as the case may be, arises on the death of a testator, to have been transferred to the trust on and as a consequence of the death of the testator, and not otherwise, and

ii. if the usufruct, right of use or substitution, as the case may be, arises otherwise, to have been transferred — at the

time it first became subject to the usufruct, right of use or substitution, as the case may be — to the trust by the person who granted the usufruct, right of use or substitution; and

(*c*) the property is deemed to be, throughout the period in which it is subject to the usufruct, right of use or substitution, as the case may be, held by the trust, and not otherwise.

History: 1993, c. 16, s. 6; 1994, c. 22, s. 50; 2003, c. 9, s. 11; 2004, c. 8, s. 7; 2011, c. 1, s. 12.
Corresponding Federal Provision: 248(3)(a).

Provisions not to apply.

7.9.1. Section 7.9 does not apply in respect of a recognized gift with reserve of usufruct or use.

History: 2003, c. 9, s. 12; 2011, c. 1, s. 13.

Deemed trust.

7.10. For the purposes of this Part and the regulations, an arrangement (other than a partnership, a qualifying arrangement or an arrangement that is a trust determined without reference to this section) is deemed to be a trust and property subject to rights and obligations under the arrangement is, if the arrangement is deemed by this section to be a trust, deemed to be held in trust and not otherwise, if the arrangement

(*a*) is established before 31 October 2003 under a written contract that is governed by the laws of Québec and provides that, for the purposes of this Part and the regulations, the arrangement must be considered to be a trust; and

(*b*) creates rights and obligations that are substantially similar to the rights and obligations under a trust (determined without reference to this section and sections 7.9, 7.10.1 and 7.11).

History: 1993, c. 16, s. 6; 2004, c. 8, s. 8; 2011, c. 1, s. 14.
Corresponding Federal Provision: 248(3)(b).

Qualifying arrangement.

7.10.1. For the purposes of section 7.10 and this section, an arrangement is a qualifying arrangement if it is

(*a*) entered into with a corporation that is licensed or otherwise authorized under the laws of Canada or of a province to carry on in Canada the business of offering its services as trustee;

(*b*) established under a written contract that is governed by the laws of Québec;

(*c*) presented as a declaration of trust or provides that, for the purposes of this Part and the regulations, it must be considered to be a trust; and

(*d*) presented as an arrangement in respect of which the corporation is to take action for the arrangement to become a registered disability savings plan, a registered education savings plan, a registered retirement income fund, a registered retirement savings plan or a tax-free savings account.

Presumptions.

If the arrangement is a qualifying arrangement, the following rules apply:

(*a*) the arrangement is deemed to be a trust;

(*b*) any property contributed at any time to the arrangement by an annuitant, a holder or a subscriber under the arrangement, as the case may be, is deemed to have been transferred, at that time, to the trust by the annuitant, holder or subscriber, as applicable; and

(*c*) property subject to rights and obligations under the arrangement is deemed to be held in trust and not otherwise.

History: 2011, c. 1, s. 15; 2019, c. 14, s. 56.
Corresponding Federal Provision: 248(3)(c) and (3.2).

Beneficial interest and ownership.

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

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

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

History: 1993, c. 16, s. 6; 1996, c. 39, s. 273; 2004, c. 8, s. 9; 2011, c. 1, s. 16.
Corresponding Federal Provision: 248(3)(d) and (e).

Gift of bare ownership of immovable property.

7.11.0.1. Section 7.9 does not apply to a usufruct or a right of use of an immovable property when a taxpayer disposes of the bare ownership of the immovable property in the course of a gift to a qualified donee and retains, for life, the usufruct or the right of use.

History: 2009, c. 5, s. 19; 2011, c. 1, s. 17; 2012, c. 8, s. 35.
Corresponding Federal Provision: 248(3.1).

Beneficially interested in a trust.

7.11.1. For the purposes of this Part and the regulations, the following rules apply:

(*a*) a person or partnership beneficially interested in a particular trust includes any person or partnership that has any right, whether immediate or future, whether absolute or contingent or whether conditional on or subject to the exercise of any discretionary power by any person or partnership, as a beneficiary under a trust to receive all or any part of the income or capital of the particular trust either directly from the particular trust or indirectly through one or more trusts or partnerships;

(*b*) except for the purposes of this subparagraph, a particular person or partnership is deemed to be beneficially interested in a particular trust at a particular time where

i. the particular person or partnership is not beneficially interested in the particular trust at the particular time,

ii. because of the terms or conditions of the particular trust or any agreement in respect of the particular trust at the particular time, the particular person or partnership might, because of the exercise of any discretion by any person or partnership, become beneficially interested in the particular trust at the particular time or at a later time, and

iii. at or before the particular time, either the particular trust has acquired property, directly or indirectly in any manner whatever, from a person or partnership described in the second paragraph, or a person or partnership described in that paragraph has given a guarantee on behalf of the particular trust or provided any other financial assistance whatever to the particular trust; and

(*c*) a member of a partnership that is beneficially interested in a trust is deemed to be beneficially interested in the trust.

Interpretation.

The person or partnership to which subparagraph iii of subparagraph *b* of the first paragraph refers is

(*a*) the particular person or partnership;

(*b*) another person with whom the particular person or partnership, or a member of the particular partnership, does not deal at arm's length;

(*c*) a person or partnership with whom the other person referred to in subparagraph *b* does not deal at arm's length;

(*d*) a controlled foreign affiliate of the particular person or of another person with whom the particular person or partnership, or a member of the particular partnership, does not deal at arm's length; or

(*e*) a corporation not resident in Canada that would, if the particular partnership were a corporation resident in Canada, be a controlled foreign affiliate of the particular partnership.

History: 1994, c. 22, s. 51; 1995, c. 49, s. 7; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1998, c. 16, s. 9; 2001, c. 7, s. 3.

Corresponding Federal Provision: 248(25).

Trust transfers.

7.11.2. Without restricting the personal liabilities under this Act of the trustees of the trusts mentioned hereinafter or the application of section 656.9, where a particular trust transfers property at a particular time to another trust, other than a trust governed by a registered retirement savings plan or by a registered retirement income fund, in circumstances to which subparagraph *b* of the second paragraph of section 248 applies, the other trust is deemed to be after that time the same trust as, and a continuation of, the particular trust.

Deemed taxable Canadian property.

If, as a result of a transaction or event, the property referred to in the first paragraph is deemed to be a taxable Canadian property of the particular trust because of subparagraph *d* of the first paragraph of section 301, any of sections 521, 538 and 540.4, paragraph *b* of section 540.6, section 554, subparagraph c of the second paragraph of section 614 or paragraph *d* of section 688.4, the property is also deemed to be, at any time that is within 60 months after the transaction or event, a taxable Canadian property of the other trust.

History: 2003, c. 2, s. 4; 2009, c. 5, s. 20; 2010, c. 25, s. 5; 2011, c. 6, s. 111; 2017, c. 1, s. 69.

Corresponding Federal Provision: 248(25.1).

Deemed agent or mandatary.

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

History: 2003, c. 2, s. 4.

Corresponding Federal Provision: 248(25.2).

Cost of unit.

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

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

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

i. the unit is capital property and that amount is not proceeds of disposition of a capital interest in the trust, or

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

History: 2003, c. 2, s. 4; 2009, c. 5, s. 21.
Corresponding Federal Provision: 248(25.3).

Right to enforce payment.

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

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

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

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

History: 2003, c. 2, s. 4.
Corresponding Federal Provision: 248(25.4).

Accounting methods.

7.12. For greater certainty, it is hereby declared that, unless specifically permitted by this Part, neither the equity nor the consolidation method of accounting shall be used to determine any amount for the purposes of this Part.

History: 1993, c. 16, s. 6.
Corresponding Federal Provision: 248(24).

Tax agreements.

7.13. Where a tax agreement between Québec and a particular country that has force of law in Québec provides for an income tax privilege, other than an income tax exemption, this Act and the regulations shall be applied on the assumption that they contain such provisions as are necessary for the granting of such a privilege.

History: 1993, c. 16, s. 6.

Determination of residence.

7.14. The application of this Act and the regulations is not affected by article 77 of the Civil Code as regards the determination of whether or not a person is resident in Québec, in Canada or elsewhere.

History: 1994, c. 22, s. 52.

Union employer.

7.15. All the structural units of a trade union, including each local, branch, national and international unit, are deemed to be a single employer and a single entity for the purposes of the provisions of this Part, and the regulations, relating to the determination of whether a contribution made under a plan or arrangement is a resident's contribution within the meaning of section 890.6.1.

History: 1995, c. 49, s. 8.
Corresponding Federal Provision: 252.1 before (a) and (c).

Deemed obligation.

7.16. Where at a particular time a person or partnership, in this section referred to as the "debtor", becomes liable to repay money borrowed by the debtor or becomes liable to pay an amount, other than interest, as consideration for any property acquired by the debtor or services rendered to the debtor, or that is deductible in computing the debtor's income, for the purpose of applying this Part relating to the liability, the liability is deemed to be an obligation, issued at that time by the debtor, that has a principal amount at that time equal to the amount of the liability at that time.

History: 1996, c. 39, s. 13; 1997, c. 3, s. 71.
Corresponding Federal Provision: 248(26).

Parts of obligations.

7.17. For the purposes of this Part,

(*a*) unless the context requires otherwise, an obligation issued by a debtor includes any part of a larger obligation that was issued by the debtor;

(*b*) the principal amount of that part is deemed to be the portion of the principal amount of that larger obligation that relates to that part; and

(*c*) the amount for which that part was issued is deemed to be the portion of the amount for which that larger obligation was issued that relates to that part.

History: 1996, c. 39, s. 13.
Corresponding Federal Provision: 248(27).

Business carried on in Canada.

7.18. For the purposes of this Part, where in a taxation year a person who is not resident in Canada carries on an activity, or disposes of a property, described in the second paragraph, the person is deemed to carry on business in Canada in the year in respect of the activity or disposition.

Interpretation.

For the purposes of the first paragraph,

(*a*) an activity to which that paragraph refers is an activity that consists

i. in producing, growing, mining, creating, manufacturing, fabricating, improving, packing, preserving or constructing, in whole or in part, anything in Canada whether or not the person exports that thing without disposing of it before exportation, or

ii. in soliciting orders or offering anything for sale in Canada through an agent or servant, whether the contract or transaction is to be completed inside or outside Canada or partly in and partly outside Canada; and

(*b*) a property to which that paragraph refers is

i. Canadian resource property, except where an amount in respect of the disposition thereof is included in computing an amount determined under paragraph *e* of section 330 on account of an amount deducted under section 412 in computing the cumulative Canadian development expenses at the end of a taxation year or under section 418.12 on account of an amount deducted under section 418.6 in computing the cumulative Canadian oil and gas property expenses at the end of a taxation year,

ii. property, other than depreciable property, that is a timber resource property or an interest therein or option in respect thereof, or

iii. property, other than capital property, that is an immovable property situated in Canada, including an interest therein or option in respect thereof, whether or not the property is in existence.

History: 1997, c. 14, s. 12.

Corresponding Federal Provision: 253.

Investments in limited partnership.

7.18.1. For the purposes of the definition of "investment fund" in section 21.0.5, subparagraph ii of paragraph *b* of section 649, paragraph *c* of section 898.1.1, sections 905.0.11, 935.22 and 965.0.21, subparagraphs i to iv of paragraph *c*.2 of section 998, paragraph *b* of sections 1117 and 1120 and any regulations made under paragraphs *c*.3 and *c*.4 of section 998 and under section 1108, where a trust or corporation holds an interest as a member of a partnership and, by operation of any law governing the arrangement in respect of the partnership, the liability of the member as a member of the partnership is limited, the member shall not, solely because of its acquisition and holding of that interest, be considered to carry on any business or other activity of the partnership.

History: 2004, c. 8, s. 10; 2009, c. 5, s. 22; 2009, c. 15, s. 28; 2015, c. 21, s. 95; 2019, c. 14, s. 57.

Corresponding Federal Provision: 253.1.

Investments in limited partnerships.

7.18.2. For the purposes of Chapters III.1 and III.1.1 of Title I of Book VIII, where a registered charity, a registered Canadian amateur athletic association or a registered Québec amateur athletic association holds an interest as a member of a partnership, the member shall not, solely because of its acquisition and holding of that interest, be considered to carry on any business of the partnership if

(*a*) by operation of any law governing the arrangement in respect of the partnership, the liability of the member as a member of the partnership is limited;

(*b*) the member deals at arm's length with each general partner of the partnership; and

(*c*) the member, or the member together with persons and partnerships with which it does not deal at arm's length, holds interests in the partnership that have a fair market value of not more than 20% of the fair market value of the interests of all members in the partnership.

History: 2017, c. 29, s. 18.

Corresponding Federal Provision: 253.1(2).

Partnership look-through rule.

7.18.3. For the purposes of Chapters III.1 and III.1.1 of Title I of Book VIII, each member of a partnership at any time is deemed at that time to own the portion of each property of the partnership equal to the proportion that the fair market value of the member's interest in the partnership at that time is of the fair market value of the interests of all members in the partnership at that time.

History: 2017, c. 29, s. 18.

Corresponding Federal Provision: 149.1(11).

Limitation respecting inclusions, deductions and tax credits.

7.19. Except as otherwise provided, no provision of this Act shall be read or construed

(*a*) to require the inclusion or permit the deduction, either directly or indirectly, in computing a taxpayer's income, taxable income or taxable income earned in Canada, for a taxation year or in computing a taxpayer's income or loss for a taxation year from a source in Canada or from sources in another place, of any amount to the extent that the amount has already been directly or indirectly included or deducted, as the case may be, in computing such income, taxable income, taxable income earned in Canada or loss, for the year or any preceding taxation year;

(*b*) to permit the deduction, either directly or indirectly, in computing a taxpayer's taxes payable under this Act for a taxation year of any amount to the extent that the amount has already been directly or indirectly deducted in computing such taxes payable for the year or any preceding taxation year; or

(*c*) to consider an amount to have been paid on account of a taxpayer's taxes payable under this Act for a taxation year to the extent that the amount has already been considered to

have been paid on account of such taxes payable for the year or any preceding taxation year.

Exception.

Subparagraph *a* of the first paragraph does not apply to prevent a taxpayer from deducting, in computing the taxpayer's income for a taxation year, an amount the taxpayer pays in the year as a reimbursement of an amount the taxpayer deducted in computing the taxpayer's taxable income for a preceding taxation year.

History: 1997, c. 31, s. 5; 2005, c. 38, s. 46.
Corresponding Federal Provision: 248(28).

Rules relating to certain elections.

7.19.1. For the purposes of this Act, if a particular provision of the Act refers to a valid election made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and the Minister of National Revenue has agreed, in giving effect to an application filed for that purpose by a person, legal representative or partnership otherwise than under a provision of the Income Tax Act that specifically provides for such an application, to allow, for the purposes of that Act, the election provided for in the provision of that Act to which the particular provision refers to be made late, amended or rescinded at any time, the following rules apply:

(*a*) the election made late or the election, in its amended form, is deemed to be a valid election made at that time; and

(*b*) the election, before its being amended, or the election that has been rescinded, is deemed never to have been made.

Provisions applicable.

Sections 21.4.14 and 21.4.15 apply, with the necessary modifications, to this section.

History: 2009, c. 5, s. 23.

Farming or fishing business.

7.19.2. For the purposes of sections 234.1, 428 to 451 and 454 to 462.0.1 and Title VI.5 of Book IV, where at any time a person or a partnership carries on a farming business and a fishing business, a property used at that time principally in a combination of the activities of the farming business and the fishing business is deemed to be used at that time principally in the course of carrying on a farming or fishing business.

History: 2017, c. 29, s. 19.
Corresponding Federal Provision: 248(29).

CHAPTER I.1
RULES RELATING TO GIFTS

Intention to give.

7.20. The existence of an amount of an advantage in respect of a transfer of property does not disqualify the transfer from being a gift to a qualified donee, provided that

(*a*) the amount of the advantage does not exceed 80% of the fair market value of the transferred property; or

(*b*) the transferor of the property establishes to the satisfaction of the Minister that the transfer was made with the intention to make a gift.

History: 2009, c. 5, s. 23.
Corresponding Federal Provision: 248(30).

Eligible amount of gift.

7.21. The eligible amount of a gift is equal to the amount by which the fair market value of the property that is the subject of the gift exceeds the amount of the advantage, if any, in respect of the gift.

Recognized gift with reserve of usufruct or use.

However, if a taxpayer disposes of the bare ownership of a work of art or of a cultural property described in the third paragraph of section 232 in the course of a recognized gift with reserve of usufruct or use, the eligible amount of the gift is equal to the amount by which the fair market value of the gift, determined under the rules of paragraph *b* of section 710.4 or 752.0.10.4.2, exceeds the amount of the advantage in respect of the gift, other than the usufruct or right of use.

History: 2009, c. 5, s. 23.
Interpretation Bulletins: IMP. 232-2/R1.
Corresponding Federal Provision: 248(31).

Advantage to donor.

7.22. The amount of the advantage in respect of a gift made by a taxpayer is equal to the aggregate of

(*a*) the aggregate of all amounts, other than an amount referred to in paragraph *b*, each of which is an amount equal to the value, at the time the gift is made, of a property, service, compensation, use or other benefit that the taxpayer, or a person or partnership who does not deal at arm's length with the taxpayer, has received, obtained or enjoyed, or is entitled, either immediately or in the future and either absolutely or contingently, to receive, obtain, or enjoy

i. that is consideration for the gift,

ii. that is in gratitude for the gift, or

iii. that is in any other way related to the gift; and

(*b*) the limited-recourse debt, determined under section 851.41.1, in respect of the gift at the time the gift is made.

History: 2009, c. 5, s. 23.
Interpretation Bulletins: IMP. 232-2/R1.
Corresponding Federal Provision: 248(32).

Cost of property acquired by donor.

7.23. The cost to a taxpayer of a property, acquired by the taxpayer in circumstances where section 7.22 applies to include the value of the property in computing the amount of the advantage in respect of a gift, is equal to the fair market value of the property at the time the gift is made.

History: 2009, c. 5, s. 23.
Corresponding Federal Provision: 248(33).

Repayment of limited-recourse debt.

7.24. If at any time in a taxation year a taxpayer has paid an amount (in this section referred to as the "repaid amount"), on account of the principal amount of an indebtedness which was, before that time, an unpaid principal amount that was a limited-recourse debt referred to in section 851.41.1 (in this section referred to as the "former limited-recourse debt"), in respect of a gift (in this section referred to as the "original gift") of the taxpayer, otherwise than by way of an assignment or transfer of a guarantee, security or similar covenant, or by way of a payment in respect of which a taxpayer referred to in section 851.41.1 has incurred an indebtedness that would be a limited-recourse debt referred to in that section if that indebtedness were in respect of a gift made at the time that that indebtedness was incurred, the taxpayer is deemed, for the purposes of sections 710 to 716.0.11 and 752.0.10.1 to 752.0.10.26 and if the former limited-recourse debt is in respect of the original gift, to have made in the taxation year a gift to a qualified donee, the eligible amount of which deemed gift is equal to the amount by which the amount that would have been the eligible amount of the original gift, if the aggregate of all such repaid amounts paid at or before that time were paid immediately before the original gift was made, exceeds the aggregate of the eligible amount of the original gift and the eligible amount of all other gifts deemed under this section to have been made before that time in respect of the original gift.

History: 2009, c. 5, s. 23; 2012, c. 8, s. 36.
Corresponding Federal Provision: 248(34).

Deemed fair market value.

7.25. For the purposes of section 7.21, paragraph *c* of section 422 and sections 716, 752.0.10.12 and 752.0.10.16.2, the fair market value of a property that is the subject of a gift made by a taxpayer to a qualified donee is deemed to be equal to the lesser of the fair market value of the property otherwise determined and the cost or, in the case of a capital property, the adjusted cost base or, in the case of a life insurance policy in respect of which the taxpayer is a policyholder, the adjusted cost basis, within the meaning of sections 976 and 976.1, of the property to the taxpayer immediately before the gift is made if

(*a*) the taxpayer acquired the property under a gifting arrangement that is a tax shelter as defined in section 1079.1; or

(*b*) unless the gift is made as a consequence of the taxpayer's death,

i. the taxpayer acquired the property less than 3 years before the day that the gift is made, or

ii. the taxpayer acquired the property less than 10 years before the day that the gift is made and it is reasonable to conclude that, at the time the taxpayer acquired the property, one of the main reasons for the acquisition was to make a gift of the property to a qualified donee.

History: 2009, c. 5, s. 23; 2015, c. 24, s. 10.
Corresponding Federal Provision: 248(35).

Non-arm's length transaction.

7.26. If a taxpayer acquired a property, otherwise than by reason of the death of an individual, that is the subject of a gift to which section 7.25 applies because of subparagraph i or ii of paragraph *b* of that section and the property was, at any time within the 3-year or 10-year period that ends when the gift is made, acquired by a person or partnership with whom the taxpayer does not deal at arm's length, for the purpose of applying section 7.25 to the taxpayer, the cost or, in the case of a capital property, the adjusted cost base, of the property to the taxpayer immediately before the gift is made is deemed to be equal to the lowest amount that is the cost or, in the case of a capital property, the adjusted cost base, to the taxpayer or that person or partnership immediately before the property was disposed of by that person or partnership.

History: 2009, c. 5, s. 23; 2015, c. 24, s. 11.
Corresponding Federal Provision: 248(36).

Exceptions.

7.27. Section 7.25 does not apply to a gift

(*a*) of a property described in an inventory;

(*b*) of an immovable property situated in Canada;

(*c*) of a cultural property described in the third paragraph of section 232, other than property acquired under a gifting arrangement, within the meaning assigned to that expression by the first paragraph of section 1079.1, that is a tax shelter;

(*d*) of a property to which section 231.2 applies;

(*e*) of a share of the capital stock of a corporation if

i. the share was issued by the corporation to the donor,

ii. immediately before the gift, the corporation was controlled by the donor, a person related to the donor or a group of persons each of whom is related to the donor, and

iii. section 7.25 would not have applied in respect of the consideration for which the share was issued had that consideration been donated by the donor to the qualified donee when the share was so donated;

(*f*) by a corporation of a property if

i. the property was acquired by the corporation in circumstances to which section 518 or 529 applied,

ii. immediately before the gift, the shareholder from whom the corporation acquired the property controlled the corporation or was related to a person or each member of a group of persons that controlled the corporation, and

iii. section 7.25 would not have applied in respect of the property had the property not been transferred to the corporation and had the shareholder made the gift to the qualified donee when the corporation so made the gift;

(*g*) of a property that was acquired in circumstances where any of sections 440, 444, 454, 459 and 460 applied, unless section 7.26 would have applied if this section were read without reference to this paragraph;

(*h*) of a work of art to a Québec museum;

(*i*) of the bare ownership of a work of art or of a cultural property described in the third paragraph of section 232;

(*j*) of a musical instrument to an entity referred to in the definition of "total musical instrument gifts" in the first paragraph of section 752.0.10.1; or

(*k*) of a work of public art, the fair market value of which is determined by the Minister of Culture and Communications, referred to in subparagraph i of subparagraph *b* of the second paragraph of section 716.0.1.1 or 752.0.10.15.1 or the second paragraph of section 716.0.1.2 or 752.0.10.15.2.

History: 2009, c. 5, s. 23; 2011, c. 1, s. 18; 2015, c. 21, s. 96; 2015, c. 24, s. 12.

Corresponding Federal Provision: 248(37).

Artifical transactions.

7.28. The eligible amount of a gift of a property by a taxpayer is equal to zero if it can reasonably be concluded that the gift relates to a transaction or series of transactions

(*a*) one of the purposes of which is to avoid the application of section 7.25 to the gift of a property; or

(*b*) that would, if this Part were read without reference to this paragraph, result in a tax benefit to which section 1079.10 applies.

History: 2009, c. 5, s. 23; 2011, c. 6, s. 112.

Corresponding Federal Provision: 248(38).

Substantive gift.

7.29. Where a taxpayer disposes of a property (in this section referred to as the "substantive gift") that is a capital property, to a recipient that is a qualified donee, section 7.25 would have applied in respect of the substantive gift if it had been the subject of a gift by the taxpayer to a qualified donee, and all or a part of the proceeds of disposition of the substantive gift are (or are substituted, directly or indirectly in any manner whatever, for) property that is the subject of a gift by the taxpayer to the recipient or any person not dealing at arm's length with the recipient, the following rules apply:

(*a*) for the purposes of section 7.21, the fair market value of the property that is the subject of the gift made by the taxpayer is deemed to be equal to that proportion of the lesser of the fair market value of the substantive gift and the cost or, if the substantive gift is a capital property of the taxpayer, the adjusted cost base, of the substantive gift to the taxpayer immediately before the disposition to the recipient, that the fair market value otherwise determined of the property that is the subject of the gift is of the proceeds of disposition of the substantive gift; and

(*b*) if the substantive gift is a capital property of the taxpayer, for the purposes of subparagraph *f* of the first paragraph of section 93 and section 251, the sale price of the substantive gift is to be reduced by the amount by which the fair market value of the property that is the subject of the gift, determined without reference to this chapter, exceeds the fair market value determined under paragraph *a*;

(*c*) *(paragraph repealed).*

History: 2009, c. 5, s. 23; 2019, c. 14, s. 58.

Corresponding Federal Provision: 248(39).

Gift between charities.

7.30. Section 7.20 does not apply in respect of a gift made by a registered charity to a qualified donee.

History: 2009, c. 5, s. 23.

Corresponding Federal Provision: 248(40).

Information not provided.

7.31. Despite section 7.21, the eligible amount of a gift made by a taxpayer is equal to zero if the taxpayer does not, before a receipt referred to in section 712 or 752.0.10.3 is issued in respect of the gift, inform the qualified donee or the recipient of any circumstances in respect of which any of sections 7.21, 7.25, 7.26, 7.28 and 7.29 causes the eligible amount of the gift to be less than the fair market value,

determined without reference to sections 7.25, 716 and 752.0.10.12, of the property that is the subject of the gift.

History: 2009, c. 5, s. 23.
Corresponding Federal Provision: 248(41).

CHAPTER II
DEEMED RESIDENCE

Individual deemed resident in Québec.

8. An individual is deemed to have been resident in Québec throughout a taxation year if, at any time in the year, the individual

(*a*) sojourned in Québec for a period of, or periods the total of which is, 183 days or more and was ordinarily resident outside Canada;

(*b*) was a member of the Canadian Forces and was resident in Québec immediately before leaving Canada on military service in a foreign country;

(*c*) was an ambassador, Member of Parliament, officer, high commissioner, minister, servant or senator of Canada, or an agent-general, officer or servant of a province, and was resident in Québec immediately prior to election, employment or appointment by Canada or the province or received representation allowances in respect of the year;

(*d*) performed services in a country other than Canada under a prescribed international development assistance program of the Government of Québec or Canada and was resident in Québec at any time in the six month period preceding the day on which those services commenced;

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

(*f*) was a child of, and dependent for support on, an individual to whom any of paragraphs *b*, *c* and *d* applies and the child's income for the year did not exceed $10,222; or

(*g*) was at any time in the year, under a tax agreement with one or more other countries, entitled to an exemption from an income tax otherwise payable in any of those countries in respect of income from any source, unless all or substantially all of the individual's income from all sources was not so exempt, because at that time the individual was related to or a member of the family of a particular individual, other than a trust, who was resident in Québec.

History: 1972, c. 23, s. 8; 1972, c. 26, s. 32; 1974, c. 18, s. 1; 1977, c. 5, s. 14; 1982, c. 38, s. 11; 1986, c. 15, s. 34; 1989, c. 5, s. 22; 1993, c. 64, s. 6; 1995, c. 49, s. 9; 1998, c. 16, s. 10; 2001, c. 53, s. 4; 2003, c. 9, s. 13; 2005, c. 1, s. 24; 2006, c. 13, s. 25; 2009, c. 5, s. 24; 2017, c. 29, s. 20.
Interpretation Bulletins: IMP. 8-1/R1.
Corresponding Federal Provision: 250(1).

Exception to the 183-days rule.

8.1. In determining whether an individual is, for all or part of 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, an eligible individual within the meaning of section 737.22.0.9, a foreign professor within the meaning of section 737.22.0.5, a foreign specialist within the meaning of any of sections 737.18.6, 737.18.29, 737.22.0.1 and 737.22.0.4.1 or a foreign farm worker within the meaning of section 737.22.0.12 and in determining whether the requirement of the definition of "eligible production" in section 737.22.0.9 in relation to a producer's residence is satisfied, section 8 is to be read without reference to its paragraph *a*.

History: 2004, c. 21, s. 39; 2006, c. 36, s. 22; 2011, c. 1, s. 19; 2013, c. 10, s. 13.

Indexation.

8.2. The amount referred to in paragraph *f* of section 8 that must be used for a taxation year subsequent to the taxation year 2017 is to be adjusted annually in such a manner that the amount used for that taxation year is equal to the total of the amount used for the preceding taxation year and the product obtained by multiplying that amount so used by the factor determined by the formula

(A/B) – 1.

Interpretation.

In the formula in the first paragraph,

(*a*) A is the average all-items Consumer Price Index for Québec excluding alcoholic beverages, tobacco products and recreational cannabis for the 12-month period that ended on 30 September of the taxation year preceding that for which an amount is to be adjusted; and

(*b*) B is the average all-items Consumer Price Index for Québec excluding alcoholic beverages, tobacco products and recreational cannabis for the 12-month period that ended on 30 September of the taxation year immediately before the year preceding that for which the amount is to be adjusted.

Factor rounded up.

If the factor determined by the formula in the first paragraph has more than four decimal places, only the first four decimal digits are retained and the fourth is increased by one unit if the fifth is greater than 4.

Amount rounded up.

If the amount that results from the adjustment provided for in the first paragraph is not a multiple of $1, it must be rounded

to the nearest multiple of $1 or, if it is equidistant from two such multiples, to the higher multiple.

History: 2009, c. 5, s. 25; 2017, c. 29, s. 21; 2020, c. 5, s. 214.

Deemed residence in Québec.

9. Where, at a particular time in a taxation year, a taxpayer ceases to be an individual described in paragraph *b*, *c* or *d* of section 8 and the taxpayer would, but for this section, be deemed to have been resident in Québec throughout the year by reason of those paragraphs, the taxpayer is deemed to have been resident in Québec throughout the part of the year preceding that time.

Spouse and child.

The same applies to the taxpayer's spouse referred to in paragraph *e* of section 8 and the taxpayer's child referred to in paragraph *f* of that section.

History: 1972, c. 23, s. 9; 1990, c. 59, s. 7; 1998, c. 16, s. 11.
Corresponding Federal Provision: 250(2).

Ordinarily resident.

10. Reference to a person resident in Québec or Canada also includes for the purposes of this Part a person who at the relevant time was ordinarily resident in Québec or Canada.

History: 1972, c. 23, s. 10.
Corresponding Federal Provision: 250(3).

Corporation deemed resident in Canada.

11. For the purposes of this Part a corporation is deemed to have been resident in Canada throughout a taxation year if:

(*a*) it was incorporated in Canada after 26 April 1965;

(*b*) it was incorporated in Canada before 9 April 1959 and at any time in the taxation year or in any preceding taxation year beginning after 1971 it was resident in Canada or carried on business in Canada and was a corporation which

i. was on 18 June 1971 a foreign business corporation, within the meaning of the regulations, controlled by a corporation resident in Canada, and

ii. throughout the 10-year period ending on 18 June 1971 carried on business in a country other than Canada, and, during those years, paid dividends to its shareholders resident in Canada on which they paid tax to the government of the other country; and

(*c*) in the case of a corporation incorporated before 27 April 1965 other than a corporation to which paragraph *b* applies it was incorporated in Canada and at any time in the taxation year or in a preceding taxation year of the corporation ending after 26 April 1965 it was resident in Canada or carried on business in Canada.

History: 1972, c. 23, s. 11; 1997, c. 3, s. 71.
Corresponding Federal Provision: 250(4).

Corporation not resident in Canada.

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

History: 1986, c. 19, s. 4; 1997, c. 3, s. 71; 2004, c. 8, s. 11.
Corresponding Federal Provision: 250(5).

Residence of international shipping corporations.

11.1.1. For the purposes of this Part, a corporation that is incorporated or otherwise formed under the laws of a country other than Canada or of a state, province or other political subdivision of such a country is deemed to be resident in that country throughout a taxation year and not to be resident in Canada at any time in the year, where

(*a*) the corporation

i. has international shipping as its principal business in the year, or

ii. holds eligible interests in one or more eligible entities throughout the year and at no time in the year is the total of the cost amounts to it of all those eligible interests and of all debts owing to it by an eligible entity in which an eligible interest is held by it, by a person related to it or by a partnership affiliated with it less than 50% of the total of the cost amounts to it of all its property;

(*b*) all or substantially all of the corporation's gross revenue for the year consists of

i. gross revenue from international shipping,

ii. gross revenue from an eligible interest held by it in an eligible entity,

ii.1. interest on a debt owing by an eligible entity in which an eligible interest is held by it, by a person related to it or by a partnership affiliated with it, or

iii. a combination of amounts described in subparagraphs i to ii.1; and

(*c*) the corporation has not been granted articles of continuance in Canada before the end of the year.

History: 1993, c. 16, s. 7; 1997, c. 3, s. 71; 2001, c. 7, s. 4; 2017, c. 1, s. 70.
Corresponding Federal Provision: 250(6).

Partnership member's gross revenue.

11.1.1.1. For the purposes of paragraph *b* of section 11.1.1, any amount of profit allocated from a partnership to a member of the partnership for a taxation year is deemed to be gross revenue of the member from the member's interest in the partnership for the year.

History: 2017, c. 1, s. 71.
Corresponding Federal Provision: 250(6.01).

Service providers.

11.1.1.2. Section 11.1.1.3 applies to a corporation, trust or partnership (in this section and section 11.1.1.3 referred to as the "relevant entity") for a taxation year if

(*a*) the relevant entity does not satisfy the condition in subparagraph i of paragraph *a* of section 11.1.1, determined without reference to section 11.1.1.3;

(*b*) all or substantially all the gross revenue of the relevant entity for the year consists of

i. gross revenue from the provision of services to one or more eligible entities, other than services described in any of paragraphs *a* to *h* of the definition of "international shipping" in section 1,

ii. gross revenue from international shipping,

iii. gross revenue from an eligible interest held by it in an eligible entity,

iv. interest on a debt owing by an eligible entity in which an eligible interest is held by it or a person related to it, or

v. a combination of amounts described in subparagraphs i to iv;

(*c*) either the relevant entity is a subsidiary wholly-owned corporation (within the meaning of subsection 5 of section 544) of the eligible entity referred to in paragraph *b* or an eligible interest in each eligible entity referred to in paragraph *b* is held throughout the year by

i. the relevant entity,

ii. one or more persons related to the relevant entity (if the relevant entity and each such person are corporations), or persons or partnerships affiliated with the relevant entity (in any other case), or

iii. the relevant entity and one or more persons or partnerships described in subparagraph ii; and

(*d*) all or substantially all the shares of the capital stock of, interests as a beneficiary under, or interests as a member of, the relevant entity, as the case may be, are held, directly or indirectly through one or more subsidiary whollyowned corporations (within the meaning of subsection 5 of section 544), throughout the year by one or more corporations, trusts or partnerships that would be eligible entities if they did not own shares of, interests as a beneficiary under, or interests as a member of, the relevant entity.

History: 2017, c. 1, s. 71.
Corresponding Federal Provision: 250(6.02).

Service providers.

11.1.1.3. If the conditions referred to in section 11.1.1.2 are satisfied, for the purposes of section 11.1.1 and paragraph *b* of section 489, the following presumptions apply in respect of a relevant entity for a taxation year:

(*a*) the relevant entity is deemed to have international shipping as its principal business in the year; and

(*b*) the gross revenue described in subparagraph i of paragraph *b* of section 11.1.1.2 is deemed to be gross revenue from international shipping.

History: 2017, c. 1, s. 71.
Corresponding Federal Provision: 250(6.03).

Definitions:

11.1.1.4. For the purposes of sections 11.1.1 to 11.1.1.5,

"eligible entity";
"eligible entity", for a taxation year, means

(*a*) a corporation that is deemed under section 11.1.1 to be resident in a country other than Canada for the year; or

(*b*) a partnership or trust, if

i. it satisfies the conditions in subparagraph i or ii of paragraph *a* of section 11.1.1, and

ii. all or substantially all its gross revenue for the year consists of an amount described in any of subparagraphs i to iii of paragraph *b* of section 11.1.1;

"eligible interest".
"eligible interest" means

(*a*) in relation to a corporation, shares of the capital stock of the corporation that

i. give the holders of those shares not less than 25% of the votes that could be cast at an annual meeting of the shareholders of the corporation, and

ii. have a fair market value that is not less than 25% of the fair market value of all the issued and outstanding shares of the capital stock of the corporation;

(*b*) in relation to a trust, 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 the interests as a beneficiary under the trust; and

(*c*) in relation to a partnership, an interest as a member of the partnership with a fair market value that is not less than 25% of the fair market value of the interests of all members in the partnership.

History: 2017, c. 1, s. 71.
Corresponding Federal Provision: 250(6.04).

Holdings in eligible entities.

11.1.1.5. For the purpose of determining, for the purposes of sections 11.1.1 to 11.1.1.4, whether a person or partnership (in this section referred to as the "holder") holds an eligible interest in an eligible entity, the holder is deemed to hold all of the shares or interests as a beneficiary or all the interests as a member, as the case may be, in the eligible entity held by

(*a*) if the holder is a corporation,

i. each corporation related to the holder, and

ii. each person, other than a corporation, or partnership that is affiliated with the holder; and

(*b*) if the holder is not a corporation, each person or partnership affiliated with the holder.

History: 2017, c. 1, s. 71.
Corresponding Federal Provision: 250(6.05).

Residence of a trust.

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

History: 2003, c. 2, s. 5.
Corresponding Federal Provision: 250(6.1).

11.2. *(Repealed).*

History: 1992, c. 57, s. 589; 1992, c. 57, s. 719; O.C. 712-93; 1994, c. 22, s. 54.

Continued corporation.

11.3. Where a corporation is at any time, in this section referred to as the "time of continuation", granted articles of continuance or similar constitutional documents, the corporation is

(*a*) for the purpose of applying this Part, other than section 11, in respect of all times from the time of continuation in a particular jurisdiction until the time of continuation in a different jurisdiction, deemed to have been incorporated in the particular jurisdiction and not to have been incorporated in the other jurisdiction; and

(*b*) for the purpose of applying section 11 in respect of all times from the time of continuation in a particular jurisdiction until the time of continuation in a different jurisdiction, deemed to have been incorporated in the particular jurisdiction at the time of continuation in that jurisdiction and not to have been incorporated in the other jurisdiction.

History: 1995, c. 49, s. 10; 1997, c. 3, s. 71.
Corresponding Federal Provision: 250(5.1).

11.4. *(Repealed).*

History: 1996, c. 39, s. 14; 2000, c. 5, s. 8; 2013, c. 10, s. 14.

Taxation year and income.

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

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

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

History: 2003, c. 2, s. 6.
Corresponding Federal Provision: 250.1.

CHAPTER III
ESTABLISHMENT

Establishment of a taxpayer.

12. The establishment of a taxpayer means a fixed place where the taxpayer carries on the taxpayer's business or, if there is no such place, the taxpayer's principal place of business. An establishment also includes an office, a branch, a mine, an oil or gas well, a farm, a timberland, a factory, a warehouse or a workshop.

Corporation having an establishment in Canada.

Without restricting the generality of the first paragraph, a corporation has an establishment in each province of Canada in which an immovable owned by the corporation and used principally for the purpose of earning or producing gross revenue that is rent is situated.

History: 1972, c. 26, s. 33; 1982, c. 56, s. 9; 1993, c. 19, s. 15; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1998, c. 16, s. 12.
Interpretation Bulletins: IMP. 12-1/R3; IMP. 12-2/R2; IMP. 996-3/R1; IMP. 1015-1/R1.
Corresponding Federal Provision: 400(2) before (a) and (a) and 2600(2) before (a) I.T.R.

Deemed establishment.

13. Where a taxpayer carries on business through an employee, agent or mandatary, established in a particular

place, who has general authority to contract for the employer or mandator or who has a stock of merchandise owned by such employer or mandator from which the employee, agent or mandatary regularly fills orders which the employee, agent or mandatary receives, the taxpayer is deemed to have an establishment in that place.

Exception.

However, a taxpayer is not deemed to have an establishment for the sole reason that the taxpayer has business dealings through a commission agent, a broker or other independent agent or maintains an office or warehouse solely for the purchase of merchandise; similarly, the taxpayer is not deemed to have an establishment in a place solely because of the taxpayer's control over a subsidiary carrying on business in that place.

History: 1972, c. 26, s. 33; 1998, c. 16, s. 13; 2000, c. 39, s. 2.
Interpretation Bulletins: IMP. 12-1/R3; IMP. 1015-1/R1.
Corresponding Federal Provision: 400(2)(b), (f) and (g) and 2600(2)(a) and (c) I.T.R.

Deemed establishment.

14. A corporation that has an establishment in Canada under this chapter and is the owner of land in a province is deemed to have with respect to such land an establishment in that province.

History: 1972, c. 26, s. 33; 1997, c. 3, s. 71.
Interpretation Bulletins: IMP. 12-1/R3; IMP. 14-1/R2; IMP. 1015-1/R1.
Corresponding Federal Provision: 400(2)(d) I.T.R.

Deemed establishment.

15. A taxpayer using at a particular place substantial machinery or material at a particular time in a taxation year is deemed to have an establishment at that place.

History: 1972, c. 26, s. 33.
Interpretation Bulletins: IMP. 12-1/R3; IMP. 1015-1/R1.
Corresponding Federal Provision: 400(2)(e) and 2600(2)(b) I.T.R.

Deemed establishment.

16. An insurance corporation is deemed to have an establishment at each place where it is registered or holds a permit to carry on business.

History: 1972, c. 26, s. 33; 1973, c. 17, s. 3; 1997, c. 3, s. 71.
Interpretation Bulletins: IMP. 12-1/R3; IMP. 1015-1/R1.
Corresponding Federal Provision: 400(2)(c) I.T.R.

Deemed establishment.

16.0.1. If, but for this section, a corporation would not have an establishment, the corporation is deemed to have an establishment at the place designated in its articles as its head office.

History: 2011, c. 1, s. 20.
Corresponding Federal Provision: 400(2)(e.1) I.T.R.

Deemed establishment.

16.1. Where, in a taxation year, a corporation not resident in Canada operates a mine, produces, processes, preserves, packs or builds goods or a product in whole or in part, or produces or presents a public show, it is deemed to have an establishment at the place, in Canada, where it carries on one or the other of these activities.

History: 1979, c. 38, s. 3; 1997, c. 3, s. 71.
Interpretation Bulletins: IMP. 12-1/R3; IMP. 1015-1/R1.

Sports team playing outside Québec.

16.1.1. Sections 15 and 16.1 do not apply in respect of a taxpayer's activities relating to a business of the taxpayer that consists in operating a sports team that plays one or more of its matches or games, or that takes part in one or more competitions, outside Québec, or to a sports club if, in connection with its activities, one of its members plays a match or game, or takes part in a competition, outside Québec.

History: 1995, c. 63, s. 13.
Interpretation Bulletins: IMP. 12-1/R3.

Establishment of a person not resident in Canada.

16.1.2. For the purposes of the definition of "Canadian banking business" in section 1, subparagraph *a* of the first paragraph of section 21.32, section 125.1, the second paragraph of section 171, section 217.15, the definition of "goodwill amount" in section 333.4, section 740, subparagraph ii of subparagraph *b* of the first paragraph of section 785.2 and paragraph *b*.1 of section 1029.8.17, if a person is not resident in Canada but is resident in a country with which a tax agreement defining "permanent establishment" has been entered into, the establishment of the person means, despite sections 12 to 16.1, the permanent establishment of the person, within the meaning assigned by the tax agreement.

History: 1996, c. 39, s. 15; 2001, c. 53, s. 5; 2004, c. 8, s. 12; 2009, c. 5, s. 26; 2011, c. 1, s. 21; 2015, c. 21, s. 97.
Interpretation Bulletins: IMP. 12-1/R3.
Corresponding Federal Provision: 8201 I.T.R.

"province".

16.2. For the purposes of this chapter, the word "province" includes

(*a*) the Nova Scotia offshore area, within the meaning of the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act (Statutes of Canada, 1988, chapter 28);

(*b*) the Newfoundland and Labrador offshore area, within the meaning of the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act (Statutes of Canada, 1987, chapter 3);

(*c*) *(paragraph repealed)*;

(*d*) *(paragraph repealed).*

History: 1993, c. 19, s. 16; 1995, c. 49, s. 11; I.N. 2016-12-01.
Interpretation Bulletins: IMP. 12-1/R3.
Corresponding Federal Provision: 124(4) "province".

CHAPTER IV
NON-ARM'S LENGTH AND RELATED PERSONS AND GROUPS

Related group.

17. In this Part a group is related when each person forming it is related to each other person of the group.

History: 1972, c. 23, s. 12.
Corresponding Federal Provision: 251(4) "related group".

Non-arm's length.

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

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

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

(*c*) in any other case, it is a question of fact whether persons not related to each other are at a particular time dealing with each other at arm's length.

History: 1972, c. 23, s. 13; 2003, c. 2, s. 7; 2009, c. 5, s. 27.
Corresponding Federal Provision: 251(1).

Related persons.

19. (*1*) For the purposes of this Part, related persons or persons related to each other are

(*a*) individuals connected by blood relationship, marriage or adoption;

(*b*) a corporation and

i. a person who controls that corporation,

ii. a person who is a member of a related group that controls the corporation, or

iii. a person related to the person contemplated by subparagraph i or ii;

(*c*) any two corporations

i. if they are controlled by the same person or group of persons,

ii. if each of them is controlled by a person and that person who controls one of the corporations is related to the person who controls the other corporation,

iii. if one of them is controlled by a person related to any member of a related group that controls the other,

iv. if one of the corporations is controlled by a person related to each member of an unrelated group that controls the other,

v. if any member of a related group that controls one of the corporations is related to each member of an unrelated group that controls the other, or

vi. if each member of an unrelated group that controls one of the corporations is related to at least one member of an unrelated group that controls the other.

Related corporations.

(2) Two corporations related to the same corporation under subsection 1 are deemed, for the purposes of subsection 1 and section 18, to be related to each other.

Relation where amalgamation or merger.

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

Amalgamation of related corporations.

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

History: 1972, c. 23, s. 14; 1984, c. 15, s. 4; 1989, c. 5, s. 23; 1997, c. 3, s. 71; 2000, c. 5, s. 9.
Corresponding Federal Provision: 251(2) to (3.2).

Rules applicable.

20. For the purposes of sections 19 and 21.19,

(*a*) a related group which is in a position to control a corporation is deemed to be a related group which controls it, whether or not it is part of a larger group which in fact controls the corporation;

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

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

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

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

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

(*c*) a shareholder of two or more corporations is, as shareholder of one of the corporations, deemed to be related to himself, herself or itself as shareholder of each of the other corporations.

History: 1972, c. 23, s. 15; 1982, c. 5, s. 3; 1986, c. 15, s. 35; 1989, c. 5, s. 24; 1990, c. 59, s. 8; 1993, c. 16, s. 8; 1997, c. 3, s. 71; 1998, c. 16, s. 14; 2000, c. 5, s. 10.

Corresponding Federal Provision: 251(5).

Persons connected by blood relationship, marriage or adoption.

21. For the purposes of this Part, except sections 752.0.1 to 752.0.7,

(*a*) persons are connected by blood relationship if one is the child, other descendant, brother or sister of the other;

(*b*) persons are connected by marriage if one is married to the other or to a person connected with the other by blood relationship or by adoption; and

(*c*) persons are connected by adoption if one has been adopted, either legally or in fact, and would be connected with the other by blood relationship or by marriage if filiation by adoption were filiation by blood.

History: 1972, c. 23, s. 16; 1974, c. 18, s. 2; 1975, c. 22, s. 2; 1982, c. 17, s. 49; 1986, c. 15, s. 36; 1989, c. 5, s. 25; 1998, c. 16, s. 15.

Corresponding Federal Provision: 251(6).

CHAPTER IV.1
AFFILIATED PERSONS

Definitions:

21.0.1. In this chapter,

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

"beneficiary";
"beneficiary", under a trust, includes a person beneficially interested in the trust;

"contributor";
"contributor", to a trust, means a person who has at any time made a loan or transfer of property, either directly or indirectly, in any manner whatever, to or for the benefit of the trust other than, if the person deals at arm's length with the trust at that time and is not immediately after that time a majority-interest beneficiary of the trust, a loan made at a reasonable rate of interest or a transfer made for fair market value consideration;

"controlled";
"controlled" means controlled, directly or indirectly in any manner whatever;

"majority-interest beneficiary";
"majority-interest beneficiary", of a trust at any time, means a person whose interest as a beneficiary, if any, at that time,

(*a*) in the income of the trust has, together with the interests as a beneficiary in the income of the trust of all persons with whom the person is affiliated, a fair market value that is greater than 50% of the fair market value of all the interests as a beneficiary in the income of the trust; or

(*b*) in the capital of the trust has, together with the interests as a beneficiary in the capital of the trust of all persons with whom the person is affiliated, a fair market value that is greater than 50% of the fair market value of all the interests as a beneficiary in the capital of the trust;

"majority-interest group of beneficiaries";
"majority-interest group of beneficiaries", of a trust at any time, means a group of persons each of whom is a beneficiary under the trust at that time such that

(*a*) if one person held the interests as a beneficiary under the trust of all of the members of the group, that person would be a majority-interest beneficiary of the trust; and

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

"majority-interest group of partners".
"majority-interest group of partners" of a partnership means a group of persons each of whom has an interest in the partnership such that

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

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

History: 2000, c. 5, s. 11; 2005, c. 38, s. 47; 2017, c. 29, s. 22.
Corresponding Federal Provision: 251.1(3).

Interpretation.

21.0.2. For the purposes of this chapter, the following rules apply:

(*a*) persons are affiliated with themselves;

(*b*) a person includes a partnership;

(*c*) despite section 646, a trust does not include the trustee or other persons who own or control the trust property; and

(*d*) for the purpose of determining whether a person is affiliated with a trust,

i. if the amount of income or capital of the trust that a person may receive as a beneficiary under 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,

ii. the interest of a person in a trust as a beneficiary is disregarded in determining whether the person deals at arm's length with the trust if the person would, in the absence of the interest as a beneficiary, be considered to deal at arm's length with the trust,

iii. a trust is not a majority-interest beneficiary of another trust unless the trust has an interest as a beneficiary in the income or capital of the other trust, and

iv. in determining whether a contributor to one trust is affiliated with a contributor to another trust, individuals connected by blood relationship, marriage or adoption are deemed to be affiliated with one another.

History: 2000, c. 5, s. 11; 2005, c. 38, s. 48; 2015, c. 24, s. 13.
Corresponding Federal Provision: 251.1(4).

Affiliated persons.

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

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

(*b*) a corporation and

i. a person by whom the corporation is controlled,

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

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

(*c*) two corporations, if

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

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

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

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

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

(*f*) two partnerships, if

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

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

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

(*g*) a person and a trust, if the person

i. is a majority-interest beneficiary of the trust, or

ii. would, but for this paragraph, be affiliated with a majority-interest beneficiary of the trust; and

(*h*) two trusts, if a contributor to one of the trusts is affiliated with a contributor to the other trust and

i. a majority-interest beneficiary of one of the trusts is affiliated with a majority-interest beneficiary of the other trust,

ii. a majority-interest beneficiary of one of the trusts is affiliated with each member of a majority-interest group of beneficiaries of the other trust, or

iii. each member of a majority-interest group of beneficiaries of each of the trusts is affiliated with at least one member of a majority-interest group of beneficiaries of the other trust.

History: 2000, c. 5, s. 11; 2005, c. 38, s. 49.
Corresponding Federal Provision: 251.1(1).

Affiliation where amalgamation or merger.

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

History: 2000, c. 5, s. 11.
Corresponding Federal Provision: 251.1(2).

CHAPTER IV.2
LOSS RESTRICTION EVENT

Definitions:

21.0.5. In this chapter,

"beneficiary";
"beneficiary" has the meaning assigned by section 21.0.1;

"equity";
"equity" has the meaning that would be assigned by the first paragraph of section 1129.70 if the definition of that expression were read without reference to its paragraph *e*;

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

"fixed interest";
"fixed interest", at a particular time of a person in a trust, means an interest of the person as a beneficiary (determined without reference to section 7.11.1) under the trust provided that no part of the income or capital of the trust to be distributed at any time in respect of any interest in the trust depends on the exercise by any person of, or the failure by any person to exercise, a power to appoint, other than a power to appoint in respect of which it is reasonable to conclude that

(*a*) the power is consistent with normal commercial practice;

(*b*) the power is consistent with terms that would be acceptable to beneficiaries under the trust that would be dealing with each other at arm's length; and

(*c*) the exercise of, or failure to exercise, the power will not materially affect the value of an interest as a beneficiary under the trust relative to the value of other such interests as a beneficiary under the trust;

"investment fund";
"investment fund", at a particular time, means a trust, if

(*a*) at all times throughout the period that begins at the later of 21 March 2013 and the end of the calendar year in which it is created and that ends at the particular time, the trust has a class of units outstanding that would comply with the conditions prescribed for the purposes of section 1120 if section 1120R1 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) were read without its paragraph *b*; and

(*b*) at all times throughout the period that begins at the later of 21 March 2013 and the date on which it was created and that ends at the particular time, the trust

i. is resident in Canada,

ii. has no beneficiaries who have, for any reason, the right to receive directly from the trust an amount from the income or capital of the trust, other than beneficiaries whose interests as beneficiaries under the trust are fixed interests described by reference to units of the trust,

iii. follows a reasonable policy of investment diversification,

iv. limits its undertaking to the investing of its funds in property,

v. does not alone, or as a member of a group of persons, control a corporation, and

vi. does not hold

(1) property that the trust, or a person with which the trust does not deal at arm's length, uses in carrying on a business,

(2) immovable property or a real right in an immovable property,

(3) Canadian resource property, foreign resource property or a right in such property, or

(4) more than 20% of the securities of any class of securities of a person (other than an investment fund or a mutual fund

corporation that would meet the conditions of this paragraph, other than that of subparagraph ii, if it were a trust), unless at the particular time the securities (other than liabilities) of the person held by the trust have a total fair market value that does not exceed 10% of the equity value of the person and, at that time, the liabilities of the person held by the trust have a total fair market value that does not exceed 10% of the value of all of the liabilities of the person;

"majority-interest beneficiary";
"majority-interest beneficiary" has the meaning that would be assigned by section 21.0.1 if the definition of that expression in that section were read without reference to ", if any,";

"majority-interest group of beneficiaries";
"majority-interest group of beneficiaries" has the meaning assigned by section 21.0.1;

"majority-interest group of partners";
"majority-interest group of partners" has the meaning assigned by section 21.0.1;

"person";
"person" includes a partnership;

"specified right";
"specified right", held at a particular time by a person in respect of a trust, means a right under a contract or otherwise, to acquire, either immediately or in the future and either absolutely or contingently, equity of the trust, or to cause the trust to redeem or cancel equity of the trust, unless the right is not exercisable at that time because its exercise is contingent on the death, bankruptcy or permanent disability of an individual;

"subsidiary".
"subsidiary", of a particular person at a particular time, means a corporation, partnership or trust (in this definition referred to as the "subject entity") where

(*a*) the particular person holds at that time property

i. that is equity of the subject entity, or

ii. that derives all or part of its fair market value, directly or indirectly, from equity of the subject entity; and

(*b*) the total of the following amounts is at that time equal to more than 50% of the equity value of the subject entity:

i. each amount that is the fair market value at that time of equity of the subject entity that is held at that time by the particular person or a person with whom the particular person is affiliated, and

ii. each amount (other than an amount described in subparagraph i) that is the portion of the fair market value at that time—derived directly or indirectly from equity of the subject entity—of a property that is held at that time by the particular person or a person with whom the particular person is affiliated.

History: 2017, c. 1, s. 72; 2017, c. 29, s. 23; 2020, c. 16, s. 29.
Corresponding Federal Provision: 251.2(1).

Loss restriction event.

21.0.6. For the purposes of this Part, a taxpayer is at a particular time subject to a loss restriction event if

(*a*) the taxpayer is a corporation and at that time control of the corporation is acquired by a person or group of persons; or

(*b*) the taxpayer is a trust and

i. that time is after 20 March 2013 and after the time at which the trust is created, and

ii. at that time a person becomes a majority-interest beneficiary, or a group of persons becomes a majority-interest group of beneficiaries, of the trust.

History: 2017, c. 1, s. 72.
Corresponding Federal Provision: 251.2(2).

Trusts — exceptions.

21.0.7. For the purposes of paragraph *b* of section 21.0.6, a person is deemed not to become a majority-interest beneficiary, and a group of persons is deemed not to become a majority-interest group of beneficiaries, of a particular trust solely because of

(*a*) the acquisition of equity of the particular trust by

i. a person from another person with whom the person was affiliated immediately before the acquisition,

ii. a person who was affiliated with the particular trust immediately before the acquisition,

iii. a succession from an individual, if the succession arose on and as a consequence of the death of the individual and the succession acquired the equity from the individual as a consequence of the death, or

iv. a particular person from a succession that arose on and as a consequence of the death of an individual, if the succession acquired the equity from the individual as a consequence of the death and the individual was affiliated with the particular person immediately before the death;

(*b*) a variation in the terms of the particular trust, the satisfaction of, or failure to satisfy, a condition under the terms of the particular trust, the exercise by any person of, or the failure by any person to exercise, a power, or, without restricting the generality of this paragraph, the redemption, surrender or termination of equity of the particular trust at a particular time, if each majority-interest beneficiary, and each

member of a majority-interest group of beneficiaries, of the particular trust immediately after the particular time was affiliated with the particular trust immediately before

i. the particular time, or

ii. in the case of the redemption or surrender of equity of the particular trust that was held, immediately before the particular time, by a succession and that was acquired by the succession from an individual as described in subparagraph iii of paragraph *a*, the individual's death;

(*c*) the transfer at a particular time of all the equity of the particular trust to a corporation, partnership or another trust (in this paragraph referred to as the "acquirer"), if

i. the only consideration for the transfer is equity, determined without reference to paragraph *d* of the definition of "equity" in the first paragraph of section 1129.70, of the acquirer,

ii. at all times before the particular time the acquirer held no property or held only property having a nominal value, and

iii. immediately after the particular time the acquirer is neither

(1) a subsidiary of any person, nor

(2) a corporation controlled, directly or indirectly in any manner whatever, by a person or group of persons;

(*d*) the transfer at a particular time of equity of the particular trust to a corporation, partnership or another trust (in this paragraph referred to as the "acquirer"), if

i. immediately before the particular time a person was a majority-interest beneficiary, or a group of persons was a majority-interest group of beneficiaries, of the particular trust,

ii. immediately after the particular time the person, or group of persons, as the case may be, described in subparagraph i in respect of the particular trust, and no other person or group of persons, is

(1) if the acquirer is a corporation, a person by whom, or a group of persons by which, the corporation is controlled directly or indirectly in any manner whatever,

(2) if the acquirer is a partnership, a majority-interest partner, or a majority-interest group of partners, of the partnership, and

(3) if the acquirer is a trust, a majority-interest beneficiary, or a majority-interest group of beneficiaries, of the trust, and

iii. at no time during a series of transactions or events that includes the transfer does the person or group of persons, as the case may be, described in subparagraph i in respect of the particular trust, cease to be a person or group of persons described in any of subparagraphs 1 to 3 of subparagraph ii in respect of the acquirer;

(*e*) a transaction the parties to which are obligated to complete under the terms of an agreement in writing between the parties entered into before 21 March 2013, provided that none of the parties to the agreement may be excused from completing the transaction as a result of changes to the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); or

(*f*) the acquisition or disposition of equity of the particular trust at a particular time if

i. the particular trust is an investment fund immediately before that time, and

ii. the acquisition or disposition is not part of a series of transactions or events that includes the particular trust ceasing to be an investment fund.

History: 2017, c. 1, s. 72; 2017, c. 29, s. 24.

Corresponding Federal Provision: 251.2(3).

Trusts — additional cases.

21.0.8. For the purposes of paragraph *b* of section 21.0.6 and subject to section 21.0.7, a person is deemed to become at a particular time a majority-interest beneficiary of a particular trust if

(*a*) a particular person is at and immediately before the particular time a majority-interest beneficiary, or a member of a majority-interest group of beneficiaries, of the particular trust, and the particular person is at the particular time, but is not immediately before the particular time, a subsidiary of another person (in this paragraph referred to as the "acquirer"), unless

i. the acquirer is immediately before the particular time affiliated with the particular trust, or

ii. this paragraph previously applied to deem that a person became a majority-interest beneficiary of the particular trust because the particular person became, as part of a series of transactions or events that includes the particular person becoming at the particular time a subsidiary of the acquirer, a subsidiary of another person that is at the particular time a subsidiary of the acquirer; or

(*b*) at the particular time, as part of a series of transactions or events, two or more persons acquire equity of the particular trust in exchange for or upon a redemption or surrender of equity of, or as a consequence of a distribution from, a corporation, partnership or another trust, unless

i. a person affiliated with the corporation, partnership or other trust was immediately before the particular time a majority-interest beneficiary of the particular trust,

ii. if all the equity of the particular trust that was acquired at or before the particular time as part of the series of transactions or events were acquired by one person, the person would not at the particular time be a majority-interest beneficiary of the particular trust, or

iii. this paragraph previously applied to deem a person to become a majority-interest beneficiary of the particular trust because of an acquisition of equity of the particular trust that was part of the series of transactions or events.

History: 2017, c. 1, s. 72.

Corresponding Federal Provision: 251.2(4).

Trusts — special rules of application.

21.0.9. For the purposes of this chapter, the following rules apply:

(*a*) in determining whether persons are affiliated with each other

i. except for the purposes of paragraph *b* of the definition of "subsidiary" in section 21.0.5, section 21.0.3 applies without reference to the definition of "controlled" in section 21.0.1,

ii. individuals connected by blood relationship, marriage or adoption are deemed to be affiliated with one another, and

iii. if, at any time as part of a series of transactions or events a person acquires equity of a corporation, partnership or trust, and it can reasonably be concluded that one of the reasons for the acquisition, or for making any agreement or undertaking in respect of the acquisition, is to cause a condition in paragraph *a* or *b* of section 21.0.7 or subparagraph i of paragraph *a* or *b* of section 21.0.8 regarding affiliation to be satisfied at a particular time, the condition is deemed not to be satisfied at the particular time;

(*b*) in determining whether a particular person becomes at a particular time a majority-interest beneficiary, or a particular group of persons becomes at a particular time a majority-interest group of beneficiaries, of a trust, the fair market value of each person's equity of the trust is to be determined at and immediately before the particular time

i. without reference to the portion of that fair market value that is attributable to property acquired if it can reasonably be concluded that one of the reasons for the acquisition is to cause paragraph *b* of section 21.0.6, or any provision that applies by reference to a trust being subject to a loss restriction event at any time, not to apply,

ii. without reference to the portion of that fair market value that is attributable to a change in the fair market value of all or part of any equity of the trust if it can reasonably be concluded that one of the reasons for the change is to cause paragraph *b* of section 21.0.6, or any provision that applies by reference to a trust being subject to a loss restriction event at any time, not to apply, and

iii. as if each specified right held immediately before the particular time by the particular person, or by a member of the particular group of persons, in respect of the trust is at that time exercised if it can reasonably be concluded that one of the reasons for the acquisition of the right is to cause paragraph *b* of section 21.0.6, or any provision that applies by reference to a trust being subject to a loss restriction event at any time, not to apply; and

(*c*) if, at any time as part of a series of transactions or events a person acquires a security (within the meaning assigned by the first paragraph of section 1129.70) and it can reasonably be concluded that one of the reasons for the acquisition, or for making any agreement or undertaking in respect of the acquisition, is to cause a condition in subparagraph v of paragraph *b* of the definition of "investment fund" in section 21.0.5 or in subparagraph 4 of subparagraph vi of that paragraph *b* to be satisfied at a particular time in respect of a trust, the condition is deemed not to be satisfied at the particular time in respect of the trust.

History: 2017, c. 1, s. 72; 2017, c. 29, s. 25.

Corresponding Federal Provision: 251.2(5).

Trusts — time of day.

21.0.10. For the purposes of this Part, if a trust is subject to a loss restriction event at a particular time during a day, the trust is deemed to be subject to the loss restriction event at the beginning of that day and not at the particular time unless the trust makes a valid election under subsection 6 of section 251.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in that respect.

Additional rules.

Chapter V.2 applies in relation to an election made under subsection 6 of section 251.2 of the Income Tax Act.

History: 2017, c. 1, s. 72.

Corresponding Federal Provision: 251.2(6).

Filing and other deadlines.

21.0.11. Where a trust is subject to a loss restriction event at a particular time, the following rules apply in respect of the trust for its taxation year that ends immediately before that time:

(*a*) paragraph *d* of subsection 2 of section 1000 is to be read as if "within 90 days after the end of" were replaced by "on or before the trust's balance-due day for", and the second paragraph of section 1086R57 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) is to be read as if "within 90 days following the end of" were replaced by "on or before the trust's balance-due day for";

(*b*) the first paragraph of section 1086R77 of the Regulation respecting the Taxation Act is to be read as if "within 90 days after the end of" were replaced by "on or before the reporting person's balance-due day for";

(*c*) the first paragraph of section 1120.0.1 is to be read as if "before the 91st day after the end of" were replaced by "that occurs on or before the trust's balance-due day for".

History: 2017, c. 29, s. 26.

Corresponding Federal Provision: 251.2(4).

CHAPTER V
CONTROL OF A CORPORATION

Application of sections 21.2 to 21.3.1.

21.1. Sections 21.2 to 21.3.1 apply in respect of the control of a corporation for the purposes of paragraph *a* of section 21.0.6, sections 21.2 to 21.3.3, 308.0.1 to 308.6, 384, 418.26 to 418.30, 564.4, 564.4.1, 711.2, 736.0.4 and 737.18.9.2, subparagraph 2 of subparagraph i of subparagraph *b* of the second paragraph of section 771.8.5, subparagraphs *d* to *f* of the first paragraph of section 771.13, paragraph *f* of section 772.13, sections 776.1.5.6, 776.1.12 and 776.1.13, paragraph *c* of the definition of "qualified corporation" in the first paragraph of sections 1029.8.36.0.3.46 and 1029.8.36.0.3.60, subparagraph iv of paragraph *b* of the definition of "specified corporation" in the first paragraph of section 1029.8.36.0.17, subparagraph *b* of the first paragraph of sections 1029.8.36.0.21.2, 1029.8.36.0.22.1 and 1029.8.36.0.25.2, paragraph *d* of the definition of "excluded corporation" in the first paragraph of section 1029.8.36.0.38, paragraph *c* of the definition of "qualified corporation" in the first paragraph of sections 1029.8.36.72.1, 1029.8.36.72.29, 1029.8.36.72.56 and 1029.8.36.72.83 and sections 1029.8.36.166.49, 1029.8.36.166.50, 1029.8.36.171.3 and 1029.8.36.171.4.

Application of sections 21.3.2 and 21.3.3.

Subject to section 21.3.7, sections 21.3.2 and 21.3.3 apply in respect of the control of a corporation for the purposes of section 737.18.9.2, subparagraph 2 of subparagraph i of subparagraph *b* of the second paragraph of section 771.8.5, subparagraphs *d* to *f* of the first paragraph of section 771.13, paragraph *c* of the definition of "qualified corporation" in the first paragraph of sections 1029.8.36.0.3.46 and 1029.8.36.0.3.60, subparagraph iv of paragraph *b* of the definition of "specified corporation" in the first paragraph of section 1029.8.36.0.17, subparagraph *b* of the first paragraph of sections 1029.8.36.0.21.2, 1029.8.36.0.22.1 and 1029.8.36.0.25.2, paragraph *d* of the definition of "excluded corporation" in the first paragraph of section 1029.8.36.0.38 and paragraph *c* of the definition of "qualified corporation" in the first paragraph of sections 1029.8.36.72.1, 1029.8.36.72.29, 1029.8.36.72.56 and 1029.8.36.72.83.

Application of sections 21.4 and 21.4.0.1 to 21.4.0.3.

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

Application of section 21.4.1.

Section 21.4.1 applies in respect of the control of a corporation for the purposes of sections 6.2 and 21.0.1 to 21.0.4, paragraph *b* of the definition of "investment fund" in section 21.0.5, paragraph *a* of section 21.0.6, paragraphs *c* and *d* of section 21.0.7, the fifth paragraph of section 21.3.1, sections 83.0.3, 93.4, 222 to 230.0.0.2, 308.1, 384, 384.4, 384.5, 418.26 to 418.30 and 485 to 485.18, paragraph *d* of section 485.42, subparagraph *d* of the third paragraph of section 559, sections 560.1.2, 564.4, 564.4.1, 727 to 737 and 737.18.9.2, subparagraph 2 of subparagraph i of subparagraph *b* of the second paragraph of section 771.8.5, subparagraphs *d* to *f* of the first paragraph of section 771.13, paragraph *f* of section 772.13, sections 776.1.5.6, 776.1.12 and 776.1.13, paragraph *c* of the definition of "qualified corporation" in the first paragraph of sections 1029.8.36.0.3.46 and 1029.8.36.0.3.60, subparagraph iv of paragraph *b* of the definition of "specified corporation" in the first paragraph of section 1029.8.36.0.17, subparagraph *b* of the first paragraph of sections 1029.8.36.0.21.2, 1029.8.36.0.22.1 and 1029.8.36.0.25.2, paragraph *d* of the definition of "excluded corporation" in the first paragraph of section 1029.8.36.0.38, paragraph *c* of the definition of "qualified corporation" in the first paragraph of sections 1029.8.36.72.1, 1029.8.36.72.29, 1029.8.36.72.56 and 1029.8.36.72.83 and sections 1029.8.36.166.49, 1029.8.36.166.50, 1029.8.36.171.3 and 1029.8.36.171.4.

History: 1978, c. 26, s. 3; 1980, c. 13, s. 2; 1982, c. 5, s. 4; 1984, c. 15, s. 5; 1989, c. 77, s. 5; 1993, c. 16, s. 9; 1993, c. 19, s. 17; 1996, c. 39, s. 16; 1997, c. 3, s. 71; 2000, c. 5, s. 12; 2001, c. 7, s. 5; 2003, c. 2, s. 8; 2004, c. 21, s. 40; 2005, c. 23, s. 31; 2005, c. 38, s. 50; 2006, c. 13, s. 26; 2007, c. 12, s. 21; 2009, c. 5, s. 28; 2009, c. 15, s. 29; 2017, c. 1, s. 73; 2017, c. 29, s. 27.

Corresponding Federal Provision: 256(7) before (a), 256(8) before (a) and after (e).

Acquisition of control where amalgamation.

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

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

(*b*) a person or group of persons that controls the new corporation immediately after the amalgamation and did not control a predecessor corporation immediately before the amalgamation is deemed to have acquired immediately

before the amalgamation control of the predecessor corporation and of each corporation it controlled immediately before the amalgamation, unless the person or group of persons would not have acquired control of the predecessor corporation if the person or group of persons had acquired all the shares of the predecessor corporation immediately before the amalgamation; and

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

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

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

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

(1) two corporations, or

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

History: 1978, c. 26, s. 3; 1982, c. 5, s. 5; 1984, c. 15, s. 5; 1997, c. 3, s. 71; 2000, c. 5, s. 13.

Corresponding Federal Provision: 256(7)(b).

Control deemed acquired where shares exchanged.

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

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

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

History: 2000, c. 5, s. 14.

Corresponding Federal Provision: 256(7)(c).

Control deemed acquired in cases of exchange of interests.

21.2.2. Subject to section 21.3, if, at any particular time, as part of a series of transactions or events, two or more persons acquire shares of a corporation (in this section referred to as the "acquiring corporation") in exchange for or upon a redemption or surrender of interests in, or as a consequence of a distribution from, a SIFT trust or a SIFT partnership, on the assumption that the definitions of "SIFT trust" and "SIFT partnership" in the first paragraph of section 1129.70 applied from 31 October 2006, or a real estate investment trust within the meaning of that first paragraph, control of the acquiring corporation and of each corporation controlled by it immediately before the particular time is deemed to have been acquired by a person or group of persons at the particular time, except in the following cases:

(*a*) in relation to each of those corporations, a person (in this paragraph referred to as a "relevant person") who would be affiliated with the SIFT trust, SIFT partnership or real estate investment trust, but for the definition of "controlled" in section 21.0.1, owns shares of the corporation having a total fair market value of more than 50% of the fair market value of all the issued and outstanding shares of the corporation at all times during the period that ends immediately before the particular time and begins at the time of the last acquisition of control of the corporation by a relevant person or, if later, on the later of

i. 14 July 2008, and

ii. the day the corporation was constituted;

(*b*) if all the securities, within the meaning of the first paragraph of section 1129.70, of the acquiring corporation that were acquired as part of the series of transactions or events at or before the particular time were acquired by one person, the person would not at the particular time control the acquiring corporation and would have at the particular time acquired securities of the acquiring corporation having a fair market value of not more than 50% of the fair market value of all the issued and outstanding shares of the acquiring corporation; and

(*c*) this section previously applied to deem an acquisition of control of the acquiring corporation upon an acquisition of shares that was part of the same series of transactions or events.

History: 2015, c. 24, s. 14.

Corresponding Federal Provision: 256(7)(c.1).

Control deemed acquired.

21.2.3. Where at a particular time after 12 September 2013 a trust is subject to a loss restriction event and immediately before that time the trust, or a group of persons of which the trust is a member, controls a corporation, control of the corporation and of each corporation controlled by it immediately before that time is deemed to have been acquired at that time by a person or group of persons.

History: 2017, c. 1, s. 74.
Corresponding Federal Provision: 256(7)(h).

Control deemed not to be acquired.

21.3. Control of a particular corporation is deemed not to have been acquired solely because of

(*a*) the acquisition at any time of shares of the capital stock of any corporation by

i. a person who acquired the shares from another person to whom the person was related, otherwise than because of a right referred to in paragraph *b* of section 20, immediately before that time,

ii. a person who was related to the particular corporation, otherwise than because of a right referred to in paragraph *b* of section 20, immediately before that time,

iii. a succession that acquired the shares because of the death of a person,

iv. a particular person who acquired the shares from a succession that arose on and as a consequence of the death of an individual, if the succession acquired the shares from the individual as a consequence of the death and the individual was related to the particular person immediately before the death, or

v. a corporation on a distribution, within the meaning assigned by the first paragraph of section 308.0.1, by a specified corporation, within the meaning assigned by that paragraph, if a dividend, to which section 308.1 does not apply because of section 308.3, is received in the course of the reorganization in which the distribution occurs;

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

i. immediately before the particular time, or

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

(*c*) the acquisition at any time of shares of the particular corporation if

i. the acquisition would otherwise result in the acquisition of control of the particular corporation at that time by a related group, and

ii. each member of each group of persons that controls the particular corporation at that time was related, otherwise than because of a right referred to in paragraph *b* of section 20, to the particular corporation immediately before that time.

History: 1978, c. 26, s. 3; 1979, c. 18, s. 3; 1982, c. 5, s. 5; 1993, c. 16, s. 10; 1994, c. 22, s. 55; 1995, c. 49, s. 12; 1997, c. 3, s. 71; 2000, c. 5, s. 15; 2009, c. 5, s. 29; 2017, c. 1, s. 75.
Corresponding Federal Provision: 256(7)(a).

Control deemed not to be acquired.

21.3.1. If at a particular time shares of the capital stock of a particular corporation are disposed of to another corporation (in this paragraph referred to as the "acquiring corporation") for consideration that includes shares of the acquiring corporation's capital stock, control of the particular corporation and of each corporation controlled by it immediately before that time is deemed not to have been acquired by the acquiring corporation solely because of the disposition if, immediately after the particular time, the acquiring corporation and the particular corporation are controlled by a person or group of persons who controlled the particular corporation immediately before the particular time, and did not, as part of the series of transactions or events that includes the disposition, cease to control the acquiring corporation.

Control deemed not to be acquired.

Control of a particular corporation and of each corporation controlled by it immediately before a particular time is deemed not to have been acquired at the particular time by a corporation (in this paragraph referred to as the "acquiring corporation"), if at the particular time, the acquiring corporation acquires shares of the particular corporation's capital stock for consideration that consists solely of shares of the acquiring corporation's capital stock, and if

(*a*) immediately after the particular time,

i. the acquiring corporation owns all the shares of each class of the particular corporation's capital stock, without reference to shares of a specified class of the capital stock of the particular corporation, within the meaning of section 560.1.2.1,

ii. the acquiring corporation is not controlled by a person or group of persons, and

iii. the fair market value of the shares of the particular corporation's capital stock that are owned by the acquiring corporation is not less than 95% of the fair market value of all the assets of the acquiring corporation; or

(*b*) any of subparagraphs i to iii of subparagraph *a* do not apply and the acquisition occurs as part of a plan of arrangement that, on completion, results in

i. the acquiring corporation, or a new corporation that is formed on an amalgamation of the acquiring corporation and a wholly-controlled subsidiary of the acquiring corporation, owning all the shares of each class of the particular corporation's capital stock, without reference to shares of a specified class of the capital stock of the particular corporation, within the meaning of section 560.1.2.1,

ii. the acquiring corporation, or the new corporation, not being controlled by a person or group of persons, and

iii. the fair market value of the shares of the particular corporation's capital stock that are owned by the acquiring corporation, or the new corporation, being not less than 95% of the fair market value of all the assets of the acquiring corporation or the new corporation.

Control deemed not to be acquired.

A particular trust that would, in the absence of this paragraph, acquire control of a corporation solely because of a SIFT trust wind-up event that is a distribution of shares of the capital stock of the corporation by another trust is deemed not to acquire control of the corporation because of the distribution if

(*a*) the particular trust is described in paragraph *c* of the definition of "SIFT trust wind-up event" in section 1;

(*b*) the particular trust is the only beneficiary of the other trust; and

(*c*) the other trust controlled the corporation immediately before the distribution.

Control deemed not to be acquired.

Where a corporation (in this paragraph referred to as the "acquiring corporation") acquires shares of the capital stock of a particular corporation on a distribution that is a SIFT trust wind-up event of a trust that is a SIFT wind-up entity, the acquiring corporation is deemed not to acquire control of the particular corporation because of that acquisition if the following conditions are met:

(*a*) the acquiring corporation is the only beneficiary under the trust immediately before the distribution;

(*b*) the trust controlled the particular corporation immediately before the distribution;

(*c*) as part of a series of transactions or events under which the acquiring corporation became the only beneficiary under the trust, two or more persons acquired shares of the acquiring corporation in exchange for their interests as beneficiaries under the trust; and

(*d*) if all the shares described in subparagraph *c* had been acquired by one person, the person would control the acquiring corporation and would have acquired shares of the acquiring corporation having a fair market value of more than 50% of the fair market value of all the issued and outstanding shares of the acquiring corporation.

Control deemed not to be acquired.

Where at a particular time after 12 September 2013 a trust controls a corporation, control of the corporation is deemed not to have been acquired solely because of a change in the trustee or legal representative having ownership or control of the trust's property if

(*a*) the change is not part of a series of transactions or events that includes a change in the beneficial ownership of the trust's property; and

(*b*) no amount of income or capital of the trust to be distributed, at any time at or after the change, in respect of any interest in the trust depends upon the exercise by any person or partnership, or the failure of any person or partnership to exercise, any discretionary power.

History: 2000, c. 5, s. 16; 2009, c. 5, s. 30; 2010, c. 25, s. 6; 2015, c. 24, s. 15; 2017, c. 1, s. 76.

Corresponding Federal Provision: 256(7)(d), (e), (f) and (i).

Significant shareholders.

21.3.2. A person or group of persons is deemed not to have acquired control of a corporation at any time after 11 June 2003 if a significant shareholder, or a significant group of shareholders, of the corporation owns, at that time, shares of the capital stock of the corporation that give the shareholder or group 50% or more of the votes that could be cast under all circumstances at the annual meeting of shareholders of the corporation.

History: 2006, c. 13, s. 27.

Acquisition of control.

21.3.3. A person or group of persons deemed not to have acquired control of a corporation at any time after 11 June 2003 because of the application of section 21.3.2, is deemed to have acquired control of that corporation at a later time when, for the first time, no significant shareholder, or significant group of shareholders, of the corporation owns shares of the capital stock of the corporation that give the

shareholder or group 50% or more of the votes that could be cast under all circumstances at the annual meeting of shareholders of the corporation.

History: 2006, c. 13, s. 27.

Rules applicable.

21.3.4. For the purposes of sections 21.3.2 to 21.3.6,

(*a*) a person who owned, immediately before 12 June 2003, 25% or more in vote and value of the shares of the capital stock of a corporation is a significant shareholder of the corporation at any time after 11 June 2003;

(*b*) a group of persons in respect of which the following conditions are satisfied is a significant group of shareholders of a corporation at any given time after 11 June 2003:

i. immediately before 12 June 2003, the group owned 25% or more in vote and value of the shares of the capital stock of the corporation, and

ii. at the given time, each member of the group owned 10% or more in vote and value of the shares of the capital stock of the corporation;

(*c*) two or more persons each of whom owns shares of the capital stock of a corporation is a group of persons in respect of that corporation; and

(*d*) the percentage, in vote and value, of the shares of the capital stock of a corporation owned by a person or group of persons at any given time corresponds to the lesser of

i. the proportion, expressed as a percentage, that, at that time, the number of votes that could be cast under all circumstances at the annual meeting of shareholders of the corporation given by the shares of the capital stock of the corporation owned by the person or group of persons is of the number of votes of that kind given by all the issued shares of that capital stock, and

ii. the proportion, expressed as a percentage, that, at that time, the fair market value of the shares of the capital stock of the corporation owned by the person or group of persons is of the fair market value of all the issued shares of that capital stock.

History: 2006, c. 13, s. 27.

Significant shareholders.

21.3.5. For the purpose of determining, in accordance with section 21.3.4, whether a person or group of persons is a significant shareholder, or a significant group of shareholders, as the case may be, of a particular corporation,

(*a*) subject to the second paragraph, the rules set out in paragraphs *d* to *f* of section 21.20.2 apply in respect of the ownership of the shares of the capital stock of the particular corporation;

(*b*) another corporation, a partnership or a trust is deemed not to own, or not to be deemed to own because of the application of subparagraph *a*, a share of the capital stock of the particular corporation that is deemed to be owned, because of the application of that subparagraph, by

i. a shareholder of the other corporation,

ii. a member of the partnership, or

iii. a beneficiary under the trust or, if it is a trust referred to in section 467, the person referred to in that section;

(*c*) a person is deemed to have owned, immediately before 12 June 2003, a share the person acquired after 11 June 2003 from another person with whom the person was not dealing at arm's length, if that other person owned the share immediately before 12 June 2003;

(*d*) if, between 11 June 2003 and 1 July 2004, the particular corporation was the subject of an acquisition of control that was the result of a transaction to which any of the provisions referred to in the second paragraph of section 21.1 refers, the transaction is deemed to have been completed on 11 June 2003 for the purpose of applying sections 21.3.2 and 21.3.3 in respect of a subsequent acquisition of control of the particular corporation for the purposes of that provision;

(*e*) a person is deemed to have exercised, on 11 June 2003, one or more rights referred to in paragraph *b* of section 20 that the person exercised after that date but had acquired before 12 June 2003; and

(*f*) a person is deemed to have performed, on 11 June 2003, one or more obligations described in the third paragraph that the person performed after that date but had contracted before 12 June 2003.

Number of shares owned.

Despite subparagraph 1 of subparagraph i of paragraph *f* of section 21.20.2 and subparagraphs ii and iv of that paragraph *f*, the number of shares of the capital stock of a corporation that the members of a group who are beneficiaries under a trust or the members of a group who are persons referred to in section 467 in respect of a trust referred to in that section are deemed to own because of the application of subparagraph *a* of the first paragraph to each of them, may not be greater than the number of shares of that capital stock that are owned, or deemed to be owned because of the application of that subparagraph *a*, by the trust.

Obligation referred to.

An obligation to which subparagraph *f* of the first paragraph refers is an obligation whose performance puts the person who contracted it in the same position in relation to the

control of a corporation as that in which the person would be if the person had acquired and exercised any of the rights referred to in paragraph *b* of section 20.

History: 2006, c. 13, s. 27.

Number of shares owned.

21.3.6. In determining, for the purposes of sections 21.3.2 and 21.3.3, the number of shares of the capital stock of a particular corporation owned by a significant shareholder, or a significant group of shareholders, of the particular corporation, subparagraph *a* of the first paragraph of section 21.3.5 applies, but with reference to the following rules:

(*a*) despite paragraph *d* of section 21.20.2,

i. a shareholder of another corporation is deemed to own all the shares of the capital stock of the particular corporation that are owned, or deemed to be owned because of the application of this section, by the other corporation, if the shares of the capital stock of the other corporation owned by the shareholder give the shareholder 50% or more of the votes that could be cast under all circumstances at the annual meeting of shareholders of the other corporation, and

ii. the presumption in subparagraph i applies to a particular group consisting of members of a significant group of shareholders of the particular corporation who are shareholders of another corporation, if the shares of the capital stock of the other corporation owned by the particular group give the particular group 50% or more of the votes that could be cast under all circumstances at the annual meeting of shareholders of the other corporation;

(*b*) a person who is a shareholder of more than one corporation, in this paragraph referred to as the "intermediary corporations", may not be deemed to own a number of shares of the capital stock of the particular corporation that are owned, or deemed to be owned because of the application of this section, by another corporation of which the intermediary corporations are shareholders that is greater than the number of those shares that the person would be deemed to own if this section applied to each intermediary corporation without reference to the rule set out in subparagraph i of paragraph *a*; and

(*c*) if a significant group of shareholders of the particular corporation includes persons each of whom is deemed to own, because of the application of this section, shares of the capital stock of the particular corporation that are owned by another corporation, the total number of those shares that those persons are deemed to own may not be greater than the number of shares of that capital stock that the other corporation owns.

History: 2006, c. 13, s. 27.

Control of a corporation.

21.3.7. When sections 21.3.2 and 21.3.3 apply in respect of the control of a corporation for the purposes of subparagraph *e* of the first paragraph of section 771.13 and subparagraph *b* of the first paragraph of section 1029.8.36.0.22.1,

(*a*) sections 21.3.2 to 21.3.5 are to be read as if "11 June 2003" was replaced wherever it appears by "30 March 2004"; and

(*b*) section 21.3.4 and the first paragraph of section 21.3.5 are to be read as if "12 June 2003" was replaced wherever it appears by "31 March 2004".

History: 2006, c. 13, s. 27; 2007, c. 12, s. 22.

Corporation deemed not to be controlled.

21.4. Where, but for this section, a particular corporation would be regarded as being controlled, or controlled, directly or indirectly in any manner whatever, by a person or partnership at a particular time and it is established that the conditions set forth in the second paragraph are fulfilled, the particular corporation is deemed not to be controlled by that person or partnership at that particular time.

Conditions.

The conditions referred to in the first paragraph are:

(*a*) there is in effect at the particular time an enforceable agreement or arrangement under which, upon the happening of an event or the satisfaction of a condition that it is reasonable to expect will happen or be satisfied, the particular corporation will cease to be controlled, or controlled, directly or indirectly in any manner whatever, as the case may be, by the person or partnership, and will be or become controlled, or controlled, directly or indirectly in any manner whatever, as the case may be, by a person or group of persons with whom or with each of the members of which, as the case may be, the person or partnership is at the particular time dealing at arm's length;

(*b*) the purpose of the control referred to in the first paragraph is, at the particular time, the safeguarding of the rights or interests of the person or partnership in respect of any indebtedness owing to the person or partnership the whole or any part of the principal amount of which is outstanding at the particular time, or of any shares of the capital stock of the particular corporation that are owned by the person or partnership at the particular time and that are, under the enforceable agreement or arrangement referred to in subparagraph *a*, to be redeemed by the particular corporation or purchased by the person or group of persons referred to in subparagraph *a*.

History: 1980, c. 13, s. 3; 1987, c. 67, s. 7; 1990, c. 59, s. 9; 1997, c. 3, s. 71; 2000, c. 5, s. 17.

Corresponding Federal Provision: 256(6).

Control of corporation.

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

History: 2003, c. 2, s. 9.
Corresponding Federal Provision: 256(6.1)(a).

Control of corporation.

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

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

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

History: 2003, c. 2, s. 9.
Corresponding Federal Provision: 256(6.1)(b).

Reference to "controlled".

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

History: 2003, c. 2, s. 9.
Corresponding Federal Provision: 256(6.2).

Deemed exercise of right.

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

(*a*) to avoid any limitation on the deductibility of any net capital loss, non-capital loss or farm loss or any amount referred to in section 384 or sections 418.26 to 418.30;

(*b*) to avoid the application of Chapter IV.1, any of sections 21.0.6, 83.0.3, 93.4, 225, 308.1, 384.4, 384.5, 560.1.2, 736, 736.0.2, 736.0.3.1 and 737.18.9.2, subparagraph 2 of subparagraph i of subparagraph *b* of the second paragraph of section 771.8.5, any of subparagraphs *d* to *f* of the first paragraph of section 771.13, section 776.1.12 or 776.1.13, paragraph *c* of the definition of "qualified corporation" in the first paragraph of section 1029.8.36.0.3.46 or 1029.8.36.0.3.60, subparagraph iv of paragraph *b* of the definition of "specified corporation" in the first paragraph of section 1029.8.36.0.17, subparagraph *b* of the first paragraph of any of sections 1029.8.36.0.21.2, 1029.8.36.0.22.1 and 1029.8.36.0.25.2, paragraph *d* of the definition of "excluded corporation" in the first paragraph of section 1029.8.36.0.38, paragraph *c* of the definition of "qualified corporation" in the first paragraph of any of sections 1029.8.36.72.1, 1029.8.36.72.29, 1029.8.36.72.56 and 1029.8.36.72.83 or any of sections 1029.8.36.166.49, 1029.8.36.166.50, 1029.8.36.171.3, 1029.8.36.171.4 and 1137.8; or

(*c*) to affect the application of sections 485 to 485.18.

History: 1982, c. 5, s. 6; 1984, c. 15, s. 6; 1985, c. 25, s. 19; 1989, c. 77, s. 6; 1996, c. 39, s. 17; 2000, c. 5, s. 18; 2004, c. 21, s. 41; 2005, c. 23, s. 32; 2007, c. 12, s. 23; 2009, c. 15, s. 30; 2017, c. 1, s. 77; 2019, c. 14, s. 59.
Corresponding Federal Provision: 256(8).

Corporations without share capital.

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

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

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

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

History: 2000, c. 5, s. 19.
Corresponding Federal Provision: 256(8.1).

When control deemed to be acquired.

21.4.2. For the purposes of this Part, other than for the purpose of determining if a corporation is, at any time, a small business corporation or a Canadian-controlled private corporation, if control of a corporation is acquired by a person or group of persons at a particular time on a day, control of the corporation is deemed to have been acquired by the person or group of persons at the commencement of that day and not at the particular time unless the corporation makes a valid election under subsection 9 of section 256 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in relation to the acquisition of control.

Additional rules.

Chapter V.2 applies in relation to an election made under subsection 9 of section 256 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1989, c. 77, s. 7; 1997, c. 3, s. 71; 2009, c. 5, s. 31; 2010, c. 5, s. 10.
Corresponding Federal Provision: 256(9).

CHAPTER V.0.1
ATTRIBUTE TRADING

Definitions:

21.4.2.1. In this chapter,

"attribute trading restriction";
"attribute trading restriction" means any restriction on the use of a tax attribute arising on the application, either alone or in combination with other provisions, of any of this chapter, sections 6.2, 21.1 to 21.3.1, 83.0.3, 93.4, 222 to 230.0.0.6, 384.4 and 384.5, the first paragraph of section 418.26, sections 418.30, 427.4, 564.4, 564.4.1 and 727 to 737, paragraph *f* of section 772.13 and sections 1029.8.36.166.49, 1029.8.36.166.50, 1029.8.36.171.3 and 1029.8.36.171.4;

"person";
"person" includes a partnership;

"specified provision".
"specified provision" means any of sections 83.0.3 and 93.4, paragraph *d* of section 225, section 384.4 or 384.5, the first paragraph of section 418.26, any of sections 418.30, 427.4, 736, 736.0.1, 736.0.1.1, 736.0.2 and 736.0.3.1, paragraph *f* of section 772.13, any of sections 1029.8.36.166.49, 1029.8.36.166.50, 1029.8.36.171.3 and 1029.8.36.171.4 and any other provision of similar effect.

History: 2017, c. 1, s. 78.
Corresponding Federal Provision: 256.1(1).

Application of section 21.4.2.3.

21.4.2.2. The rules provided for in section 21.4.2.3 apply at a particular time in respect of a corporation in connection with attribute trading restrictions if

(*a*) shares of the capital stock of the corporation held by a person, or the total of all shares of the capital stock of the corporation held by members of a group of persons, as the case may be, have at the particular time a fair market value that exceeds 75% of the fair market value of all the shares of the capital stock of the corporation;

(*b*) shares of the capital stock of the corporation held by the person, or the total of all shares of the capital stock of the corporation held by members of the group of persons, have immediately before the particular time a fair market value that does not exceed 75% of the fair market value of all the shares of the capital stock of the corporation;

(*c*) the person or group of persons does not control the corporation at the particular time; and

(*d*) it is reasonable to conclude that one of the main reasons that the person or group of persons does not control the corporation is to avoid the application of one or more specified provisions.

History: 2017, c. 1, s. 78.
Corresponding Federal Provision: 256.1(2).

Deemed acquisition of control.

21.4.2.3. The rules to which section 21.4.2.2 refers at a particular time in respect of a corporation are as follows:

(*a*) the person or group of persons referred to in section 21.4.2.2

i. is deemed to acquire control of the corporation, and each corporation controlled by the corporation, at the particular time, and

ii. is not deemed to have control of the corporation, and each corporation controlled by the corporation, at any time after the particular time solely because this paragraph applied at the particular time; and

(*b*) during the period that the condition in paragraph *a* of section 21.4.2.2 is satisfied, each corporation referred to in paragraph *a*—and any corporation incorporated subsequent to the particular time and controlled by that corporation—is deemed not to be related to, or affiliated with, any person to which it was related to, or affiliated with, immediately before paragraph *a* applies.

History: 2017, c. 1, s. 78.
Corresponding Federal Provision: 256.1(3).

Special rules.

21.4.2.4. For the purpose of applying paragraph *a* of section 21.4.2.2 in respect of a person or group of persons, the following rules apply:

(*a*) if it is reasonable to conclude that one of the reasons that one or more transactions or events occur is to cause a person or group of persons not to hold shares having a fair market value that exceeds 75% of the fair market value of all the shares of the capital stock of a corporation, no account is to be taken of those transactions or events; and

(*b*) the person, or each member of the group of persons, is deemed to have exercised each right that is held by the person or a member of the group and that is referred to in paragraph *b* of section 20 in respect of a share of the corporation referred to in paragraph *a* of section 21.4.2.2.

History: 2017, c. 1, s. 78.
Corresponding Federal Provision: 256.1(4).

Deeming rules — if share value nil.

21.4.2.5. For the purposes of sections 21.4.2.2 to 21.4.2.4, if the fair market value of the shares of the capital stock of a corporation is nil at a particular time, then for the purpose of determining the fair market value of those shares, the corporation is deemed, at that time, to have assets net of liabilities equal to $100,000 and to have $100,000 of income for the taxation year that includes that time.

History: 2017, c. 1, s. 78.

Corresponding Federal Provision: 256.1(5).

Deemed acquisition of control.

21.4.2.6. If, at a particular time as part of a transaction or event or series of transactions or events, control of a particular corporation is acquired by a person or group of persons and it can reasonably be concluded that one of the main reasons for the acquisition of control is so that a specified provision does not apply to one or more corporations, the attribute trading restrictions are deemed to apply to each of those corporations as if control of each of those corporations were acquired at that time.

History: 2017, c. 1, s. 78.

Corresponding Federal Provision: 256.1(6).

CHAPTER V.I
DIVIDEND DEEMED TO BE INTEREST

Dividend deemed received as interest.

21.4.3. Where a dividend is received on a share in a taxation year and after 18 June 1987 from a corporation not resident in Canada, other than a corporation in which the recipient of the dividend had or would have, if the corporation were a taxable Canadian corporation, a substantial interest within the meaning of section 191 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), such dividend is deemed, for the purposes of paragraphs *c* and *l* of section 87 and sections 746 to 749 and section 772.2 to 772.13, to have been received in the year as interest and not as a dividend on a share of the capital stock of the payer corporation, if the dividend is a dividend in respect of which no deduction could have been made under section 738, 740 or 845 by reason of sections 740.2 to 740.3.1 or section 740.5 if the corporation that paid the dividend were a taxable Canadian corporation.

History: 1990, c. 59, s. 10; 1995, c. 49, s. 13; 1995, c. 63, s. 14; 1997, c. 3, s. 71.

Corresponding Federal Provision: 258(5).

Exception.

21.4.3.1. Section 21.4.3 does not apply in respect of a dividend to the extent that the dividend would be described in subparagraph ii of paragraph *j* of section 257 if the corporation not resident in Canada were not a foreign affiliate of the recipient of the dividend.

History: 2019, c. 14, s. 60.

Corresponding Federal Provision: 258(6).

CHAPTER V.2
MAKING CERTAIN ELECTIONS

Application.

21.4.4. This chapter applies when a provision of this Act (in this chapter referred to as the "particular provision") refers to this chapter in relation to an election made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or under this Act.

Elector.

A person, legal representative or partnership that makes such an election is referred to as the "elector" in this chapter.

History: 2009, c. 5, s. 32.

Date of election.

21.4.5. If an election, which should have been made on or before 19 December 2006 or which was made before 20 December 2006, is made or amended as a consequence of the application of subsection 5 or 5.1 of section 93 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or of subsection 3.2 of section 220 of that Act, the date on which the election was made, which is to be taken into account for the purposes of sections 21.4.6, 21.4.9 and 21.4.10 and of the particular provision, is, despite the presumption provided for in that respect in that subsection 5 or 5.1 or in paragraph *a* of subsection 3.3 of that section 220, the date on which the election is actually made or amended.

Election rescinded in circumstances where section 7.19.1 applies.

If, in relation to any subject (in this paragraph referred to as the "subject of an election made for federal purposes"), an election is rescinded after 19 December 2006 in circumstances where section 7.19.1 applies and a particular valid election has been made before 20 December 2006 under the particular provision in relation to the subject of an election made for federal purposes, the particular valid election is deemed never to have been made.

History: 2009, c. 5, s. 32; 2010, c. 25, s. 7.

Documents to be sent.

21.4.6. If, after 19 December 2006, an elector makes a valid election under the provision of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) to which the particular provision refers, the elector or, if the elector is a partnership, any member of the partnership shall, on or before the date provided for in the second paragraph, notify the Minister in writing of the election and attach to the notice a copy of every document sent to the Minister of National Revenue in connection with the election.

Time limit.

The date to which the first paragraph refers is the date of the thirtieth day following that on which the election is made or, if it is later, the filing-due date of the person in respect of whom the election is made or, where the election is made in respect of a partnership, of the member of the partnership for the taxation year for which the election has to be sent to the Minister of National Revenue.

Exception.

This section does not apply if the person in respect of whom the election is made or, where the election is made in respect of a partnership, each of its members was not subject to tax under this Part for the taxation year for which the election had to be sent to the Minister of National Revenue.

History: 2009, c. 5, s. 32; 2012, c. 8, s. 37.

Documents to be sent.

21.4.6.1. If, after 19 December 2006, an elector makes a valid election under the provision of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) to which the particular provision refers, other than an election described in the second paragraph, the person in respect of whom the election is made or, where the election is made in respect of a partnership, each of its members was not subject to tax under this Part for the taxation year for which the election had to be sent to the Minister of National Revenue and, for the purposes of the Income Tax Act, the election is in force for a subsequent taxation year (in this section referred to as the "tax liability year") for which the person in respect of whom the election is made or, where the election is made in respect of a partnership, any of its members becomes subject to tax under this Part, the elector or any member of the partnership shall, on or before the date provided for in the third paragraph, notify the Minister in writing of the election and attach to the notice a copy of every document sent to the Minister of National Revenue in connection with the election.

Excluded election.

An election to which the first paragraph refers is an election that is made for the purpose of computing, for a taxation year, the income or taxable income of a taxpayer for the purposes of the Income Tax Act and that relates to a deduction in that computation or to the determination of the cost, capital cost or cost amount of a property of the taxpayer, to which section 31 or 694 applies for the purpose of determining, for the tax liability year or a subsequent taxation year, the taxpayer's income or taxable income for the purposes of this Part.

Time limit.

The date to which the first paragraph refers is the filing-due date, for the tax liability year, of the person in respect of whom the election is made or, where the election is made in respect of a partnership, of the member of the partnership who first becomes subject to tax under this Part for the tax liability year.

History: 2012, c. 8, s. 38.

Penalty.

21.4.7. In the event of non-compliance with a requirement of section 21.4.6 or 21.4.6.1, the elector incurs a penalty of $25 a day for every day the omission continues, up to $2,500.

History: 2009, c. 5, s. 32; 2012, c. 8, s. 39.

Time limit extended or election amended or rescinded under Income Tax Act.

21.4.8. If, in relation to any subject (in this section referred to as the "subject of an election made for federal purposes") and as a consequence of the application of subsection 3.2 of section 220 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the period within which an elector may make the election under section 21.4.6 has been extended or an election made by the elector under the provision of that Act to which the particular provision refers is amended or rescinded after 19 December 2006, the following rules apply:

(*a*) the elector shall notify the Minister in writing and attach to the notice a copy of every document sent to the Minister of National Revenue for that purpose;

(*b*) the elector incurs a penalty equal to $100 for each complete month included in the period beginning on the day on or before which the election or the amended or rescinded election was required to have been made and ending on the day on which the notice referred to in paragraph *a* is sent to the Minister, up to $5,000; and

(*c*) if a particular valid election has been made before 20 December 2006 under the particular provision in relation to the subject of an election made for federal purposes,

i. in the case of the election made or amended,

(1) the particular provision is to apply in respect of the subject of an election made for federal purposes, as the particular provision reads on 20 December 2006 and not as it read before that date, and

(2) the particular valid election is deemed never to have been made, and

ii. in the case of the rescinded election, the particular valid election is deemed never to have been made.

History: 2009, c. 5, s. 32.

Election made before 20 December 2006 under Taxation Act.

21.4.9. Subject to sections 21.4.5, 21.4.8 and 21.4.11, if, in relation to any subject (in this section referred to as the

"subject of an election made for Québec purposes"), an elector made a particular valid election under the particular provision before 20 December 2006, the particular provision must apply in respect of the subject of an election made for Québec purposes, as the particular provision read before that date, unless, after 19 December 2006, the elector makes, in relation to the subject of an election made for Québec purposes, a valid election under the provision of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) to which the particular provision refers, in which case the following rules apply:

(*a*) the particular provision must apply in respect of the subject of an election made for Québec purposes, as the particular provision reads on 20 December 2006 and not as it read before that date; and

(*b*) the particular valid election is deemed never to have been made.

History: 2009, c. 5, s. 32.

Election not made before 20 December 2006 under Taxation Act.

21.4.10. If, before 20 December 2006 and in relation to any subject (in this section referred to as the "subject of an election made for federal purposes"), an elector made a particular valid election under the provision of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) to which the particular provision refers and did not rescind it after 19 December 2006 as a consequence of the application of subsection 3.2 of section 220 of that Act, and the elector has not made a valid election under the particular provision, the following rules apply:

(*a*) if the applicable period within which to make the election under the particular provision in relation to the subject of an election made for federal purposes, as the particular provision read before 20 December 2006, would have ended after 19 December 2006, the particular provision must, if the elector so decides on or before the time at which the period should have ended, apply in respect of the subject of an election made for federal purposes as if the particular valid election had been made on 20 December 2006, and, for that purpose, section 603 applies, with the necessary modifications, in respect of that decision if the particular provision was referred to in section 603, as that section read on 19 December 2006;

(*b*) if subsection 3.2 of section 220 of the Income Tax Act applies, in relation to the subject of an election made for federal purposes, to the provision of that Act to which the particular provision refers and if section 21.4.8 does not apply,

i. the Minister may allow that the particular provision apply in respect of the subject of an election made for federal purposes as if the particular valid election had been made on 20 December 2006, if

(1) the applicable period within which to make the election under the particular provision in relation to the subject of an election made for federal purposes, as the particular provision read before 20 December 2006, would have ended on or before a particular day of any of the elector's taxation years or fiscal periods, as the case may be, and

(2) the elector files an application with the Minister in that respect on or before the day that is 10 calendar years after the end of the taxation year or fiscal period, and, for that purpose, section 603 applies, with the necessary modifications, in respect of that application if the particular provision was referred to in section 603, as that section read on 19 December 2006, and

ii. if the Minister grants the application filed under subparagraph i, the elector incurs a penalty equal to $100 for each complete month included in the period beginning on the day on or before which the particular valid election was required to have been made and ending on the day on which the application is filed with the Minister, up to $5,000; and

(*c*) if the particular provision is any of sections 85.5, 194, 215, 250.1, 312.3, 462.16, 688.1.1, 853 and 985.3 and, before 20 December 2006, in the case of sections 85.5, 194 and 215, the elector has not made a valid election under the provision of the Income Tax Act to which section 85.6, 195 or 216, as the case may be, refers in relation to the particular valid election, or, in the case of section 985.3, the Minister of National Revenue has not revoked the particular valid election, the elector may, with the consent of the Minister and on the conditions determined by the Minister, apply the particular provision, for or from a particular taxation year or particular day or from a particular date, as the case may be, as if the particular valid election was a valid election made after 19 December 2006 in that respect, for or from the particular taxation year or particular day or from the particular date, as the case may be, under the provision of the Income Tax Act to which the particular provision refers.

History: 2009, c. 5, s. 32.

Election made before 20 December 2006 under Taxation Act.

21.4.11. If an elector made a particular valid election under the particular provision before 20 December 2006 in relation to any subject (in this section referred to as the "subject of an election made for Québec purposes"), the following rules apply:

(*a*) if subsection 3.2 of section 220 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applies, in relation to the subject of an election made for Québec purposes, to the provision of that Act (in this subparagraph referred to as the "corresponding provision") to which the particular provision refers, if section 21.4.8 does not apply and if the elector made, in relation to the subject of an election made for Québec purposes, a valid election under the corresponding provision before 20 December 2006 that has not been rescinded before

that date as a consequence of the application of that subsection 3.2, or the elector did not make such an election or made such an election that was thus rescinded before that date,

i. the Minister may allow that the particular provision, as it reads on 20 December 2006 and not as it read before that date, apply in respect of the subject of an election made for Québec purposes as if the election made for the purposes of the Income Tax Act that was not rescinded had been made on 20 December 2006, or that the particular valid election be revoked in any other case, if

(1) the period within which, in relation to the subject of an election made for Québec purposes, the election under the particular provision was to be made, as the particular provision read before 20 December 2006, would have ended on or before a particular day of any of the elector's taxation years or fiscal periods, as the case may be, and

(2) the elector files an application with the Minister in that respect on or before the day that is 10 calendar years after the end of the taxation year or fiscal period, and, for that purpose, section 603 applies, with the necessary modifications, in respect of that application if the particular provision was referred to in section 603, as that section read on 19 December 2006, and

ii. if the Minister grants the application filed under subparagraph i,

(1) the elector incurs a penalty equal to $100 for each complete month included in the period beginning on the day on or before which the election under the corresponding provision in relation to the subject of an election made for Québec purposes was required to have been made and ending on the day on which the application is filed, up to $5,000, and

(2) the particular valid election is deemed never to have been made;

(*b*) if the particular provision is any of sections 85.5, 194, 215 and 985.3 and the conditions set out in the second paragraph are met before 20 December 2006, the elector may, with the consent of the Minister and on the conditions determined by the Minister, apply the particular provision, for a particular taxation year or from a particular date, as if the valid election referred to in subparagraph *b* of the second paragraph was a valid election made after 19 December 2006 in that respect, for the particular taxation year or from the particular date, under the provision of the Income Tax Act to which the particular provision refers;

(*c*) if the particular provision is any of sections 85.5, 194, 215, 284 and 985.3 and the conditions set out in the third paragraph are met before 20 December 2006,

i. in the case of sections 85.5, 194, 215 and 284, the elector may, with the consent of the Minister and on the conditions determined by the Minister, apply section 85.6, 195 or 216 or the second paragraph of section 284, as the case may be, for a particular taxation year, as if the valid election referred to in subparagraph *c* of the third paragraph was a valid election made in that respect after 19 December 2006, for the particular taxation year, under the provision of the Income Tax Act to which section 85.6, 195 or 216 or the second paragraph of section 284, as the case may be, refers, and

ii. in the case of section 985.3, the Minister may revoke the particular valid election from the particular date referred to in subparagraph *c* of the third paragraph; and

(*d*) if the particular provision is any of sections 85.5, 194, 215, 284 and 985.3 and the conditions set out in the fourth paragraph are met before 20 December 2006,

i. in the case of sections 85.5, 194, 215 and 284, the elector may, with the consent of the Minister and on the conditions determined by the Minister, apply section 85.6, 195 or 216 or the second paragraph of section 284, as the case may be, for a particular taxation year, as if a valid election had been made in that respect after 19 December 2006, for the particular taxation year, under the provision of the Income Tax Act to which section 85.6, 195 or 216 or the second paragraph of section 284, as the case may be, refers, and

ii. in the case of section 985.3, the Minister may revoke the particular valid election from the date the Minister determines.

Applicability.

The conditions to which subparagraph *b* of the first paragraph refers are as follows:

(*a*) in the case of sections 85.5, 194 and 215, the elector has made a valid election under section 85.6, 195 or 216, as the case may be, in relation to the particular valid election, or, in the case of section 985.3, the Minister has revoked the particular valid election;

(*b*) the elector has made a valid election, in relation to the subject of an election made for Québec purposes, under the provision of the Income Tax Act to which the particular provision refers; and

(*c*) in the case of sections 85.5, 194 and 215, the elector has not made a valid election under the provision of the Income Tax Act to which section 85.6, 195 or 216, as the case may be, refers in relation to the valid election referred to in subparagraph *b*, or, in the case of section 985.3, the Minister of National Revenue has not revoked the valid election referred to in subparagraph *b*.

Applicability.

The conditions to which subparagraph *c* of the first paragraph refers are as follows:

(*a*) in the case of sections 85.5, 194, 215 and 284, the elector has not made a valid election under section 85.6, 195 or 216 or the second paragraph of section 284, as the case may be, in relation to the particular valid election, or, in the case of section 985.3, the Minister has not revoked the particular valid election;

(*b*) the elector has made a valid election, in relation to the subject of an election made for Québec purposes, under the provision of the Income Tax Act to which section 85.5, 194 or 215 or the first paragraph of section 284, as the case may be, refers; and

(*c*) in the case of sections 85.5, 194, 215 and 284, the elector has made a valid election under the provision of the Income Tax Act to which section 85.6, 195 or 216 or the second paragraph of section 284, as the case may be, refers in relation to the valid election referred to in subparagraph *b*, or, in the case of section 985.3, the Minister of National Revenue has revoked the valid election referred to in subparagraph *b* from a particular date.

Applicability.

The conditions to which subparagraph *d* of the first paragraph refers are as follows:

(*a*) in the case of sections 85.5, 194, 215 and 284, the elector has not made a valid election under section 85.6, 195 or 216 or the second paragraph of section 284, as the case may be, in relation to the particular valid election, or, in the case of section 985.3, the Minister has not revoked the particular valid election; and

(*b*) the elector has not made a valid election, in relation to the subject of an election made for Québec purposes, under the provision of the Income Tax Act to which section 85.5, 194 or 215 or the first paragraph of section 284, as the case may be, refers.

History: 2009, c. 5, s. 32.

Penalty for a partnership.

21.4.12. The Minister may determine any penalty payable by a partnership under this chapter and send the partnership a notice of assessment in that respect.

History: 2009, c. 5, s. 32.

Maximum penalty.

21.4.13. The total amount of the penalties incurred by the elector under this chapter in relation to a particular election may not exceed the greatest penalty that would otherwise have been incurred in respect of that election under any of the provisions of this chapter.

History: 2009, c. 5, s. 32.

Assessments by Minister.

21.4.14. Under this Part and despite sections 1010 to 1011, the Minister shall make such assessments of tax, interest and penalties as are necessary for any taxation year to take into account any election, any amended, rescinded or revoked election or any election deemed never to have been made, and any application of the particular provision, referred to in any of sections 21.4.5, 21.4.8 and 21.4.9, in paragraph *b* of section 21.4.10 or in subparagraph *a* of the first paragraph of section 21.4.11.

History: 2009, c. 5, s. 32.

Operation considered to be an election.

21.4.15. If any given provision of this Act refers to this chapter in relation to an operation that consists in the rescinding or revocation of an election, or in an agreement or arrangement, an application, an attribution, a designation, a determination, a distribution or a specification relating to a property, an amount or anything else, this chapter is to be interpreted as if the operation consisted in an election made under the given provision or under the provision of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) to which the given provision refers.

History: 2009, c. 5, s. 32.

CHAPTER V.3
USE OF THE CANADIAN CURRENCY OR OF A FUNCTIONAL CURRENCY

Definitions:

21.4.16. In this chapter,

"Canadian currency year";
"Canadian currency year" of a taxpayer means a taxation year that precedes the first functional currency year of the taxpayer;

"elected functional currency";
"elected functional currency" of a taxpayer means the currency of a country other than Canada that is the elected functional currency of the taxpayer, within the meaning of subsection 1 of section 261 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), for the purposes of that section;

"functional currency year";
"functional currency year" of a taxpayer means a taxation year in respect of which the rules set out in section 21.4.19 apply to the taxpayer;

"pre-reversion debt";
"pre-reversion debt" of a taxpayer means a debt obligation of the taxpayer that was issued by the taxpayer before the beginning of the taxpayer's first reversionary year;

"pre-transition debt";
"pre-transition debt" of a taxpayer means a debt obligation of the taxpayer that was issued by the taxpayer before the beginning of the taxpayer's first functional currency year;

"Québec tax results";
"Québec tax results" of a taxpayer for a taxation year means

(*a*) the amount of the income, taxable income or taxable income earned in Canada of the taxpayer for the taxation year, or any other amount used as a basis for computing an amount that the taxpayer is required to pay for the taxation year under this Act, other than under Part III.7 or III.7.0.1 (except for the purposes of section 21.4.17);

(*b*) the amount (other than an amount payable on behalf of another person under section 1015 or, except for the purposes of section 21.4.17, other than an amount payable under Part III.7 or III.7.0.1) of tax or any other amount payable under this Act by the taxpayer in respect of the taxation year;

(*c*) the amount (other than an amount refundable on behalf of another person in respect of amounts payable on behalf of that person under section 1015) of tax or any other amount refundable under this Act to the taxpayer in respect of the taxation year; and

(*d*) any amount (including an amount provided for in Chapter V of the Act respecting international financial centres (chapter C-8.3)) that is relevant in computing the amounts described in respect of the taxpayer in paragraphs *a* to *c*;

"relevant spot rate";
"relevant spot rate" for a particular day means, in respect of a conversion of an amount from a particular currency to another currency,

(*a*) if the particular currency or the other currency is Canadian currency, the rate quoted by the Bank of Canada for noon on the particular day (or, if there is no such rate quoted for the particular day, the closest preceding day for which such a rate is quoted) for the exchange of the particular currency for the other currency, or, for the purposes of paragraph *b* of section 21.4.17 and paragraph *c* of section 21.4.19, any other rate of exchange that is acceptable to the Minister; and

(*b*) if neither the particular currency nor the other currency is Canadian currency, the rate—calculated by reference to the rates quoted by the Bank of Canada for noon on the particular day (or, if either of such rates is not quoted for the particular day, the closest preceding day for which both such rates are quoted)—for the exchange of the particular currency for the other currency, or, for the purposes of paragraph *b* of section 21.4.17 and paragraph *c* of section 21.4.19, any other rate of exchange that is acceptable to the Minister;

"reversionary year";
"reversionary year" of a taxpayer means a taxation year that begins after the last functional currency year of the taxpayer;

"tax reporting currency";

"tax reporting currency" of a taxpayer for a taxation year, and at any time in the taxation year, means the currency in which the taxpayer's Québec tax results for the taxation year are to be computed.

History: 2010, c. 5, s. 11; 2017, c. 1, s. 79.
Corresponding Federal Provision: 261(1).

Canadian currency requirement.

21.4.17. The following rules apply in computing the Québec tax results of a taxpayer for a taxation year:

(*a*) subject to this chapter, other than this section, Canadian currency is to be used; and

(*b*) subject to this chapter, other than this section, sections 167.1.1 and 484.6, subparagraph *l* of the first paragraph of section 485.3 and paragraph *b* of section 851.22.39, if a particular amount that is relevant in computing those Québec tax results is expressed in a currency other than Canadian currency, the particular amount is to be converted to an amount expressed in Canadian currency using the relevant spot rate for the day on which the particular amount arose.

History: 2010, c. 5, s. 11; 2011, c. 34, s. 13; 2019, c. 14, s. 61.
Corresponding Federal Provision: 261(2).

Functional currency tax reporting.

21.4.18. The rules set out in section 21.4.19 apply to a taxpayer in respect of a particular taxation year if, because of subsection 3 of section 261 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), subsection 5 of section 261 of that Act applies to the taxpayer in respect of the particular taxation year for the purposes of that Act.

Additional rules.

Chapter V.2 applies in relation to an election made under paragraph *b* of subsection 3 of section 261 of the Income Tax Act and, if applicable, in relation to the revocation of that election made under subsection 4 of section 261 of that Act.

History: 2010, c. 5, s. 11.
Corresponding Federal Provision: 261(3) and (4).

Functional currency tax reporting rules.

21.4.19. The rules to which the first paragraph of section 21.4.18 refers and that apply to a taxpayer in respect of a particular taxation year are the following:

(*a*) the taxpayer's elected functional currency is to be used for the purpose of computing the taxpayer's Québec tax results for the particular taxation year;

(*b*) unless the context otherwise requires, each reference in this Act or the regulations made under it to an amount (other than in respect of a penalty or fine) that is described as a particular number of Canadian dollars is, in respect of the taxpayer and the particular taxation year, to be read as a reference to that amount expressed in the taxpayer's elected functional currency using the relevant spot rate for the first day of the particular taxation year;

(*c*) subject to paragraph *b* of section 21.4.24, sections 21.4.30, 167.1.1 and 484.6, subparagraph *l* of the first paragraph of section 485.3 and paragraph *b* of section 851.22.39, if a particular amount that is relevant in computing the taxpayer's Québec tax results for the particular taxation year is expressed in a currency other than the taxpayer's elected functional currency, the particular amount is to be converted to an amount expressed in the taxpayer's elected functional currency using the relevant spot rate for the day on which the particular amount arose;

(*d*) the definition of "exchange rate" in section 736.0.0.2 is, in respect of the taxpayer and the particular taxation year, and with the necessary modifications, to be read as follows:

""exchange rate" at a particular time in respect of a particular currency other than the taxpayer's elected functional currency means the relevant spot rate, for the day that includes that time, in respect of the conversion of an amount from the particular currency to the taxpayer's elected functional currency, or a rate of exchange acceptable to the Minister;";

(*e*) section 262 is, in respect of the taxpayer and the particular taxation year, and with the necessary modifications, to be read as if "one or more foreign currencies relative to Canadian currency" in the portion before paragraph *a* were replaced by "one or more currencies (other than the taxpayer's elected functional currency) relative to the taxpayer's elected functional currency" and as if "Canadian currency" in paragraphs *a* and *b* were replaced by "the taxpayer's elected functional currency";

(*f*) a reference to "Canadian currency" wherever it appears in the following provisions is, in respect of the taxpayer and the particular taxation year, and with the necessary modifications, to be read as a reference to the "taxpayer's elected functional currency":

i. paragraph *c*.1 of section 21.26,

ii. paragraph *a*.1 of section 21.27,

iii. sections 167.1.1, 474, 483.2, 483.3 and 484.6,

iv. subparagraph *l* of the first paragraph of section 485.3,

v. section 485.28,

v.1. sections 591 to 591.3,

vi. paragraph *f* of the definition of "tax basis" in section 851.22.7,

vii. paragraph *g* of section 851.22.8,

viii. the portion of subparagraph i of paragraph *b* of section 851.22.39 before subparagraph 1,

ix. subparagraph 2 of subparagraph i of paragraph *b* of section 851.22.39,

x. subparagraph ii of paragraph *b* of section 851.22.39, and

xi. subparagraph iv of subparagraph *a* of the second paragraph of section 1079.1R3 of the Regulation respecting the Taxation Act (chapter I-3, r. 1);

(*g*) the definition "foreign currency" in section 1 is, in respect of the taxpayer and the particular taxation year, and with the necessary modifications, to be read as follows:

""foreign currency" in respect of a taxpayer, at any time in a taxation year, means a currency other than the taxpayer's elected functional currency;";

(*h*) this chapter applies, with the necessary modifications, for the purposes of Book II of Part VI in respect of the taxpayer in relation to a particular month, if the particular month is included in the particular taxation year; and

(*i*) this chapter applies, with the necessary modifications, for the purposes of Part VI.4 in respect of the taxpayer in relation to a particular calendar year, if the last fiscal period of the taxpayer, for the purposes of Part VI.4, that ends in the preceding calendar year is a fiscal period that ends in the particular taxation year or the end of which coincides with the end of that particular taxation year.

History: 2010, c. 5, s. 11; 2011, c. 34, s. 14; 2019, c. 14, s. 62.
Corresponding Federal Provision: 261(5).

Partnerships.

21.4.20. For the purpose of computing the Québec tax results of a particular taxpayer for each taxation year that is a functional currency year or a reversionary year of the particular taxpayer, this chapter is to be applied as if each partnership of which the particular taxpayer is a member in the taxation year were a taxpayer that

(*a*) had as its first functional currency year its first fiscal period that

i. is a fiscal period during which the particular taxpayer is a member of the partnership,

ii. begins after 13 December 2007, and

iii. begins on or after the first day of the particular taxpayer's first functional currency year;

(*b*) had as its last Canadian currency year its last fiscal period that ends before its first functional currency year;

(*c*) had as its first reversionary year its first fiscal period that begins after the particular taxpayer's last functional currency year;

(*d*) is a taxpayer to which section 21.4.19 applies in respect of each of its fiscal periods that is, or begins after, its first functional currency year and that ends before its first reversionary year;

(*e*) had as its elected functional currency in respect of each fiscal period described in paragraph *d* the elected functional currency of the particular taxpayer; and

(*f*) had as its last functional currency year its last fiscal period that ends before its first reversionary year.

History: 2010, c. 5, s. 11; 2019, c. 14, s. 63.
Corresponding Federal Provision: 261(6).

Foreign affiliates.

21.4.21. For the purpose of computing a taxpayer's income for a particular taxation year that is a functional currency year or a reversionary year of the taxpayer, foreign accrual property income of a foreign affiliate of the taxpayer, in respect of the taxpayer for the particular taxation year, is to be determined in accordance with the regulations made under section 579 after taking into account the application of subsection 6.1 of section 261 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the taxpayer for the particular taxation year.

History: 2010, c. 5, s. 11.
Corresponding Federal Provision: 261(6.1).

Converting Canadian currency amounts.

21.4.22. For the purpose of applying this Act to a taxpayer for a functional currency year of the taxpayer (in this section referred to as the "particular taxation year"), the following amounts are to be converted from Canadian currency to the taxpayer's elected functional currency using the relevant spot rate for the last day of the taxpayer's last Canadian currency year:

(*a*) each amount that

i. is, or is relevant in computing, an amount that may be deducted or is deemed to have been paid to the Minister for the particular taxation year under any of sections 222 to 225, 371, 710, 727 to 737, 772.12, 776.1.9, 1029.8.36.166.46, 1029.8.36.171.1 and 1135.2, and

ii. was determined for a Canadian currency year of the taxpayer;

(*b*) the cost to the taxpayer of a property that was acquired by the taxpayer in a Canadian currency year of the taxpayer;

(*c*) any amount that was required by section 255 or 257 to be added or deducted in computing, at any time in a Canadian currency year of the taxpayer, the adjusted cost base to the taxpayer of a capital property that was acquired by the taxpayer in such a year;

(*d*) any amount that

i. is in respect of the taxpayer's undepreciated capital cost of depreciable property of a prescribed class, the taxpayer's cumulative Canadian exploration expenses within the meaning of section 398, the taxpayer's cumulative Canadian development expenses within the meaning of section 411, the taxpayer's cumulative foreign resource expense, in relation to a country other than Canada, within the meaning of section 418.1.3, or the taxpayer's cumulative Canadian oil and gas property expense within the meaning of section 418.5 (each of which is in this paragraph referred to as a "pool amount"), and

ii. was added to or deducted in computing a pool amount of the taxpayer in respect of a Canadian currency year of the taxpayer;

(*e*) any amount that has been deducted or claimed as a reserve in computing the income of the taxpayer for the taxpayer's last Canadian currency year;

(*f*) any outlay or expense referred to in section 175.1 or 230.0.0.6 that was made or incurred by the taxpayer in respect of a Canadian currency year of the taxpayer, and any amount that was deducted in respect of the outlay or expense in computing the income of the taxpayer for such a year; and

(*g*) any other amount (other than an amount referred to in any of sections 21.4.20, 21.4.21 and 21.4.23) determined under the provisions of this Act for or in respect of a Canadian currency year of the taxpayer that is relevant in computing the Québec tax results of the taxpayer for the particular taxation year.

History: 2010, c. 5, s. 11; 2019, c. 14, s. 64.
Corresponding Federal Provision: 261(7).

Converting pre-transition debts.

21.4.23. In computing, in a functional currency year of a taxpayer, the amount for which a pre-transition debt of the taxpayer (other than a pre-transition debt denominated in the taxpayer's elected functional currency) was issued and its principal amount at the beginning of the taxpayer's first functional currency year, those amounts are to be converted from the pre-transition debt currency to the taxpayer's

elected functional currency using the relevant spot rate for the last day of the taxpayer's last Canadian currency year.

History: 2010, c. 5, s. 11.
Corresponding Federal Provision: 261(8).

Pre-transition debts.

21.4.24. A pre-transition debt of a taxpayer that is denominated in a currency other than the taxpayer's elected functional currency is deemed to have been issued immediately before the taxpayer's first functional currency year for the purpose of

(*a*) computing the amount of the taxpayer's income, gain or loss, for a functional currency year of the taxpayer (other than an amount that section 21.4.25 deems to arise), that is attributable to a fluctuation in the value of a currency; and

(*b*) applying subparagraph *l* of the first paragraph of section 485.3 in respect of a functional currency year of the taxpayer.

History: 2010, c. 5, s. 11.
Corresponding Federal Provision: 261(9).

Deferred amounts relating to pre-transition debts.

21.4.25. If a taxpayer has, in a taxation year that is a functional currency year or a reversionary year of the taxpayer, made a particular payment on account of the principal amount of a pre-transition debt of the taxpayer, the following rules apply:

(*a*) if the taxpayer would have made a gain—or, if the pre-transition debt was not on account of capital, would have had income—(in the second paragraph referred to as the "hypothetical gain or income") attributable to a fluctuation in the value of a currency if the pre-transition debt had been settled by the taxpayer's having paid, immediately before the end of the taxpayer's last Canadian currency year, an amount equal to the principal amount (expressed in the currency in which the pre-transition debt is denominated, which currency is in this section referred to as the "debt currency") at that time, the taxpayer is deemed to make a gain or to have income, as the case may be, for the taxation year equal to the amount determined by the formula

A × B/C; and

(*b*) if the taxpayer would have sustained a loss—or, if the pre-transition debt was not on account of capital, would have had a loss—(in this subparagraph referred to as the "hypothetical loss") attributable to a fluctuation in the value of a currency if the pre-transition debt had been settled by the taxpayer's having paid, immediately before the end of the taxpayer's last Canadian currency year, an amount equal to the principal amount (expressed in the debt currency) at that time, the taxpayer is deemed to sustain or to have a loss in respect of the particular payment for the taxation year equal to the amount that would be determined by the formula in subparagraph *a* if the reference to "hypothetical gain or income" in subparagraph i of subparagraph *a* of the second paragraph were read as a reference to "hypothetical loss".

Interpretation

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

(*a*) A is

i. if the taxation year is a functional currency year of the taxpayer, the amount of the hypothetical gain or income converted to the taxpayer's elected functional currency using the relevant spot rate for the last day of the taxpayer's last Canadian currency year, and

ii. if the taxation year is a reversionary year of the taxpayer, the amount determined under subparagraph i converted to Canadian currency using the relevant spot rate for the last day of the taxpayer's last functional currency year;

(*b*) B is the amount of the particular payment (expressed in the debt currency); and

(*c*) C is the principal amount of the pre-transition debt at the beginning of the taxpayer's first functional currency year (expressed in the debt currency).

History: 2010, c. 5, s. 11.
Corresponding Federal Provision: 261(10).

Debt parking — foreing exchange.

21.4.25.1. For the purpose of determining a taxpayer's gain under section 21.4.25, if at a particular time a pre-transition debt of the taxpayer (in this section referred to as the "debtor") that is denominated in a currency other than Canadian currency becomes a parked obligation (within the meaning assigned by section 262.0.0.2), the debtor is deemed to have made, at that time, a particular payment on account of the principal amount of the debt equal to

(*a*) if the debt has become a parked obligation at that particular time as a result of its acquisition by the holder of the debt, the portion of the amount paid by the holder to acquire the debt that can reasonably be considered to relate to the principal amount of the debt at the particular time; and

(*b*) in any other case, the portion of the fair market value of the debt that can reasonably be considered to relate to the principal amount of the debt at the particular time.

History: 2019, c. 14, s. 65.
Corresponding Federal Provision: 261(10.1).

Determination of amounts payable.

21.4.26. Despite sections 21.4.19 and 21.4.22, for the purposes of this Act and the Tax Administration Act (chapter A-6.002) in respect of a functional currency year (in

this section referred to as the "particular taxation year") of a taxpayer, the following rules apply:

(*a*) for the purpose of computing the payments that the taxpayer is required to make in relation to the particular taxation year under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 if they refer to that subparagraph *a*:

i. each estimated amount described in subparagraph i of that subparagraph *a*, or in subparagraph 1 of subparagraph iii of that subparagraph *a*, that is payable by the taxpayer for the particular taxation year is to be determined by converting that amount, as determined in the taxpayer's elected functional currency, to Canadian currency using the relevant spot rate for the day on or before which the amount is required to be paid,

ii. the taxpayer's first basic provisional account referred to in subparagraph i of that subparagraph *a* for the particular taxation year is to be determined, if the particular taxation year is the taxpayer's first functional currency year, without reference to this chapter and, in any other case, as if the tax payable by the taxpayer for the taxpayer's functional currency year (in this paragraph referred to as the "first base year") preceding the particular taxation year were equal to the total of

(1) the aggregate of the payments that the taxpayer is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 if they refer to that subparagraph *a*, as the case may be, determined in accordance with this subparagraph ii or with subparagraph i or iii, as the case may be, in respect of the first base year, and

(2) the remainder of the tax payable by the taxpayer under subparagraph *b* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 if they refer to that subparagraph *b*, as the case may be, determined in accordance with paragraph *b*, in respect of the first base year,

iii. the taxpayer's second basic provisional account described in subparagraph ii of that subparagraph *a* for the particular taxation year is to be determined, if the particular taxation year is the taxpayer's first functional currency year or the taxpayer's taxation year that follows the taxpayer's first functional currency year, without reference to this chapter and, in any other case, as if the tax payable by the taxpayer for the taxpayer's functional currency year (in this subparagraph referred to as the "second base year") preceding the first base year were equal to the total of

(1) the aggregate of the payments that the taxpayer is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 if they refer to that subparagraph *a*, as the case may be, determined in accordance with this subparagraph iii or with subparagraph i or ii, as the case may be, in respect of the second base year, and

(2) the remainder of the tax payable by the taxpayer under subparagraph *b* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 if they refer to that subparagraph *b*, as the case may be, determined in accordance with paragraph *b*, in respect of the second base year, and

iv. those payments must correspond to the payments based on a method described in that subparagraph *a* that is referred to in the fourth paragraph of section 1038 in respect of the taxpayer in relation to the particular taxation year;

(*b*) the remainder of the tax payable by the taxpayer for the particular taxation year under subparagraph *b* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 if they refer to that subparagraph *b*, is equal to the amount obtained by converting to Canadian currency, using the relevant spot rate for the taxpayer's balance-due day for the particular taxation year, the amount by which the tax payable by the taxpayer under this Part or under any of Parts IV, IV.1, VI and VI.1, as the case may be, for the particular taxation year, expressed in the taxpayer's elected functional currency, exceeds the aggregate of all amounts each of which is the amount obtained by converting the amount of a payment that the taxpayer is required to make in relation to that Part in respect of the particular taxation year, determined under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 if they refer to that subparagraph *a*, as the case may be, and with reference to any of subparagraphs i, ii and iii of subparagraph *a*, to the taxpayer's elected functional currency using the relevant spot rate for the day on or before which the payment is required to be made;

(*c*) for the purpose of computing an amount (other than tax) that is payable by the taxpayer for the particular taxation year under this Part or under any of Parts IV, IV.1, VI and VI.1, or under the Tax Administration Act in relation to an amount that is payable under any of those Parts, the tax payable by the taxpayer for the particular taxation year under that Part is deemed to be equal to the total of

i. the aggregate of the payments that the taxpayer is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 if they refer to that subparagraph *a*, as the case may be, determined in accordance with any of subparagraphs i, ii and iii of subparagraph *a* in respect of the particular taxation year, and

ii. the remainder of the tax payable by the taxpayer under subparagraph *b* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 if they refer to that subparagraph *b*, as the case may be, determined in accordance with paragraph *b*, in respect of the particular taxation year;

(*d*) any amount of tax that is payable under this Act (otherwise than under this Part or under any of Parts IV, IV.1, VI and VI.1) by the taxpayer for the particular taxation year is, if applicable, to be determined by converting the amount, as determined in the taxpayer's elected functional currency, to Canadian currency using the relevant spot rate for the day on or before which the amount is required to be paid;

(*e*) in relation to any particular amount that is deemed under this Part to have been paid at a particular time on account of an amount payable by the taxpayer under this Act for the particular taxation year,

i. if, for the purpose of computing the payments that the taxpayer is required to make under subparagraph *a* of the first paragraph of section 1027, or any of sections 1145, 1159.7, 1175 and 1175.19 if they refer to that subparagraph *a*, a particular provision of this Part establishes the portion of the particular amount that the taxpayer is deemed to have paid to the Minister on account of the aggregate of the taxpayer's tax payable for the particular taxation year under this Part and the taxpayer's tax payable for the particular taxation year under Parts IV, IV.1, VI and VI.1, on the date on or before which each of those payments is required to be made,

(1) the first excess amount referred to in the computation, provided for in that particular provision, of the portion of the particular amount in relation to a particular date is to be determined with reference to the particular amount as determined in the taxpayer's elected functional currency and by converting each portion of the particular amount, referred to in relation to an earlier date in the computation of that excess amount and as determined in Canadian currency, to the taxpayer's elected functional currency using the relevant spot rate for that earlier date, and is equal to the amount obtained by converting that excess amount so determined to Canadian currency using the relevant spot rate for the particular date, and

(2) the amount by which the particular amount, as determined in the taxpayer's elected functional currency, exceeds the aggregate of all amounts each of which is the amount obtained by converting the amount—determined, with reference to subparagraph 1, in Canadian currency under the particular provision in respect of the particular amount in relation to a particular date—to the taxpayer's elected functional currency using the relevant spot rate for the particular date, is to be converted to Canadian currency using the relevant spot rate for the day that includes the particular time, and

ii. if subparagraph i does not apply in respect of the particular amount, the particular amount, as determined in the taxpayer's elected functional currency, is to be converted to Canadian currency using the relevant spot rate for the day that includes the particular time;

(*f*) for the purpose of applying the second paragraph of section 1135.1 to the taxpayer in respect of the particular taxation year, the excess amount referred to in subparagraph i of subparagraph *b* of that second paragraph in relation to a particular date is to be determined with reference to the amount determined in accordance with the first paragraph of that section, as determined in the taxpayer's elected functional currency and by converting each portion of that amount, referred to in relation to an earlier date in the computation of that excess amount and as determined in Canadian currency, to the taxpayer's elected functional currency using the relevant spot rate for that earlier date, and is equal to the amount obtained by converting that excess amount so determined to Canadian currency using the relevant spot rate for the particular date;

(*g*) for the purposes of section 1.2.1 of the Tax Administration Act, the amount of the taxpayer's paid-up capital for the particular taxation year, as determined in the taxpayer's elected functional currency and in the manner provided for in that section, is to be converted to Canadian currency using the relevant spot rate for the last day of the particular taxation year;

(*h*) for the purposes of section 59.2.2 of the Tax Administration Act, the amount of an income referred to in the first paragraph of that section in relation to the particular taxation year, as determined in the taxpayer's elected functional currency, is to be converted to Canadian currency using the relevant spot rate for the taxpayer's balance-due day for the particular taxation year; and

(*i*) any amount payable by the taxpayer for the particular taxation year under this Act, or under the Tax Administration Act in relation to such an amount, is to be paid in Canadian currency.

History: 2010, c. 5, s. 11; 2010, c. 31, s. 175.

Corresponding Federal Provision: 261(11).

Pre-transition debts.

21.4.27. For the purpose of applying this Act to a taxpayer's reversionary year, sections 21.4.22 and 21.4.23 are to be read as if

"Canadian currency year";

(*a*) "Canadian currency year" was replaced in the following provisions by "functional currency year":

i. the portion of section 21.4.22 before paragraph *a*,

ii. subparagraph ii of paragraph *a* of section 21.4.22,

iii. paragraphs *b* and *c* of section 21.4.22,

iv. subparagraph ii of paragraph *d* of section 21.4.22,

v. paragraphs *e* to *g* of section 21.4.22, and

vi. section 21.4.23;

"functional currency year";
(*b*) "functional currency year" was replaced wherever it appears in the following provisions by "reversionary year":

i. the portion of section 21.4.22 before paragraph *a*, and

ii. section 21.4.23;

"pre-transition debt";
(*c*) "pre-transition debt" was replaced wherever it appears in section 21.4.23 by "pre-reversion debt";

"the taxpayer's elected functional currency";
(*d*) "the taxpayer's elected functional currency" was replaced wherever it appears in the following provisions by "Canadian currency":

i. the portion of section 21.4.22 before paragraph *a*, and

ii. section 21.4.23; and

"Canadian currency".
(*e*) "Canadian currency" in the portion of section 21.4.22 before paragraph *a* was replaced by "the taxpayer's elected functional currency".

History: 2010, c. 5, s. 11.
Corresponding Federal Provision: 261(12).

Pre-reversion debts.

21.4.28. A pre-reversion debt of a taxpayer that is denominated in a currency other than Canadian currency is deemed to have been issued immediately before the taxpayer's first reversionary year for the purpose of

(*a*) computing the amount of the taxpayer's income, gain or loss, for a reversionary year of the taxpayer (other than an amount that section 21.4.29 deems to arise), that is attributable to a fluctuation in the value of a currency; and

(*b*) applying subparagraph *l* of the first paragraph of section 485.3 in respect of a reversionary year of the taxpayer.

History: 2010, c. 5, s. 11.
Corresponding Federal Provision: 261(13).

Pre-reversion debts.

21.4.29. If a taxpayer has, in a reversionary year of the taxpayer, made a particular payment on account of the principal amount of a pre-reversion debt of the taxpayer, the following rules apply:

(*a*) if the taxpayer would have made a gain—or, if the pre-reversion debt was not on account of capital, would have had income—(in the second paragraph referred to as the "hypothetical gain or income") attributable to a fluctuation in the value of a currency if the pre-reversion debt had been settled by the taxpayer's having paid, immediately before the end of the taxpayer's last functional currency year, an amount equal to the principal amount (expressed in the currency in which the pre-reversion debt is denominated, which currency is in this section referred to as the "debt currency") at that time, the taxpayer is deemed to make a gain or to have income, as the case may be, for the reversionary year equal to the amount determined by the formula

A × B/C; and

(*b*) if the taxpayer would have sustained a loss—or, if the pre-reversion debt was not on account of capital, would have had a loss—(in this subparagraph referred to as the "hypothetical loss") attributable to a fluctuation in the value of a currency if the pre-reversion debt had been settled by the taxpayer's having paid, immediately before the end of the taxpayer's last functional currency year, an amount equal to the principal amount (expressed in the debt currency) at that time, the taxpayer is deemed to sustain or to have a loss in respect of the particular payment for the reversionary year equal to the amount that would be determined by the formula in subparagraph *a* if the reference to "hypothetical gain or income" in subparagraph *a* of the second paragraph were read as a reference to "hypothetical loss".

Interpretation

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

(*a*) A is the amount of the hypothetical gain or income converted to Canadian currency using the relevant spot rate for the last day of the taxpayer's last functional currency year;

(*b*) B is the amount of the particular payment (expressed in the debt currency); and

(*c*) C is the principal amount of the pre-reversion debt at the beginning of the taxpayer's first reversionary year (expressed in the debt currency).

History: 2010, c. 5, s. 11.
Corresponding Federal Provision: 261(14).

Debt parking — foreing exchange.

21.4.29.1. For the purpose of determining a taxpayer's gain under section 21.4.29, if at a particular time a pre-reversion debt of the taxpayer (in this section referred to as the "debtor") that is denominated in a currency other than the taxpayer's functional currency becomes a parked obligation (within the meaning assigned by section 262.0.0.2), the debtor is deemed to have made, at that time, a particular payment on account of the principal amount of the debt equal to

(*a*) if the debt has become a parked obligation at that particular time as a result of its acquisition by the holder of the debt, the portion of the amount paid by the holder to

acquire the debt that can reasonably be considered to relate to the principal amount of the debt at the particular time; and

(*b*) in any other case, the portion of the fair market value of the debt that can reasonably be considered to relate to the principal amount of the debt at the particular time.

History: 2019, c. 14, s. 66.
Corresponding Federal Provision: 261(14.1).

Amounts carried back.

21.4.30. For the purpose of computing the amount that may be deducted, or that is deemed to have been paid to the Minister, by a taxpayer, in respect of a particular amount that arises in a subsequent taxation year, under any of sections 727 to 737, 772.12, 776.1.9, 1029.8.36.166.47 and 1029.8.36.171.2 in computing the taxpayer's Québec tax results for a particular taxation year, the following rules apply:

(*a*) if the subsequent taxation year is a functional currency year of the taxpayer and the particular taxation year is a Canadian currency year of the taxpayer, the following amounts (expressed in the taxpayer's elected functional currency) are to be converted to Canadian currency using the relevant spot rate for the last day of the taxpayer's last Canadian currency year:

i. the particular amount, and

ii. any amount so deducted, or so deemed to have been paid to the Minister, in computing the taxpayer's Québec tax results for another functional currency year of the taxpayer;

(*b*) if the subsequent taxation year is a reversionary year of the taxpayer and the particular taxation year is a functional currency year of the taxpayer,

i. the following amounts (expressed in Canadian currency) are to be converted to the taxpayer's elected functional currency using the relevant spot rate for the last day of the taxpayer's last functional currency year:

(1) the particular amount, and

(2) any amount so deducted, or so deemed to have been paid to the Minister, in computing the taxpayer's Québec tax results for another reversionary year of the taxpayer, and

ii. any amount (expressed in Canadian currency) so deducted, or so deemed to have been paid to the Minister, in computing the taxpayer's Québec tax results for a Canadian currency year of the taxpayer is to be converted to the taxpayer's elected functional currency using the relevant spot rate for the last day of the taxpayer's last Canadian currency year;

(*c*) if the subsequent taxation year is a reversionary year of the taxpayer and the particular taxation year is a Canadian currency year of the taxpayer, the following amounts (expressed in the taxpayer's elected functional currency) are to be converted to Canadian currency using the relevant spot rate for the last day of the taxpayer's last Canadian currency year:

i. the amount that would be determined under subparagraph 1 of subparagraph i of paragraph *b* in respect of the particular amount if the particular taxation year were a functional currency year of the taxpayer, and

ii. any amount so deducted, or so deemed to have been paid to the Minister, in computing the taxpayer's Québec tax results for a functional currency year of the taxpayer; and

(*d*) in any other case, this section does not apply.

History: 2010, c. 5, s. 11.
Corresponding Federal Provision: 261(15).

Windings-up.

21.4.31. If a winding-up described in section 556 begins at a particular time and the parent and the subsidiary referred to in that section would, in the absence of this section, have different tax reporting currencies at that time, the following rules apply for the purpose of computing the subsidiary's Québec tax results for its taxation years that end after the particular time:

(*a*) if the subsidiary's tax reporting currency is Canadian currency,

i. despite section 21.4.18, section 21.4.19 is deemed to apply to the subsidiary in respect of its taxation year that includes the particular time and each of its subsequent taxation years,

ii. the subsidiary is deemed to have as its elected functional currency the parent's tax reporting currency, and

iii. if the subsidiary's taxation year that includes the particular time would, in the absence of this section, be a reversionary year of the subsidiary, this chapter applies with the necessary modifications; and

(*b*) if neither the subsidiary's tax reporting currency nor the parent's tax reporting currency is Canadian currency,

i. the subsidiary's first reversionary year is deemed to end at the given time that is immediately after the time at which it began,

ii. a new taxation year of the subsidiary is deemed to begin immediately after the given time,

iii. despite section 21.4.18, section 21.4.19 is deemed to apply to the subsidiary in respect of its taxation year that includes the particular time and each of its subsequent taxation years, and

iv. the subsidiary is deemed to have as its elected functional currency the parent's tax reporting currency.

History: 2010, c. 5, s. 11.
Corresponding Federal Provision: 261(16).

Amalgamations.

21.4.32. If, in respect of an amalgamation within the meaning of section 544, a predecessor corporation has a tax reporting currency for its last taxation year that is different from that of the new corporation for its first taxation year, paragraphs *a* and *b* of section 21.4.31 apply, for the purpose of computing the predecessor corporation's Québec tax results for its last taxation year, as if the tax reporting currencies referred to in those paragraphs were the tax reporting currencies referred to in this section and as if

"subsidiary";
(*a*) "subsidiary" and "subsidiary's" were replaced wherever they appear in the following provisions by "predecessor corporation" and "predecessor corporation's", respectively:

i. the portion of that paragraph *a* before subparagraph iii,

ii. that paragraph *b*;

"the subsidiary's taxation year that includes the particular time";
(*b*) "the subsidiary's taxation year that includes the particular time" in subparagraph iii of that paragraph *a* was replaced by "the predecessor corporation's last taxation year";

"parent's";
(*c*) "parent's" was replaced in the following provisions by "new corporation's":

i. subparagraph ii of that paragraph *a*,

ii. the portion of that paragraph *b* before subparagraph i, and

iii. subparagraph iv of that paragraph *b*; and

(*d*) "its taxation year that includes the particular time and each of its subsequent taxation years" was replaced in the following provisions by "its last taxation year":

i. subparagraph i of that paragraph *a*, and

ii. subparagraph iii of that paragraph *b*.

History: 2010, c. 5, s. 11.
Corresponding Federal Provision: 261(17).

Tax reporting currency changed by the Minister of National Revenue.

21.4.33. If, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the Canadian tax results of a corporation, within the meaning of subsection 1 of section 261 of that Act, for one or more taxation years are to be computed, under subsection 18 of that section 261, using the particular currency referred to in that subsection 18, the Québec tax results of the corporation for that taxation year or for those taxation years are to be computed, subject to the second paragraph, using that particular currency.

Anti-avoidance rule for Québec purposes.

The Québec tax results of a corporation for one or more taxation years are to be computed using a given currency if

(*a*) at any time (in this paragraph referred to as the "transfer time") one or more properties are directly or indirectly transferred

i. by the corporation to another corporation (in this paragraph referred to as the "transferor" and the "transferee", respectively), or

ii. by another corporation to the corporation (in this paragraph referred to as the "transferor" and the "transferee", respectively);

(*b*) the transferor and the transferee are related at the transfer time or become related in the course of a series of transactions or events that includes the transfer;

(*c*) the transfer time

i. is, or would in the absence of sections 21.4.31 and 21.4.32 be, in a functional currency year of the transferor and the transferor and the transferee have, or would in the absence of those sections have, different tax reporting currencies at the transfer time, or

ii. is, or would in the absence of sections 21.4.31 and 21.4.32 be, in a reversionary year of the transferor and is not in a reversionary year of the transferee;

(*d*) it can reasonably be considered that one of the main purposes of the transfer or of any portion of a series of transactions or events that includes the transfer is to change, or to enable the changing of, the currency in which the Québec tax results in respect of the property, or property substituted for it, for a taxation year would otherwise be determined; and

(*e*) the Minister directs that those Québec tax results be computed in the given currency.

History: 2010, c. 5, s. 11.
Corresponding Federal Provision: 261(18).

Amalgamations and mergers.

21.4.34. For the purposes of the second paragraph of section 21.4.33, if two or more corporations (each of which is in this section referred to as a "predecessor corporation") are amalgamated or otherwise merged at a particular time to

form one corporate entity (in this section referred to as the "new corporation"), the following rules apply:

(*a*) the predecessor corporation is deemed to have transferred to the new corporation at the time (in this section referred to as the "merger transfer time") that is immediately before the particular time each property that was held at the merger transfer time by the predecessor corporation and at the particular time by the new corporation;

(*b*) the new corporation is deemed to exist, and to be related to the predecessor corporation, at the merger transfer time; and

(*c*) the new corporation is deemed to have as its tax reporting currency at the merger transfer time its tax reporting currency at the particular time.

History: 2010, c. 5, s. 11.
Corresponding Federal Provision: 261(19).

Conditions for the application of the rule in section 21.4.36.

21.4.35. The rule set out in section 21.4.36 applies for the purpose of computing a taxpayer's income, gain or loss for a taxation year in respect of a transaction (in this section and section 21.4.36 referred to as a "specified transaction") if

(*a*) the specified transaction was entered into, directly or indirectly, at any time by the taxpayer and a corporation (in this section referred to as the "related corporation") to which the taxpayer was at that time related;

(*b*) the taxpayer and the related corporation had different tax reporting currencies during the period (in this section referred to as the "accrual period") in which the income, gain or loss accrued; and

(*c*) it would, in the absence of this section and section 21.4.36, be reasonable to consider that a fluctuation during the accrual period in the value of the taxpayer's tax reporting currency relative to the value of the related corporation's tax reporting currency

i. increased the taxpayer's loss in respect of the specified transaction,

ii. reduced the taxpayer's income or gain in respect of the specified transaction, or

iii. caused the taxpayer to have a loss, instead of income or a gain, in respect of the specified transaction.

History: 2010, c. 5, s. 11.
Corresponding Federal Provision: 261(20).

Computation rule.

21.4.36. The rule to which section 21.4.35 refers is the rule according to which each fluctuation in value referred to in paragraph *c* of that section is, for the purpose of computing a taxpayer's income, gain or loss in respect of the specified transaction and despite any other provision of this Act, deemed not to have occurred.

History: 2010, c. 5, s. 11.
Corresponding Federal Provision: 261(21).

Partnership transactions.

21.4.37. For the purposes of this section and sections 21.4.33 to 21.4.36, the following rules apply:

(*a*) if a property is directly or indirectly transferred to or by a partnership, the property is deemed to have been transferred to or by, as the case may be, each member of the partnership; and

(*b*) if a partnership is a party to a transaction, each member of the partnership is deemed to be that party to that transaction.

History: 2010, c. 5, s. 11.
Corresponding Federal Provision: 261(22).

CHAPTER VI
TERM PREFERRED SHARES

Term preferred share.

21.5. A share of a class of the capital stock of a corporation is a term preferred share of the corporation if one of the following conditions is met:

(*a*) the share was issued or acquired after 28 June 1982 and, at the time the share was issued or acquired, the existence of the corporation is, or there is an existing agreement under which it could be, limited;

(*b*) it is issued after 16 November 1978, the owner thereof acquired it after 23 October 1979 and is a corporation, trust or partnership described in section 21.5.1 that, either alone or together with any such corporations, partnerships or trusts, controls or has an absolute or contingent right to control or to acquire control of the corporation;

(*c*) it is issued after 16 November 1978 and, under its terms or conditions, an agreement in respect of the share or a modification of such terms or conditions or such agreement, either in the case of a share issued after 16 November 1978 and before 13 November 1981, or after 12 November 1981 and before 1 January 1983 pursuant to an agreement in writing to do so made before 13 November 1981, the share is convertible, directly or indirectly, into debt or into a share that would, if issued, be a term preferred share, and in any other case, the share is convertible or exchangeable, unless it is convertible into or exchangeable for a consideration described in section 21.5.5, or one of the provisions described in section 21.5.2, 21.5.3 or 21.5.4 applies.

History: 1980, c. 13, s. 3; 1982, c. 5, s. 7; 1984, c. 15, s. 7; 1990, c. 59, s. 11; 1993, c. 16, s. 11; 1997, c. 3, s. 71.

Corresponding Federal Provision: 248(1) "term preferred share" before (a), (a) and (b).

Owner of share.

21.5.1. For the purposes of paragraph *b* of section 21.5, the owner of the share must be

(*a*) a corporation referred to in any of paragraphs *a* to *e*.1 of the definition of "specified financial institution" in section 1;

(*b*) a corporation that is controlled by one or more corporations referred to in paragraph *a*,

(*c*) a corporation that acquired the share after 11 December 1979 and is related to a corporation referred to in paragraph *a* or b, or

(*d*) a partnership or trust of which a corporation referred to in paragraph *a* or *b* or a person related thereto is a member or a beneficiary.

History: 1984, c. 15, s. 7; 1989, c. 5, s. 26; 1990, c. 59, s. 12; 1997, c. 3, s. 71; 2001, c. 53, s. 6.

Corresponding Federal Provision: 248(1) "term preferred share" (b).

Shares issued between 16 November 1978 and 24 October 1979.

21.5.2. The provisions referred to in paragraph *c* of section 21.5 are, in the case of a share issued between 16 November 1978 and 24 October 1979, the following:

(*a*) the owner thereof may, within 10 years after the date of issue, cause the share to be redeemed, acquired or cancelled, otherwise than by reason only of a right to convert or exchange the share, or cause its paid-up capital to be reduced,

(*b*) the issuing corporation or any person with whom it is not dealing at arm's length is or may be required to redeem, acquire or cancel, in whole or in part, the share or to reduce its paid-up capital, otherwise than pursuant to a requirement of the corporation to redeem, acquire or cancel, annually, not more than 5% of the issued and fully paid shares of that class, or unless the owner may cause the share to be redeemed, acquired or cancelled by reason only of a right to convert or exchange the share, or

(*c*) a person is or may be required to provide a guarantee or a similar covenant, including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the owner thereof or any person related thereto, with respect to the share.

History: 1984, c. 15, s. 7; 1993, c. 16, s. 12; 1997, c. 3, s. 71.

Shares issued pursuant to an agreement.

21.5.3. The provisions referred to in paragraph *c* of section 21.5 are, in the case of a share issued between 23 October 1979 and 13 November 1981 or a share issued between 12 November 1981 and 1 January 1983 pursuant to an agreement in writing to that effect entered into before 13 November 1981, the following:

(*a*) the owner thereof may, within 10 years after the date of issue, cause the share to be redeemed, acquired or cancelled, otherwise than by reason only of a right to convert or exchange the share, or cause its paid-up capital to be reduced,

(*b*) a person is or may be required to redeem, acquire or cancel, in whole or in part, the share or to reduce its paid-up capital, within 10 years after the date of issue,

i. otherwise than pursuant to a requirement of the issuing corporation to redeem, acquire or cancel annually not more than 5% of the issued and fully paid shares of that class and, where the requirement was agreed to after 21 April 1980, it provides that such redemption, acquisition or cancellation be in proportion to the number of shares of the class or of the series of the class registered in the name of each shareholder, or

ii. unless the requirement to redeem, acquire or cancel the share arises by reason only of right to convert or exchange the share, or

(*c*) a person provides or may be required to provide a guarantee or similar indemnity or covenant, including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the owner thereof or any person related thereto, with respect to the share.

History: 1984, c. 15, s. 7; 1993, c. 16, s. 13; 1997, c. 3, s. 71.

Shares issued otherwise than pursuant to an agreement.

21.5.4. The provisions referred to in paragraph *c* of section 21.5 are, in the case of a share issued between 12 November 1981 and 1 January 1983 otherwise than pursuant to an agreement referred to in section 21.5.3 or a share issued after 31 December 1982, one of the following:

(*a*) the owner thereof may cause the share to be acquired, cancelled or redeemed, otherwise than by reason only of a right to convert or exchange the share, or cause its paid-up capital to be reduced;

(*b*) a person or partnership is or may be required to acquire, cancel or redeem the share, in whole or in part, otherwise than by reason only of a right to convert or exchange the share, or to reduce its paid-up capital;

(*c*) a person or partnership provides or may be required to provide a guarantee or similar indemnity or covenant, including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the holder thereof or any person related thereto, with respect to the share.

History: 1984, c. 15, s. 7; 1990, c. 59, s. 13; 1997, c. 3, s. 71.

Corresponding Federal Provision: 248(1) "term preferred share" (a)(i) to (iii).

Conversion or exchange of shares.

21.5.5. The consideration for which a share may be converted or exchanged and to which paragraph *c* of section 21.5 refers shall only include

(*a*) another share of the issuing corporation or a corporation related to it that, if issued, would not be a term preferred share,

(*b*) a right or warrant that, if exercised, would allow the person exercising it to acquire only a share of the issuing corporation or a corporation related to it that, if issued, would not be a term preferred share, or

(*c*) both a share described in subparagraph *a* and a right or warrant described in subparagraph *b*.

Consideration deemed not to be consideration.

For the purposes of the first paragraph, where a taxpayer may become entitled, upon the conversion or exchange of a share, to receive any particular consideration, other than consideration described in the first paragraph, in lieu of a fraction of a share, the particular consideration is deemed not to be consideration unless it may reasonably be considered that the particular consideration was receivable as part of a series of transactions or events one of the main purposes of which was to avoid or limit the application of section 21.10, 21.10.1 or 740.1.

History: 1990, c. 59, s. 14; 1997, c. 3, s. 71.

Corresponding Federal Provision: 248(1) "term preferred share" (a)(iv).

Restriction.

21.6. For the purposes of section 21.5, a term preferred share does not include

(*a*) a share issued after 16 November 1978 and before 1980 pursuant to an agreement in writing to do so made before 17 November 1978;

(*b*) a share issued as a stock dividend before 22 April 1980 on a share of the capital stock of a public corporation that was not a term preferred share, or after 21 April 1980 on a share that was, at the time such dividend was paid, a share prescribed for the purposes of paragraph *e*;

(*c*) a share described in section 21.6.1;

(*d*) a share that is listed on a designated stock exchange located in Canada and was issued before 22 April 1980 by

i. a corporation referred to in any of paragraphs *a* to *d* of the definition of "specified financial institution" in section 1,

ii. a corporation whose principal business is the lending of money or the purchasing of debt obligations or a combination thereof, or

iii. an issuing corporation associated with a corporation described in subparagraph i or ii;

(*e*) a share that is, at that time, a prescribed share;

(*f*) a share that is a taxable preferred share held by a specified financial institution that acquired the share before 16 December 1987 or before 1 January 1989 pursuant to an agreement in writing entered into before 16 December 1987, other than a share that is

i. a share deemed, under section 21.9.4.2 or paragraph *a* of section 21.11.12, to have been issued after 15 December 1987, or

ii. a share that would be deemed, under paragraph *c* of section 21.11.16, to have been issued after 15 December 1987 if the reference in the said section to "8:00 p.m. Eastern Daylight Saving Time, 18 June 1987" were read as a reference to "15 December 1987".

History: 1980, c. 13, s. 3; 1982, c. 5, s. 8; 1984, c. 15, s. 8; 1989, c. 5, s. 27; 1990, c. 59, s. 15; 1997, c. 3, s. 71; 2001, c. 7, s. 6; 2010, c. 5, s. 12.

Corresponding Federal Provision: 248(1) "term preferred share" (c) to (f.1).

Restriction.

21.6.1. A share is not a term preferred share, for a period of 10 years from the date of its issue, that was issued between 16 November 1978 and 13 November 1981, or for a period of 5 years from the date of its issue, if it was issued after 12 November 1981, and that was issued by a corporation resident in Canada and, in the case of a share issued after 23 October 1979, the proceeds from the issue may be regarded as having been used by the corporation or a corporation with which it was not dealing at arm's length in the financing of its business carried on or, in the case of a share issued after 12 November 1981, carried on in Canada, immediately before the share was issued, and that was issued

(*a*) as part of a proposal to, or an arrangement with, its creditors that had been approved by a competent court under the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3),

(*b*) at a time when all or substantially all of its assets were under the control of a receiver, receiver-manager, sequestrator or trustee in bankruptcy, or

(*c*) at a time when, by reason of financial difficulty, the corporation or another corporation resident in Canada with which it does not deal at arm's length was in default, or could reasonably be expected to default, on a debt obligation held by a person with whom the corporation or the other

corporation was dealing at arm's length and the share was issued, wholly or in substantial part, directly or indirectly in exchange or substitution for that obligation or a part thereof.

History: 1984, c. 15, s. 9; 1990, c. 59, s. 16; 1995, c. 49, s. 14; 1997, c. 3, s. 71.

Corresponding Federal Provision: 248(1) "term preferred share" (e)(i) to (iii).

Agreement deemed to have been made after 16 November 1978.

21.7. For the purposes of this chapter, where the terms or conditions of an agreement in writing referred to in paragraph *a* of section 21.6 were amended after 16 November 1978, the agreement is deemed to have been made after that date.

History: 1980, c. 13, s. 3.

Corresponding Federal Provision: 248(1) "term preferred share" (g).

Deemed time of issuance.

21.7.1. Where at any particular time after 15 December 1987, otherwise than pursuant to a written arrangement entered into before 16 December 1987, the terms or conditions of a taxable preferred share of the capital stock of a corporation relating to any matter referred to in paragraph *c* of section 21.5 or sections 21.5.2 to 21.5.5 have been established or modified, or any agreement in respect of the share relating to any such matter has been entered into or changed by the corporation or a specified person in relation to it, within the meaning of paragraph *f* of section 21.11.16, the share is deemed after that particular time to have been issued at that particular time.

History: 1990, c. 59, s. 17; 1997, c. 3, s. 71.

Corresponding Federal Provision: 248(1) "term preferred share" (i.2).

Rules applicable to certain shares.

21.8. Where the redemption date of a share was extended or the terms or conditions relating to its redemption, acquisition, cancellation or conversion or reduction of its paid-up capital were changed, the share is, for the purposes of determining whether it is a term preferred share, deemed to have been issued at the time of the extension or change otherwise than pursuant to an agreement referred to in section 21.5.3 or in paragraph *a* of section 21.6

History: 1980, c. 13, s. 3; 1982, c. 5, s. 9; 1984, c. 15, s. 10.

Corresponding Federal Provision: 248(1) "term preferred share" (h)(iii) and after (vi).

Rules applicable to certain shares.

21.9. The rule provided by section 21.8 applies where the change or extension occurs after 16 November 1978 in the case of a share issued before 17 November 1978, or after 12 November 1981 in the case of a share issued between 16 November 1978 and 13 November 1981 or a share issued between 12 November 1981 and 1 January 1983 pursuant to an agreement referred to in section 21.5.3.

History: 1980, c. 13, s. 3; 1982, c. 5, s. 10; 1984, c. 15, s. 10.

Corresponding Federal Provision: 248(1) "term preferred share" (h)(v)(B).

Rules applicable to certain shares.

21.9.1. Subject to section 21.9.2, the rule provided by section 21.8 also applies, with the necessary modifications, in the following cases:

(*a*) where the terms or conditions of a share issued pursuant to an agreement referred to in paragraph *a* of section 21.6 or those of any agreement relating to such a share have been changed;

(*b*) where the owner of a share may, alone or together with one or more taxpayers, require the acquisition, cancellation, conversion or redemption of the share or the reduction of its paid-up capital

i. after 16 November 1978 under the terms or conditions of a share issued before 17 November 1978 and not listed on 16 November 1978 on a Canadian stock exchange that was prescribed on that date, of a share issued pursuant to an agreement referred to in paragraph *a* of section 21.6, of any agreement between the issuer and the owner of such a share, or any agreement relating to such a share made after 23 October 1979;

ii. after 12 November 1981 in the case of a share issued between 16 November 1978 and 13 November 1981, except a share described in section 21.6.1 or a share listed on 13 November 1981 on a Canadian stock exchange that was prescribed on that date, or a share issued between 12 November 1981 and 1 January 1983 pursuant to an agreement referred to in section 21.5.3;

(*c*) where a specified financial institution or a partnership or trust of which a specified financial institution or a person related thereto is a member or a beneficiary acquires,

i. between 23 October 1979 and 13 November 1981, from a person, a share issued before 17 November 1978 or a share issued pursuant to an agreement referred to in paragraph *a* of section 21.6;

ii. after 12 November 1981, from a person or a partnership, a share issued before 13 November 1981 or a share pursuant to an agreement referred to in section 21.5.3.

History: 1984, c. 15, s. 10; 1995, c. 63, s. 261; 1997, c. 3, s. 71; 2001, c. 7, s. 7; 2010, c. 5, s. 13.

Corresponding Federal Provision: 248(1) "term preferred share" (h)(i), (ii), (iv), (v)(A) and (vi).

Restriction.

21.9.2. The rule provided by section 21.8 does not apply, in the case provided for in paragraph *b* of section 21.9.1, where the owner's right could be exercised by reason of a default under the terms or conditions of the share or any agreement that related to, and was entered into at the time of, the issuance of the share.

Restriction.

The same applies, in the case provided for in paragraph *c* of the said section 21.9.1, where

(*a*) the share described in subparagraph i of that paragraph *c* is

i. a share issued to a corporation that was, at the time of issue,

(1) a corporation referred to in any of paragraphs *a* to *e* of the definition of "specified financial institution" in section 1, or

(2) a corporation controlled by one or more corporations referred to in subparagraph 1,

ii. a share acquired from a person that was, at the time of acquisition, a corporation referred to in subparagraph 1 or 2 of subparagraph i, or

iii. a share acquired under an agreement in writing made before 24 October 1979; and

(*b*) the share described in subparagraph ii of that paragraph *c* is

i. a share described in section 21.6.1,

ii. a share acquired from a person that was, at the time of acquisition, a corporation referred to in any of paragraphs *a* to *f* of the definition of "specified financial institution" in section 1,

iii. a share acquired in an acquisition that was not subject to an undertaking, referred to in section 740.2, given after 12 November 1981, or

iv. a share acquired under an agreement in writing made before 24 October 1979 or an agreement referred to in section 21.5.3.

Controlled corporation.

For the purposes of subparagraph 2 of subparagraph i of subparagraph *a* of the second paragraph, one corporation is controlled by another corporation if more than 50% of its issued share capital having full voting rights under all circumstances belongs to the other corporation, to persons with whom the other corporation does not deal at arm's length, or to the other corporation and persons with whom the other corporation does not deal at arm's length.

History: 1984, c. 15, s. 10; 1990, c. 59, s. 18; 1997, c. 3, s. 71; 1998, c. 16, s. 16; 2001, c. 53, s. 7.

Corresponding Federal Provision: 248(1) "term preferred share" (h)(ii) after (D), (iv) and (vi).

Share deemed a term preferred share.

21.9.3. Where a share of the capital stock of a corporation is issued or its terms or conditions are modified and it may reasonably be considered, having regard to all circumstances, including the rate of interest on any debt or the dividend provided on any term preferred share, that but for the existence of the debt or the term preferred share, the share would not have been issued or its terms or conditions modified, and one of the main purposes for its issue or for the modification of its terms or conditions was to avoid a limitation provided by section 740.1 or 845 in respect of a deduction, the share is deemed, from 1 January 1983, to be a term preferred share of the corporation.

History: 1984, c. 15, s. 10; 1986, c. 19, s. 5; 1997, c. 3, s. 71.

Corresponding Federal Provision: 248(1) "term preferred share" (j).

Share deemed a term preferred share.

21.9.4. Where the terms or conditions of a share of the capital stock of a corporation are modified or established after 28 June 1982 and as a consequence thereof the corporation, any person related thereto or any partnership or trust of which the corporation or a person related thereto is a member or a beneficiary, may reasonably be expected to redeem, acquire or cancel, in whole or in part, the share or to reduce its paid-up capital, the share is deemed as from the date of the modification or establishment to be a share described in paragraph *c* of section 21.5.

History: 1984, c. 15, s. 10; 1997, c. 3, s. 71.

Corresponding Federal Provision: 248(1) "term preferred share" (i).

Share deemed a term preferred share.

21.9.4.1. Where it may reasonably be considered that the dividends that may be declared or paid at any time on a share, other than a prescribed share or a share described in section 21.6.1 during the applicable time period referred to in that section, of the capital stock of a corporation issued after 15 December 1987 or acquired after 15 June 1988 are derived primarily from dividends received on term preferred shares of the capital stock of another corporation, and that the share was issued or acquired as part of a transaction or event or series of transactions or events one of the main purposes of which was to avoid or limit the application of section 740.1 or 845, the share is deemed, at that time, to be a term preferred share acquired in the ordinary course of business.

History: 1990, c. 59, s. 19; 1997, c. 3, s. 71.

Corresponding Federal Provision: 248(1) "term preferred share" (i.1).

21.9.5. *(Repealed).*

History: 1984, c. 15, s. 10; 1990, c. 59, s. 20.

Deemed interest.

21.10. Where a specified financial institution resident in Canada receives, in a taxation year, from a corporation not resident in Canada an amount as a dividend on a term preferred share, the amount is deemed, for the purposes of paragraphs *c* and *l* of section 87 and sections 746 to 749 and 772.2 to 772.13, to be received in the year as interest and not as a dividend on a share of the capital stock of a corporation.

History: 1980, c. 13, s. 3; 1982, c. 5, s. 11; 1990, c. 59, s. 21; 1993, c. 16, s. 365; 1994, c. 22, s. 649; 1995, c. 63, s. 15; 1997, c. 3, s. 71.
Corresponding Federal Provision: 258(3)(a).

Dividend deemed received as interest.

21.10.1. The rule provided in section 21.10 also applies where a particular corporation receives, in a taxation year, from a corporation not resident in Canada a dividend on a share, other than a term preferred share, that is a grandfathered share or was issued before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 and was not deemed by section 740.3.1 to have been issued after that time, if the dividend is a dividend in respect of which no deduction could have been made under section 738, 740 or 845 by reason of sections 740.2 to 740.3.1 as they read on 17 June 1987, if the corporation that paid the dividend had been a taxable Canadian corporation.

History: 1982, c. 5, s. 11; 1990, c. 59, s. 21; 1993, c. 16, s. 365; 1994, c. 22, s. 56; 1994, c. 22, s. 649; 1997, c. 3, s. 71.
Corresponding Federal Provision: 258(3)(b).

Exception.

21.10.2. Section 21.10 does not apply in respect of a dividend described in that section

(*a*) if the share on which the dividend is paid was not acquired by the specified financial institution in the ordinary course of the business it carried on; or

(*b*) to the extent that the dividend would be described in subparagraph ii of paragraph *j* of section 257 if the corporation not resident in Canada were not a foreign affiliate of the specified financial institution.

History: 1982, c. 5, s. 11; 2019, c. 14, s. 67.
Corresponding Federal Provision: 258(4).

Deemed dividend.

21.11. Notwithstanding section 119, where an amount is paid or payable after 1978 as interest or as an amount in lieu of interest in respect of a dividend that became payable or in arrears after 16 November 1978 and the dividend is in respect of a share that is not a term preferred share by reason of having been issued before 17 November 1978 or pursuant to an agreement in writing referred to in paragraph *a* of section 21.6, the amount is, for the purposes of section 740.1 and the second paragraph of section 845, deemed to be a dividend received on a term preferred share.

History: 1980, c. 13, s. 3.
Corresponding Federal Provision: 258(2)(b).

CHAPTER VI.1
SHORT-TERM PREFERRED SHARES

21.11.1. *(Repealed).*

History: 1984, c. 15, s. 11; 1990, c. 59, s. 22.

21.11.2. *(Repealed).*

History: 1984, c. 15, s. 11; 1990, c. 59, s. 22.

21.11.3. *(Repealed).*

History: 1984, c. 15, s. 11; 1990, c. 59, s. 22.

21.11.4. *(Repealed).*

History: 1984, c. 15, s. 11; 1990, c. 59, s. 22.

21.11.5. *(Repealed).*

History: 1984, c. 15, s. 11; 1990, c. 59, s. 22.

21.11.6. *(Repealed).*

History: 1984, c. 15, s. 11; 1990, c. 59, s. 22.

21.11.7. *(Repealed).*

History: 1984, c. 15, s. 11; 1990, c. 59, s. 22.

21.11.8. *(Repealed).*

History: 1984, c. 15, s. 11; 1990, c. 59, s. 22.

21.11.9. *(Repealed).*

History: 1984, c. 15, s. 11; 1990, c. 59, s. 22.

21.11.10. *(Repealed).*

History: 1984, c. 15, s. 11; 1990, c. 59, s. 22.

Short-term preferred share.

21.11.11. A short-term preferred share of a corporation at any particular time is a share, other than a grandfathered share, of the capital stock of the corporation issued after 15 December 1987 that, at that particular time, is

(*a*) a share where, under the terms and conditions of the share, any agreement relating to the share or any modification of such terms, conditions or agreement, the corporation or a specified person in relation to it is or may, at any time within five years from the date of its issued, be

required to acquire, cancel or redeem, in whole or in part, the share or to reduce the paid-up capital of the share, unless the requirement to acquire, cancel or redeem the share arises only in the event of the death of the shareholder or by reason only of a right to convert or exchange the share, or

(*b*) a share that is convertible or exchangeable at any time within five years from the date of its issue, unless

i. it is convertible into or exchangeable for

(1) another share of the corporation or a corporation related to the corporation that, if issued, would not be a short-term preferred share;

(2) a right or warrant that, if exercised, would allow the person exercising it to acquire only a share of the corporation or a corporation related to the corporation that, if issued, would not be a short-term preferred share, or

(3) both a share described in subparagraph 1 and a right or warrant described in subparagraph 2, and

ii. all the consideration receivable for the share on the conversion or exchange is the share described in subparagraph 1 of subparagraph i or the right or warrant described in subparagraph 2 of the said subparagraph i or both such share and such right or warrant, and, for the purposes of this subparagraph, where a taxpayer may become entitled upon the conversion or exchange of a share to receive any particular consideration, other than consideration described in any of subparagraphs 1 to 3 of subparagraph i, in lieu of a fraction of a share, the particular consideration is deemed not to be consideration unless it may reasonably be considered that the particular consideration was receivable as part of a series of transactions or events one of the main purposes of which was to avoid or limit the application of Part IV.1 or VI.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 1990, c. 59, s. 23; 1997, c. 3, s. 71.

Corresponding Federal Provision: 248(1) "short-term preferred share" (a) and (b).

Various rules.

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

(*a*) where at any particular time after 15 December 1987, otherwise than pursuant to a written arrangement entered into before 16 December 1987, the terms or conditions of a share of the capital stock of a corporation that are relevant to any matter referred to in any of paragraphs *a* and *b* of section 21.11.11 or *d* and *f* of this section are established or modified, or any agreement in respect of any such matter to which the corporation or a specified person in relation to it is a party, is entered into or changed, the share is deemed after that particular time to have been issued at that particular time;

(*b*) where, at any particular time after 15 December 1987, a particular share of the capital stock of a corporation has been issued or its terms or conditions have been modified or an agreement in respect of the share is entered into or modified, the particular share is deemed after that particular time to have been issued at that particular time and to be a short-term preferred share of the corporation, if it may reasonably be considered, having regard to all the circumstances, including the rate of interest on any debt obligation or the dividend provided on any short-term preferred share, that

i. but for the existence at any time of such a debt obligation or such a short-term preferred share, the particular share would not have been issued or its terms or conditions modified or the agreement in respect of the share would not have been entered into or modified;

ii. one of the main purposes for the issue of the particular share or the modification of its terms or conditions or the entering into or modification of the agreement in respect of the share was to avoid or limit the tax payable under subsection 1 of section 191.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(*c*) where at any particular time after 15 December 1987, otherwise than pursuant to a written arrangement entered into before 16 December 1987, the terms or conditions of a share of the capital stock of a corporation are established or modified or any agreement in respect of the share has been entered into or changed, and as a consequence thereof the corporation or a specified person in relation to it may reasonably be expected to acquire, cancel or redeem the share, in whole or in part, otherwise than by reason of the death of the shareholder or by reason only of a right to convert or exchange the share that would not cause the share to be a short-term preferred share by reason of paragraph *b* of section 21.11.11, or to reduce its paid-up capital, within five years from the particular time, the share is deemed to have been issued at that particular time and to be a short-term preferred share of the corporation from the particular time until the time that such reasonable expectation ceases to exist;

(*d*) where a share of the capital stock of a corporation was issued after 15 December 1987 and at the time the share was issued the existence of the corporation was, or there was an arrangement under which it could be, limited to a period that was within five years from the date of its issue, the share is deemed to be a short-term preferred share of the corporation unless

i. the share is a grandfathered share and the arrangement is a written arrangement entered into before 16 December 1987, or

ii. the share is issued to an individual after 14 April 2005 under an agreement referred to in section 48, if at the time the individual last acquired a right under the agreement to acquire a share of the capital stock of the corporation, the

existence of the corporation was not, and no arrangement was in effect under which it could be, limited to a period that was within five years from that time;

(*e*) where a share of the capital stock of a corporation is acquired at any time after 15 December 1987 by the corporation or a specified person in relation to it and the share is at any particular time after that time acquired from the corporation or a specified person in relation to it by a person with whom the corporation or a specified person in relation to it was dealing at arm's length if this Part were read without reference to paragraph *b* of section 20, the share is deemed after that particular time to have been issued at that particular time;

(*f*) where at any particular time after 15 December 1987, otherwise than pursuant to a written arrangement entered into before 16 December 1987, as a result of the terms or conditions of a share of the capital stock of a corporation or any agreement entered into by the corporation or a specified person in relation to it, any person, other than the corporation or an individual other than a trust, was obligated, either absolutely or contingently and either immediately or in the future, to effect any undertaking within five years after the date on which the share was issued, including any guarantee, covenant or agreement to purchase or repurchase the share, and including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the shareholder or a specified person in relation to the shareholder, the share is deemed after that particular time to have been issued at the particular time and to be at and immediately after the particular time a short-term preferred share, if the undertaking is given

i. to ensure that any loss that the shareholder or a specified person in relation to the shareholder may sustain by reason of the ownership, holding or disposition of the share or any other property is limited in any respect, and

ii. as part of a transaction or event or series of transactions or events that included the issuance of the share;

(*g*) for the purposes of paragraph *f* where the undertaking referred to therein in respect of a share is given after 15 December 1987, otherwise than pursuant to a written arrangement entered into before 16 December 1987, the share is deemed to have been issued at that time and the undertaking is deemed to have been given as part of a series of transactions that included the issuance of the share;

(*h*) a share that is, at the time a dividend is paid thereon, a share described in section 21.6.1 during the applicable time period referred to in that section or a prescribed share is, notwithstanding any other provision of this chapter, deemed not to be a short-term preferred share at that time;

(*i*) the expression "specified person" has the meaning assigned by paragraph *f* of section 21.11.16.

History: 1990, c. 59, s. 23; 1997, c. 3, s. 71; 2003, c. 2, s. 10; 2015, c. 24, s. 16.

Corresponding Federal Provision: 248(1) "short-term preferred share" (c) to (j).

Special rules.

21.11.13. For the purposes of paragraph *a* of section 21.11.11 and paragraph *c* of section 21.11.12,

(*a*) an agreement in respect of a share of the capital stock of a corporation shall be read without reference to that part of the agreement under which a person agrees to acquire the share for an amount

i. in the case of a share, other than a share that would, but for that part of the agreement, be a taxable preferred share, the agreement in respect of which provides that the share is to be acquired within 60 days after the date on which the agreement was entered into, that does not exceed the greater of the fair market value of the share at the time the agreement was entered into, determined without reference to the agreement, and the fair market value of the share at the time of the acquisition, determined without reference to the agreement;

ii. in any other case, that does not exceed the fair market value of the share at the time of the acquisition, determined without reference to the agreement, or for an amount determined by reference to the assets or earnings of the corporation where such determination may reasonably be considered to be used to determine an amount that does not exceed the fair market value of the share at the time of the acquisition, determined without reference to the agreement;

(*b*) the expression "shareholder" includes a shareholder of a shareholder.

History: 1990, c. 59, s. 23; 1997, c. 3, s. 71.

Corresponding Federal Provision: 248(1) "short-term preferred share" (a)(i) and (ii).

CHAPTER VI.2
TAXABLE PREFERRED SHARES

Taxable preferred share.

21.11.14. A taxable preferred share at any particular time is

(*a*) a share issued after 15 December 1987 that is a short-term preferred share at that particular time, or

(*b*) a share, other than a grandfathered share, of the capital stock of a corporation issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 where, at that particular time, by reason of the terms or conditions of the share or any

agreement in respect of the share or its issue to which the corporation, or a specified person in relation to it, is a party,

i. it may reasonably be considered, having regard to all the circumstances, that the amount of the dividends that may be declared or paid on the share, in this chapter referred to as the "dividend entitlement", is, by way of a formula or otherwise, fixed, limited to a maximum, or, if with respect to the dividend that may be declared or paid on the share there is a preference over any other dividend that may be declared or paid on any other share of the capital stock of the corporation, established to be not less than a minimum, including any amount determined on a cumulative basis,

ii. it may reasonably be considered, having regard to all the circumstances, that the amount that the shareholder, which includes a shareholder of the shareholder for the purposes of this subparagraph, is entitled to receive in respect of the share on the dissolution, liquidation or winding-up of the corporation or on the acquisition, cancellation or redemption of the share, unless the requirement to acquire, cancel or redeem the share arises only in the event of the death of the shareholder or by reason only of a right to convert or exchange the share, or on the reduction of the paid-up capital of the share by the corporation or by a specified person in relation to it, in this chapter referred to as the "liquidation entitlement", is, by way of a formula or otherwise, fixed, limited to a maximum, or established to be not less than a minimum,

iii. the share is convertible or exchangeable at any time, unless

(1) it is convertible into or exchangeable for another share of the corporation or a corporation related to it that, if issued, would not be a taxable preferred share, referred to in this subparagraph and in subparagraph 2 as the "particular share", for a right or warrant that, if exercised, would allow the person exercising it to acquire only a share of the corporation or a corporation related to it that, if issued, would not be a taxable preferred share, or for both a particular share and such right or warrant, and

(2) all the consideration receivable for the share on the conversion or exchange is the particular share or the right or warrant described in subparagraph 1 or both such share and such right or warrant, and for the purposes of this subparagraph, where a taxpayer may become entitled upon the conversion or exchange of a share to receive any particular consideration, other than consideration described in subparagraph 1, in lieu of a fraction of a share, the particular consideration is deemed not to be consideration unless it may reasonably be considered that the particular consideration was receivable as part of a series of transactions or events one of the main purposes of which was to avoid or limit the application of Part IV.1 or VI.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), or

iv. any person, other than the corporation, was, at or immediately before that particular time, obligated, either absolutely or contingently and either immediately or in the future, to effect any undertaking, in this chapter referred to as a "guarantee agreement", including any guarantee, covenant or agreement to purchase or repurchase the share, and including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the shareholder or any specified person in relation to the shareholder, given

(1) as part of a transaction or event or series of transactions or events that included the issuance of the share, and

(2) to ensure that any loss that the shareholder or a specified person in relation to the shareholder may sustain by reason of the ownership, holding or disposition of the share or any other property is limited, or allow the shareholder or a specified person in relation to the shareholder to derive earnings by reason of the ownership, holding or disposition of the share or any other property.

Presumption.

For the purposes of subparagraph *b* of the first paragraph, where the guarantee agreement in respect of a share of the capital stock of a corporation is given after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, otherwise than pursuant to a written arrangement entered into before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, the share is deemed to have been issued at that time and the guarantee agreement is deemed to have been given as part of a series of transactions that included the issuance of the share.

History: 1990, c. 59, s. 23; 1997, c. 3, s. 71.

Corresponding Federal Provision: 248(1) "taxable preferred share" (a) and (b).

Restriction.

21.11.15. For the purposes of section 21.11.14, a taxable preferred share does not include a share that is, at the particular time prescribed in that section, a share described in section 21.6.1 during the applicable time period referred to in that section or a prescribed share.

History: 1990, c. 59, s. 23.

Corresponding Federal Provision: 248(1) "taxable preferred share" before (c).

Various rules.

21.11.16. For the purposes of this chapter,

(*a*) the dividend entitlement of a share of the capital stock of a corporation is deemed not to be fixed, limited to a maximum or established to be not less than a minimum where all dividends on the share are determined solely by reference to the dividend entitlement of another share of the capital stock of the corporation or of a corporation that controls the corporation that would not be a taxable preferred

share if this chapter were read without reference to paragraph *d*, and if the other share were issued after 18 June 1987 and were not a grandfathered share, a prescribed share or a share described in section 21.6.1;

(*b*) the liquidation entitlement of a share of the capital stock of a corporation is deemed not to be fixed, limited to a maximum or established to be not less than a minimum where all the liquidation entitlement is determinable solely by reference to the liquidation entitlement of another share of the capital stock of the corporation or of a corporation that controls the corporation that would not be a taxable preferred share if this section were read without reference to paragraph *d*, and if the other share were issued after 18 June 1987 and were not a grandfathered share, a prescribed share or a share described in section 21.6.1;

(*c*) where at any particular time after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, otherwise than pursuant to a written arrangement entered into before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, the terms or conditions of a share of the capital stock of a corporation that are relevant to any matter referred to in any of subparagraphs i to iv of subparagraph *b* of the first paragraph of section 21.11.14 or the second paragraph of that section are established or modified, or any agreement in respect of any such matter to which the corporation or a specified person in relation to it is a party, is entered into or changed, the share is, for the purposes of determining whether it is a taxable preferred share after the particular time, deemed to have been issued at that particular time, unless the share is a share described in paragraph *b* of section 21.11.20 and the particular time is before 16 December 1987 and before the time at which the share is first issued;

(*d*) an agreement in respect of a share of the capital stock of a corporation shall be read without reference to that part of the agreement under which a person agrees to acquire the share for an amount

i. in the case of a share the agreement in respect of which provides that the share is to be acquired within 60 days after the date on which the agreement was entered into, that does not exceed the greater of the fair market value of the share at the time the agreement was entered into, determined without reference to the agreement, and the fair market value of the share at the time of the acquisition, determined without reference to the agreement;

ii. in any other case, that does not exceed the fair market value of the share at the time of the acquisition, determined without reference to the agreement, or for an amount determined by reference to the assets or earnings of the corporation where such determination may reasonably be considered to be used to determine an amount that does not exceed the fair market value of the share at the time of the acquisition, determined without reference to the agreement;

(*e*) where it may reasonably be considered that the dividends that may be declared or paid to a shareholder at any time on a share, other than a prescribed share or a share described in section 21.6.1 during the applicable time period referred to in that section, of the capital stock of a corporation issued after 15 December 1987 or acquired after 15 June 1988 are derived primarily from dividends received on taxable preferred shares of the capital stock of another corporation, and that the share was issued or acquired as part of a transaction or event or series of transactions or events one of the main purposes of which was to avoid or limit the application of Part IV.1 or VI.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the share is deemed, at that time, to be a taxable preferred share;

(*f*) a specified person in relation to any particular person is a person with whom the particular person does not deal at arm's length or any partnership or trust of which the particular person or the person is a member or beneficiary.

History: 1990, c. 59, s. 23; 1997, c. 3, s. 71.

Corresponding Federal Provision: 248(1) "taxable preferred share" (c) to (h).

CHAPTER VI.3
(Repealed).

21.11.17. *(Repealed).*

History: 1990, c. 59, s. 23; 1993, c. 16, s. 14.

21.11.18. *(Repealed).*

History: 1990, c. 59, s. 23; 1993, c. 16, s. 14.

21.11.19. *(Repealed).*

History: 1990, c. 59, s. 23; 1993, c. 16, s. 14.

CHAPTER VI.4
GRANDFATHERED SHARES

Grandfathered share.

21.11.20. A grandfathered share is

(*a*) a share of the capital stock of a corporation issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 pursuant to an agreement in writing entered into before that time,

(*b*) a share of the capital stock of a corporation issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 and before 1 January 1988 as part of a distribution to the public made in accordance with the terms of a final prospectus, preliminary prospectus, registration statement, offering memorandum or notice filed before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 with a public body in accordance with the securities legislation of the jurisdiction in which the shares are distributed,

(*c*) a share of the capital stock of a corporation the right of exchange and all or substantially all the terms and conditions of which were established in writing before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 and that is issued after that time in exchange for

i. a share of a corporation that was issued before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 or is a grandfathered share, or

ii. a debt obligation of a corporation that was issued before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, or issued after that time pursuant to an agreement in writing entered into before that time, or after that time and before 1 January 1988 as part of a distribution to the public made in accordance with the terms of a final prospectus, preliminary prospectus, registration statement, offering memorandum or notice filed before that time with a public authority pursuant to and in accordance with the securities legislation of the jurisdiction in which the debt obligation is distributed, or

(*d*) a share of a class of the capital stock of a Canadian corporation listed on a designated stock exchange that was issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 upon the exercise of a right listed on a designated stock exchange that was issued before that time, that was issued after that time pursuant to an agreement in writing entered into before that time or that was issued after that time and before 1 January 1988 as part of a distribution to the public made in accordance with the terms of a final prospectus, preliminary prospectus, registration statement, offering memorandum or notice filed before that time with a public authority pursuant to and in accordance with the securities legislation of the jurisdiction in which the rights were distributed, where all or substantially all the terms and conditions of the right and the share were established in writing before that time.

History: 1990, c. 59, s. 23; 1993, c. 16, s. 15; 1997, c. 3, s. 71; 1997, c. 14, s. 13l; 2001, c. 7, s. 169; 2001, c. 53, s. 8; 2003, c. 2, s. 11; 2010, c. 5, s. 14.

Corresponding Federal Provision: 248(1) "grandfathered share" (a) to (d).

Share deemed not to be a grandfathered share.

21.11.21. For the purposes of section 21.11.20, a share that is deemed under Chapter VI, VI.1 or VI.2 or section 740.3.1 to have been issued at any time is, for the purposes of that chapter or section, deemed not to be a grandfathered share after that time.

History: 1990, c. 59, s. 23.

Corresponding Federal Provision: 248(1) "grandfathered share" after (d).

CHAPTER VII
INCOME BONDS

"income bond" or "income debenture".

21.12. In this Part, "income bond" or "income debenture" of a particular corporation means a bond or debenture in respect of which interest or dividends are payable only to the extent that the particular corporation has made a profit before taking into account the payment of the interest or dividend, and which is a bond or debenture

(*a*) that was issued before 17 November 1978;

(*b*) that was issued after 16 November 1978 and before 1980 pursuant to an agreement in writing to do so made before 17 November 1978; or

(*c*) issued, for a term that in no circumstances may exceed five years, by a corporation that is resident in Canada, the proceeds from the issue of which, in the case of a bond or debenture issued after 12 November 1981, may reasonably be regarded as having been used by the particular corporation or a corporation with which it was not dealing at arm's length in the financing of its business carried on in Canada immediately before it was issued and that was issued

i. as part of a proposal to, or an arrangement with, the creditors of the particular corporation that had been approved by a competent court under the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3),

ii. at a time when all or substantially all of the assets of the particular corporation were under the control of a receiver, receiver-manager, sequestrator or trustee in bankruptcy, or

iii. wholly or in substantial part, directly or indirectly, in exchange or substitution for a debt obligation, or a part thereof, of the particular corporation or another corporation resident in Canada with which it does not deal at arm's length held by a person with whom the particular corporation or the other corporation was dealing at arm's length at a time when, by reason of financial difficulty, the particular corporation or the other corporation was in default or could reasonably be expected to default on that debt.

History: 1980, c. 13, s. 3; 1982, c. 5, s. 12; 1984, c. 15, s. 12; 1990, c. 59, s. 24; 1995, c. 49, s. 15; 1997, c. 3, s. 71; 2003, c. 2, s. 12; 2005, c. 23, s. 33.

Interpretation Bulletins: IMP. 21.12-1/R1.

Corresponding Federal Provision: 248(1) "income bond" or "income debenture" (a) to (c).

Agreement deemed to have been made after 16 November 1978.

21.13. For the purposes of this chapter, where the terms or conditions of an agreement in writing referred to in paragraph *b* of section 21.12 were amended after

16 November 1978, the agreement is deemed to have been made after that date.

History: 1980, c. 13, s. 3.
Interpretation Bulletins: IMP. 21.12-1/R1.
Corresponding Federal Provision: 248(1) "income bond" or "income debenture" (d).

Rule applicable to certain bonds and debentures.

21.14. Where, at a particular time after 16 November 1978, the maturity date of a bond or debenture was extended or the terms or conditions relating to the repayment of the principal amount thereof were changed, the bond or debenture is, for the purposes of determining at any time after the particular time whether it is an income bond or income debenture, as the case may be, deemed to have been issued at the particular time otherwise than pursuant to an agreement in writing referred to in paragraph *b* of section 21.12.

History: 1980, c. 13, s. 3; 1982, c. 5, s. 13.
Interpretation Bulletins: IMP. 21.12-1/R1.
Corresponding Federal Provision: 248(1) "income bond" or "income debenture" (e) after (v).

Rule applicable to certain bonds and debentures.

21.15. The rule provided in section 21.14 applies also where

(*a*) the terms or conditions of a bond or debenture issued pursuant to an agreement in writing referred to in paragraph *b* of section 21.12 or those of any agreement relating to such a bond or debenture have been changed at a particular time;

(*b*) under the terms or conditions of a bond or debenture acquired in the ordinary course of the business carried on by a specified financial institution or a partnership or trust, other than a testamentary trust, or under the terms or conditions of any agreement relating to any such bond or debenture, other than an agreement made before 24 October 1979 to which the issuer or any person related thereto was not a party, the owner thereof could at a particular time after 16 November 1978 require, either alone or together with one or more taxpayers, the repayment, acquisition, cancellation or conversion of the bond or debenture otherwise than by reason of a failure or default under the terms or conditions of the bond or debenture or of any agreement that related to, and was entered into at the time of, the issuance of the bond or debenture;

(*c*) at a particular time a specified financial institution, or a partnership or trust of which a specified financial institution or a person related to such an institution is a member or beneficiary, acquires a bond or debenture that

i. was issued before 17 November 1978 or under an agreement in writing referred to in paragraph *b* of section 21.12,

ii. was issued to a person other than a corporation that was, at the time of issue,

(1) a corporation referred to in any of paragraphs *a* to *e* of the definition of "specified financial institution" in section 1, or

(2) a corporation controlled by one or more corporations referred to in subparagraph 1,

iii. was acquired from a person that was, at the particular time and at the time the person last acquired the bond or debenture, a person other than a corporation referred to in any of paragraphs *a* to *f* of the definition of "specified financial institution" in section 1, and

iv. was acquired otherwise than under an agreement in writing made before 24 October 1979; or

(*d*) at a particular time after 12 November 1981, a specified financial institution, or a partnership or trust of which a specified financial institution or a person related to such an institution is a member or beneficiary, acquires a bond or debenture that

i. was not a bond or debenture referred to in subparagraph *c*,

ii. was acquired from a person that was, at the particular time, a corporation referred to in any of paragraphs *a* to *f* of the definition of "specified financial institution" in section 1, and

iii. was acquired subject to an undertaking given after 12 November 1981 that would be an undertaking referred to in section 740.2 if that section applied to an income bond or income debenture.

Controlled corporation.

For the purposes of subparagraph 2 of subparagraph ii of subparagraph *c* of the first paragraph, one corporation is controlled by another corporation if more than 50% of its issued share capital having full voting rights under all circumstances belongs to the other corporation, to persons with whom the other corporation does not deal at arm's length, or to the other corporation and persons with whom the other corporation does not deal at arm's length.

History: 1980, c. 13, s. 3; 1982, c. 5, s. 14; 1984, c. 15, s. 13; 1990, c. 59, s. 25; 1997, c. 3, s. 71; 2001, c. 53, s. 9.
Interpretation Bulletins: IMP. 21.12-1/R1.
Corresponding Federal Provision: 248(1) "income bond" or "income debenture" (e)(i) to (v).

Dividend deemed received.

21.16. Notwithstanding section 119, where an amount is paid or payable after 31 December 1978 as interest or as an amount in lieu of interest in respect of any interest or dividend payable after 16 November 1978 on an income bond or an income debenture issued before

17 November 1978 or pursuant to an agreement in writing referred to in paragraph *b* of section 21.12, the amount is, for the purposes of section 740.1 and the second paragraph of section 845, deemed to be a dividend received on a term preferred share.

History: 1980, c. 13, s. 3; 1986, c. 19, s. 6.
Interpretation Bulletins: IMP. 21.12-1/R1.
Corresponding Federal Provision: 258(2)(a).

CHAPTER VIII
SPECIFIED SHAREHOLDERS AND CANADIAN CONTROLLED PRIVATE CORPORATIONS

Specified shareholder of corporation.

21.17. A specified shareholder of a corporation in a taxation year is a taxpayer who owns, directly or indirectly, at any time in the year, not less than 10% of the issued shares of any class of the capital stock of the corporation or of any other corporation that is related to the corporation.

History: 1986, c. 15, s. 37; 1997, c. 3, s. 71.
Interpretation Bulletins: IMP. 135.2-1/R1.
Corresponding Federal Provision: 248(1) "specified shareholder" before (a).

Applicable rules.

21.18. The following rules apply for the purpose of determining whether or not a taxpayer is a specified shareholder of a corporation at any time:

(*a*) a taxpayer is deemed to own each share of the capital stock of a corporation owned at that time by a person with whom the taxpayer does not deal at arm's length;

(*b*) each beneficiary of a trust is deemed to own that proportion of all the shares of the capital stock of a corporation that are owned by the trust at that time that the fair market value at that time of the beneficial interest of the beneficiary in the trust is of the fair market value at that time of all beneficial interests in the trust;

(*c*) each member of a partnership is deemed to own that proportion of all the shares of the capital stock of a corporation that are property of the partnership at that time that the fair market value at that time of the member's interest in the partnership is of the fair market value at that time of the interests of all members in the partnership;

(*d*) an individual who performs services on behalf of a corporation that would be carrying on a personal services business if the individual or any person related to the individual were at that time a specified shareholder of the corporation is deemed to be a specified shareholder of the corporation at that time if the individual, or any person or partnership with whom the individual does not deal at arm's length, is, or by virtue of any arrangement, may become, entitled, directly or indirectly, to not less than 10% of the assets or the shares of any class of the capital stock of the corporation or any corporation related thereto; and

(*e*) notwithstanding paragraph *b*, where a beneficiary's share of the income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a power to appoint, the beneficiary is deemed to own each share of the capital stock of a corporation owned at that time by the trust.

History: 1986, c. 15, s. 37; 1994, c. 22, s. 57; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1998, c. 16, s. 17; 2005, c. 1, s. 25.
Interpretation Bulletins: IMP. 135.2-1/R1.
Corresponding Federal Provision: 248(1) "specified shareholder" (a) to (e).

Canadian-controlled private corporation.

21.19. "Canadian-controlled private corporation" means a private corporation that is a Canadian corporation other than a corporation

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

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

(*c*) a class of the shares of the capital stock of which is listed on a designated stock exchange; or

(*d*) that, for the purposes of section 6.1.1 and of subsection 1 of section 771 in respect of a particular taxation year, made a valid election under subsection 11 of section 89 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) to not be considered, for certain purposes, to be a Canadian-controlled private corporation at any time in or after a taxation year that is the particular taxation year or a preceding taxation year, and that did not revoke the election in accordance with subsection 12 of section 89 of that Act as of the end of a taxation year preceding the particular taxation year.

Additional rules.

Chapter V.2 applies in relation to an election made under subsection 11 of section 89 of the Income Tax Act and, if applicable, in relation to the revocation of that election made under subsection 12 of section 89 of that Act.

History: 1986, c. 15, s. 37; 1990, c. 59, s. 26; 1997, c. 3, s. 17; 2001, c. 7, s. 8; 2003, c. 2, s. 13; 2009, c. 5, s. 33; 2010, c. 5, s. 15.
Interpretation Bulletins: IMP. 1029.7.2-1.

Corresponding Federal Provision: 125(7) and 248(1) "Canadian-controlled private corporation".

CHAPTER IX
ASSOCIATED CORPORATIONS

Associated corporations.

21.20. For the purposes of this Part, one corporation is associated with another in a taxation year if at any time in the year,

(*a*) one of the corporations controlled, directly or indirectly in any manner whatever, the other;

(*b*) both of the corporations were controlled, directly or indirectly in any manner whatever, by the same person or group of persons;

(*c*) each of the corporations was controlled, directly or indirectly in any manner whatever, by a person and the person who so controlled one of the corporations was related to the person who so controlled the other, and either of those persons owned, in respect of each corporation, not less than 25% of the issued shares of any class, other than a specified class, of the capital stock thereof;

(*d*) one of the corporations was controlled, directly or indirectly in any manner whatever, by a person and that person was related to each member of a group of persons that so controlled the other corporation, and that person owned, in respect of the other corporation, not less than 25% of the issued shares of any class, other than a specified class, of the capital stock thereof; or

(*e*) each of the corporations was controlled, directly or indirectly in any manner whatever, by a related group and each of the members of one of the related groups was related to all of the members of the other related group, and one person who was a member of both related groups owned alone, or several persons who were members of both related groups owned together, in respect of each corporation, not less than 25% of the issued shares of any class, other than a specified class, of the capital stock thereof.

History: 1989, c. 5, s. 28; 1990, c. 59, s. 27; 1997, c. 3, s. 71.
Interpretation Bulletins: IMP. 135.2-1/R1; IMP. 1029.7.2-1.
Corresponding Federal Provision: 256(1).

"specified class".

21.20.1. For the purposes of section 21.20, the expression "specified class" means a class of shares of the capital stock of a corporation where, under the terms or conditions of the shares or any agreement in respect thereof,

(*a*) the shares are not convertible or exchangeable;

(*b*) the shares are non-voting;

(*c*) the amount of each dividend payable on the shares is a fixed amount or is determined by reference to a fixed percentage of the fair market value of the consideration for which the shares were issued;

(*d*) the annual rate of the dividend on the shares, expressed as a percentage of the fair market value of the consideration for which the shares were issued, cannot in any event exceed the prescribed rate of interest at the time the shares were issued; and

(*e*) the amount that any 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 cannot exceed the aggregate of the fair market value of the consideration for which the shares were issued and the amount of any unpaid dividends thereon.

History: 1990, c. 59, s. 28; 1997, c. 3, s. 71.
Interpretation Bulletins: IMP. 1029.7.2-1.
Corresponding Federal Provision: 256(1.1).

Rules applicable to control.

21.20.2. For the purposes of sections 21.20 to 21.24,

(*a*) a group of persons in respect of a corporation means any two or more persons each of whom owns shares of the capital stock of the corporation;

(*b*) for greater certainty,

i. a corporation that is controlled by one or more members of a particular group of persons in respect of that corporation is deemed to be controlled by that group of persons, and

ii. a corporation may be controlled by a person or a particular group of persons notwithstanding that the corporation is also controlled or deemed to be controlled by another person or group of persons;

(*c*) a corporation is deemed to be controlled by another corporation, a person or a group of persons at any time where the other corporation, the person or the group of persons, as the case may be, owns at that time

i. shares of the capital stock of the corporation having a fair market value of more than 50% of the fair market value of all the issued and outstanding shares of the capital stock of the corporation, or

ii. common shares of the capital stock of the corporation having a fair market value of more than 50% of the fair market value of all the issued and outstanding common shares of the capital stock of the corporation;

(*d*) shares of the capital stock of a corporation that are owned or deemed under this section to be owned at any time by another corporation are deemed to be owned at that time

by each shareholder of that other corporation in a proportion equal to the proportion of all such shares that

i. the fair market value of the shares of the capital stock of the other corporation owned at that time by the shareholder is of

ii. the fair market value of all the issued and outstanding shares of the capital stock of the other corporation at that time;

(*e*) shares of the capital stock of a corporation that are owned or deemed under this section to be owned at any time by a partnership are deemed to be owned at that time by each member of the partnership in a proportion equal to the agreed proportion in respect of the member for the partnership's fiscal period that includes that time;

(*f*) where shares of the capital stock of a corporation are owned or deemed under this section to be owned at any time by a trust,

i. *(subparagraph repealed)*;

ii. where a beneficiary's share of the accumulating income or capital of the trust depends upon the exercise by any person of, or the failure by any person to exercise, a power to appoint, such shares are deemed to be owned at that time by the beneficiary,

iii. in any case where subparagraph ii does not apply, a beneficiary is deemed at that time to own the proportion of such shares that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of all beneficial interests in the trust, and

iv. in the case of a trust referred to in section 467, the person referred to in that section from whom property of the trust or property for which it was substituted was directly or indirectly received is deemed to own such shares at that time; and

(*g*) in determining the fair market value of a share of the capital stock of a corporation, all issued and outstanding shares of the capital stock of the corporation are deemed to be non-voting.

History: 1990, c. 59, s. 28; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 2005, c. 1, s. 26; 2009, c. 15, s. 31; 2017, c. 1, s. 80.
Interpretation Bulletins: IMP. 1029.7.2-1.
Corresponding Federal Provision: 256(1.2).

Shares of a child under 18 years of age.

21.20.3. Shares of the capital stock of a corporation that are owned at any time by a child who is under 18 years of age are deemed, for the purposes of determining whether the corporation is associated at that time with any other corporation that is controlled, directly or indirectly in any manner whatever, by the father or the mother of the child or by a group of persons of which the father or mother is a member, to be owned at that time by the father or the mother, as the case may be, unless, having regard to all the circumstances, it may reasonably be considered that the child manages the business and affairs of the corporation and does so without a significant degree of influence by the father or mother.

History: 1990, c. 59, s. 28; 1993, c. 16, s. 16; 1997, c. 3, s. 71; 1998, c. 16, s. 18.
Interpretation Bulletins: IMP. 1029.7.2-1.
Corresponding Federal Provision: 256(1.3).

Right to acquire shares and other rights.

21.20.4. For the purpose of determining if a corporation is associated with any other corporation with which it is not otherwise associated, where a person or any partnership in which the person has an interest has a right at any time under a contract or otherwise, either immediately or in the future and either absolutely or contingently,

(*a*) to, or to acquire, shares of the capital stock of a corporation, or to control the voting rights of such shares, the person or partnership is, except where the right cannot be exercised at that time because the exercise thereof is contingent on the death, bankruptcy or permanent disability of an individual, deemed to own the shares at that time and the shares are deemed to be issued and outstanding at that time; or

(*b*) to cause a corporation to redeem, acquire or cancel any shares of its capital stock owned by other shareholders of a corporation, the person or partnership is, except where the right cannot be exercised at that time because the exercise thereof is contingent on the death, bankruptcy or permanent disability of an individual, deemed at that time to have had the same position in relation to control of the corporation and ownership of shares of the capital stock of the corporation as if the shares were redeemed, acquired or cancelled by the corporation.

History: 1990, c. 59, s. 28; 1993, c. 16, s. 16; 1997, c. 3, s. 71.
Interpretation Bulletins: IMP. 1029.7.2-1.
Corresponding Federal Provision: 256(1.4).

Person related to himself, herself or itself.

21.20.5. For the purposes of sections 21.20 to 21.24, a person who owns shares in two or more corporations is deemed, as shareholder of one of the corporations, to be related to himself, herself or itself as shareholder of each of the other corporations.

History: 1990, c. 59, s. 28; 1997, c. 3, s. 71; 1998, c. 16, s. 19.
Interpretation Bulletins: IMP. 1029.7.2-1.
Corresponding Federal Provision: 256(1.5).

Exception.

21.20.6. For the purposes of section 21.20.2 and notwithstanding section 21.20.4,

(*a*) any share that is described in section 21.6.1 during one of the periods referred to therein or that is a share of a specified class within the meaning of section 21.20.1 is deemed not to be issued and outstanding and not to be owned by any shareholder;

(*b*) an amount equal to the greater of the paid-up capital of the share referred to in paragraph *a* and the amount that any holder of the share is entitled to receive on the redemption, cancellation or acquisition of the share by the corporation is deemed to be a liability of the corporation.

History: 1990, c. 59, s. 28; 1997, c. 3, s. 71.
Interpretation Bulletins: IMP. 1029.7.2-1.
Corresponding Federal Provision: 256(1.6).

Control by group including specified entities.

21.20.7. For the purpose of determining if two corporations are associated with each other at any time by reason of both of the corporations being controlled at that time, directly or indirectly, by the same group of persons that includes one or more specified entities, neither the shares of the capital stock of those corporations owned by any specified entity that is a member of the group of persons, nor any right referred to in section 21.20.4 held by any specified entity that is a member of the group of persons, shall be taken into account at that time.

Presumption.

However, where a specified entity is a member at a particular time of a group of persons that controls several corporations, and, at that time, the specified entity acts in concert with one or more members of the group of persons to control those corporations, the specified entity is deemed, for the purposes of the first paragraph in respect of those corporations, not to be a specified entity at that time.

History: 2002, c. 40, s. 18.
Interpretation Bulletins: IMP. 1029.7.2-1.

Corporation associated with a specified entity.

21.20.8. For the purpose of determining if a corporation is associated with a specified entity at any time, otherwise than by virtue of section 21.25, neither the fair market value of the shares of the capital stock of the corporation owned by the specified entity, nor any right referred to in section 21.20.4 held by the specified entity, shall be taken into account at that time.

History: 2002, c. 40, s. 18.
Interpretation Bulletins: IMP. 1029.7.2-1.

Meaning of "specified entity".

21.20.9. In sections 21.20.7 and 21.20.8, "specified entity" means any of the following entities:

(*a*) the Business Development Bank of Canada;

(*b*) the Caisse de dépôt et placement du Québec;

(*c*) Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi;

(*d*) the Fonds de solidarité des travailleurs du Québec (F.T.Q.);

(*e*) Hydro-Québec CapiTech inc.;

(*f*) Investissement Québec;

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

(*h*) the Société Innovatech du Grand Montréal;

(*i*) the Société Innovatech du sud du Québec;

(*j*) the Société Innovatech Québec et Chaudière-Appalaches;

(*k*) the Société Innovatech Régions ressources;

(*k.*1) the entity governed by the Act constituting Capital régional et coopératif Desjardins (chapter C-6.1);

(*l*) a Québec university; or

(*m*) a corporation all the issued capital stock of which, except directors' qualifying shares, belongs to one or more entities described in any of subparagraphs *a* to *l* or in this subparagraph.

History: 2002, c. 40, s. 18; 2005, c. 23, s. 34; 2010, c. 37, s. 106; 2015, c. 21, s. 98; 2015, c. 36, s. 8.
Interpretation Bulletins: IMP. 1029.7.2-1.

Corporation associated with a public corporation.

21.20.10. For the purposes of Divisions II.6.0.1.7 and II.6.6.1 to II.6.6.7 of Chapter III.1 of Title III of Book IX and notwithstanding section 21.20.4, for the purpose of determining whether a corporation is associated at any time with a public corporation, otherwise than as a consequence of the application of section 21.25, a right referred to in section 21.20.4 that is held by the public corporation shall not be taken into account.

History: 2003, c. 9, s. 14.
Interpretation Bulletins: IMP. 1029.7.2-1.

Corporations associated before public share issue.

21.20.11. For the purposes of section 965.66 and despite section 21.20.4, to determine whether a corporation (in this section referred to as the "issuing corporation") is associated at any time with a particular corporation, otherwise than as a consequence of the application of section 21.25, a right referred to in section 21.20.4 that is held by the particular corporation is not to be taken into account, if

(*a*) the Minister is of the opinion that the issuing corporation is associated with the particular corporation only because of the application of section 21.20.4; and

(*b*) the contract granting the particular corporation a right referred to in section 21.20.4 stipulates that the right will cease to exist by reason of a public share issue, within the meaning assigned by section 965.55, made by the issuing corporation.

History: 2009, c. 5, s. 34.
Interpretation Bulletins: IMP. 1029.7.2-1.

Corporations deemed not associated..

21.21. Subject to the second paragraph of section 771.2.1.3, two corporations that are associated, or deemed by this section to be associated, with the same corporation at any time and that, but for this section, would not be associated with each other at that time, are deemed, for the purposes of this Part, to be associated with each other at that time.

History: 1989, c. 5, s. 28; 1990, c. 59, s. 29; 1992, c. 1, s. 7; 1997, c. 3, s. 17; 1997, c. 14, s. 14; 2000, c. 39, s. 3; 2019, c. 14, s. 68.
Interpretation Bulletins: IMP. 1029.7.2-1.
Corresponding Federal Provision: 256(2).

Anti-avoidance.

21.21.1. For the purposes of this Part, where it may reasonably be considered that one of the main reasons for the separate existence of two or more corporations in a taxation year is to reduce the amount of tax that would otherwise be payable under this Part, those corporations are deemed to be associated with each other in the year.

History: 1990, c. 59, s. 30; 1997, c. 3, s. 71.
Interpretation Bulletins: IMP. 1029.7.2-1.
Corresponding Federal Provision: 256(2.1).

Corporations deemed not associated.

21.22. Where one corporation would, but for this section, be associated with another corporation in a taxation year by reason of both of the corporations being controlled by the same trustee, liquidator of a succession or executor and it is established to the satisfaction of the Minister that the trustee, liquidator or executor did not acquire control of the corporations as a result of one or more trusts created or successions opened by the same individual or two or more individuals not dealing with each other at arm's length, and that the trust or succession under which the trustee, liquidator or executor acquired control of each of the corporations arose only upon the death of the individual who created the trust or whose succession was opened, the two corporations are deemed, for the purposes of this Part, not to be associated with each other in the year.

History: 1989, c. 5, s. 28; 1994, c. 22, s. 58; 1997, c. 3, s. 71; 2005, c. 1, s. 27.
Interpretation Bulletins: IMP. 1029.7.2-1.
Corresponding Federal Provision: 256(4).

Corporations deemed not associated.

21.23. Where one corporation would, but for this section, be associated with another corporation in a taxation year, by reason only that the other corporation is a trustee under a trust pursuant to which the corporation is controlled, the two corporations are deemed, for the purposes of this Part, not to be associated with each other in the year unless, at any time in the year, a settlor of the trust controlled or is a member of a related group that controlled the other corporation that is the trustee under the trust.

History: 1989, c. 5, s. 28; 1997, c. 3, s. 71.
Interpretation Bulletins: IMP. 1029.7.2-1.
Corresponding Federal Provision: 256(5).

Corporations deemed not associated.

21.24. Where a particular corporation would, but for this section, be associated with another corporation in a taxation year by reason of being controlled, directly or indirectly in any manner whatever, by the other corporation or by reason of both of the corporations being controlled, directly or indirectly in any manner whatever, by the same person at a particular time in the year and it is established to the satisfaction of the Minister that the conditions set out in the second paragraph are fulfilled, the two corporations are deemed, for the purposes of this Part, not to be associated with each other in the year.

Conditions.

The conditions referred to in the first paragraph are as follows:

(*a*) there was in effect at the particular time an enforceable agreement or arrangement under which, upon the happening of an event or the satisfaction of a condition that it is reasonable to expect will happen or be satisfied, the particular corporation will cease to be controlled, directly or indirectly in any manner whatever, by the other corporation or the person so controlling the particular corporation and will be or become controlled, directly or indirectly in any manner whatever, by a person or group of persons with whom or with each of the members of which, as the case may be, the other corporation or the person so controlling the particular corporation was at the particular time dealing at arm's length;

(*b*) the purpose for which the particular corporation was at the particular time so controlled was the safeguarding of rights or interests of the other corporation or the person so controlling the particular corporation in respect of any indebtedness owing to the other corporation or the person so controlling the particular corporation the whole or any part of the principal amount of which was outstanding at the particular time, or in respect of any shares of the capital stock

of the particular corporation that were owned by the other corporation or the person so controlling the particular corporation at the particular time and that were, under the enforceable agreement or arrangement referred to in subparagraph *a*, to be redeemed by the particular corporation or purchased by the person or group of persons referred to in subparagraph *a* who are to acquire control of the particular corporation.

History: 1989, c. 5, s. 28; 1990, c. 59, s. 31; 1997, c. 3, s. 71.
Interpretation Bulletins: IMP. 1029.7.2-1.
Corresponding Federal Provision: 256(3).

Control in fact.

21.25. For the purposes of this Part, where the expression "controlled, directly or indirectly in any manner whatever," is used, a corporation is deemed to be so controlled by another corporation, a person or a group of persons at any time where, at that time, the other corporation, the person or the group of persons has any direct or indirect influence that, if exercised, would result in control in fact of the corporation.

Influence derived from an arrangement.

Notwithstanding the foregoing, where the corporation and the other corporation, the person or the group of persons are dealing with each other at arm's length and the influence referred to in the first paragraph is derived from a franchise, licence, lease, distribution, supply or management agreement or other similar agreement or arrangement, the main purpose of which is to govern the relationship between the corporation and the other corporation, the person or the group of persons regarding the manner in which the business carried on by the corporation is to be conducted, the corporation shall not be considered to be controlled, directly or indirectly in any manner whatever, by the other corporation, the person or the group of persons by reason only of such agreement or arrangement.

History: 1990, c. 59, s. 32; 1997, c. 3, s. 71.
Corresponding Federal Provision: 256(5.1).

Interpretation of control in fact.

21.25.1. For the purposes of this Part and for the purpose of determining whether a taxpayer has, in respect of a corporation, any direct or indirect influence that, if exercised, would result in control in fact of the corporation, the following rules apply:

(*a*) all factors that are relevant in the circumstances must be taken into consideration; and

(*b*) the determination must not be limited to, and the relevant factors need not include, whether the taxpayer has a legally enforceable right or ability to effect a change in the board of directors of the corporation, or its powers, or to exercise influence over the shareholder or shareholders who have that right or ability.

History: 2020, c. 16, s. 30.

CHAPTER X
AMORTIZED COST OF A LOAN OR LENDING ASSET

Amortized cost of a loan or lending asset.

21.26. Subject to section 838, "amortized cost", to a taxpayer, of a loan or lending asset at a particular time means the amount by which the aggregate of the following amounts exceeds the amount computed at that time in respect of the loan or lending asset under section 21.27:

(*a*) in the case of a loan made by taxpayer, the aggregate of all amounts advanced in respect of the loan at or before the particular time;

(*b*) in the case of a loan or lending asset acquired by the taxpayer, the cost to the taxpayer of the loan or lending asset;

(*c*) in the case of a loan or lending asset acquired by the taxpayer, the part of the amount by which the principal amount of the loan or lending asset at the time it was so acquired exceeds the cost to the taxpayer of the loan or lending asset that was included in computing the taxpayer's income for any taxation year ending at or before the particular time;

(*c.*1) the aggregate of all amounts each of which is an amount in respect of the loan or lending asset that was included in computing the taxpayer's income for a taxation year that ended at or before that time in respect of changes in the value of the loan or lending asset attributable to the fluctuation in the value of a foreign currency relative to Canadian currency;

(*d*) where the taxpayer is an insurer, any amount in respect of the loan or lending asset that was deemed, by reason of paragraph *a* of section 830 as it read for the taxation year 1977, to be a gain for any taxation year ending at or before the particular time;

(*e*) the aggregate of all amounts each of which is an amount in respect of the loan or lending asset that was included under paragraph *i* of section 87 in computing the taxpayer's income for any taxation year ending at or before the particular time.

History: 1990, c. 59, s. 32; 1996, c. 39, s. 18; 1998, c. 16, s. 20.
Corresponding Federal Provision: 248(1) "amortized cost" (a) to (e).

Amount to deduct in computing the amortized cost.

21.27. The amount that must be deducted in computing the amortized cost, to a taxpayer, of a loan or lending asset at the particular time contemplated in section 21.26 is the aggregate of the following amounts:

(*a*) in the case of a loan or lending asset acquired by the taxpayer, the part of the amount by which the cost to the taxpayer of the loan or lending asset exceeds the principal

amount of the loan or lending asset at the time it was so acquired that was deducted in computing the taxpayer's income for any taxation year ending at or before the particular time;

(*a.*1) the aggregate of all amounts each of which is an amount in respect of the loan or lending asset that was deducted in computing the taxpayer's income for a taxation year that ended at or before that time in respect of changes in the value of the loan or lending asset attributable to the fluctuation in the value of a foreign currency relative to Canadian currency;

(*b*) all amounts that the taxpayer received at or before the particular time as, on account or in lieu of payment of, or in satisfaction of, the principal amount of the loan or lending asset;

(*c*) where the taxpayer is an insurer, any amount in respect of the loan or lending asset that was deemed, by reason of paragraph *b* of section 830 as it read for the taxation year 1977, to be a loss for any taxation year ending at or before the particular time;

(*d*) the aggregate of all amounts each of which is an amount in respect of the loan or lending asset that was deducted under section 141 in computing the taxpayer's income for any taxation year ending at or before the particular time.

History: 1990, c. 59, s. 32; 1996, c. 39, s. 19; 1998, c. 16, s. 21.
Corresponding Federal Provision: 248(1) "amortized cost" (f) to (i).

CHAPTER XI
TRANSFER OR LENDING OF SECURITIES

Definitions:

21.28. In this chapter,

"dealer compensation payment";
"dealer compensation payment" means an amount received by a taxpayer as compensation for an underlying payment from a registered securities dealer resident in Canada who paid the amount in the ordinary course of a business of trading in securities, or for an underlying payment in the ordinary course of such a business of the taxpayer, where the taxpayer is such a dealer resident in Canada;

"qualified security";
"qualified security" means

(*a*) a share of a class of the capital stock of a corporation that is listed on a stock exchange or of a class of the capital stock of a corporation that is a public corporation by reason of the designation of the class for the purposes of subparagraph i or ii of paragraph *b* of the definition of "public corporation" in subsection 1 of section 89 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement),

(*b*) a bond, debenture, note or similar obligation issued by a corporation described in paragraph *a* or by a corporation that is controlled by such a corporation,

(*c*) a bond, debenture, note or similar obligation issued or guaranteed by the government of any country, province, state, municipality or other political subdivision, or by a corporation, commission, agency or association controlled by such a government,

(*d*) a warrant, right, option or similar instrument with respect to a share described in paragraph *a*, or

(*e*) a qualified trust unit;

"qualified trust unit";
"qualified trust unit" means an interest, as a beneficiary under a trust, that is listed on a stock exchange;

"securities lending arrangement";
"securities lending arrangement" means an arrangement, other than an arrangement one of the main purposes of which may reasonably be considered to be to avoid or defer the inclusion in income of any profit or gain with respect to a qualified security, under which

(*a*) a person (in this chapter referred to as the "lender") transfers or lends at any particular time a qualified security to another person (in this chapter referred to as the "borrower"),

(*b*) it may reasonably be expected, at the particular time, that the borrower will, at a later time, transfer or return to the lender a security, in this chapter referred to as an "identical security", that is identical to the security transferred or lent by the lender to the borrower at the particular time,

(*c*) the borrower is obligated to pay to the lender, as compensation for each particular amount paid on the security that would have been received by the borrower if the borrower had held the security throughout the period beginning after the particular time and ending at the time an identical security is transferred or returned to the lender, an amount equal to the particular amount,

(*d*) the lender's opportunity for gain or profit or risk of loss with respect to the security is not changed in any material respect, and

(*e*) if the lender and the borrower do not deal with each other at arm's length, it is intended that neither the arrangement nor any series of securities lending arrangements, loans or other transactions of which the arrangement is a part be in effect for more than 270 days;

"securities lending arrangement compensation payment" or "SLA compensation payment";
"securities lending arrangement compensation payment" or "SLA compensation payment"means an amount paid pursuant to a securities lending arrangement as compensation for an underlying payment;

"security distribution";
"security distribution" means

(*a*) an underlying payment; or

(*b*) an SLA compensation payment, or a dealer compensation payment, that is deemed under section 21.32 to be an amount received as an amount described in any of subparagraphs *a* to *c* of the first paragraph of that section;

"underlying payment".
"underlying payment" means an amount paid on a qualified security by the issuer of the security.

History: 1991, c. 25, s. 5; 1993, c. 16, s. 17; 1995, c. 49, s. 16; 1997, c. 3, s. 71; 1998, c. 16, s. 22; 2001, c. 7, s. 169; 2010, c. 5, s. 16; 2015, c. 24, s. 17.
Corresponding Federal Provision: 260(1).

Non-disposition.

21.29. For the purposes of this Part, subject to sections 21.30 and 21.31, any transfer or loan by a lender of a security under a securities lending arrangement is deemed not to be a disposition of the security and the security is deemed to continue to be property of the lender.

Identical security.

For the purposes of this section, a security is deemed to include an identical security that has been transferred or returned to the lender under the securities lending arrangement.

History: 1991, c. 25, s. 5.
Corresponding Federal Provision: 260(2).

Disposition of right.

21.30. For the purposes of this Part, where, at any time, a lender receives property in satisfaction of or in exchange for the lender's right under a securities lending arrangement to receive the transfer or return of an identical security and the property received at that time is neither an identical property nor an amount deemed, under section 21.31, to have been received as proceeds of disposition, the following rules apply:

(*a*) subject to paragraph *b*, the lender is deemed to have disposed, at that time, of the security initially transferred or lent for proceeds of disposition equal to the fair market value of the property received as consideration for the disposition of the right, other than any portion of the proceeds that is deemed to have been received by the lender as a taxable dividend;

(*b*) Division XIII of Chapter IV of Title IV of Book III, Division VI of Chapter IV of Title IX of Book III and Chapters V and VI of Title IX of Book III, as the case may be, apply in computing the income of the lender with respect to a disposition referred to in paragraph *a* as if the security initially transferred or lent had continued to be property of the lender and the lender had received the property directly.

History: 1991, c. 25, s. 5; 1998, c. 16, s. 23.
Corresponding Federal Provision: 260(3).

Disposition of right.

21.31. Where, at any time, it may reasonably be considered that a lender would have received proceeds of disposition for a security that was transferred or lent under a securities lending arrangement had the security not been so transferred or lent, the lender is deemed to have disposed of the security at that time for an amount equal to such proceeds.

History: 1991, c. 25, s. 5; 2005, c. 23, s. 35.
Corresponding Federal Provision: 260(4).

Deemed character of compensation payments.

21.32. A particular amount that is received by a taxpayer in a taxation year as an SLA compensation payment from a person described in the second paragraph or as a dealer compensation payment, is deemed, to the extent of the underlying payment to which the amount relates, to have been received by the taxpayer in the year as,

(*a*) where the underlying payment is a taxable dividend paid on a share of the capital stock of a public corporation (other than an underlying payment to which subparagraph *b* applies), a taxable dividend on the share and, if the particular amount has the characteristics described in the third paragraph, an eligible dividend on the share;

(*b*) where the underlying payment is paid by a trust on a qualified trust unit issued by the trust,

i. to the extent that section 663 applied to the underlying payment, an amount of the trust's income that was paid by the trust to the taxpayer as a beneficiary under the trust and that was designated by the trust in respect of the taxpayer to the extent of a valid designation, if any, by the trust in accordance with this Part in respect of the recipient of the underlying payment, and

ii. to the extent that the underlying payment is a distribution of a property from the trust, a distribution of that property from the trust; or

(*c*) in any other case, interest.

Person referred to.

A person to whom the first paragraph refers is

(*a*) a person resident in Canada; or

(*b*) a person not resident in Canada who pays the particular amount in the course of carrying on business in Canada through an establishment.

Characteristics.

The characteristics to which the first paragraph refers in respect of the particular amount are the following:

(*a*) the amount is deemed, under the first paragraph, to be a taxable dividend; and

(*b*) the amount is received by a person resident in Canada as

i. compensation for an eligible dividend, or

ii. compensation for a taxable dividend, other than an eligible dividend, paid by a corporation to a shareholder not resident in Canada in circumstances where it may reasonably be considered that the corporation would, if that shareholder had been resident in Canada, have designated the dividend as an eligible dividend under subsection 14 of section 89 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) for the purposes of that Act.

Exception.

However, the first paragraph does not apply in respect of an amount received

(*a*) as proceeds of disposition of a property, or

(*b*) by a person under an arrangement where it may reasonably be considered that one of the main reasons for the person entering into the arrangement was to enable the person to receive an SLA compensation payment or a dealer compensation payment that would be deductible in computing the person's taxable income, or not included in computing the person's income, for any taxation year.

History: 1991, c. 25, s. 5; 1996, c. 39, s. 20; 1997, c. 3, s. 71; 2009, c. 5, s. 35; 2015, c. 24, s. 18.
Corresponding Federal Provision: 260(1.1), (5) and (5.1).

Deductibility.

21.33. A taxpayer who, in a taxation year, pays a particular amount as an SLA compensation payment or as a dealer compensation payment, may deduct, in computing income from a business or property for the year, an amount equal to

(*a*) if the taxpayer is a registered securities dealer and the particular amount is deemed under section 21.32 to have been received as a taxable dividend, no more than 2/3 of the particular amount; or

(*b*) if the particular amount is in respect of an amount other than an amount that is, or is deemed under section 21.32 to have been, received as a taxable dividend,

i. where the taxpayer disposes of the borrowed security and includes the gain or loss, if any, from the disposition in computing income from a business, the particular amount, or

ii. in any other case, the lesser of the particular amount and the amount, if any, in respect of the security distribution to which the SLA compensation payment or dealer compensation payment relates that is included in computing the income, and not deducted in computing the taxable income, for any taxation year of the taxpayer or of any person to whom the taxpayer is related.

History: 1991, c. 25, s. 5 [amended by 1993, c. 16, s. 374 [amended by 1996, c. 39, s. 284]; 1995, c. 49, s. 248 [amended by 1996, c. 39, s. 285]; 1996, c. 39, s. 283]; 1996, c. 39, s. 21; 2015, c. 24, s. 19.
Corresponding Federal Provision: 260(6).

Deductible amount.

21.33.1. Notwithstanding section 21.33, there may be deducted in computing a corporation's income from a business or property for a taxation year an amount equal to the lesser of

(*a*) the aggregate of all amounts each of which is an amount that the corporation becomes obligated in the year to pay to another person under an arrangement described in paragraphs *a* and *b* of the definition of "dividend rental arrangement" in section 1 and that, if paid, would be deemed under section 21.32 to have been received by the other person as a taxable dividend; and

(*b*) the amount of the dividends received by the corporation under the arrangement referred to in paragraph *a* that were identified in its fiscal return under this Part for the year as dividends in respect of which no amount was deductible because of section 740.4.1 in computing its taxable income.

History: 1996, c. 39, s. 22; 1997, c. 3, s. 71; 2015, c. 24, s. 20.
Corresponding Federal Provision: 260(6.1).

Partnerships.

21.33.2. For the purposes of this chapter,

(*a*) a person includes a partnership; and

(*b*) a partnership is deemed to be a registered securities dealer if each member of the partnership is a registered securities dealer.

Corporate members of partnerships.

The following rules apply to a corporation that is, in a taxation year, a member of a partnership:

(*a*) for the purposes of section 21.32, the corporation is deemed to receive, in the year, the agreed proportion in its respect, for each fiscal period of the partnership that ends in the year, of each amount received by the partnership in that fiscal period, and is deemed to be the same person as the partnership in respect of the receipt of the agreed proportion of that amount; and

(*b*) for the purposes of section 21.33.1, the corporation is deemed to become obligated, in the year, to pay the agreed proportion in its respect, for each fiscal period of the partnership that ends in the year, of the amount the partnership becomes, in that fiscal period, obligated to pay to

another person under the arrangement referred to in paragraph *a* of that section.

Individual members of partnerships.

The following rules apply to an individual who is, in a taxation year, a member of a partnership:

(*a*) for the purposes of section 21.32, the individual is deemed to receive, in the year, the agreed proportion in respect of the individual, for each fiscal period of the partnership that ends in the year, of each amount received by the partnership in that fiscal period, and is deemed to be the same person as the partnership in respect of the receipt of the agreed proportion of that amount; and

(*b*) for the purposes of section 497, the individual is deemed to have paid, in the year, the agreed proportion in respect of the individual, for each fiscal period of the partnership that ends in the year, of each amount paid by the partnership in that fiscal period that is deemed under section 21.32 to have been received by another person as a taxable dividend.

History: 2015, c. 24, s. 21.
Corresponding Federal Provision: 260(10), (11) before (c) and (12).

CHAPTER XII
QUÉBEC SALES TAX AND GOODS AND SERVICES TAX

Change of use of property.

21.34. For the purposes of this Part, where a liability for the Québec sales tax or the goods and services tax is incurred in respect of a change of use at any time of a property, the liability so incurred is deemed to have been incurred immediately after that time in respect of the acquisition of the property.

History: 1991, c. 25, s. 5; 1992, c. 1, s. 9.
Corresponding Federal Provision: 248(15).

Deemed government assistance.

21.35. For the purposes of this Part, except section 58.2 and this section, an amount claimed by a taxpayer as an input tax credit or rebate with respect to the goods and services tax in respect of a property or service is deemed to be assistance from a government in respect of the property or service that is received by the taxpayer

(*a*) if the amount was claimed as an input tax credit in a return filed under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) for a reporting period under that Act,

i. at the particular time that is the time that the goods and services tax in respect of the credit was paid or, if it is earlier, the time that it became payable if

(1) the particular time is in the reporting period, or

(2) the taxpayer's threshold amount, determined in accordance with subsection 1 of section 249 of the Excise Tax Act, is greater than $500,000 for the taxpayer's fiscal period, within the meaning of that Act, that includes the particular time and the taxpayer claimed the input tax credit at least 120 days before the end of the period described in paragraph *a* or *a*.0.1 of subsection 2 of section 1010, for the taxation year that includes the particular time,

ii. at the end of the reporting period, if

(1) subparagraph i does not apply, and

(2) the taxpayer's threshold amount, determined in accordance with subsection 1 of section 249 of the Excise Tax Act, is $500,000 or less for the taxpayer's fiscal period, within the meaning of that Act, that includes the particular time, and

iii. in any other case, on the last day of the taxpayer's first taxation year that begins after the taxation year that includes the particular time and for which the period described in paragraph *a* or *a*.0.1 of subsection 2 of section 1010 ends at least 120 days after the time that the input tax credit was claimed; or

(*b*) if the amount was claimed as a rebate with respect to the goods and services tax, at the time the amount was received by, or credited to, the taxpayer.

History: 1991, c. 25, s. 5; 2009, c. 5, s. 36.
Corresponding Federal Provision: 248(16).

Deemed assistance from a government.

21.35.1. For the purposes of this Part, other than section 58.3 and this section, an amount claimed by a taxpayer as an input tax refund or a rebate with respect to the Québec sales tax in respect of a property or service is deemed to be assistance from a government in respect of the property or service that is received by the taxpayer

(*a*) where the amount is claimed as an input tax refund in a return filed under the Act respecting the Québec sales tax (chapter T-0.1) for a reporting period under that Act,

i. at the particular time that is the time that the Québec sales tax in respect of the refund was paid or, if it is earlier, the time that it became payable if

(1) the particular time is in the reporting period, or

(2) the taxpayer's threshold amount, determined in accordance with section 462 of that Act, is greater than $500,000 for the taxpayer's fiscal period, within the meaning of that Act, that includes the particular time and the taxpayer claimed the input tax refund at least 120 days before the end of the period described in paragraph *a* or *a*.0.1 of subsection 2 of section 1010, for the taxation year that includes the particular time,

ii. at the end of the reporting period, if

(1) subparagraph i does not apply, and

(2) the taxpayer's threshold amount, determined in accordance with section 462 of that Act, is $500,000 or less for the taxpayer's fiscal period, within the meaning of that Act, that includes the particular time, and

iii. in any other case, on the last day of the taxpayer's first taxation year that begins after the taxation year that includes the particular time and for which the period described in paragraph *a* or *a*.0.1 of subsection 2 of section 1010 ends at least 120 days after the time that the input tax refund was claimed; or

(*b*) where the amount is claimed as a rebate with respect to the Québec sales tax, at the time the amount was received by, or credited to, the taxpayer.

History: 1992, c. 1, s. 10; 1997, c. 14, s. 15; 2009, c. 5, s. 37.
Corresponding Federal Provision: 248(16.1).

Input tax credit relating to passenger vehicle or aircraft.

21.36. If the input tax credit of a taxpayer under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of property that is a passenger vehicle or an aircraft is determined with reference to subsection 4 of section 202 of that Act, no reference is to be made to subparagraph iii of paragraph *a* of section 21.35, and subparagraphs i and ii of that paragraph *a*, when they apply in respect of such property, are to be read as follows:

"i. at the beginning of the first taxation year or fiscal period of the taxpayer that begins after the end of the taxation year or fiscal period, as the case may be, in which the goods and services tax in respect of such property was considered, for the purpose of determining the input tax credit, to be payable, if the tax was considered, for the purpose of determining the input tax credit, to have become payable in the reporting period, or

ii. at the end of the reporting period, if no such tax was considered, for the purpose of determining the input tax credit, to have become payable in that period; or".

History: 1991, c. 25, s. 5; 2009, c. 5, s. 38.
Corresponding Federal Provision: 248(17).

Input tax refund relating to passenger vehicle or aircraft.

21.36.1. If the input tax refund of a taxpayer under the Act respecting the Québec sales tax (chapter T-0.1) in respect of property that is a passenger vehicle or an aircraft is determined with reference to section 252 of that Act, no reference is to be made to subparagraph iii of paragraph *a* of section 21.35.1, and subparagraphs i and ii of that paragraph *a*, when they apply in respect of such property, are to be read as follows:

"i. at the beginning of the first taxation year or fiscal period of the taxpayer that begins after the end of the taxation year or fiscal period, as the case may be, in which the Québec sales tax in respect of such property was considered, for the purpose of determining the input tax refund, to be payable, if the tax was considered, for the purpose of determining the input tax refund, to have become payable in the reporting period, or

ii. at the end of the reporting period, if no such tax was considered, for the purpose of determining the input tax refund, to have become payable in that period; or".

History: 1992, c. 1, s. 11; 2009, c. 5, s. 38.
Corresponding Federal Provision: 248(17.1).

Input tax credit deemed claimed when assessment made.

21.36.2. An amount in respect of an input tax credit that is deemed, under subsection 5 of section 296 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), to have been claimed in a return or application filed under Part IX of that Act is deemed to have been so claimed for the reporting period under that Act that includes the time when an assessment referred to in that subsection is made in respect of a taxpayer.

History: 2009, c. 5, s. 39.
Corresponding Federal Provision: 248(17.2).

Input tax refund deemed claimed when assessment made.

21.36.3. An amount in respect of an input tax refund that is deemed, under section 30.5 of the Tax Administration Act (chapter A-6.002), to have been claimed is deemed to have been so claimed for the reporting period under the Act respecting the Québec sales tax (chapter T-0.1) that includes the day on which an assessment, indicating that the refund has been allocated under that section 30.5, is made in respect of a taxpayer.

History: 2009, c. 5, s. 39; 2010, c. 31, s. 175.
Corresponding Federal Provision: 248(17.3).

Assistance deemed repaid.

21.37. For the purposes of this Part, where an amount is added at a particular time in determining the net tax of a taxpayer under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of an input tax credit relating to property or a service that had been previously deducted in determining the net tax of the taxpayer, that amount is deemed to be assistance repaid at the particular time in respect of the property or service pursuant to a legal obligation to repay all or part of that assistance.

History: 1991, c. 25, s. 5; 1993, c. 16, s. 18.
Corresponding Federal Provision: 248(18).

Assistance deemed repaid.

21.38. For the purposes of this Part, where an amount is added at a particular time in determining the net tax of a

taxpayer under the Act respecting the Québec sales tax (chapter T-0.1) in respect of an input tax refund relating to property or a service that had been previously deducted in determining the net tax of the taxpayer, that amount is deemed to be assistance repaid at the particular time in respect of the property or service pursuant to a legal obligation to repay all or part of that assistance.

History: 1992, c. 1, s. 12; 1994, c. 22, s. 59; 1997, c. 14, s. 16.

CHAPTER XIII
(Repealed).

21.39. *(Repealed).*

History: 1996, c. 39, s. 23; 1997, c. 3, s. 71; 2000, c. 5, s. 20.

CHAPTER XIV
(Repealed).

21.40. *(Repealed).*

History: 2000, c. 5, s. 21; 2009, c. 5, s. 40; 2011, c. 34, s. 15; 2013, c. 10, s. 15.

CHAPTER XV
(Repealed).

21.41. *(Repealed).*

History: 2005, c. 23, s. 36; 2012, c. 8, s. 40.
Corresponding Federal Provision: 248(1) "registered Canadian amateur athletic association".

21.42. *(Repealed).*

History: 2005, c. 23, s. 36; 2012, c. 8, s. 40.

CHAPTER XVI
QUALIFYING TRUST ANNUITY

Qualifying trust annuity.

21.43. A qualifying trust annuity with respect to a taxpayer means

(*a*) an annuity in respect of which the following conditions are met:

i. it is acquired after 31 December 2005,

ii. the annuitant is a trust that is, at the time the annuity is acquired, a lifetime benefit trust with respect to the taxpayer and the succession of an individual,

iii. it is for the life of the taxpayer (with or without a guaranteed period), or for a fixed term equal to 90 years minus the age in whole years of the taxpayer at the time it is acquired, and

iv. if it is with a guaranteed period or for a fixed term, it requires that, in the event of the death of the taxpayer during the guaranteed period or fixed term, any amounts that would otherwise be payable after the death of the taxpayer be commuted into a single payment;

(*b*) an annuity in respect of which the following conditions are met:

i. it is acquired after 31 December 1988,

ii. the annuitant is a trust under which the taxpayer is the sole person beneficially interested (determined without regard to any right of a person to receive an amount from the trust only on or after the death of the taxpayer) in amounts payable under the annuity,

iii. it is for a fixed term not exceeding 18 years minus the age in whole years of the taxpayer at the time it is acquired, and

iv. if it is acquired after 31 December 2005, it requires that, in the event of the death of the taxpayer during the fixed term, any amounts that would otherwise be payable after the death of the taxpayer be commuted into a single payment; and

(*c*) an annuity in respect of which the following conditions are met:

i. it is acquired after 31 December 2000 and before 1 January 2005 at a time at which the taxpayer was mentally or physically infirm, or in the year 2005 at a time at which the taxpayer was mentally infirm,

ii. the annuitant is a trust under which the taxpayer is the sole person beneficially interested (determined without regard to any right of a person to receive an amount from the trust only on or after the death of the taxpayer) in amounts payable under the annuity, and

iii. it is for the life of the taxpayer (with or without a guaranteed period), or for a fixed term equal to 90 years minus the age in whole years of the taxpayer at the time it is acquired.

Lifetime benefit trust.

For the purposes of the first paragraph, a trust is at a particular time a lifetime benefit trust with respect to a taxpayer and the succession of an individual if

(*a*) immediately before the death of the individual, the taxpayer

i. was both a spouse of the individual and mentally infirm, or

ii. was both a child or grandchild of the individual and dependent on the individual for support because of mental infirmity; and

(*b*) the trust is, at the particular time, a personal trust under which

i. no person other than the taxpayer may receive or otherwise obtain the enjoyment of, during the taxpayer's lifetime, all or part of the income or capital of the trust, and

ii. the trustees are empowered to pay amounts from the trust to the taxpayer, and are required—in determining whether to pay, or not to pay, an amount to the taxpayer—to consider the needs of the taxpayer, including the comfort, care and maintenance of the taxpayer.

History: 2009, c. 15, s. 32; 2019, c. 14, s. 69.
Corresponding Federal Provision: 60.011(1) and (2).

BOOK II
LIABILITY FOR TAX

Tax payable by persons resident in Québec.

22. Every person who is an individual resident in Québec on the last day of a taxation year or a corporation having an establishment in Québec at any time in a taxation year shall pay a tax on the taxable income of the individual or the corporation, as the case may be, for that taxation year.

Individual carrying on a business in Canada but outside Québec.

The tax payable under section 750 by an individual referred to in the first paragraph who carries on a business in Canada but outside Québec is equal to the proportion of the tax that would be determined under this section but for this paragraph that the individual's income earned in Québec is of the individual's income earned in Québec and elsewhere, as determined by the regulations.

History: 1972, c. 23, s. 17; 1972, c. 26, s. 34; 1973, c. 17, s. 4; 1984, c. 15, s. 14; 1988, c. 4, s. 18; 1989, c. 5, s. 29; 1993, c. 64, s. 7; 1995, c. 63, s. 16; 1997, c. 3, s. 71; 1998, c. 16, s. 24; 2001, c. 53, s. 10.
Interpretation Bulletins: IMP. 14-1/R2; IMP. 22–2/R1; IMP. 22-3/R1; IMP. 996-3/R1.
Corresponding Federal Provision: 2(1).

Individual ceasing to be resident in Canada.

23. When an individual ceases to be resident in Canada in a taxation year, the last day of the individual's taxation year is, for the purposes of section 22, the last day on which the individual was resident in Canada.

Taxable income of a resident.

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

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

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

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

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

Computation of amount.

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

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

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

History: 1972, c. 23, s. 18; 1972, c. 26, s. 35; 1982, c. 5, s. 15; 1989, c. 5, s. 30; 1993, c. 16, s. 19; 1995, c. 49, s. 17; 1996, c. 39, s. 24; 1998, c. 16, s. 25; 2004, c. 8, s. 13.
Corresponding Federal Provision: 114.

Taxable income.

24. The taxable income of an individual referred to in section 22 for a taxation year is the individual's income for the year plus the additions provided for in Book IV and minus the deductions permitted by that Book, except where the individual was resident in Canada for only part of that taxation year. In the latter case, the individual's taxable income shall be computed in the manner described in section 23, whether the individual is an individual who became resident in Canada in the year or an individual who ceased to be resident in Canada in the year.

History: 1972, c. 23, s. 19; 1972, c. 26, s. 36; 1985, c. 25, s. 20; 1989, c. 5, s. 31; 1995, c. 49, s. 18; 1998, c. 16, s. 26.
Corresponding Federal Provision: 2(2) and 114 (part).

Individual resident in Canada but outside Québec.

25. Every individual resident in Canada but outside Québec on the last day of a taxation year shall, if the individual carried on a business in Québec at any time in the

year, pay a tax on the individual's income earned in Québec for the year as determined under Part II.

Individual resident in Canada, outside Québec.

The tax payable under section 750 by an individual referred to in the first paragraph is equal to the portion of the tax that the individual would pay, but for this paragraph, under that section on the individual's taxable income determined under section 24 if the individual were resident in Québec, that is the proportion, which is not to exceed 1, that that income earned in Québec is of the amount by which the aggregate of the amount that would have been the individual's income, computed without reference to section 1029.8.50, had the individual been resident in Québec on the last day of the taxation year and the amount that the individual included in computing that taxable income under section 726.35 or 726.43, exceeds any amount deducted by the individual under any of sections 726.20.2, 726.28, 726.33, 737.14, 737.16, 737.16.1, 737.18.10, 737.18.34, 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, 737.25 and 737.28 in computing that taxable income.

Last day of the individual's taxation year.

For the purposes of this section, where an individual ceases to be resident in Canada in a taxation year, the last day of the individual's taxation year is the last day on which the individual was resident in Canada.

History: 1972, c. 23, s. 20; 1972, c. 26, s. 37; 1973, c. 17, s. 5; 1984, c. 15, s. 15; 1987, c. 21, s. 9; 1988, c. 4, s. 19; 1989, c. 5, s. 32; 1993, c. 64, s. 8; 1995, c. 1, s. 14 [amended by 1997, c. 14, s. 366]; 1995, c. 63, s. 17; 1997, c. 14, s. 17; 1997, c. 85, s. 34; 1998, c. 16, s. 27; 1999, c. 83, s. 27; 2000, c. 39, s. 264; 2002, c. 40, s. 19; 2003, c. 9, s. 15; 2004, c. 21, s. 42; 2006, c. 36, s. 23; 2010, c. 25, s. 8; 2013, c. 10, s. 16; 2017, c. 29, s. 28.
Corresponding Federal Provision: 114.

Individual not resident in Canada.

26. Every individual who was not resident in Canada at any time in a taxation year and who, in the taxation year or a previous taxation year, was employed in Québec, carried on a business in Québec or disposed of a taxable Québec property, shall pay a tax on the individual's income earned in Québec for the year as determined under Part II.

Tax payable.

The tax payable under sections 750 and 752.12 to 752.16 by an individual referred to in the first paragraph is equal to the proportion, which cannot exceed 1, of the tax that would, but for this paragraph, be payable under those sections on the individual's taxable income earned in Canada as determined under Part II if the individual were resident in Québec, that the individual's income earned in Québec is of the individual's income earned in Canada as determined in accordance with section 1090.

History: 1972, c. 23, s. 21; 1972, c. 26, s. 38; 1988, c. 4, s. 20; 1989, c. 5, s. 33; 1993, c. 64, s. 9; 1998, c. 16, s. 28; 2001, c. 53, s. 11.
Interpretation Bulletins: IMP. 1091-1; IMP. 1097-1/R1.
Corresponding Federal Provision: 2(3).

Taxable income of a corporation.

26.1. The taxable income of a corporation referred to in section 22 for a taxation year is its income for the year plus the additions provided for in Book IV and minus the deductions permitted by the said Book.

History: 1989, c. 77, s. 8; 1997, c. 3, s. 71.
Corresponding Federal Provision: 2(2).

Tax payable by certain corporations not resident in Canada.

27. Any corporation not contemplated in section 22 and not resident in Canada that disposes in a taxation year of taxable Québec property shall pay a tax at the rate established in subsection 1 of section 771 on the amounts described in subparagraphs *d*, *e*, *f*, *h* and *l* of the first paragraph of section 1089 that are applicable thereto and on the amount by which the aggregate of its taxable capital gains exceeds the aggregate of its allowable capital losses from the disposition of such property.

Corporation carrying on business outside Québec.

Where a corporation contemplated in section 22 has an establishment outside Québec, its tax payable is equal to the proportion of the tax established under subsection 1 of section 771 that the business it carries on in Québec is of the entire business it carries on in Canada or in Québec and elsewhere, as determined under subsection 2 of section 771.

History: 1972, c. 23, s. 22; 1973, c. 17, s. 6; 1975, c. 22, s. 3; 1987, c. 21, s. 10; 1991, c. 8, s. 1; 1992, c. 1, s. 13; 1993, c. 16, s. 20; 1995, c. 1, s. 199; 1997, c. 3, s. 71.
Interpretation Bulletins: IMP. 12-2/R2; IMP. 14-1/R2.
Corresponding Federal Provision: 2(3) and 115(1)(a)(iii.1), (iii.2), (iv), (iv.1) and (b) I.T.A. and 402(3) I.T.R.

BOOK III
COMPUTATION OF INCOME

TITLE I
BASIC RULES

Computation of income for a taxation year.

28. A taxpayer shall, to determine the income of the taxpayer for a taxation year for the purposes of this Part,

(*a*) add the aggregate of the taxpayer's income for the year, other than the taxable capital gains from dispositions of property, from each source inside and outside Canada;

(*b*) add to the aggregate so determined the amount by which

i. the taxpayer's taxable capital gains for the year from dispositions of property other than precious property and the taxpayer's taxable net gain for the year from dispositions of precious property, exceed

ii. the amount by which the taxpayer's allowable capital losses for the year from dispositions of property other than precious property exceed the taxpayer's allowable business investment losses for the year; and

(*c*) subtract from the total so determined

i. the deductions permitted by Title VI in computing the taxpayer's income for the year, except those taken into account in computing the aggregate of the income referred to in paragraph *a* and, if there is any remainder,

ii. the losses incurred in the year by the taxpayer from an office, employment, business or property and the taxpayer's allowable business investment losses for the year;

iii. *(subparagraph repealed).*

History: 1972, c. 23, s. 23; 1979, c. 18, s. 4; 1982, c. 56, s. 10; 1987, c. 67, s. 8; 1998, c. 16, s. 29.
Interpretation Bulletins: IMP. 80-5/R5; IMP. 81-2/R1.
Corresponding Federal Provision: 3(a) to (d).

Negative amount.

28.1. Where the amount determined under section 28 for a taxation year in respect of a taxpayer does not exceed zero, the taxpayer is deemed, for the purposes of this Part, to have income for the year in an amount equal to zero.

History: 1993, c. 16, s. 21; 1993, c. 64, s. 10.
Corresponding Federal Provision: 3(e) and (f).

Income or loss from sources in Canada or in another place.

29. Where income or loss is from an office, employment, business, property or other source in Canada or in another place, or where income or loss is from an office, employment or business performed or carried on partly in Canada and partly in another place, the taxpayer shall compute separately the income or loss from each source according to the place and shall only apply to it such part of the deductions provided by this Part as may reasonably be applied to such source according to the place.

Application of allowable deductions.

Notwithstanding the first paragraph, the deductions permitted by sections 334 to 358.0.4 shall, subject to the third paragraph, be applied to the whole income of the taxpayer.

Application of allowable deductions.

For the purposes of Part II and sections 671, 671.1 and 772.2 to 772.13, in respect of income or loss from a source in Canada or in another place or from an office, employment or business, performed or carried on partly in Canada and partly in another place,

(*a*) subject to subparagraph *b*, the deductions permitted in computing the income of the taxpayer under this Part, except those permitted by paragraphs *c* to *e* and *j* of section 336, sections 336.0.3 and 336.0.4, paragraphs *b* to *g* and *i* of section 339 and sections 340 and 341, shall be applied separately to the income from each of those places;

(*b*) the deductions permitted by paragraphs *a* and *b* of section 657 shall not be applied to income from a source in a country other than Canada.

History: 1972, c. 23, s. 24; 1990, c. 59, s. 33; 1994, c. 22, s. 60; 1995, c. 1, s. 15; 1995, c. 63, s. 18; 1997, c. 85, s. 35; 1998, c. 16, s. 30; 2005, c. 38, s. 51; 2011, c. 1, s. 22.
Corresponding Federal Provision: 4.

30. *(Repealed).*

History: 1972, c. 23, s. 25; 1973, c. 17, s. 7; 1993, c. 16, s. 22; 1997, c. 31, s. 6.

Deemed deductions and costs.

31. For the purpose of computing a taxpayer's income for a taxation year, and unless otherwise prescribed,

(*a*) any deduction allowed to the taxpayer under a provision of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in computing the taxpayer's income for a preceding taxation year in respect of which the taxpayer or, in the case of a partnership, each of the members, was not subject to tax under this Part, is deemed to have also been allowed to the taxpayer under the corresponding provision of this Part in computing the taxpayer's income for that preceding year;

(*b*) where, for the purposes of Part I of the Income Tax Act, the cost, the capital cost or the cost amount of property, to the taxpayer, determined as a consequence of the application of a particular provision of that Act in respect of a transaction or event that occurred during a preceding taxation year described in paragraph *a*, is different from that which it would have been at that time but for that provision, the corresponding provision of this Part is deemed, for the purpose of determining the cost, the capital cost or the cost amount, as the case may be, of the property to the taxpayer for the purposes of this Part, to have applied in respect of the property at the same time and for the same amounts as for the application of the particular provision in respect of the property.

History: 1977, c. 26, s. 2; 1997, c. 85, s. 36.

Annual adjustment.

31.1. The amounts referred to in the fourth paragraph that are to be used for a taxation year subsequent to the taxation

year 2007 are to be adjusted annually in such a manner that each amount used for that taxation year is equal to the total of the amount used for the preceding taxation year and the product obtained by multiplying that latter amount by the factor determined by the formula

(A / B) − 1.

Interpretation.

In the formula in the first paragraph,

(*a*) A is the average all-items Consumer Price Index for Québec excluding alcoholic beverages, tobacco products and recreational cannabis for the 12-month period that ended on 30 September of the taxation year preceding that for which an amount is to be adjusted; and

(*b*) B is the average all-items Consumer Price Index for Québec excluding alcoholic beverages, tobacco products and recreational cannabis for the 12-month period that ended on 30 September of the taxation year immediately before the year preceding that for which the amount is to be adjusted.

Adjusted factor.

If the factor determined by the formula in the first paragraph has more than four decimal places, only the first four decimal digits are retained and the fourth is increased by one unit if the fifth is greater than 4.

Amounts.

The amounts to which the first paragraph refers are

(*a*) the amount of $300 mentioned in paragraph *e*.1 of section 39;

(*b*) the amount of $1,120 mentioned in the first paragraph of section 39.6;

(*c*) the amount of $1,000 mentioned in subparagraph *b* of the second paragraph of section 75.2.1; and

(*d*) the amount of $1,000 mentioned in the first paragraph of section 358.0.3.

Adjusted amount.

If the amount that results from the adjustment provided for in the first paragraph is not a multiple of $5, it is to be rounded to the nearest multiple of $5 or, if it is equidistant from two such multiples, to the higher of the two.

History: 2009, c. 15, s. 33; 2012, c. 8, s. 41; 2015, c. 24, s. 22; 2020, c. 5, s. 214.

TITLE II
INCOME OR LOSS FROM AN OFFICE OR EMPLOYMENT

CHAPTER I
BASIC RULES

Income from an office or employment.

32. Subject to this Part, an individual's income for a taxation year from an office or employment is the salary, wages and other remuneration, including gratuities, received by the individual in the year.

History: 1972, c. 23, s. 26; 1998, c. 16, s. 31.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 5(1).

Loss from an office or employment.

33. An individual's loss for a taxation year from an office or employment is the amount of such loss computed, with the necessary modifications, by applying the provisions of this Part respecting computation of income from that source.

History: 1972, c. 23, s. 27; 1995, c. 63, s. 19.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 5(2).

Amounts received by employee from employer.

34. Every amount an individual receives from another person while in the employment of the latter is presumed received as remuneration for services rendered. The same applies to every amount received in payment of an obligation arising out of an agreement between two persons immediately prior to, during or immediately after a period that one person is in the employment of the other.

History: 1972, c. 23, s. 28.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(3)(a) and (b).

Presumption rebutted.

35. The presumption provided in section 34 may be rebutted if it is established that, irrespective of when the agreement, if any, was made and the terms thereof, the payment was not made for services rendered or to be rendered, to prompt an individual to accept an office or employment or in consideration for a covenant with reference to what the employee is, or is not, to do before the employee becomes or after the employee ceases to be an employee.

History: 1972, c. 23, s. 29; 1998, c. 16, s. 32.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(3)(c) to (e).

Amount receivable in respect of covenant.

35.1. If an amount, other than an amount to which section 37 applies because of section 47.11, is receivable at the end of a taxation year by an individual in respect of a

covenant, agreed to by the individual more than 36 months before the end of the year, with reference to what the individual is, or is not, to do, and the amount would be included in computing the individual's income for the year under this Title if it were received by the individual in the year, the amount

(*a*) is deemed to be received by the individual at the end of the year for services rendered as an employee or during the period of employment; and

(*b*) is deemed not to be received at any other time.

History: 2009, c. 5, s. 41.
Corresponding Federal Provision: 6(3.1).

CHAPTER II
INCLUSIONS

DIVISION I
GENERALITIES

Amounts to be included in income.

36. An individual shall, in computing the income of the individual for the year from an office or employment, include all amounts the individual receives or benefits from in that year or which are allocated to the individual for that year, and that are provided for in this chapter.

Director's and other fees.

Such amounts include the fees received by the individual because of, or in the course of, an office or employment, including director's fees.

History: 1972, c. 23, s. 30; 1983, c. 43, s. 3; 1998, c. 16, s. 33.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(1) before (a) and 6(1)(c).

36.1. *(Repealed).*

History: 1995, c. 1, s. 16; 1995, c. 63, s. 20; 1997, c. 85, s. 37.

DIVISION II
FRINGE BENEFITS

Value of certain benefits.

37. The amounts required to be included in computing an individual's income are the value of board, lodging and other benefits of any kind whatever received or enjoyed by the individual, or by a person who does not deal at arm's length with the individual, because of, or in the course of, the individual's office or employment and the allowances received by the individual, including any amount received, without having to account for its use, for personal or living expenses or for any other purpose.

History: 1972, c. 23, s. 31; 1992, c. 1, s. 14; 1998, c. 16, s. 34; 2015, c. 21, s. 99.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(1)(a) and (b).

Forgiveness of employee debt.

37.0.1. For the purposes of section 37, a benefit is deemed to have been enjoyed by an individual at any time an obligation issued by any debtor, including the individual, is settled or extinguished and the value of that benefit is deemed to be the forgiven amount at that time in respect of the obligation.

Forgiven amount.

In the first paragraph, the "forgiven amount" at any time in respect of an obligation issued by a debtor has the meaning that would be assigned by section 485 if

(*a*) the obligation were a commercial obligation, within the meaning assigned by section 485, issued by the debtor;

(*b*) no amount included in computing income because of the obligation being settled or extinguished at that time were taken into account;

(*c*) the definition of "forgiven amount" in section 485 were read without reference to paragraphs *f* and *h*; and

(*d*) section 485.3 were read without reference to subparagraphs *b* and *r* of the first paragraph of that section.

History: 1989, c. 77, s. 9; 1996, c. 39, s. 25.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(15) and (15.1).

Value of a benefit granted by reason of coverage under a personal insurance plan.

37.0.1.1. For the purposes of section 37, the value of the benefit received or enjoyed by an individual for a taxation year where, because of a previous, the current or an intended office or employment of the individual, the individual is provided coverage during the year under a plan for the insurance of persons, is equal to

(*a*) in the case of a plan for the insurance of persons which provides coverage through insurance with an insurer, the amount established for the year under sections 37.0.1.2 and 37.0.1.3 in respect of the individual in relation to the plan;

(*b*) in the case of a plan for the insurance of persons which provides coverage otherwise than through insurance with an insurer, the amount established for the year under sections 37.0.1.4 to 37.0.1.6 in respect of the individual in relation to the plan.

Special rules.

For the purposes of this section and sections 37.0.1.2 to 37.0.1.6, the following rules apply:

(*a*) any premium paid in respect of an individual, because of the individual's office or employment with an employer, under a plan for the insurance of persons, by a person to whom the employer is related, is deemed to be a premium paid by the employer and not by the person to whom the employer is related;

(*b*) any amount paid as a dividend, return or refund of premiums, under a plan for the insurance of persons, to a person to whom the employer is related, in relation to the coverage and benefits enjoyed by the employees of the employer under the plan, is deemed to be a dividend, a return or a refund of premiums paid, to the employer and not to the person to whom the employer is related;

(*c*) where, in a taxation year, an employer pays, under a plan for the insurance of persons, an additional premium in respect of the coverage or benefits under the plan enjoyed by the employees for a period prior to that year, the additional premium is deemed to be a premium paid at that time in respect of the coverage or benefits enjoyed by the employees for that year and not in respect of the coverage or benefits enjoyed by the employees for the preceding year;

"tax".
(*d*) "tax" does not include tax payable by the employer under Part IV.1 or Part VI, if any.

History: 1993, c. 64, s. 11 [amended by 1995, c. 63, s. 533]; 1995, c. 63, s. 261; 1998, c. 16, s. 35.
Interpretation Bulletins: IMP. 1029.7-1.

Coverage provided through insurance with an insurer.

37.0.1.2. The amount contemplated in subparagraph *a* of the first paragraph of section 37.0.1.1 in respect of an individual for a taxation year in relation to a plan for the insurance of persons, means an amount equal to the amount by which

(*a*) the aggregate of the premium, other than the portion of the premium which can reasonably be attributed to coverage related to the cost that would be assumed by the Régie de l'assurance maladie du Québec on behalf of an insured person in respect of insured services under the Health Insurance Act (chapter A-29), paid by the employer of the individual in respect of the coverage and benefits enjoyed by the individual for any period of the year under the plan, and the tax relating to that premium, exceeds

(*b*) the aggregate of

i. the portion of the aggregate described in subparagraph *a* that the individual has reimbursed to the employer during the year, and

ii. the amount determined for the year in respect of the individual in accordance with section 37.0.1.3 in relation to the plan.

Particular coverage.

However, where, for a particular period, included in the year, throughout which the individual is not entitled to benefit from the provisions of the Health Insurance Act, the benefits enjoyed by the individual in relation to particular coverage under the plan covers at least all the services that would be insured in the individual's respect under the said Act for the particular period if the individual were entitled to benefit from the provisions of that Act at that time, the amount referred to in subparagraph *a* of the first paragraph for the particular period in respect of the individual in relation to the particular coverage is deemed to be the amount that would otherwise be determined under that subparagraph for the particular period in respect of the individual in relation to the particular coverage if the exception provided for therein were disregarded, if the premium referred to therein were reduced by the amount prescribed for the particular period in respect of the individual in relation to the particular coverage and if the tax referred to therein were reduced to the portion of the tax which can reasonably be attributed to the premium so reduced.

History: 1993, c. 64, s. 11; 1995, c. 63, s. 261; 1998, c. 16, s. 36; 1999, c. 89, s. 53; O.C. 149-2000.
Interpretation Bulletins: IMP. 1029.7-1.

Amount paid as a dividend, return or refund of premiums.

37.0.1.3. The amount contemplated in subparagraph ii of subparagraph *b* of the first paragraph of section 37.0.1.2 in respect of an individual for a taxation year in relation to a plan for the insurance of persons, is the portion, hereinafter described, of the amount called "particular amount" in this section, that corresponds to the amount by which the aggregate of the amount paid during the year to the employer of the individual as a dividend, return or refund of premiums under the plan and the related tax, exceeds the portion, if any, of that aggregate that can reasonably be attributed to the share of the employer's employees in the cost of the plan that was distributed to the employees in the year:

(*a*) where the amount paid to the employer as a dividend, return or refund of premiums is based on the experience of all coverage and benefits provided by the plan, the proportion of the particular amount that the premium paid by the employer in respect of the coverage and benefits enjoyed by the individual for any period of the year under the plan is of the premium paid by the employer in respect of the coverage and benefits enjoyed by all the employer's employees for any period of the year under the plan;

(*b*) where the amount paid to the employer as a dividend, return or refund of premiums is based on the experience of only certain coverage and benefits provided by the plan, called "particular coverage and benefits" in this paragraph, the proportion of the particular amount that the premium paid by the employer in respect of the particular coverage and benefits enjoyed by the individual for any period of the year under the plan is of the premium paid by the employer in

respect of the particular coverage and benefits enjoyed by all the employer's employees for any period of the year under the plan.

History: 1993, c. 64, s. 11 [amended by 1995, c. 63, s. 533]; 1995, c. 63, s. 261; 1998, c. 16, s. 37.
Interpretation Bulletins: IMP. 1029.7-1.

Coverage provided otherwise than through insurance with an insurer.

37.0.1.4. The amount contemplated in subparagraph *b* of the first paragraph of section 37.0.1.1 in respect of an individual for a taxation year in relation to a plan for the insurance of persons, means the amount by which the aggregate of the following amounts exceeds the total of the amounts paid by the individual in the year for any period, after 20 May 1993, of the year or of a preceding year as a contribution under the plan:

(*a*) the aggregate of all amounts each of which corresponds to the amount determined, in respect of the particular coverage and benefits enjoyed by the individual in the year under the plan, by the formula

(A × B) / C;

(*b*) the amount determined by the formula

(D × E) / F.

Interpretation.

For the purposes of the formulas set forth in the first paragraph,

(*a*) A is the aggregate of the benefits paid in the year for any period, after 20 May 1993, of the year or of a previous year in respect of all the employees of the employer of the individual who enjoy the particular coverage and benefits under the plan, and the related tax;

(*b*) B is the number of days of the year during which the individual enjoys the particular coverage and benefits under the plan;

(*c*) C is the number, for each day of the year, of all the employees of the employer of the individual who enjoy the particular coverage and benefits under the plan;

(*d*) D is the aggregate of the expenses, except those relating to the establishment of or a modification to the plan, incurred in respect of a third person for the administration or management of the plan for any period of the year, and the related tax, if any;

(*e*) E is the number of days of the year during which the individual enjoys coverage under the plan;

(*f*) F is the number, for each day of the year, of all employees of the employer of the individual who enjoy coverage under the plan.

History: 1993, c. 64, s. 11; 1995, c. 63, s. 261.
Interpretation Bulletins: IMP. 1029.7-1.

Special rules.

37.0.1.5. For the purposes of section 37.0.1.4,

(*a*) the portion of a benefit, which can reasonably be considered to relate to the cost that would be assumed by the Régie de l'assurance maladie du Québec on behalf of an insured person in respect of insured services under the Health Insurance Act (chapter A-29), is deemed not to be a benefit contemplated in subparagraph *a* of the second paragraph of section 37.0.1.4;

(*b*) where the risk to an employer, or to a person related to the employer, in relation to a particular plan for the insurance of persons, is reduced by the fact that the employer, or the person related to the employer, has purchased excess of loss insurance from an insurer,

i. a benefit paid by the insurer under the excess of loss insurance in relation to the particular plan is deemed not to be a benefit contemplated in subparagraph *a* of the second paragraph of section 37.0.1.4 in relation to that plan, and

ii. the portion of the premium paid by the employer, which can reasonably be attributed to particular coverage and benefits under the particular plan, in relation to the excess of loss insurance for any period of a year, is deemed to be a benefit contemplated for the year in subparagraph *a* of the second paragraph of section 37.0.1.4 in relation to such coverage and benefits under the particular plan, except if the excess of loss insurance covers all the coverage and benefits provided under the particular plan, in which case the premium is deemed to constitute expenses contemplated for the year in subparagraph *d* of the second paragraph of the said section 37.0.1.4 in respect of the particular plan;

(*c*) where, for a particular period, included in the year, throughout which the individual is not entitled to benefit from the provisions of the Health Insurance Act, the particular benefits enjoyed by the individual in relation to particular coverage under the plan covers at least all the services that would be insured in respect of the individual under the said Act for the particular period if the individual were entitled to benefit from the provisions of that Act at that time, subparagraph *a* of the second paragraph of section 37.0.1.4 shall, in respect of such particular coverage and benefits, apply without reference to paragraph *a* and read as follows:

"(a) A is the aggregate of the amount by which the benefits paid in the year for any period, after 20 May 1993, of the year or of a previous year in respect of all the employees of the employer of the individual who enjoy the particular

coverage and benefits under the plan exceeds the amount prescribed in respect of the particular coverage and benefits, and the portion of the related tax which can reasonably be attributed to the excess amount;".

History: 1993, c. 64, s. 11; 1995, c. 63, s. 261; 1998, c. 16, s. 38; 1999, c. 89, s. 53; O.C. 149-2000.
Interpretation Bulletins: IMP. 1029.7-1.

Plan providing coverage to employees of several jurisdictions.

37.0.1.6. For the purposes of section 37.0.1.4, where the plan for the insurance of persons provides identical coverage to the employer's employees under Québec jurisdiction and to the employer's other employees, the employer must elect, from among the following data in the employer's possession, the data which will best reflect the coverage provided under the plan to those of the employer's employees under Québec jurisdiction:

(*a*) actual data relating to all the employees of the employer who enjoy coverage under the plan;

(*b*) actual data relating to the employer's employees under Québec jurisdiction who enjoy coverage under the plan.

"employee under Québec jurisdiction".

In the first paragraph, the expression "employee under Québec jurisdiction" of an employer means an employee of the employer who reports for work in an establishment of the employer situated in Québec, and an employee of the employer who is not required to report for work at an establishment of the employer but whose wages are paid or deemed to be paid from such an establishment situated in Québec.

History: 1993, c. 64, s. 11; 1995, c. 63, s. 261; 1998, c. 16, s. 39.
Interpretation Bulletins: IMP. 1029.7-1.

Allowances and reimbursements.

37.0.2. An individual shall, in computing the income of the individual for the year from an office or employment, include all amounts received by the individual in the year as an allowance or reimbursement in respect of an amount that would, if the individual were entitled to no reimbursements or allowances, be deductible under Chapter III in computing the individual's income, except to the extent that the amounts so received are otherwise included in computing the individual's income for the year or are taken into account in computing the amount that is deducted under Chapter III by the individual for the year or a preceding taxation year.

History: 1991, c. 25, s. 6; 1998, c. 16, s. 40.
Interpretation Bulletins: IMP. 77-1/R2; IMP. 1029.7-1.
Corresponding Federal Provision: 6(1)(j).

Indemnity for meals or transportation.

37.0.3. Without restricting the generality of sections 36 and 37, an individual shall, in computing the income of the individual for the year from an office or employment, include

(*a*) the value of any indemnity for meals or transportation between the individual's ordinary place of residence and the individual's work location received by the individual in the year, as an allowance or refund or under any other form, for overtime worked in the course of performing the duties of the individual's office or employment; and

(*b*) any amount that is the amount by which the value of a meal or service of transportation between the individual's ordinary place of residence and the individual's work location supplied in the year for overtime worked in performing the duties of the individual's office or employment exceeds the amount the individual pays in respect of the meal or service of transportation.

Exception.

However, the individual is not required in computing the income of the individual to include an amount referred to in the first paragraph in relation to overtime if it was worked at the request of the employer for a scheduled period of at least two consecutive hours and are infrequent or occasional in nature and if,

(*a*) in the case of an indemnity for meals or a meal supplied,

i. the value of the indemnity for meals or of the meal supplied is reasonable, and

ii. in the case of an indemnity for meals, the indemnity is the full or partial refund, upon presentation of vouchers, of the meal expenses incurred by the individual because of the overtime; and

(*b*) in the case of an indemnity for transportation or a service of transportation supplied,

i. public transit is not available or it is reasonable to consider that, under the circumstances, the individual's safety would be jeopardized because of the time at which the transportation is provided, and

ii. in the case of an indemnity for transportation, the indemnity is the full or partial refund, upon presentation of vouchers, of the taxi transportation expenses incurred by the individual because of the overtime to travel between the individual's ordinary place of residence and the individual's work location.

History: 2003, c. 9, s. 16; 2009, c. 15, s. 34; 2015, c. 21, s. 100.
Interpretation Bulletins: IMP. 1029.7-1.

Amount received under a public compensation plan.

37.0.4. An individual shall, in computing the income of the individual for the year from an office or employment, include any amount that the individual received from the individual's employer in the year under a public compensation plan and that may not be considered to be an amount received as an income replacement indemnity solely because no employer may obtain the reimbursement of that amount.

History: 2005, c. 38, s. 52.
Interpretation Bulletins: IMP. 1029.7-1.

Interest on employee debt.

37.1. An individual referred to in section 487.1 shall, in computing the income of the individual for the year from an office or employment, include every amount deemed by section 487.1 to be a benefit received in the year by the individual.

History: 1978, c. 26, s. 4; 1983, c. 44, s. 14; 1998, c. 16, s. 40.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(9).

Taxable benefit.

37.1.1. An amount paid or the value of assistance provided by any person because of, or in the course of, an individual's office or employment in respect of the cost of, the financing of, the use of or the right to use, a residence is, for the purposes of this division, a benefit received by the individual because of the office or employment.

History: 2001, c. 53, s. 12.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(23).

Definition:

37.1.2. In this division,

"eligible housing loss";
"eligible housing loss" in respect of a residence designated by an individual means a housing loss in respect of an eligible relocation of the individual or a person who does not deal at arm's length with the individual and, for the purposes of this definition, no more than one residence may be so designated in respect of an eligible relocation;

"housing loss".
"housing loss" at any time in respect of a residence of an individual means the amount by which the greater of the adjusted cost base of the residence at that time to the individual or to another person who does not deal at arm's length with the individual and the highest fair market value of the residence within the six-month period that ends at that time exceeds

(*a*) if the residence is disposed of by the individual or the other person before the end of the first taxation year that begins after that time, the lesser of the proceeds of disposition of the residence and the fair market value of the residence at that time; and

(*b*) in any other case, the fair market value of the residence at that time.

History: 2001, c. 53, s. 12; 2015, c. 21, s. 101.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(21) and (22).

Benefit.

37.1.3. For the purposes of section 37, an amount paid at any time in respect of a housing loss other than an eligible housing loss to or on behalf of an individual or a person who does not deal at arm's length with the individual because of, or in the course of, an office or employment is deemed to be a benefit received by the individual at that time because of the office or employment.

History: 2001, c. 53, s. 12.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(19).

Benefit.

37.1.4. For the purposes of section 37, an amount paid at any time in a taxation year in respect of an eligible housing loss to or on behalf of an individual or a person who does not deal at arm's length with the individual because of, or in the course of, an office or employment is deemed to be a benefit received by the individual at that time because of the office or employment to the extent of the amount by which one half of the amount by which the aggregate of all amounts each of which is so paid in the year or in a preceding taxation year exceeds $15,000 exceeds the aggregate of all amounts each of which is an amount included in computing the individual's income because of this section for a preceding taxation year in respect of the loss.

History: 2001, c. 53, s. 12.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(20).

Value of benefit.

37.1.5. For the purposes of section 37, the value of the benefit received or enjoyed by an individual for a taxation year because of, or in the course of, the individual's office or employment is deemed to be equal,

(*a*) for all the gifts, other than excluded gifts, received in the year by the individual from the individual's employer for one or more special occasions, such as Christmas, an anniversary, a wedding or similar occasion, to the amount by which the value otherwise determined of the benefit for the year exceeds the lesser of

i. $500, and

ii. the aggregate of all amounts each of which is the value of such a gift; and

(*b*) for all the awards, other than excluded awards, received in the year by the individual from the individual's employer in recognition of certain achievements, such as reaching a set number of years of service, meeting or exceeding safety standards or reaching similar objectives, to the amount by which the value otherwise determined of the benefit for the year exceeds the lesser of

i. $500, and

ii. the aggregate of all amounts each of which is the value of such an award.

Excluded gift or award.

In the first paragraph, an excluded gift or an excluded award means a gift or an award that

(*a*) is in cash;

(*b*) may easily be converted into cash, except a gift coupon or gift certificate, including a smart card, that must be used to purchase a property or a service from one or more designated merchants; or

(*c*) constitutes a benefit that is referred to in another special provision of this chapter or that may reasonably be considered, without reference to section 34, to be a benefit received or enjoyed by the individual as consideration for the individual's performance of work.

History: 2003, c. 9, s. 17.
Interpretation Bulletins: IMP. 134-1/R1; IMP. 1029.7-1.

Top-up disability payment.

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

History: 2000, c. 5, s. 22.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(18)(a).

Value of certain benefits not included in income.

38. An individual is not required in computing income to include the value of benefits derived from contributions paid in respect of the individual by the individual's employer to or under

(*a*) a registered pension plan;

(*a.*1) a pooled registered pension plan;

(*b*) a group insurance plan, in relation to coverage against the loss of all or part of the income from an office or employment;

(*b.*1) an employee life and health trust, to the extent that it may reasonably be considered that those contributions are attributable to coverage against the loss of all or part of the income from an office or employment;

(*c*) *(subparagraph repealed)*;

(*d*) a supplementary unemployment benefit plan;

(*e*) a deferred profit sharing plan; or

(*f*) *(subparagraph repealed)*;

(*g*) a multi-employer insurance plan.

Benefit not included.

Similarly, the individual is not required in computing the individual's income to include the value of any benefit derived from group coverage which, otherwise than under an insurance plan referred to in subparagraph *b* of the first paragraph, is provided to the individual under a plan, against the loss of all or part of the income from an office or employment, or the value of any benefit derived from the payment by the individual's employer of the tax provided for under the Retail Sales Tax Act (chapter I-1) or under Title III of the Act respecting the Québec sales tax (chapter T-0.1), in respect of such group coverage or of the contributions paid by the individual's employer under subparagraph *b* or *g* of the first paragraph in respect of the individual.

Benefits not included.

Furthermore, the individual is not required in computing the individual's income to include the value of any benefit

(*a*) derived from a retirement compensation arrangement, an employee benefit plan or an employee trust;

(*b*) derived from a salary deferral arrangement, except to the extent that the value of the benefit is included under section 37 because of section 47.11;

(*c*) in respect of the use of an automobile, unless the benefit is related to the use of an automobile owned or leased by the individual and is not referred to in section 41.1.2;

(*d*) derived from counselling services received by the individual or a person related to the individual in respect of stress management or the use or consumption of tobacco, drugs or alcohol, other than a benefit attributable to an outlay or expense to which section 134 applies, or from counselling services in respect of the re-employment or retirement of the individual;

(*e*) derived from the individual's participation in a training activity the cost of which is borne by the individual's employer, if it is reasonable to consider that the training significantly benefits the individual's employer; or

(*f*) received or enjoyed by a person, other than the individual, under a program offered by the individual's employer to help persons continue their studies, if the individual deals at arm's length with the employer and it is reasonable to conclude that the benefit is not a substitute for salary, wages or other remuneration of the individual.

History: 1972, c. 23, s. 32; 1972, c. 26, s. 39; 1982, c. 5, s. 16; 1983, c. 44, s. 15; 1986, c. 15, s. 38; 1989, c. 77, s. 10; 1990, c. 59, s. 34; 1991, c. 25, s. 7; 1993, c. 16, s. 23; 1993, c. 64, s. 12; 1995, c. 49, s. 19; 1995, c. 63, s. 261; 1997, c. 31, s. 7; 1998, c. 16, s. 41; 1999, c. 83, s. 28; 2011, c. 6, s. 113; 2015, c. 21, s. 102.

Interpretation Bulletins: IMP. 1029.7-1.

Corresponding Federal Provision: 6(1)(a).

Benefit relating to a transit pass not included in computing income.

38.1. An individual is not required in computing the individual's income to include the value of benefits received from the individual's employer and derived from

(*a*) the total or partial reimbursement, after 23 March 2006, 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 individual acquired with a view to using it to commute between the individual's ordinary place of residence and the individual's work location;

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

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

Interpretation.

In this section, "eligible paratransit pass" and "eligible transit pass" have the meaning assigned by section 156.9.

History: 2006, c. 36, s. 24; 2009, c. 15, s. 35.

Interpretation Bulletins: IMP. 1029.7-1.

Benefit relating to the use of a shared transportation service.

38.2. An individual is not required in computing the individual's income to include the value of benefits resulting from the use of a shared transportation service of a taxpayer who is the individual's employer in respect of which the taxpayer may deduct, under section 156.10, an amount in computing the taxpayer's income from a business.

Meaning of "shared transportation service".

In this section, "shared transportation service" has the meaning assigned by section 156.10.

History: 2013, c. 10, s. 17.

Interpretation Bulletins: IMP. 1029.7-1.

Group insurance plan — coverage against the loss of income from an office or employment.

38.3. Despite subparagraph *b* of the first paragraph of section 38, an individual is required in computing the individual's income for the year to include the value of benefits derived from contributions paid in respect of the individual in the year by the individual's employer under a group insurance plan, in relation to coverage against the loss of all or part of the income from an office or employment, to the extent that the benefit arising from that plan is not payable periodically.

History: 2015, c. 21, s. 103.

Interpretation Bulletins: IMP. 1029.7-1.

Allowances not included in computing income.

39. An individual is not required to include in computing the individual's income

(*a*) travel, personal or living expense allowances

i. expressly established by the laws of Canada,

ii. paid under the Act respecting public inquiry commissions (chapter C-37), or

iii. paid under the authority of the Treasury Board of Canada to a person who was appointed or whose services were engaged pursuant to the Inquiries Act (Revised Statutes of Canada, 1985, chapter I-11) in respect of the discharge of the person's duties relating to such appointment or engagement;

(*b*) travel and separation allowances received by the individual under service regulations as a member of the Canadian Forces;

(*c*) representation or other special allowances received by the individual in respect of a period of absence from Canada as a person described in paragraph *b*, *c* or *d* of section 8;

(*d*) representation or other special allowances received by the individual as an agent-general of a province in respect of a period while the individual was in Ottawa in such capacity;

(*e*) reasonable allowances received by the individual as a minister or clergyman in charge of or ministering to a diocese, parish or congregation for transportation incident to the discharge of the duties of that office or employment;

(*e.*1) allowances for the board and lodging received by the individual, to a maximum total of $300 for each month of a taxation year, if

i. the individual is, in that month, a registered participant with, or member of, a sports team or recreation program of the employer in respect of which participation or membership is restricted to persons under 21 years of age,

ii. the allowance is paid because of the individual's participation or membership and is not attributable to services of the individual as a coach, instructor, trainer, referee, administrator or other similar occupation,

iii. the employer is a registered charity or a person described in section 996, and

iv. the allowance is reasonably attributable to the cost to the individual of living away from the place where the employee would, but for the employment, ordinarily reside;

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

(*f*.1) allowances not exceeding a reasonable amount received by the individual for the purchase or care of distinctive clothing the individual is required to wear, under the terms of the individual's contract of employment, in the performance of the duties of the employment;

(*f*.2) allowances received by the individual for expenses incidental to the individual's relocation, by reason of a change in the location of employment with the individual's employer, up to an amount not exceeding an amount equal to two weeks' salary, calculated on the basis of the salary paid to the individual on the date of reassignment; and

(*g*) prescribed travel, personal, living or representation expense allowances and any other amount prescribed in respect of such expenses.

History: 1972, c. 23, s. 33; 1978, c. 26, s. 5; 1982, c. 5, s. 17; 1993, c. 64, s. 13; 1995, c. 63, s. 21; 1997, c. 85, s. 38; 1998, c. 16, s. 251; 2003, c. 9, s. 18; 2005, c. 38, s. 53; 2009, c. 15, s. 36.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(1)(b)(i) to (vi).

39.1. *(Repealed).*

History: 1993, c. 64, s. 14; 1997, c. 85, s. 39; 1998, c. 16, s. 251; 2005, c. 38, s. 54.
Interpretation Bulletins: IMP. 1029.7-1.

Allowance not included in computing income.

39.2. An individual who is a member of the National Assembly or of the legislature of another province is not required in computing the individual's income for a taxation year to include the portion of the allowance the individual receives in the year for expenses incident to the discharge of the individual's duties, which does not exceed one-half of the maximum fixed amount provided by the laws of a province as payable to the individual by way of salary, indemnity and other remuneration in respect of attendance at a session.

History: 1997, c. 14, s. 18; 1998, c. 16, s. 42; 2005, c. 38, s. 55.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 81(2).

Allowance not included in computing income.

39.3. An individual who is 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 the Parliament of Québec, a member of a municipal utilities commission or corporation or any other similar body administering such a service, 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, is not required in computing the income of the individual for a taxation year to include the allowance the individual receives in the year from the municipality or body for expenses incident to the discharge of the individual's duties, other than an allowance the individual is not otherwise required to include in computing the individual's income, to the extent that the allowance does not exceed one-half of the amount, determined without reference to that allowance, paid to the individual in the year by the municipality or body by way of salary or other remuneration.

History: 1997, c. 14, s. 18; 1998, c. 16, s. 43; 2000, c. 56, s. 218(12); 2020, c. 1, s. 280.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 81(3).

Allowance not included in computing income.

39.4. An individual who is a member of the council of a regional county municipality or a member of the council of the Kativik Regional Government, constituted under the Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1), is not required to include in computing the individual's income for a taxation year an amount received by the individual in the year from the municipality as an allowance for, or reimbursement of, travel expenses other than those incident to the discharge of the individual's duties as such a member, to the extent that the amount does not exceed a reasonable amount.

History: 1997, c. 14, s. 18; 1997, c. 85, s. 40; 2001, c. 51, s. 18.
Interpretation Bulletins: IMP. 1029.7-1.

Allowance not included in computing income.

39.4.1. An individual who is elected or appointed in a representative capacity to hold an office with a body that is a corporation, association or other similar organization with which the individual was dealing at arm's length is not required to include in computing the individual's income for a taxation year an amount received by the individual in the year from the body as an allowance for, or reimbursement of, travel expenses to enable the individual to attend a meeting

of the council or committee of which the individual is a member, other than travel expenses incurred in the performance of the individual's duties, to the extent that the amount does not exceed a reasonable amount and that the meeting is held at a location

(*a*) not less than 80 kilometres from the individual's ordinary place of residence; and

(*b*) where the body is a non-profit organization, that may reasonably be considered as being connected to the territory within which that body regularly carries on its activities or, in any other case, is situated within the local municipal territory or the metropolitan area, as the case may be, where the head office or principal place of business of the body is situated.

History: 2001, c. 51, s. 19; 2009, c. 15, s. 37.
Interpretation Bulletins: IMP. 1029.7-1.

Allowance not included in computing income.

39.5. An individual who had part-time employment with an employer with whom the individual was dealing at arm's length is not required to include in computing the individual's income for a taxation year an amount, not exceeding a reasonable amount, received by the individual in the year from that employer as an allowance for, or reimbursement of, travel expenses other than expenses incurred in the performance of the duties of the individual's part-time employment, if

(*a*) the individual's part-time employment

i. was during a period throughout which the individual had other employment or was carrying on a business, or

ii. was as a teacher in an educational institution referred to in subparagraph i of paragraph *a* of section 752.0.18.10; and

(*b*) the duties of the part-time employment were performed at a location not less than 80 kilometres from both the individual's ordinary place of residence and, where the condition set out in subparagraph ii of paragraph *a* is not met, of the principal place of the individual's other employment or the principal place of the individual's business.

History: 1997, c. 14, s. 18; 1997, c. 85, s. 40; 2000, c. 39, s. 4; 2009, c. 15, s. 38; 2010, c. 5, s. 17; 2015, c. 21, s. 104.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 81(3.1).

Payments for volunteers services.

39.6. An individual who is employed in a taxation year by a government, municipality or public authority, in this section referred to as the "employer", is not required to include in computing the individual's income for the year derived from the performance of the duties provided for in paragraph *a*, an amount received by the individual or the value of a benefit received or enjoyed by the individual in the year, because of the individual's employment with that employer for the performance of those duties, up to an amount of $1,120, where

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

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

Exception.

The first paragraph does not apply if the individual deducts an amount under section 752.0.10.0.5 or 752.0.10.0.7 from the individual's tax otherwise payable for the year under this Part.

Meaning of "volunteer firefighter".

In this section, "volunteer firefighter" means a person who, for very little or no annual compensation, responds to alarms from a fire safety service or a 9-1-1 emergency centre, issued in particular by radio, telephone, siren or alarm bell, and does not include a person who provides services as a volunteer firefighter or performs duties in this respect, if the person

(*a*) replaces permanent firefighters for short periods;

(*b*) is regularly or periodically on duty in a fire station; or

(*c*) is remunerated for periods of on-call duty in the territory.

History: 2003, c. 2, s. 14; 2004, c. 21, s. 43; 2010, c. 25, s. 9; 2012, c. 8, s. 42; 2015, c. 24, s. 23; 2017, c. 1, s. 81.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 81(4).

Allowances not included in computing income.

40. An individual is not required to include in computing the individual's income,

(*a*) reasonable allowances for travel expenses received by the individual from the individual's employer in respect of any period when the individual was employed in connection with the selling of property or negotiating of contracts for the employer;

(*b*) reasonable allowances for travel expenses, other than allowances for the use of a motor vehicle, received from the employer by the individual as an employee, other than an employee referred to in paragraph *a*, for travelling away from the local municipal territory or the metropolitan area, as the case may be, where the employer's establishment at which

the employee ordinarily works or with which the employee is ordinarily connected is located, in the performance of the duties of the employment; or

(*c*) reasonable allowances for the use of a motor vehicle received by the individual as an employee, other than an employee referred to in paragraph *a*, from the employer for travelling in the performance of the duties of the employment.

History: 1972, c. 23, s. 34; 1977, c. 26, s. 3; 1990, c. 59, s. 35; 1993, c. 16, s. 24; 1995, c. 63, s. 261; 1997, c. 85, s. 41.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(1)(b)(v), (vii) and (vii.1).

Unreasonable amount.

40.1. For the purposes of paragraph *e* of section 39 and paragraphs *a* and *c* of section 40, an allowance received in the year by the individual for the use of a motor vehicle in connection with or in the course of the individual's office or employment is deemed not to be a reasonable allowance

(*a*) where the measurement of the use of the vehicle for the purpose of determining the allowance is not based solely on the actual number of kilometres for which the motor vehicle is used in connection with or in the course of the office or employment; or

(*b*) where the individual both receives an allowance in respect of that use and is reimbursed in whole or in part for expenses in respect of that use, except where the reimbursement is in respect of supplementary business insurance or toll or ferry charges and the amount of the allowance was determined without reference to those reimbursed expenses.

History: 1990, c. 59, s. 36; 1993, c. 16, s. 25; 1995, c. 49, s. 20; 1998, c. 16, s. 44; 2003, c. 9, s. 19.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(1)(b)(x) and (xi).

Inclusion of the value of the right of use of an automobile.

41. Where an employer or a person related to the employer makes an automobile available to an employee of the employer, or to a person related to the employee, in the year, the employee shall, in computing the income of the employee, include the amount by which a reasonable amount corresponding to the value of such right of use for the total number of days in the year during which the automobile was made so available exceeds the aggregate of all amounts each of which is an amount, other than an expense related to the operation of the automobile, paid in the year to the employer or a person related to the employer by the employee or the person related to the employee for the use of the automobile.

History: 1972, c. 23, s. 35; 1973, c. 17, s. 8; 1978, c. 26, s. 6; 1980, c. 13, s. 4; 1983, c. 44, s. 16; 1990, c. 59, s. 37; 1998, c. 16, s. 45.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(1)(e).

Computation of the value of the right of use of an automobile.

41.0.1. For the purposes of section 41, a reasonable amount corresponding to the value of the right of use of an automobile for the total number of days, in this section referred to as the "total available days", in a year during which the automobile is made available to an individual or to a person related to the individual by an employer or a person related to the employer, both of whom are in this section referred to as "the employer", is deemed to be equal to the amount determined by the formula

A / B [2% (C × D) + 2/3 (E − F)].

Interpretation.

In the formula provided for in the first paragraph,

(*a*) A is

i. the lesser of the total number of kilometres that the automobile is driven, otherwise than in connection with or in the course of the individual's office or employment, during the total available days, and the product determined for the year under subparagraph *b*, if

(1) the individual is required by the employer to use the automobile in connection with or in the course of the office or employment, and

(2) the distance travelled by the automobile during the total available days is primarily in connection with or in the course of the office or employment, and

ii. in any other case, the product determined for the year under subparagraph *b*;

(*b*) B is the product obtained by multiplying 1,667 by the quotient obtained by dividing the total available days by 30 and, if the quotient so obtained is not a whole number and exceeds one, by rounding it to the nearest whole number or, where that quotient is equidistant from two consecutive whole numbers, by rounding it to the lower of those two numbers;

(*c*) C is the cost of the automobile to the employer where the employer owns the vehicle at any time in the year;

(*d*) D is the quotient obtained by dividing such of the total available days as are days when the employer owns the automobile by 30 and, if the quotient so obtained is not a whole number and exceeds one, by rounding it to the nearest whole number or, where that quotient is equidistant from two consecutive whole numbers, by rounding it to the lower thereof;

(*e*) E is the aggregate of all amounts that may reasonably be regarded as having been payable by the employer to a lessor

for the purpose of leasing the automobile during such of the total available days as are days when the automobile is leased to the employer;

(*f*) F is the part of the amount determined under subparagraph *e* that may reasonably be regarded as having been payable to the lessor in respect of all or part of the cost to the lessor of insuring against loss of, or damage to, the automobile or liability resulting from the use or operation of the automobile.

History: 1990, c. 59, s. 38; 1998, c. 16, s. 46; 2005, c. 1, s. 28.
Interpretation Bulletins: IMP. 521.2-1/R1; IMP. 1029.7-1.
Corresponding Federal Provision: 6(2).

Computation of the value of the right of use for automobile salespersons or lessors.

41.0.2. Where, in a year, an individual is employed principally in selling or leasing automobiles, an automobile owned by the individual's employer is made available by the employer to the individual or to a person related to the individual, and the employer has acquired one or more automobiles, the reasonable amount corresponding to the value of the right of use determined under section 41.0.1 shall, at the option of the employer, be computed as if

(*a*) the reference in the formula therein to 2% were read as a reference to 1.5%, and

(*b*) the cost of the automobile to the employer were the greater of

i. the quotient obtained by dividing the cost to the employer of all new automobiles acquired by the employer in the year for sale or lease in the course of the employer's business by the number of new automobiles so acquired, and

ii. the quotient obtained by dividing the cost to the employer of all automobiles acquired by the employer in the year for sale or lease in the course of the employer's business by the number of automobiles so acquired.

History: 1990, c. 59, s. 38; 1998, c. 16, s. 47.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(2.1).

41.1. *(Repealed).*

History: 1986, c. 15, s. 39; 1990, c. 59, s. 39; 1995, c. 49, s. 21.
Interpretation Bulletins: IMP. 1029.7-1.

Automobile operating expense benefit.

41.1.1. Where, in computing the income of the individual for a taxation year as income from an office or employment, a reasonable amount corresponding to the value of the right of use of an automobile is determined under sections 41 to 41.0.2, and an amount in respect of the operation, otherwise than in connection with or in the course of the individual's office or employment, of the automobile for the period or periods in the year during which the automobile was made available to the individual or a person related to the individual is paid or payable by the individual's employer or a person related to the individual's employer, each of whom is in this section referred to as the "payor", the individual shall, in computing the individual's income for the year from an office or employment, include the amount determined by the formula

A − B.

Interpretation.

For the purposes of the formula in the first paragraph,

(*a*) A is

i. where the automobile is used primarily in the performance of the duties of the individual during the period or periods referred to in the first paragraph and the individual notifies the employer in writing before the end of the year of the individual's intention to have this subparagraph apply, one-half of the reasonable amount corresponding to the value of the right of use determined in respect of the automobile under sections 41 to 41.0.2 in computing the individual's income for the year, and

ii. in any other case, the amount equal to the product obtained when the amount prescribed for the year is multiplied by the total number of kilometres that the automobile is driven, otherwise than in connection with or in the course of the individual's office or employment, during the period or periods referred to in the first paragraph; and

(*b*) B is the aggregate of all amounts in respect of the operation of the automobile in the year paid in the year or within 45 days after the end of the year to the payor by the individual or by the person related to the individual.

Exception.

This section does not apply where the aggregate of all amounts each of which is an amount referred to in the first paragraph, paid or payable by the payor, is paid, in the year or within 45 days after the end of the year, to the payor by the individual or by the person related to the individual.

History: 1995, c. 49, s. 22; 1998, c. 16, s. 48.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(1)(k).

Automobile operating expense benefit.

41.1.2. An individual shall, in computing the individual's income for a taxation year from an office or employment, include the value of a benefit in respect of the operation of an automobile, other than a benefit to which section 41.1.1 applies or would apply but for the third paragraph of that section, received or enjoyed by the individual, or by a person

related to the individual, in the year because of, or in the course of, the individual's office or employment.

History: 1995, c. 49, s. 22l; 1998, c. 16, s. 49; 2015, c. 21, s. 105.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(1)(l).

Emergency vehicles.

41.1.3. An individual who is a member of a police force or of a fire safety service is not required to include, in computing the individual's income for a taxation year from an office or employment, the value of a benefit in respect of the use of a vehicle that is, in the year, made available to the individual by the employer or a person related to the employer, if

(*a*) a written directive of the employer limits the use, by the individual, of the vehicle for personal purposes and specifies that the vehicle is to be returned to the employer during an extended absence; and

(*b*) the vehicle is clearly identified with the employer's name or, failing that, the vehicle has special equipment allowing for a prompt intervention in the case of events concerning public safety.

History: 2004, c. 21, s. 44.
Interpretation Bulletins: IMP. 1029.7-1.

Logbook.

41.1.4. If an employer or a person to whom the employer is related makes an automobile, other than a vehicle in respect of which section 41.1.3 applies, available in a taxation year to an employee or to a person related to the employee, the employee shall keep, in respect of trips made with the automobile for the total number of days in the year during which the automobile is so made available to the employee or to a person to whom the employee is related, a logbook in which the employee enters the information provided for in section 41.1.5, and shall give a copy of the logbook to the employer on or before the tenth day following the last day of the year during which the employer or a person related to the employer made such an automobile available to the employee or to a person to whom the employee is related.

History: 2005, c. 23, s. 37.
Interpretation Bulletins: IMP. 1029.7-1.

Information to be entered in the logbook.

41.1.5. The information to which section 41.1.4 refers is

(*a*) the total number of days in the year during which the employer or a person to whom the employer is related made the automobile available to the individual or to a person related to the individual;

(*b*) on a daily, weekly or monthly basis, the total number of kilometres travelled by the automobile during the total number of days referred to in subparagraph *a*; and

(*c*) on a daily basis, for each trip made with the automobile in connection with or in the course of the office or employment of the individual, the identification of the place of departure and the place of destination, the number of kilometres travelled by the automobile between those two places, and any information necessary to establish that the trip was made in connection with or in the course of the office or employment of the individual.

Automobile used exclusively for personal purposes.

However, if the kilometres travelled by the automobile during the total number of days referred to in subparagraph *a* are kilometres exclusively travelled by the automobile otherwise than in connection with or in the course of the office or employment of the individual, the information to which section 41.1.4 refers is

(*a*) the total number of days in the year during which the employer or a person to whom the employer is related made the automobile available to the individual or to a person related to the individual; and

(*b*) the kilometres registered on the odometer of the automobile at the beginning and end of each period, within the year, during which the automobile was made available, on a continuous basis, to the individual or a person to whom the individual is related by the employer or a person related to the employer.

History: 2005, c. 23, s. 37.
Interpretation Bulletins: IMP. 1029.7-1.

41.2. *(Repealed).*

History: 1991, c. 25, s. 8; 1994, c. 22, s. 61; 1995, c. 1, s. 17; 1995, c. 49, s. 23; 1997, c. 31, s. 8.
Interpretation Bulletins: IMP. 1029.7-1.

41.2.1. *(Repealed).*

History: 1994, c. 22, s. 62; 1995, c. 1, s. 18; 1995, c. 49, s. 24; 1997, c. 14, s. 19; 1997, c. 31, s. 8.
Interpretation Bulletins: IMP. 1029.7-1.

41.2.2. *(Repealed).*

History: 1994, c. 22, s. 62; 1995, c. 49, s. 25.
Interpretation Bulletins: IMP. 1029.7-1.

Determination of the cost of a property or service.

41.3. To the extent that the cost to a person of purchasing a property or service or an amount payable by a person for the purpose of leasing property is taken into account in determining an amount required under any of sections 36 to 47.17 to be included in computing the income of an individual for a taxation year, that cost or that amount

payable, as the case may be, shall include any tax that was payable by the person in respect of the property or service or that would have been so payable if the person were not exempt from the payment of that tax because of the nature of the person or the use to which the property or service is to be put.

History: 1991, c. 25, s. 8; 1994, c. 22, s. 63; 1995, c. 49, s. 26; 1997, c. 31, s. 9.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(7).

Parking cost.

41.4. For the purposes of this division, the value of a benefit in respect of the use of a motor vehicle by an individual does not include the value of a benefit related to the parking of the vehicle.

History: 1995, c. 49, s. 27.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(1.1).

Employment at a special work site or remote location.

42. Notwithstanding sections 36 and 37, an individual who is not entitled to the deduction provided for in section 737.25 is not required, in computing the income of the individual for a taxation year from an office or employment, to include any amount received or enjoyed by the individual because of, or in the course of, the office or employment that is the value of, or an allowance, not in excess of a reasonable amount, in respect of expenses the individual has incurred

(*a*) for the individual's board and lodging for a period during which the individual was required by the individual's duties to be away from the individual's principal place of residence, or to be at the special work site referred to in subparagraph i or at the location referred to in subparagraph ii, for not less than 36 hours, if such board and lodging were

i. at a special work site at which the duties performed by the individual were of a temporary nature and if the individual maintained at another location a self-contained domestic establishment as the individual's principal place of residence that was, throughout the period, available for the individual's occupancy and not rented to any other person, and to which, by reason of distance, the individual could not reasonably be expected to have returned daily from the special work site, or

ii. at a location at which, by virtue of its remoteness from any established community, the individual could not reasonably be expected to establish and maintain a self-contained domestic establishment; or

(*b*) for transportation, in respect of a period described in paragraph *a* during which the individual received board and lodging, or a reasonable allowance in respect of board and lodging, from the individual's employer, between

i. the individual's principal place of residence and the special work site referred to in subparagraph i of paragraph *a*, or

ii. the location referred to in subparagraph ii of paragraph *a* and a location in Canada or in the country in which the individual is employed.

History: 1972, c. 23, s. 36; 1982, c. 5, s. 18; 1983, c. 49, s. 10; 1986, c. 19, s. 7; 1990, c. 7, s. 10; 1991, c. 25, s. 9; 1993, c. 16, s. 26; 1995, c. 1, s. 19; 1998, c. 16, s. 50; 2007, c. 12, s. 24; 2009, c. 15, s. 39.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(6).

Disability-related employment benefits.

42.0.1. Notwithstanding sections 36 and 37, an individual is not required in computing the income of the individual for a taxation year from an office or employment to include any amount received or enjoyed by the individual because of, or in the course of, the individual's office or employment that is the value of a benefit, or an allowance, not in excess of a reasonable amount, in respect of expenses incurred by the individual for

(*a*) the transportation of the individual between the individual's ordinary place of residence and the individual's work location, including parking near that location, if the individual is blind or subparagraphs *a* to *c* of the first paragraph of section 752.0.14 apply in respect of the individual for the year by reason of the individual's mobility impairment; or

(*b*) an attendant to assist the individual in the performance of the individual's duties if subparagraphs *a* to *c* of the first paragraph of section 752.0.14 apply in respect of the individual for the year.

History: 1993, c. 16, s. 27; 1997, c. 85, s. 42; 1998, c. 16, s. 51; 2005, c. 38, s. 56; 2009, c. 15, s. 40.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(16).

DIVISION II.1
GRATUITIES

42.1. *(Repealed).*

History: 1983, c. 43, s. 4; 1997, c. 85, s. 43.
Interpretation Bulletins: IMP. 1029.7-1.

42.2. *(Repealed).*

History: 1983, c. 43, s. 4; 1997, c. 85, s. 43.
Interpretation Bulletins: IMP. 1029.7-1.

42.3. *(Repealed).*

History: 1983, c. 43, s. 4; 1997, c. 85, s. 43.
Interpretation Bulletins: IMP. 1029.7-1.

42.4. *(Repealed).*

History: 1983, c. 43, s. 4; 1997, c. 85, s. 43.
Interpretation Bulletins: IMP. 1029.7-1.

42.5. *(Repealed).*

History: 1983, c. 43, s. 4; 1997, c. 85, s. 43.
Interpretation Bulletins: IMP. 1029.7-1.

Definitions:

42.6. In this division,

"regulated establishment";
"regulated establishment" means, subject to section 42.7,

(*a*) a place situated in Québec specially laid out where lodging or food for consumption on the premises is ordinarily provided in return for payment;

(*b*) a place situated in Québec where alcoholic beverages are served for consumption on the premises in return for payment;

(*c*) a railway train or a vessel, operated in connection with a business carried on entirely or almost entirely in Québec and on which food or beverages are served;

(*d*) a place situated in Québec where, in connection with the carrying on of a business, food or beverages for consumption elsewhere than on the premises are provided in return for payment;

"tippable sale".
"tippable sale" means a sale in a regulated establishment that, in keeping with the prevailing custom in Québec, is likely to entail tipping by the customer, but does not include a sale of food or beverages for consumption elsewhere than on the premises of the regulated establishment.

History: 1997, c. 85, s. 44; 2009, c. 5, s. 42.
Interpretation Bulletins: IMP. 1029.7-1.

Regulated establishment.

42.7. For the purposes of the definition of "regulated establishment" in section 42.6, a regulated establishment does not include

(*a*) a place situated in Québec where mainly lodging or food, or both, are provided by the week, month or year in return for payment;

(*b*) a place where the activity consisting in the providing of food and beverages is carried on by an educational institution, a hospital institution, a shelter for needy persons or victims of violence or any other similar establishment;

(*c*) a place where the activity consisting in the providing of food and beverages is carried on by a charity or a similar organization but is not carried on on a regular basis;

(*d*) a cafeteria;

(*e*) a fast food outlet in which the employees do not ordinarily receive tips from the majority of customers.

History: 1997, c. 85, s. 44.
Interpretation Bulletins: IMP. 1029.7-1.

Tips to include in income.

42.8. An individual shall, in computing income for the year, include every tip the individual receives or benefits from, and an amount equal to the amount that the employer is deemed, where such is the case, to have paid to the individual in that year because of subparagraph *b* of the first paragraph of section 1019.7, except

(*a*) a tip remitted to another individual under a tip-sharing arrangement that has been implemented for the employees performing their employment duties for the same regulated establishment as the regulated establishment for which the individual performs employment duties, and that is managed by the employees;

(*b*) a tip that is otherwise included in computing income for the year; and

(*c*) where applicable, a tip the individual received or benefited from in the year and that is equal to an amount that the employer is deemed, because of subparagraph *b* of the first paragraph of section 1019.7, to pay to the individual in the following year.

History: 1997, c. 85, s. 44.
Interpretation Bulletins: IMP. 1029.7-1.

42.9. *(Repealed).*

History: 1997, c. 85, s. 44; 2009, c. 5, s. 43.
Interpretation Bulletins: IMP. 42.8-1; IMP. 1029.7-1.

Calculation of tips.

42.10. An individual shall, in computing income for the year, include all tips attributed to the individual in the year pursuant to section 42.11.

History: 1997, c. 85, s. 44.
Interpretation Bulletins: IMP. 1029.7-1.

Calculation of tips.

42.11. Every person who employs an individual who receives or benefits from tips in the performance of employment duties for a regulated establishment shall, for each pay period, attribute to that individual, at the time referred to in the second paragraph, an amount equal to the amount by which 8% of the total of the amounts of all tippable sales that are attributable to the pay period and to that individual in the performance of employment duties for the regulated establishment exceeds the total of the amounts of each tip in respect of tippable sales that is attributable to the pay period and to the individual in the performance of employment duties for the regulated establishment.

Attribution.

For the purposes of the first paragraph, the attribution of an amount determined under that paragraph in respect of a pay period shall be made at the time the employer pays to the individual referred to therein the individual's salary or wages for that pay period or, where, having regard to the information available at that time and the time required to determine the amount of that attribution, it may reasonably be considered that the employer cannot at that time change the amount of the salary or wages to take into account that attribution owing to the fact that the payment of the salary or wages for that pay period is made at a time that follows too closely the end of that pay period, at the time the employer pays to the individual the salary or wages for the pay period immediately following that pay period.

History: 1997, c. 85, s. 44.
Interpretation Bulletins: IMP. 1029.7-1.

Individuals not subject to amount attributed.

42.12. Section 42.11 does not apply to an individual in relation to employment duties performed by the individual for a regulated establishment where all or substantially all of the tips the individual receives or benefits from in the performance of employment duties are derived from service charges paid by the customers of the regulated establishment and where

(*a*) the service charges required from the customer in respect of a tippable sale are, in all or substantially all cases, equal to at least 10% of the amount of the tippable sale;

(*b*) the customers are informed of the mandatory nature of the service charges and of the percentage charged in relation to the amount of tippable sales; and

(*c*) the tip-sharing arrangement, if any, is not managed by the employees.

Individuals not subject to amount attributed.

In addition, section 42.11 does not apply, for a pay period, to an individual in relation to employment duties as a cloakroom attendant performed for a regulated establishment or to an individual in relation to employment duties performed for a regulated establishment where

(*a*) all or substantially all of the tips the individual receives or benefits from during the pay period are derived from a redistribution of tips received or benefited from by other individuals;

(*b*) the individual is an employee of a corporation that operates the regulated establishment and the shares of the capital stock of which carrying voting rights in all circumstances are more than 40% held, at the end of the pay period, by the individual or the individual's spouse;

(*c*) the individual is an employee of a partnership that operates the regulated establishment, the individual's spouse is a member of the partnership at the end of the pay period, and the spouse's share, at that time, of the income of the partnership would be equal to more than 40% of the income of the partnership if the partnership's fiscal period ended at that time and the partnership's income for that fiscal period were equal to $1,000,000; or

(*d*) the individual is an employee of the individual's spouse.

History: 1997, c. 85, s. 44; 2004, c. 21, s. 45.
Interpretation Bulletins: IMP. 1029.7-1.

Special rules.

42.13. For the purposes of this section and sections 42.11 and 42.14, the following rules apply:

(*a*) subject to paragraph *b*, a tippable sale is attributable to the pay period during which the obligations relating to that sale are fully fulfilled;

(*b*) where the funds representing the proceeds of a tippable sale in a regulated establishment are not received by the operator of the regulated establishment before the end of the pay period referred to in paragraph *a* in respect of that tippable sale, and where remittance of the tip attributable to that sale to the individual in respect of whom the sale is attributable is deferred to a time after that pay period, the tippable sale is attributable to the pay period during which the funds are received by the operator of the regulated establishment;

(*c*) a tip in respect of a sale made to a customer that is a tippable sale attributable to an individual, means the tip determined by the customer in respect of the sale, including the portion of the tip to be remitted to another individual under a tip-sharing arrangement in effect in the regulated establishment;

(*d*) subject to paragraph *e*, a tip in respect of a tippable sale is attributable to the pay period during which the obligations relating to that sale are fully fulfilled;

(*e*) where the funds representing the proceeds of a tippable sale in a regulated establishment are not received by the operator of the regulated establishment before the end of the pay period referred to in paragraph *d* in respect of that tippable sale, and where remittance of the tip attributable to that sale to the individual in respect of whom the sale is attributable is deferred to a time after that pay period, the tip is attributable to the pay period during which the funds are received by the operator of the regulated establishment;

(*f*) an individual who receives or benefits from tips in the performance of employment duties for a regulated establishment, other than an individual to whom the first paragraph of section 42.12 applies, shall, except where the individual performs the employment duties referred to in the

second paragraph of that section 42.12, report in writing to the employer, in respect of a pay period, every tip in respect of a tippable sale attributable to the individual and to that pay period.

History: 1997, c. 85, s. 44; 2009, c. 5, s. 44.
Interpretation Bulletins: IMP. 1029.7-1.

Written declaration.

42.14. Every person who operates a regulated establishment for which an individual performs employment duties without being an employee of the regulated establishment shall declare in writing to the employer of that individual in relation to those duties, at the end of each pay period of that employer, the total of the amounts of each of the tippable sales attributable to the individual and at that pay period.

History: 1997, c. 85, s. 44; 2004, c. 21, s. 46.
Interpretation Bulletins: IMP. 1029.7-1.

Lesser percentage.

42.15. Where the Minister considers it necessary, the Minister may determine, in respect of a regulated establishment or class of sales in a regulated establishment, a percentage that is lesser than the percentage mentioned in section 42.11.

Application.

The Minister may determine, in respect of a regulated establishment or a class of sales in a regulated establishment, a percentage that is lesser than the percentage mentioned in section 42.11 if the employer who is to attribute an amount under that section applies therefor or, where that employer refuses to do so, if the majority of individuals performing their employment duties for the regulated establishment or for a class of sales in the regulated establishment apply therefor, and it is established to the satisfaction of the Minister that the percentage of 8% is too high having regard to the circumstances.

Appropriate percentage.

The Minister may determine, for a period in a calendar year, the percentage considered to be appropriate by the Minister having regard to the circumstances.

History: 1997, c. 85, s. 44; 2000, c. 39, s. 5.
Interpretation Bulletins: IMP. 1029.7-1.

DIVISION III
INCOME INSURANCE BENEFITS

Employment insurance benefits to be included in income.

43. (*1*) An individual shall, in computing the individual's income, include the amounts payable on a periodic basis that the individual receives in respect of the loss of all or part of the individual's income from an office or employment, pursuant to an insurance plan under which the individual's employer has made a contribution or which is administered or provided by an employee life and health trust to which the individual's employer has made a contribution, not exceeding the limit set under subsection 2.

Computation of limit.

(2) Such limit shall be established by computing the amount by which

(*a*) the aggregate of all such amounts received by the individual pursuant to the plan before the end of the year and after the later of the end of the year 1971 and the end of the last year in which any such amount was included in the individual's income; exceeds

(*b*) the aggregate of the contributions made by the individual under the plan before the end of the year and after the later of the end of the year 1967 and the end of the last year in which any amount referred to in paragraph *a* was included in the individual's income.

History: 1972, c. 23, s. 37; 1991, c. 25, s. 176; 1993, c. 64, s. 15; 1998, c. 16, s. 52; 2011, c. 6, s. 114.
Interpretation Bulletins: IMP. 725-4/R1; IMP. 1029.7-1.
Corresponding Federal Provision: 6(1)(f)(i) to (iii.1), (iv) and (v).

Presumptions as to top-up disability payments.

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

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

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

History: 2000, c. 5, s. 23.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(18)(b) and (c).

Definitions:

43.0.2. In section 43.0.1 and in this section,

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

"top-up disability payment";

"top-up disability payment" in respect of an individual means a payment made by an employer or former employer of the

individual as a consequence of the insolvency of an insurer that was obligated to make payments to the individual under a disability policy where

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

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

Presumption.

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

History: 2000, c. 5, s. 23.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(17) "disability policy" and "top-up disability payment".

DIVISION III.1
MULTI-EMPLOYER INSURANCE PLAN

Multi-employer insurance plan.

43.1. In this Title, a multi-employer insurance plan means a plan for the insurance of persons which is applicable by operation of law, the regulations or a government order, to an economic sector, an industry, an activity or a part of such a sector, industry or activity, and is offered jointly by employers belonging to the same economic sector, the same industry or the same activity and is managed by a common administrator.

History: 1993, c. 64, s. 16; 1995, c. 63, s. 261.
Interpretation Bulletins: IMP. 1029.7-1.

Contributions to be included in income.

43.2. An individual shall, in relation to a multi-employer insurance plan, include in computing the income of the individual 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 an office or employment, and which relates to work performed by the individual, of the aggregate of all amounts each of which is an amount that corresponds to the total contribution which, because of a previous, the current or an intended office or employment of the individual, was paid, for any period of the year, by an employer of the individual to the administrator of the multi-employer insurance plan and the related tax, within the meaning of subparagraph *d* of the second paragraph of section 37.0.1.1.

History: 1993, c. 64, s. 16 [amended by 1995, c. 63, s. 534]; 1995, c. 63, s. 261; 1998, c. 16, s. 53.
Interpretation Bulletins: IMP. 1029.7-1.

Other amount to be included in income.

43.3. Where the amount established in accordance with the second paragraph for a taxation year in respect of an individual in relation to a multi-employer insurance plan exceeds the amount referred to in section 43.2 for the year in respect of the individual in relation to that plan, the individual shall include the excess in computing the income of the individual for the year.

Interpretation.

The amount which must be established for a taxation year in respect of an individual in relation to a multi-employer insurance plan is equal to the amount that would be established for the year under sections 37.0.1.1 to 37.0.1.6 in respect of the individual in relation to the coverage, other than coverage against the loss of all or part of the income from an office or employment, enjoyed by the individual under the plan for any period of the year, if the administrator of the plan was the employer of all the employees who enjoy coverage under the plan during the year and if those employees were employees of the administrator and enjoyed that coverage by reason of an office or employment with the latter.

Application.

For the purposes of the second paragraph, no amount paid by an individual during the year as contribution to the plan shall be taken into account in computing the amount determined under section 37.0.1.2 or 37.0.1.4 in respect of the individual otherwise than because of a previous, the current or an intended office or employment of the individual.

Coverage not related to an office or employment.

In addition, for the purposes of this Title, except the third paragraph and this paragraph, where it may reasonably be considered that, at any time in a taxation year, an individual enjoys, otherwise than because of a previous, the current or an intended office or employment of the individual, all or part of a coverage under a multi-employer insurance plan, other than coverage against the loss of all or part of the income from an office, employment or business,

(*a*) the individual is deemed to be an employee who, during the year, enjoys that coverage, or part thereof, by reason of an office or employment; and

(*b*) the value of the benefit derived from that coverage or part thereof is deemed to be referred to in section 38.

History: 1993, c. 64, s. 16; 1995, c. 63, s. 23; 1998, c. 16, s. 54.
Interpretation Bulletins: IMP. 1029.7-1.

DIVISION III.2
CANADIAN FORCES MEMBERS AND VETERANS

Income replacement benefits paid to a Canadian Forces member or veteran.

43.4. An individual shall, in computing income for a taxation year from an office or employment, include the total of the following amounts received by the individual in the year on account of

(*a*) an earnings loss benefit, an income replacement benefit (other than an amount determined under subsection 1 of section 19.1, paragraph *b* of subsection 1 of section 23 or subsection 1 of section 26.1 of the Veterans Well-being Act (Statutes of Canada, 2005, chapter 21), as modified, where applicable, under Part 5 of that Act), a supplementary retirement benefit or a career impact allowance payable to the individual under Part 2 of the Veterans Well-being Act; or

(*b*) an amount payable under subsection 6 of section 99, subsection 1 of section 109, subsection 5 of section 115 or sections 124 to 126 of the Veterans Well-being Act.

History: 2006, c. 36, s. 25; 2019, c. 14, s. 70; 2020, c. 16, s. 31.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(1)(f.1).

DIVISION IV
(Repealed).

44. *(Repealed).*

History: 1972, c. 23, s. 38; 1975, c. 22, s. 4; 1993, c. 64, s. 17.
Interpretation Bulletins: IMP. 1029.7-1.

45. *(Repealed).*

History: 1972, c. 23, s. 39; 1993, c. 64, s. 17.
Interpretation Bulletins: IMP. 1029.7-1.

46. *(Repealed).*

History: 1972, c. 23, s. 40; 1993, c. 64, s. 17.
Interpretation Bulletins: IMP. 1029.7-1.

DIVISION V
PROFIT SHARING PLANS

Allocations under a profit sharing plan.

47. For the purposes of this chapter, an individual shall, in computing the income of the individual, include the amounts allocated to the individual under a profit-sharing plan as provided by Title I of Book VII, except those referred to in section 860, and the amounts required by section 857 to be included in computing the individual's income.

History: 1972, c. 23, s. 41; 1998, c. 16, s. 55.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(1)(d).

DIVISION V.1
EMPLOYEE BENEFIT PLANS AND EMPLOYEE TRUSTS

Allocations under an employee trust or an employee benefit plan.

47.1. An individual shall, in computing the income of the individual for a taxation year, include all amounts allocated to the individual for that year by a trustee under an employee trust and all amounts received by the individual in the year out of or under an employee benefit plan or from the disposition of any interest in any such plan.

History: 1982, c. 5, s. 19; 1998, c. 16, s. 56.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(1)(g), (h) and (10).

Presumption — amount received.

47.1.1. For the purposes of section 47.1, an amount received by a person out of or under an employee benefit plan is deemed to have been received by another person (in this section referred to as the "individual") and not by the person if

(*a*) the person does not deal at arm's length with the individual;

(*b*) the amount is received in respect of an office or employment of the individual; and

(*c*) the individual is living at the time the amount is received by the person.

History: 2015, c. 21, s. 106.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(1.2).

Employee benefit plan benefits.

47.2. Despite section 47.1, an individual is not required in computing the individual's income to include an amount received in respect of an employee benefit plan, to the extent that such amount represents a return of amounts contributed to the plan by the individual or a deceased employee of whom the individual is a legatee by particular title or legal representative, a death benefit or an amount that would, but for the deduction provided for in sections 3 and 4, be a death benefit, a pension benefit attributable to services rendered by a person in a period throughout which the person was not resident in Canada, or a designated employee benefit (as defined in section 869.1).

History: 1982, c. 5, s. 19; 1991, c. 25, s. 10; 1998, c. 16, s. 57; 2000, c. 5, s. 293; 2011, c. 6, s. 115.

Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(1)(g) and (10).

Amount deemed to be contributed to the employee benefit plan.

47.3. For the purposes of section 47.2, an amount included in computing the income of an individual in respect of an employee benefit plan for a taxation year preceding the year in which it is paid, is deemed to be an amount contributed to the plan by the individual.

History: 1982, c. 5, s. 19.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(10)(a).

Return of amounts contributed to an employee benefit plan.

47.4. For the purposes of section 47.2, where an amount is received in a taxation year by an individual from an employee benefit plan that was in a preceding year an employee trust, that amount is deemed to be the return of the amounts contributed to the plan by the individual, up to the amount by which the lesser of the amounts determined under paragraph *a* or *b* of section 47.5 exceeds the aggregate of all amounts previously received out of the plan by the individual or a deceased person of whom the individual is a legatee by particular title or legal representative at a time when the plan was an employee benefit plan, to the extent that the latter amounts were deemed by this section to be a return of amounts contributed to the plan.

History: 1982, c. 5, s. 19; 1998, c. 16, s. 58; 2000, c. 5, s. 293.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(10)(b)(iii).

Employee trust.

47.5. The amounts referred to in section 47.4 are the following:

(*a*) the amount by which the aggregate of all amounts allocated to the individual or a deceased person of whom the individual is a legatee by particular title or legal representative, by a trustee of the plan at a time when the plan was an employee trust, exceeds the aggregate of all amounts previously paid out of the plan to or for the benefit of the individual or the deceased person at that time; and

(*b*) the portion of the amount by which the cost amount to the plan of its property immediately before it ceased to be an employee trust exceeds the liabilities of the plan at that time that the amount determined under paragraph *a* in respect of the individual is of the aggregate of amounts determined under that paragraph in respect of all individuals who were beneficiaries under the plan immediately before it ceased to be an employee trust.

History: 1982, c. 5, s. 19; 1998, c. 16, s. 59; 2000, c. 5, s. 293.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(10)(b)(i) and (ii).

Employee benefit plan.

47.6. For the purposes of this division, "employee benefit plan" means an arrangement under which contributions are made by an employer or by a person with whom the employer does not deal at arm's length to another person (in this Part referred to as the "custodian" of an employee benefit plan) and under which payments are to be made to or for the benefit of employees or former employees of the employer or persons who do not deal at arm's length with any such employee or former employee, other than a payment that, if this chapter were read without reference to the third paragraph of section 38 and to section 47.1, would not be required to be included in computing the income of the recipient or of an employee or former employee.

Restriction.

However, such a plan does not include any part of the arrangement that is a plan referred to in any of subparagraphs *a*, *a*.1, *d* and *e* of the first paragraph of section 38 or in section 43 or 47, a group health or accident insurance plan, a private health services plan, a group term life insurance policy, a trust referred to in paragraph *m* of section 998, an employee trust, an employee life and health trust, an arrangement the sole purpose of which is to provide education or training for employees of the employer to improve their work or work-related skills and abilities, a salary deferral arrangement in respect of an individual under which a deferred amount must be included as a benefit under section 37 in computing the individual's income, a retirement compensation arrangement or a prescribed arrangement.

History: 1982, c. 5, s. 19; 1987, c. 21, s. 11; 1988, c. 18, s. 4; 1989, c. 77, s. 11; 1991, c. 25, s. 176; 1993, c. 64, s. 18; 1995, c. 49, s. 28; 1995, c. 63, s. 24; 1996, c. 39, s. 26; 1998, c. 16, s. 60; 1999, c. 89, s. 53; O.C. 149-2000; 2011, c. 6, s. 116; 2015, c. 21, s. 107.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 248(1) "employee benefit plan".

"employee trust".

47.7. For the purposes of this division, "employee trust" means an arrangement in respect of which the trustee of the arrangement makes a valid election under paragraph *c* of the definition of "employee trust" in subsection 1 of section 248 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 and under which

(*a*) payments are made by one or more employers to a trustee in trust solely to provide for the payment of benefits to employees or former employees of the employer or a person with whom the employer does not deal at arm's length;

(*b*) the right to a benefit referred to in subparagraph *a* vests only at the time of its payment;

(*c*) the amount of a benefit referred to in subparagraph *a* does not depend on the individual's position, performance or compensation as an employee; and

(*d*) the trustee has, since the commencement of the arrangement, each year allocated to individuals who are beneficiaries under the trust, in such manner as is reasonable, an amount equal to the excess described in section 47.8.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under paragraph *c* of the definition of "employee trust" in subsection 1 of section 248 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1982, c. 5, s. 19; 2009, c. 5, s. 45.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 248(1) "employee trust" (a) and (b) before (i) and (c).

Excess amount.

47.8. The excess referred to in subparagraph *d* of the first paragraph of section 47.7 is obtained by subtracting the aggregate of the capital losses of the trust for the year from the disposition of property and of the losses, other than allowable capital losses from the disposition of property, of the trust for the year from any source other than a business, from the aggregate of amounts received under the arrangement by the trustee in the year from an employer or from a person with whom the employer does not deal at arm's length, capital gains of the trust for the year from the disposition of property and amounts that would, but for paragraph *a* of section 657 and section 657.1, be the income of the trust for the year, other than a taxable capital gain from the disposition of property, from any source other than a business.

History: 1982, c. 5, s. 19; 2009, c. 5, s. 46.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 248(1) "employee trust" (b)(i) to (v).

Restriction.

47.9. Notwithstanding section 47.7, an employee trust does not include a profit sharing plan, a deferred profit sharing plan or a plan the registration of which is revoked under subsection 14 or 14.1 of section 147 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 1982, c. 5, s. 19; 1991, c. 25, s. 11.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 248(1) "employee trust" before (a).

DIVISION V.2
SALARY DEFERRAL ARRANGEMENTS

Salary deferral arrangement payments.

47.10. An individual shall, in computing the income of the individual for a taxation year, include an amount equal to the amount by which the aggregate of all amounts received by any person as benefits, other than amounts received by or from a trust governed by a salary deferral arrangement, in the year out of or under a salary deferral arrangement in respect of the individual exceeds the amount by which

(*a*) the aggregate of all deferred amounts under the arrangement that were included under section 37 as benefits in computing the individual's income for preceding taxation years exceeds

(*b*) the aggregate of all deferred amounts received by any person in preceding taxation years out of or under the arrangement, and all deferred amounts under the arrangement that were deducted under section 78.2 in computing the individual's income for the year or preceding taxation years.

History: 1988, c. 18, s. 5; 1998, c. 16, s. 61.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(1)(i).

Deemed benefit under a salary deferral arrangement.

47.11. Where at the end of a taxation year any person has a right under a salary deferral arrangement in respect of an individual to receive a deferred amount, an amount equal to the deferred amount is deemed, for the purposes only of section 37, to have been received by the individual as a benefit in the year, to the extent that the amount was not otherwise included in computing the individual's income for the year or any preceding taxation year.

History: 1988, c. 18, s. 5.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(11).

Interest accrued in respect of a deferred amount.

47.12. Where at the end of a taxation year any person has a right under a salary deferral arrangement, other than a trust governed by a salary deferral arrangement, in respect of an individual to receive a deferred amount, an amount equal to any interest or other additional amount that accrued to, or for the benefit of, that person to the end of the year in respect of the deferred amount is deemed at the end of the year, for the purposes only of section 47.11, to be a deferred amount that the person has a right to receive under the arrangement.

History: 1988, c. 18, s. 5; 1998, c. 16, s. 62.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(12).

Employees not resident in Canada.

47.13. Section 47.11 does not apply in respect of a deferred amount under a salary deferral arrangement in

respect of an individual that was established primarily for the benefit of one or more employees not resident in Canada in respect of services to be rendered in a country other than Canada, to the extent that the deferred amount

(*a*) was in respect of services rendered by an employee who was not resident in Canada at the time the services were rendered, or was resident in Canada for a period, in this section referred to as an "excluded period", of not more than 36 of the 72 months preceding the time the services were rendered and was an employee to whom the arrangement applied before the employee became resident in Canada; and

(*b*) cannot reasonably be regarded as being in respect of services rendered or to be rendered during a period, other than an excluded period, when the employee was resident in Canada.

History: 1988, c. 18, s. 5; 1997, c. 14, s. 20; 1998, c. 16, s. 63.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(13).

Part of a plan or arrangement.

47.14. For the purposes of this Part, other than this section, where deferred amounts under a salary deferral arrangement in respect of an individual, in this section referred to as "that arrangement", are required to be included as benefits under section 37 in computing the individual's income and that arrangement is part of a plan or arrangement, in this section referred to as "the plan", under which amounts or benefits not related to the deferred amounts are payable or provided, the following rules apply:

(*a*) that arrangement is deemed to be a separate arrangement independent of other parts of the plan of which it is a part;

(*b*) where any person has a right to a deferred amount under that arrangement, an amount received by the person as a benefit at any time out of or under the plan is deemed to have been received out of or under that arrangement except to the extent that it exceeds the amount by which

i. the aggregate of all deferred amounts under that arrangement that were included under section 37 as benefits in computing the individual's income for taxation years ending before that time exceeds

ii. the aggregate of all deferred amounts received by any person before that time out of or under the plan that were deemed by this paragraph to have been received out of or under that arrangement, and all deferred amounts under that arrangement that were deducted under section 78.2 in computing the individual's income for the year or a preceding taxation year.

History: 1988, c. 18, s. 5; 1998, c. 16, s. 64.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 6(14).

Salary deferral arrangement.

47.15. For the purposes of this division, a salary deferral arrangement in respect of an individual means a plan or arrangement, whether funded or not, under which any person has a right in a taxation year to receive an amount after the end of the year where it is reasonable to consider that one of the main purposes for the creation or existence of the right is to postpone tax payable under this Part by the individual in respect of an amount that is, or is on account or in lieu of, salary or wages of the individual for services rendered by the individual in the year or a preceding taxation year.

Right.

The right referred to in the first paragraph includes a right that is subject to one or more conditions unless there is a substantial risk that any one of those conditions will not be satisfied.

History: 1988, c. 18, s. 5; 1998, c. 16, s. 65.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 248(1) "salary deferral arrangement" before (a).

Plan or arrangement excluded.

47.16. For the purposes of section 47.15, a salary deferral arrangement does not include

(*a*) a registered pension plan;

(*a.*1) a pooled registered pension plan;

(*b*) a disability or income maintenance insurance plan under a policy with an insurance corporation;

(*c*) a deferred profit sharing plan;

(*d*) a profit sharing plan;

(*e*) an employee trust;

(*e.*1) an employee life and health trust;

(*f*) a group sickness or accident insurance plan;

(*g*) a supplementary unemployment benefit plan;

(*h*) a trust described in paragraph *m* of section 998;

(*i*) a plan or arrangement the sole purpose of which is to provide education or training for employees of an employer to improve their work or work-related skills and abilities;

(*j*) a plan or arrangement established for the purpose of deferring the salary or wages of a professional athlete for the services of the athlete as such with a team that participates in a league having regularly scheduled games;

(*k*) a plan or arrangement under which an individual has a right to receive a bonus or similar payment in respect of services rendered by the individual in a taxation year to be paid within three years following the end of the year; or

(*l*) a prescribed plan or arrangement.

History: 1988, c. 18, s. 5; 1991, c. 25, s. 12; 1997, c. 3, s. 71; 1998, c. 16, s. 66; 2011, c. 6, s. 117; 2015, c. 21, s. 108.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 248(1) "salary deferral arrangement" (a) to (l).

Deferred amount.

47.17. For the purposes of this division, a deferred amount at the end of a taxation year under a salary deferral arrangement in respect of an individual means

(*a*) in the case of a trust governed by the arrangement, any amount that a person has a right under the arrangement at the end of the year to receive after the end of the year where the amount has been received, is receivable or may at any time become receivable by the trust as salary or wages of the individual for services rendered in the year or a preceding taxation year;

(*b*) in the case where no trust is governed by the arrangement, any amount that a person has a right under the arrangement at the end of the year to receive after the end of the year.

Right.

The right referred to in the first paragraph includes a right that is subject to one or more conditions unless there is a substantial risk that any one of those conditions will not be satisfied.

History: 1988, c. 18, s. 5.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 248(1) "deferred amount".

DIVISION VI
AGREEMENT TO ISSUE SECURITIES TO EMPLOYEES

Definitions:

47.18. In this division and in section 259.0.1,

"qualifying person";
"qualifying person" means a corporation or a mutual fund trust;

"security".
"security" of a qualifying person means

(*a*) if the qualifying person is a corporation, a share of the capital stock of the corporation; and

(*b*) if the qualifying person is a mutual fund trust, a unit of the trust.

History: 2001, c. 53, s. 14; 2003, c. 2, s. 15; 2009, c. 15, s. 41.
Interpretation Bulletins: IMP. 1029.7-1 .
Corresponding Federal Provision: 7(7).

Sale or issue of securities to employees.

48. This division applies where a particular qualifying person agrees to sell or issue one of its securities or a security of a qualifying person with which it does not deal at arm's length to one of its employees or to an employee of a qualifying person with which it does not deal at arm's length.

History: 1972, c. 23, s. 42; 1987, c. 67, s. 9; 1988, c. 4, s. 21; 1992, c. 1, s. 15; 1997, c. 3, s. 71; 2001, c. 53, s. 15.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(1) before (a).

Benefit deemed received by employee.

49. Subject to section 49.2, an employee who acquires a security under the agreement referred to in section 48 is deemed to receive because of the employee's office or employment, in the taxation year in which the employee acquires the security, a benefit equal to the amount by which the value of the security at the time the employee acquires it exceeds the aggregate of the amount paid or to be paid to the qualifying person by the employee for the security and the amount paid by the employee to acquire the right to acquire the security.

History: 1972, c. 23, s. 43; 1986, c. 15, s. 40; 1988, c. 4, s. 22; 1992, c. 1, s. 15; 1993, c. 16, s. 28; 1997, c. 3, s. 71; 1998, c. 16, s. 67; 2001, c. 53, s. 15; 2003, c. 2, s. 16; 2011, c. 34, s. 16.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(1)(a).

49.1. *(Repealed).*

History: 1986, c. 15, s. 40; 1987, c. 67, s. 10; 1988, c. 4, s. 22; 1992, c. 1, s. 16.
Interpretation Bulletins: IMP. 1029.7-1.

Application of s. 49.

49.2. Where section 49 applies in respect of a security that is a share of the capital stock of a corporation, it shall be read with the words "in which the employee acquires the security" replaced by the words "in which the employee disposes of or exchanges the security" where

(*a*) the agreement contemplated in section 48 is made with a particular Canadian-controlled private corporation that has agreed to sell or issue a share of its capital stock or of the capital stock of a Canadian-controlled private corporation with which it is not dealing at arm's length, to one of its employees or to an employee of a Canadian-controlled private corporation with which it does not deal at arm's length;

(*b*) the share is acquired by an employee who, at the time immediately after the agreement was made, was dealing at arm's length with the particular corporation, the Canadian-controlled private corporation, the share of the capital stock of which has been agreed to be sold or issued by the particular corporation, and the Canadian-controlled private corporation that is the employer of the employee.

History: 1986, c. 15, s. 40; 1987, c. 67, s. 11; 1988, c. 4, s. 22; 1992, c. 1, s. 17; 1997, c. 3, s. 18; 1998, c. 16, s. 68; 2001, c. 53, s. 16.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(1.1).

Mutual fund trust and corporation not dealing at arm's length.

49.2.1. For the purposes of this division, a mutual fund trust is deemed not to deal at arm's length with a corporation only if the trust controls the corporation.

History: 2001, c. 53, s. 17.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(1.11).

Order of disposition of securities.

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

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

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

History: 2003, c. 2, s. 17; 2011, c. 34, s. 17.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(1.3).

Disposition of security.

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

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

(*b*) after 19 December 2006, the taxpayer identifies, in accordance with subsection 1.31 of section 7 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the particular security as the security so disposed of; and

(*c*) the particular security has not been identified under subparagraph *b* by the taxpayer in relation to the disposition of another security.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an identification made under subsection 1.31 of section 7 of the Income Tax Act or in relation to an identification made under this section before 20 December 2006.

History: 2003, c. 2, s. 17; 2009, c. 5, s. 47.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(1.31).

49.3. *(Repealed).*

History: 1987, c. 67, s. 12.
Interpretation Bulletins: IMP. 1029.7-1.

Exchange of options.

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

(*a*) the taxpayer receives no consideration for the disposition of the exchanged option other than rights under an agreement with any of the following persons to acquire securities of any such person or of a qualifying person with which any such person does not deal at arm's length, which rights and securities are referred to in this section as the "new option" and the "new securities", respectively:

i. the particular qualifying person,

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

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

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

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

vi. if the disposition occurs before 1 January 2013 and each of the old securities were an investment in a SIFT wind-up entity that was at the time of the disposition a mutual fund trust, a SIFT wind-up corporation in respect of the SIFT wind-up entity; and

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

Amount referred to.

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

Other amount referred to.

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

Rules applicable.

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

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

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

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

History: 1986, c. 19, s. 8; 1989, c. 77, s. 12; 1993, c. 16, s. 29; 1997, c. 3, s. 71; 2001, c. 53, s. 18; 2003, c. 2, s. 18; 2010, c. 25, s. 10; 2011, c. 34, s. 18.

Interpretation Bulletins: IMP. 1029.7-1.

Corresponding Federal Provision: 7(1.4).

Exchange of securities.

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

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

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

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

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

Persons referred to in the first paragraph.

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

(*a*) the particular qualifying person;

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

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

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

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

History: 1986, c. 19, s. 8; 1987, c. 67, s. 13; 1992, c. 1, s. 18; 1993, c. 16, s. 30; 1995, c. 49, s. 29; 1997, c. 3, s. 71; 2003, c. 2, s. 19; 2011, c. 34, s. 19.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(1.5).

Share deemed not disposed of.

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

History: 2003, c. 2, s. 20.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(1.6).

Rights ceasing to be exercisable.

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

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

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

History: 2003, c. 2, s. 20.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(1.7).

Transfer of rights between persons dealing at arm's length.

50. An employee who transfers or disposes of rights under the agreement referred to in section 48 in respect of securities to a person with whom the employee is dealing at arm's length, is deemed to receive because of the employee's office or employment, in the taxation year in which the employee makes the transfer or disposition, a benefit equal to the amount by which the value of the consideration for the transfer or disposition exceeds the amount paid by the employee to acquire those rights.

History: 1972, c. 23, s. 44; 1993, c. 16, s. 31; 1998, c. 16, s. 69; 2001, c. 53, s. 19.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(1)(b).

Transfer of rights between persons not dealing at arm's length.

50.1. An employee who transfers or disposes of rights under the agreement referred to in section 48 in respect of some or all of the securities to the particular qualifying person (or a qualifying person with which the particular qualifying person is not dealing at arm's length) with which the employee is not dealing at arm's length is deemed to receive, because of the employee's office or employment, in the taxation year in which the employee makes the transfer or disposition, a benefit equal to the amount by which the value of the consideration for the transfer or disposition exceeds the amount paid by the employee to acquire those rights.

History: 2011, c. 34, s. 20.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(1)(b.1).

Transfer of rights between persons not dealing at arm's length.

51. If rights of the employee under the agreement referred to in section 48 have, by one or more transactions between persons not dealing at arm's length, become vested in a person who exercises the employee's right to acquire a security under the agreement, the employee is deemed, subject to the second paragraph, to receive because of the employee's office or employment, in the taxation year in which the person acquired the security, a benefit equal to the amount by which the value of the security at the time that person acquired it exceeds the aggregate of the amount paid or to be paid to the qualifying person by the person for the security and the amount paid by the employee to acquire the right to acquire the security.

Deceased employee.

Where the employee was deceased at the time the person acquired the security, the benefit is deemed to have been received by the person, in the taxation year in which the person acquired the security, as income from the duties of an office or employment performed by the person in that year in the country in which the employee primarily performed the duties of the employee's office or employment.

History: 1972, c. 23, s. 45; 1993, c. 16, s. 31; 1997, c. 3, s. 71; 1998, c. 16, s. 70; 2001, c. 53, s. 19.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(1)(c).

Employee transferring rights in respect of shares.

52. If rights of the employee under the agreement referred to in section 48 have, by one or more transactions between persons not dealing at arm's length, become vested in a

particular person who transfers or disposes of the rights to another person with whom the particular person is dealing at arm's length, the employee is deemed, subject to the second paragraph, to receive because of the employee's office or employment, in the taxation year in which the particular person made the transfer or disposition, a benefit equal to the amount by which the value of the consideration for the transfer or disposition exceeds the amount paid by the employee to acquire those rights.

Deceased employee.

Where the employee was deceased at the time the other person acquired the employee's rights, the benefit is deemed to have been received by the particular person, in the taxation year in which the particular person transferred or disposed of the employee's rights, as income from the duties of an office or employment performed by the particular person in that year in the country in which the employee primarily performed the duties of the employee's office or employment.

History: 1972, c. 23, s. 46; 1993, c. 16, s. 31; 1998, c. 16, s. 71.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(1)(d).

Transferred rights between persons not dealing at arm's length.

52.0.1. If rights of an employee under the agreement referred to in section 48 have, by one or more transactions between persons not dealing at arm's length, become vested in a particular person who transfers or disposes of the rights to a particular qualifying person (or a qualifying person with which the particular qualifying person is not dealing at arm's length) with which the particular person is not dealing at arm's length, the employee is deemed, subject to the second paragraph, to receive, because of the employee's office or employment, in the taxation year in which the particular person made the transfer or disposition, a benefit equal to the amount by which the value of the consideration for the transfer or disposition exceeds the amount paid by the employee to acquire those rights.

Deceased employee.

Where the employee was deceased at the time the particular person transferred or disposed of the employee's rights, the benefit is deemed to have been received by the particular person, in the taxation year in which the particular person transferred or disposed of the employee's rights, as income from the duties of an office or employment performed by the particular person in that year in the country in which the employee primarily performed the duties of the employee's office or employment.

History: 2011, c. 34, s. 21.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(1)(d.1).

Death of an employee.

52.1. Where an employee has died and, immediately before the death, the employee owned a right to acquire a security under the agreement referred to in section 48, the employee is deemed to have received because of the employee's office or employment, in the taxation year in which the employee died, a benefit equal to the amount by which the value of the right immediately after the death exceeds the amount paid by the employee to acquire the right, and sections 50 to 52.0.1 do not apply.

History: 1993, c. 16, s. 32; 1998, c. 16, s. 72; 2001, c. 53, s. 20; 2011, c. 34, s. 22.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(1)(e).

Security held by trustee.

53. If a security is held by a trustee, in any manner whatever, for an employee, the employee is deemed, for the purposes of this division and sections 725.2, 725.2.2 and 725.3, to acquire the security at the time the trustee begins so to hold it and to exchange or dispose of the security at the time the trustee exchanges it or disposes of it to any person other than the employee.

History: 1972, c. 23, s. 47; 1987, c. 67, s. 14; 1998, c. 16, s. 72; 2001, c. 53, s. 21; 2003, c. 2, s. 21.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(2).

Restriction regarding benefits deemed received.

54. If a particular qualifying person has agreed to sell or issue one of its securities, or a security of a qualifying person with which it does not deal at arm's length, to one of its employees or to an employee of the qualifying person with which it does not deal at arm's length, the employee is deemed to receive no benefit under or because of the agreement other than as provided in this division.

History: 1972, c. 23, s. 48; 2001, c. 53, s. 21.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(3)(a).

Qualifying person's income.

55. If a particular qualifying person has agreed to sell or issue one of its securities, or a security of a qualifying person with which it does not deal at arm's length, to one of its employees or to an employee of the qualifying person with which it does not deal at arm's length, the income for a taxation year of any person is deemed to be not less than it would have been for the year if no benefit had been conferred on the employee by the sale or issue of the security.

History: 1972, c. 23, s. 49; 1986, c. 19, s. 9; 1997, c. 3, s. 71; 2001, c. 53, s. 21.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(3)(b).

Where person ceases to be employee.

56. Where a person to whom sections 48 to 52.1 would otherwise apply ceases to be an employee before all conditions have been fulfilled that would make such sections applicable, those sections apply as though the person were still an employee and as though the office or employment were still in existence.

History: 1972, c. 23, s. 50; 2001, c. 53, s. 21.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(4).

Applicability.

57. This division does not apply where the benefit conferred under the agreement contemplated in section 48 was not received by reason of the office or employment.

History: 1972, c. 23, s. 51.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(5).

Security sold or issued to trustee.

58. For the purposes of this division, except section 53, and of sections 725.2, 725.2.2 and 725.3, if a particular qualifying person has entered into an arrangement under which one of its securities, or a security of a qualifying person with which it does not deal at arm's length, is sold or issued by either person to a trustee to be held by the trustee in trust for sale to an employee of the particular qualifying person or of a qualifying person with which it does not deal at arm's length, the following rules apply:

(*a*) any particular right of the employee under the arrangement in respect of the security is deemed to be a right under a particular agreement referred to in section 48;

(*b*) any security acquired under the arrangement by the employee or by a person in whom the particular right has become vested is deemed to be a security acquired under the particular agreement referred to in section 48; and

(*c*) any amount paid or agreed to be paid to the trustee for any security acquired under the arrangement by the employee or by a person in whom the particular right has become vested is deemed to be an amount paid or agreed to be paid to the particular qualifying person for a security acquired under the particular agreement referred to in section 48.

Provision not to apply.

However, section 53 does not apply to the case contemplated by this section.

History: 1972, c. 23, s. 52; 1993, c. 16, s. 33; 1997, c. 3, s. 71; 1997, c. 14, s. 21; 2001, c. 53, s. 22; 2003, c. 2, s. 22.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(6).

58.0.1. *(Repealed).*

History: 2003, c. 2, s. 23; 2011, c. 34, s. 23.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(8).

58.0.2. *(Repealed).*

History: 2003, c. 2, s. 23; 2009, c. 15, s. 42; 2010, c. 5, s. 18; 2011, c. 34, s. 23.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(9).

58.0.3. *(Repealed).*

History: 2003, c. 2, s. 23; 2011, c. 34, s. 23.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(12).

58.0.4. *(Repealed).*

History: 2003, c. 2, s. 23; 2011, c. 34, s. 23.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(13).

58.0.5. *(Repealed).*

History: 2003, c. 2, s. 23; 2011, c. 34, s. 23.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(14).

58.0.6. *(Repealed).*

History: 2003, c. 2, s. 23; 2011, c. 34, s. 23.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(15).

Filing requirements.

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

History: 2003, c. 2, s. 23; 2011, c. 34, s. 24.
Interpretation Bulletins: IMP. 1029.7-1.
Corresponding Federal Provision: 7(16).

DIVISION VII
(Repealed).

58.1. *(Repealed).*

History: 1985, c. 25, s. 21; 1998, c. 16, s. 73; 2007, c. 12, s. 25.
Interpretation Bulletins: IMP. 1029.7-1.

DIVISION VIII
GOODS AND SERVICES TAX OR QUÉBEC SALES TAX REBATE

Rebate in respect of the goods and services tax.

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

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

(*b*) to the extent that it relates to the capital cost of the particular property, is deemed, for the purposes of section 101, to have been received by the taxpayer in the particular year as assistance from a government for the acquisition of the particular property.

History: 1991, c. 25, s. 13; 2004, c. 8, s. 14.
Corresponding Federal Provision: 6(8).

Rebate in respect of the Québec sales tax.

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

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

(*b*) to the extent that it relates to the capital cost of the particular property, is deemed, for the purposes of section 101, to have been received by the taxpayer in the particular year as assistance from a government for the acquisition of the particular property.

History: 1992, c. 1, s. 20; 1997, c. 14, s. 22; 2004, c. 8, s. 15.

CHAPTER III
DEDUCTIONS

DIVISION I
RULES OF APPLICATION

Deductible amounts.

59. An individual shall not, in computing the income of the individual for a taxation year from an office or employment, deduct any amount except as provided in this chapter and only to the extent that such amount may reasonably be regarded as applicable to that office or employment.

History: 1972, c. 23, s. 53; 1998, c. 16, s. 74.
Interpretation Bulletins: IMP. 80-3/R5.
Corresponding Federal Provision: 8(1) before (a) and (2).

Rebate in respect of the Québec sales tax or the goods and services tax.

59.1. For the purposes of this Title, other than sections 32 and 33 and Division VI of Chapter II, the amount of any rebate paid or payable to a taxpayer under the Act respecting the Québec sales tax (chapter T-0.1) in respect of the Québec sales tax or under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the goods and services tax is deemed not to be an amount that is reimbursed to the taxpayer or to which the taxpayer is entitled.

History: 1991, c. 25, s. 14; 1992, c. 1, s. 21; 1997, c. 14, s. 23.
Corresponding Federal Provision: 8(11).

DIVISION II
(Repealed).

60. *(Repealed).*

History: 1972, c. 23, s. 54; 1975, c. 22, s. 5; 1983, c. 44, s. 17; 1986, c. 15, s. 41; 1993, c. 64, s. 19.

61. *(Repealed).*

History: 1972, c. 23, s. 55; 1983, c. 44, s. 18; 1986, c. 15, s. 42; 1993, c. 64, s. 19.

DIVISION III
SALESMEN'S EXPENSES AND TRAVEL EXPENSES

Salesmen's expenses.

62. (*1*) An individual whose office or employment is connected with the selling of property or negotiating of contracts for the individual's employer may, in accordance with this division, deduct the amounts expended by the individual in the year to earn the income from the office or employment, if the individual is required, under the contract of employment, to pay the individual's own expenses, if the individual is required to carry on all or part of the duties of the office or employment away from the employer's place of business, and if the individual is remunerated in whole or in

part by commissions or other similar amounts fixed by reference to the volume of the sales made or the contracts negotiated.

Restriction.

(2) An individual shall not claim a deduction under this section if the individual receives an allowance for travel expenses that is not required to be included in computing the individual's income under paragraph *a* of section 40.

Maximum allowable deduction.

(3) The deduction under this section must not exceed the sum of the commissions and other similar amounts, fixed by reference to the volume of the sales made or the contracts negotiated, that the individual receives in the year, and shall only be made to the extent to which the amounts expended are not

(*a*) outlays, losses or replacements of capital or payments on account of capital, except amounts described in section 64,

(*b*) outlays or expenses that, under section 134, would not be deductible in computing the individual's income for the year if the office or employment were a business carried on by the individual, or

(*c*) amounts the payment of which reduced the amount that would otherwise be included in computing the individual's income for the year under section 41.

History: 1972, c. 23, s. 56; 1977, c. 26, s. 4; 1983, c. 49, s. 11; 1993, c. 16, s. 34; 1997, c. 85, s. 46.
Interpretation Bulletins: IMP. 135.2-1/R1.
Corresponding Federal Provision: 8(1)(f).

62.0.1. *(Repealed).*

History: 1993, c. 64, s. 20; 1998, c. 16, s. 75; 2005, c. 38, s. 57.

Deduction relating to a work space in home.

62.1. Notwithstanding section 62, no amount may be deducted in computing an individual's income for a taxation year from an office or employment in respect of any part, in this section and sections 62.2 and 62.3 referred to as the "work space", of the self-contained domestic establishment in which the individual resides, except to the extent that the work space is either

(*a*) the place where the individual principally performs the duties of the office or employment, or

(*b*) used

i. exclusively during the period in respect of which the amount relates for the purposes of earning income from the office or employment, and

ii. on a regular and continuous basis for meeting customers or other persons in the ordinary course of performing the duties of the office or employment.

History: 1993, c. 16, s. 35.
Corresponding Federal Provision: 8(13)(a).

Maximum allowable deduction.

62.2. Where the conditions set out in paragraph *a* or *b* of section 62.1 are met in respect of the work space described in that section, the amount in respect of the work space that may be deducted in computing the individual's income for a taxation year from the office or employment shall not exceed the individual's income for the year from the office or employment, computed without reference to any deduction in respect of the work space.

History: 1993, c. 16, s. 35.
Corresponding Federal Provision: 8(13)(b).

Carry-over of amount not deducted.

62.3. Any amount in respect of a work space that was, by reason only of section 62.2, not deductible in computing the individual's income for the preceding taxation year from an office or employment is deemed to be an amount in respect of a work space that is otherwise deductible and that, subject to section 62.2, may be deducted in computing the individual's income for the taxation year from the office or employment.

History: 1993, c. 16, s. 35.
Corresponding Federal Provision: 8(13)(c).

Travel expenses.

63. An individual may deduct amounts expended by the individual in the year, other than motor vehicle expenses, for travelling in the course of the individual's office or employment, if the individual is required to perform all or part of the duties of the office or employment away from the employer's place of business or in different places and is required under the contract of employment to pay the travel expenses incurred by the individual in the performance of the duties of the office or employment.

Restriction.

An individual shall not claim any deduction under this section if the individual receives an allowance for travel expenses that is not required to be included in computing the individual's income for the year because of paragraph *e* of section 39 or paragraph *a* or *b* of section 40, or if the individual claims a deduction for the year under section 62, 65.1, 66 or 67.

History: 1972, c. 23, s. 57; 1977, c. 26, s. 5; 1979, c. 18, s. 5; 1983, c. 49, s. 12; 1993, c. 16, s. 36; 1997, c. 85, s. 47; 1998, c. 16, s. 76.
Corresponding Federal Provision: 8(1)(h).

Motor vehicle expenses.

63.1. An individual may deduct amounts expended by the individual in the year in respect of motor vehicle expenses incurred for travelling in the course of the individual's duties, if the individual is required to carry on all or part of the duties away from the place of business of the individual's employer or in different places and is required under the contract of employment to pay the motor vehicle expenses incurred by the individual in the performance of the individual's duties.

Restriction.

An individual shall not claim any deduction under this section if the individual receives an allowance for the use of a motor vehicle that is not required to be included in computing the individual's income for the year because of section 39 or 40, or if the individual claims a deduction for the year under section 62.

History: 1993, c. 16, s. 37; 1998, c. 16, s. 77.
Corresponding Federal Provision: 8(1)(h.1).

Motor vehicle costs.

64. An individual who is entitled, in the year, to a deduction under section 62, 63 or 63.1 may also deduct any interest paid by the individual in the year on borrowed money used for the purpose of purchasing, or an amount payable for the purchase of, a motor vehicle that is used by the individual in the performance of the individual's duties, and such part of the capital cost of such a motor vehicle as is allowed by regulation.

Aircraft costs.

The individual may also deduct any interest paid by the individual in the year on borrowed money used for the purpose of purchasing an aircraft that is required for use in the performance of the individual's duties, and such part of the capital cost of the aircraft as is allowed by regulation.

History: 1972, c. 23, s. 58; 1978, c. 26, s. 7; 1982, c. 5, s. 20; 1984, c. 35, s. 9; 1990, c. 59, s. 40; 1993, c. 16, s. 38; 1998, c. 16, s. 77.
Corresponding Federal Provision: 8(1)(j).

64.1. *(Repealed).*

History: 1978, c. 26, s. 8; 1979, c. 38, s. 4; 1984, c. 35, s. 10; 1990, c. 59, s. 41.

Restriction.

64.2. Notwithstanding any other provision of this Act, an individual who uses an aircraft that is owned or rented by the individual for travelling in the course of the individual's duties shall not deduct the aggregate of the amounts that would otherwise be deductible pursuant to section 62, 63 or 64, in respect of the aircraft, except to the extent that such aggregate is reasonable in the circumstances having regard to the cost and availability of other modes of transportation.

History: 1982, c. 5, s. 21; 1998, c. 16, s. 78.
Corresponding Federal Provision: 8(9).

Certificate of the employer.

64.3. No amount may be deducted for the year by an individual under any of sections 62, 63 and 63.1, unless the individual files with the Minister, together with the individual's fiscal return for the year under this Part, a prescribed form signed by the individual's employer certifying that the conditions set out in that section were met in the year in respect of the individual.

History: 1990, c. 59, s. 42; 1993, c. 16, s. 39; 1998, c. 16, s. 78; 2003, c. 2, s. 24.
Corresponding Federal Provision: 8(10).

Away-from-home expenses.

65. An individual shall not, in computing a deduction under section 62 or 63, deduct an amount expended for a meal unless the meal is consumed during a period while the individual was required by the individual's duties to be away, for not less than 12 hours, from the local municipal territory or the metropolitan area, as the case may be, where the employer's establishment to which the individual ordinarily reports for work is located.

Exception.

Despite the first paragraph, an individual may, in computing a deduction under section 62, deduct an amount expended for a meal if it is consumed with a client.

History: 1972, c. 23, s. 59; 1995, c. 63, s. 261; 1998, c. 16, s. 79; 2009, c. 15, s. 43.
Corresponding Federal Provision: 8(4).

Away-from-home expenses.

65.1. An individual who regularly collects or delivers goods for the individual's employer by means of vehicles that are used by the employer to transport goods away from the local municipal territory or the metropolitan area, as the case may be, where the employer's establishment to which the individual ordinarily reports for work is located, may deduct the amounts disbursed by the individual in the year for meals and lodging while the individual is required by the individual's duties to be away for not less than 12 consecutive hours from that territory or metropolitan area or to go to a place located at least 80 kilometres from that territory or metropolitan area, to the extent that the individual is not reimbursed and is not entitled to be reimbursed in respect thereof.

History: 1979, c. 18, s. 6; 1995, c. 63, s. 261; 1998, c. 16, s. 79.

Transport employee's expenses.

66. Where an individual is an employee of a person whose principal business is transport and the individual's duties require the individual, regularly, to travel away from the local municipal territory or the metropolitan area, as the case may be, where the employer's establishment to which the individual ordinarily reports for work is located, on vehicles used by the employer for transport, the individual may deduct the amounts disbursed by the individual in the year for meals and lodging while the individual is so away from that territory or metropolitan area, to the extent that the individual is not reimbursed and is not entitled to be reimbursed in respect thereof.

History: 1972, c. 23, s. 60; 1973, c. 17, s. 9; 1995, c. 63, s. 261; 1998, c. 16, s. 79; 2004, c. 21, s. 47.
Corresponding Federal Provision: 8(1)(g).

Expenses of certain railway employees.

67. An individual who is an employee of a railway company may deduct the amounts disbursed by the individual in the year for meals and lodging while performing, away from the individual's ordinary place of residence, the duties of a relieving telegrapher or station agent or of a maintenance and repair worker.

Deductions.

There may also be deducted any such amounts disbursed by the individual while

(*a*) away from the local municipal territory and, as the case may be, the metropolitan area where the individual's home terminal is located; and

(*b*) at a location from which, by reason of distance from the place where the individual maintains a self-contained domestic establishment in which the individual resides and actually supports a spouse or a person dependent on the individual for support and connected with the individual by blood relationship, marriage or adoption, the individual cannot reasonably be expected to return daily to that place.

Restriction.

The amounts contemplated in this section are deductible to the extent that the individual is not reimbursed and is not entitled to be reimbursed in respect thereof.

History: 1972, c. 23, s. 61; 1989, c. 77, s. 13; 1995, c. 63, s. 261; 1998, c. 16, s. 80; 2004, c. 21, s. 48; 2009, c. 15, s. 44.
Corresponding Federal Provision: 8(1)(e).

DIVISION IV
(Repealed).

68. *(Repealed).*

History: 1972, c. 23, s. 62; 1978, c. 26, s. 9; 1979, c. 38, s. 5; 1986, c. 89, s. 50; 1987, c. 67, s. 15; 1988, c. 4, s. 23; 1992, c. 65, s. 43; 1994, c. 14, s. 34; 1997, c. 14, s. 24.

69. *(Repealed).*

History: 1972, c. 23, s. 63; 1972, c. 26, s. 40; 1978, c. 26, s. 10; 1987, c. 67, s. 16; 1988, c. 4, s. 24; 1990, c. 59, s. 43; 1997, c. 14, s. 24.

DIVISION V
PENSION, RETIREMENT AND EMPLOYMENT INSURANCE PLANS

Contribution to a registered pension plan.

70. An individual may deduct any amount:

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

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

(*c*) deductible by him, in respect of a contribution to a registered pension plan, in computing his income for the year to the extent provided in section 965.0.3.

History: 1972, c. 23, s. 64; 1991, c. 25, s. 15; 1993, c. 15, s. 93; 1993, c. 64, s. 21; 1993, c. 64, s. 247.
Corresponding Federal Provision: 8(1)(m).

Profit sharing plan.

70.1. An individual may deduct the amount that is deductible in computing his income for the year by reason of section 864.

History: 1995, c. 49, s. 30.
Corresponding Federal Provision: 8(1)(o.1).

Excess profit sharing plan amount.

70.1.1. An individual may deduct an amount that is an excess profit sharing plan amount (as defined in section 1129.66.9) of the individual for the year, other than any portion of the excess profit sharing plan amount for which the individual's tax for the year under section 1129.66.10 is waived or cancelled.

History: 2015, c. 21, s. 109.
Corresponding Federal Provision: 8(1)(o.2).

Employee RCA contribution.

70.2. An individual may deduct an amount contributed by him in the year to a pension plan in respect of services rendered by him where the plan is a prescribed plan or where

(*a*) the plan is a retirement compensation arrangement;

(*b*) the amount was paid to a custodian, within the meaning of subparagraph *b* of the first paragraph of section 890.1, of the arrangement who is resident in Canada; and

(*c*) either

i. the individual was required, by the terms of the individual's office or employment, to contribute the amount, and the aggregate of the amounts contributed to the plan in the year by him does not exceed the aggregate of the amounts contributed to the plan in the year by any other person in respect of the individual, or

ii. the plan is a pension plan the registration of which was revoked under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), other than a plan the registration of which was revoked as of the effective date of its registration, and the amount was contributed in accordance with the terms of the plan as last registered.

History: 1997, c. 14, s. 25.
Corresponding Federal Provision: 8(1)(m.2).

71. *(Repealed).*

History: 1972, c. 23, s. 65; 1976, c. 18, s. 1; 1979, c. 38, s. 6; 1991, c. 25, s. 16.

72. *(Repealed).*

History: 1972, c. 23, s. 66; 1976, c. 18, s. 2; 1979, c. 38, s. 7; 1991, c. 25, s. 16.

72.1. *(Repealed).*

History: 1988, c. 4, s. 25; 1991, c. 25, s. 16.

73. *(Repealed).*

History: 1972, c. 23, s. 67; 1991, c. 25, s. 16.

74. *(Repealed).*

History: 1972, c. 23, s. 68; 1991, c. 25, s. 16.

74.1. *(Repealed).*

History: 1986, c. 15, s. 43; 1991, c. 25, s. 16.

Option regarding additional voluntary contributions.

74.2. For the application of paragraph *c* of section 70 and section 71 to the taxation year 1986, such part as a taxpayer designates in his fiscal return for that year of the aggregate of all amounts contributed by the taxpayer after 31 December 1985 and before 9 October 1986 as additional voluntary contributions is deemed to have been contributed in respect of services rendered by the taxpayer before 1 January 1986.

History: 1991, c. 25, s. 17.
Corresponding Federal Provision: 8(1.1).

Premium deductible by an individual who is an employer.

75. An individual who may deduct the salary paid to another person under section 78, may also deduct any amount payable by him in the year in respect of the salary of such person as an employer's premium under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23) or under the Act respecting parental insurance (chapter A-29.011), or as an employer's contribution under the Act respecting the Québec Pension Plan (chapter R-9) or under any similar plan within the meaning of paragraph *u* of section 1 of the Act respecting the Québec Pension Plan or under the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5).

History: 1975, c. 21, s. 2; 1979, c. 18, s. 7; 1993, c. 15, s. 94; 1993, c. 64, s. 248; 1997, c. 14, s. 290; 1999, c. 89, s. 53; O.C. 149-2000; 2005, c. 38, s. 58.
Corresponding Federal Provision: 8(1)l.1).

DIVISION V.1
PROFESSIONAL OR MALPRACTICE LIABILITY INSURANCE

Deduction.

75.1. An individual may deduct an amount paid by him in the year as professional or malpractice liability insurance if the payment was necessary to maintain a professional status recognized by statute.

History: 1997, c. 14, s. 26.
Corresponding Federal Provision: 8(5)(b).

DIVISION V.2
TRADESPERSONS AND APPRENTICE MECHANICS

Definitions:

75.2. In this division,

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

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

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

"eligible tool".
"eligible tool" of an individual means a tool, including ancillary equipment, that

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

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

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

(*d*) is, unless the device or equipment can be used only for the purpose of measuring, locating or calculating, not an electronic communication device or electronic data processing equipment.

Eligible apprentice mechanic.

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

History: 2004, c. 8, s. 16; 2007, c. 12, s. 27.
Corresponding Federal Provision: 8(6)(a) and (b) and (6.1).

Tradespersons.

75.2.1. An individual who is employed as a tradesperson, at any time in the year, may deduct an amount not exceeding the lesser of $500 and the amount determined by the formula

A − B.

Interpretation.

In the formula in the first paragraph,

(*a*) A is the lesser of

i. the aggregate of all amounts each of which is the cost to the individual of an eligible tool acquired by the individual after 1 May 2006 and in the year, and

ii. the aggregate of

(1) the amount that would be the individual's income for the year from employment as a tradesperson if this chapter were read without reference to this division, and

(2) the amount, if any, by which the amount included in computing the individual's income for the year under paragraph *i* of section 312 exceeds the amount deducted in computing the individual's income for the year under paragraph *d*.3.0.1 of section 336; and

(*b*) B is an amount of $1,000.

Certificate of the employer.

An individual may deduct an amount for the year under the first paragraph only if the individual sends the Minister the prescribed form referred to in paragraph *c* of the definition of "eligible tool" in the first paragraph of section 75.2 with the fiscal return the individual is required to file for the year under this Part.

History: 2007, c. 12, s. 28.
Corresponding Federal Provision: 8(1)(s) and (6.1)(a).

Deduction.

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

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

(*b*) the amount determined by the formula

(A − B) + C.

Interpretation.

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

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

(*b*) B is the lesser of

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

ii. the greater of

(1) the total of $500 and the amount determined for the year for B in the formula in the first paragraph of section 75.2.1, and

(2) 5% of the amount determined under the third paragraph; and

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

Amount referred to.

The amount to which subparagraph 2 of subparagraph ii of subparagraph *b* of the second paragraph refers is equal to the aggregate of

(*a*) the aggregate of all amounts each of which is the individual's income for the year from employment as an eligible apprentice mechanic, computed without reference to this section; and

(*b*) the amount, if any, by which the amount included in computing the individual's income for the year under paragraph *i* of section 312 exceeds the amount deducted in computing the individual's income for the year under paragraph *d*.3.0.1 of section 336.

Certification by employer.

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

History: 2004, c. 8, s. 16; 2007, c. 12, s. 29.
Corresponding Federal Provision: 8(1)(r).

Carry-over of excess.

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

History: 2004, c. 8, s. 16.
Corresponding Federal Provision: 8(6)(c).

Cost of tools.

75.5. Except for the purposes of subparagraph i of subparagraph *a* of the second paragraph of section 75.2.1 and subparagraph *a* of the second paragraph of section 75.3, the cost to an individual of an eligible tool the cost of which was included in computing the aggregate determined under either of those provisions in respect of the individual for a taxation year is equal to the amount determined by the formula

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

Interpretation.

In the formula provided for in the first paragraph,

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

(*b*) B is

i. if the tool is an eligible tool in respect of which only section 75.2.1 applies for the year, the amount that is deductible by the individual for the year under that section,

ii. if the tool is an eligible tool in respect of which only section 75.3 applies for the year, the amount that would be determined under subparagraph *b* of the first paragraph of section 75.3 in respect of the individual for the year if the excess amount determined under subparagraph *c* of the second paragraph of that section were nil, and

iii. if the tool is an eligible tool in respect of which sections 75.2.1 and 75.3 apply for the year, the aggregate of

(1) the amount that is deductible by the individual for the year under section 75.2.1, and

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

(*c*) C is

i. if the tool is an eligible tool in respect of which only section 75.2.1 applies for the year, the aggregate determined under subparagraph i of subparagraph *a* of the second paragraph of that section in respect of the individual for the year,

ii. if the tool is an eligible tool in respect of which only section 75.3 applies for the year, the aggregate determined under subparagraph *a* of the second paragraph of that section in respect of the individual for the year, and

iii. if the tool is an eligible tool in respect of which sections 75.2.1 and 75.3 apply for the year, the greater of the aggregate determined under subparagraph i of subparagraph *a* of the second paragraph of section 75.2.1 in respect of the individual for the year and the aggregate determined under subparagraph *a* of the second paragraph of section 75.3 in respect of the individual for the year.

History: 2004, c. 8, s. 16; 2007, c. 12, s. 30.
Corresponding Federal Provision: 8(7).

75.6. *(Repealed).*

History: 2007, c. 12, s. 31; 2009, c. 5, s. 48; 2009, c. 15, s. 45.

DIVISION VI
MISCELLANEOUS

Residence of clergy or religious order.

76. An individual who, in the year, is a member of the clergy or of a religious order or a regular minister of a religious denomination, and is in charge of or ministering to a diocese, parish or congregation or engaged exclusively in full-time administrative service by appointment of a religious

order or religious denomination, may deduct the amount, not exceeding the individual's remuneration for the year from the office or employment, equal to

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

(*b*) an amount, not exceeding the amount determined under the second paragraph, that is equal to the total of the rent and expenses in respect of utilities paid by the individual for the individual's principal place of residence or for another principal living accommodation ordinarily occupied during the year by the individual, or the fair rental value of such a residence or living accommodation, including the value of utilities, owned by the individual or the individual's spouse, to the extent that the individual is required to use that place of residence or other living accommodation in performing the duties of the individual's office or employment.

Amount referred to.

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

(*a*) the greater of

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

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

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

Certificate of the employer.

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

History: 1972, c. 23, s. 69; 2003, c. 2, s. 25; 2007, c. 12, s. 32; 2009, c. 15, s. 46.

Corresponding Federal Provision: 8(1)(c) and (10).

76.1. *(Repealed).*

History: 1985, c. 25, s. 22; 2007, c. 12, s. 33.

Judicial or extrajudicial expenses.

77. In computing income for a taxation year from an office or employment, an individual may deduct judicial or extrajudicial expenses paid by the individual in the year to collect, or to establish a right to, an amount owed to the individual that, if received by the individual, would be required by this Title to be included in computing the individual's income.

History: 1972, c. 23, s. 71; 1991, c. 25, s. 18; 2000, c. 39, s. 6; 2009, c. 15, s. 47; 2014, c. 1, s. 778 [in force: O.C. 1066-2015]; 2017, c. 29, s. 29.

Corresponding Federal Provision: 8(1)(b).

Acquisition, redemption or cancellation of securities held by a trust.

77.1. If, in a taxation year, an employee is deemed by reason of section 53 to have disposed of a security, as defined in section 47.18, held by a trust, the trust disposed of the security to the person that issued the security, the disposition occurred as a result of the employee not meeting the conditions necessary for title to the security to vest in the employee, and the amount paid by the person to acquire the security from the trust or to redeem or cancel the security did not exceed the amount paid to the person for the security, the following rules apply:

(*a*) there may be deducted in computing the employee's income for the year from an office or employment the amount by which the amount of the benefit deemed by section 49 to have been received by the employee in the year or a preceding taxation year in respect of the security exceeds any amount deducted under section 725.2 or 725.3 in computing the employee's taxable income for the year or a preceding taxation year in respect of that benefit; and

(*b*) notwithstanding any other provision of this Part, any gain or loss of the employee otherwise determined from the disposition of the security is deemed to be nil, and Division I of Chapter III of Title IX does not apply to deem a dividend to have been received in respect of the disposition.

History: 1993, c. 16, s. 40; 1997, c. 3, s. 71; 2001, c. 53, s. 23; 2010, c. 25, s. 11.

Corresponding Federal Provision: 8(12).

Office rent, salary to an assistant and other expenses of performing duties.

78. An individual may deduct, in computing the individual's income for a taxation year, any amount paid by the individual in the year, or on behalf of the individual in the year if the amount paid on behalf of the individual is required to be included in computing the individual's income for the

year, as office rent or salary to an assistant or substitute or for supplies consumed directly in the performance of duties if the individual's contract of employment requires the individual to pay such amounts and, as the case may be, furnish such supplies.

Certification.

However, no such amounts may be deducted for the year by the individual unless the individual submits to the Minister, with the fiscal return filed for the year by the individual under this Part, a prescribed form signed by the individual's employer certifying that the conditions set out in the first paragraph were met in the year in respect of the individual.

Work space in home.

The rules set forth in sections 62.1 to 62.3 apply, with the necessary modifications, for the purpose of computing the amount that may be deducted by an individual under this section in respect of any part, in those sections referred to as the "work space", of a self-contained domestic establishment in which the individual resides.

History: 1972, c. 23, s. 72; 1990, c. 59, s. 44; 1993, c. 16, s. 41; 1995, c. 63, s. 261; 2003, c. 2, s. 26; 2015, c. 21, s. 110.

Corresponding Federal Provision: 8(1)(i), (10) and (13).

Salary reimbursement.

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

Restriction.

Notwithstanding the foregoing, the individual shall not deduct that part of amounts so reimbursed which exceeds the aggregate of amounts received by him for such a period.

History: 1984, c. 15, s. 16; 1999, c. 83, s. 29; 2000, c. 5, s. 24; 2005, c. 23, s. 38.

Corresponding Federal Provision: 8(1)(n).

Reimbursement of top-up disability payments.

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

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

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

Amount of deduction.

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

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

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

History: 2000, c. 5, s. 25.

Corresponding Federal Provision: 8(1)(n.1).

Forfeited amounts.

78.2. An individual may deduct the amount determined under section 78.3 where at the end of the year the rights of any person to receive benefits under a salary deferral arrangement in respect of the individual have been extinguished or no person has any further right to receive any amount under the arrangement.

History: 1988, c. 18, s. 6.

Corresponding Federal Provision: 8(1)(o) before (i) (part).

Computation.

78.3. The amount referred to in section 78.2 is equal to the amount by which the aggregate of all deferred amounts under the arrangement included in computing the individual's income for the year and preceding taxation years as benefits under section 37 exceeds the aggregate of

(*a*) all such deferred amounts received by any person in that year or preceding taxation years out of or under the arrangement,

(*b*) all such deferred amounts receivable by any person in subsequent taxation years out of or under the arrangement, and

(*c*) all amounts deducted under section 78.2 in computing the individual's income for preceding taxation years in respect of deferred amounts under the arrangement.

History: 1988, c. 18, s. 6.

Corresponding Federal Provision: 8(1)(o) before (i) (part) and (i) to (iii).

Musical instrument costs.

78.4. An individual who is employed in the year as a musician and, as a term of the employment, is required to provide a musical instrument for a period in the year may deduct an amount not exceeding his income for the year from the employment, computed without reference to this section, equal to the aggregate of

(*a*) amounts disbursed by him before the end of the year for the maintenance, rental and insurance of the instrument for that period, except where the amounts are otherwise deducted in computing his income for any taxation year, and

(*b*) such part of the capital cost of the musical instrument as is allowed by regulation.

History: 1990, c. 59, s. 45.
Interpretation Bulletins: IMP. 80-3/R5.
Corresponding Federal Provision: 8(1)(p).

78.5. *(Repealed).*

History: 1993, c. 64, s. 22; 1997, c. 14, s. 27; 2005, c. 38, s. 59.

Deduction in relation to a multi-employer insurance plan.

78.6. Where the amount contemplated in section 43.2 for a taxation year in respect of an individual in relation to a multi-employer insurance plan exceeds the amount established for the year in accordance with the second paragraph of section 43.3 in respect of the individual in relation to that plan, the individual may deduct the excess amount in computing his income for the year.

History: 1993, c. 64, s. 22; 1995, c. 63, s. 261.

78.7. *(Repealed).*

History: 1997, c. 85, s. 48; 2003, c. 2, s. 27.

78.8. *(Repealed).*

History: 2001, c. 51, s. 20; 2003, c. 2, s. 28; 2005, c. 38, s. 60.

78.9. *(Repealed).*

History: 2001, c. 51, s. 20; 2003, c. 2, s. 29; 2005, c. 38, s. 60.

Contributions to teachers' fund.

79. An individual may deduct an amount not exceeding $250 in respect of all his employments as a teacher, paid by him in the year to a fund established by the Canadian Education Association for the benefit of teachers from Commonwealth countries present in Canada under a teacher's exchange arrangement.

History: 1972, c. 23, s. 73.
Corresponding Federal Provision: 8(1)(d).

79.0.1. *(Repealed).*

History: 1986, c. 15, s. 44; 1995, c. 1, s. 20 [amended by 1997, c. 14, s. 367].

79.0.2. *(Repealed).*

History: 1986, c. 15, s. 44; 1995, c. 1, s. 20 [amended by 1997, c. 14, s. 367].

79.0.3. *(Repealed).*

History: 1986, c. 15, s. 44; 1995, c. 1, s. 20 [amended by 1997, c. 14, s. 367].

79.1. *(Repealed).*

History: 1982, c. 5, s. 22; 1983, c. 44, s. 19; 1986, c. 15, s. 45; 1993, c. 16, s. 42; 1995, c. 1, s. 20 [amended by 1997, c. 14, s. 367].

79.1.1. *(Repealed).*

History: 1986, c. 15, s. 45; 1995, c. 1, s. 20 [amended by 1997, c. 14, s. 367].

79.2. *(Repealed).*

History: 1982, c. 5, s. 22; 1983, c. 44, s. 19; 1993, c. 16, s. 43; 1995, c. 1, s. 20 [amended by 1997, c. 14, s. 367].

79.3. *(Repealed).*

History: 1982, c. 5, s. 22; 1983, c. 44, s. 19; 1993, c. 16, s. 44; 1995, c. 1, s. 20 [amended by 1997, c. 14, s. 367].

TITLE III
INCOME OR LOSS FROM A BUSINESS OR PROPERTY

CHAPTER I
BASIC RULES

Income from a business or property.

80. Subject to this Part, a taxpayer's income from a business or property is his profit therefrom.

Income to be include in income.

The income a taxpayer must include under this Title in computing his income for a taxation year from businesses or property is his income therefrom for that year, unless this Title provides otherwise.

History: 1972, c. 23, s. 74.
Interpretation Bulletins: IMP. 80-3/R5; IMP. 80-5/R5; IMP. 80-7/R2; IMP. 80-9/R1; IMP. 128-4/R3; IMP. 293-1/R2.
Corresponding Federal Provision: 9(1) and 12(1) (part).

Loss from a business or property.

81. A taxpayer's loss for a taxation year from a business or property is the amount of such loss computed, with the necessary modifications, by applying the provisions of this Part respecting computation of income from that source.

History: 1972, c. 23, s. 75; 1995, c. 63, s. 25.
Interpretation Bulletins: IMP. 80-5/R5; IMP. 81-2/R1.
Corresponding Federal Provision: 9(2).

Income or loss from a property.

82. For the purposes of this Part, income or loss from a property does not include, respectively, any capital gain or any capital loss resulting from the disposition of the property.

History: 1972, c. 23, s. 76; 1985, c. 25, s. 23; 1987, c. 67, s. 17.
Corresponding Federal Provision: 9(3).

Valuation of inventory.

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

History: 1972, c. 23, s. 77; 1975, c. 22, s. 6; 1980, c. 13, s. 5; 2000, c. 5, s. 26.
Corresponding Federal Provision: 10(1).

Adventures in the nature of trade.

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

History: 2000, c. 5, s. 27.
Corresponding Federal Provision: 10(1.01).

Transition.

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

History: 2000, c. 5, s. 27.
Corresponding Federal Provision: 10(9).

Loss restriction event.

83.0.3. Despite section 83.0.1, property described in an inventory of a taxpayer's business that is an adventure or concern in the nature of trade at the end of the 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 deemed to be equal to that lower amount.

History: 2000, c. 5, s. 27; 2017, c. 1, s. 82.
Corresponding Federal Provision: 10(10).

Withdrawal of property from inventory.

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

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

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

History: 2004, c. 8, s. 17.
Corresponding Federal Provision: 10(12).

Property added to inventory.

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

History: 2004, c. 8, s. 17.
Corresponding Federal Provision: 10(13).

Work in progress.

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

History: 2004, c. 8, s. 17.
Corresponding Federal Provision: 10(14).

Derivatives.

83.0.7. For the purposes of sections 83 to 85.6, property of a taxpayer that is a swap agreement, a forward purchase or sale agreement, a forward rate agreement, a futures agreement, an option agreement, or any similar agreement is deemed not to be property described in an inventory of the taxpayer.

History: 2019, c. 14, s. 71.
Corresponding Federal Provision: 10(15).

Certain expenses included in cost.

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

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

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

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

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

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

History: 1990, c. 59, s. 46; 1993, c. 16, s. 45; 1997, c. 3, s. 71; 2000, c. 5, s. 28.
Corresponding Federal Provision: 10(1.1).

Continuation of valuation.

84. Notwithstanding section 83, for the purpose of computing income for a taxation year from a business, the taxpayer shall value the property described in his inventory at the commencement of the year at the same amount as that at which it was valued at the end of the preceding year for the purpose of computing income for that preceding year.

History: 1972, c. 23, s. 78.
Corresponding Federal Provision: 10(2).

Continuation of valuation.

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

History: 1993, c. 16, s. 46; 2000, c. 5, s. 29.
Corresponding Federal Provision: 10(2.1).

Incorrect valuation.

85. Where, according to the method adopted by the taxpayer for computing income from a business for a taxation year, the property described in his inventory at the commencement of that year has not been valued as required by section 83, such property is nevertheless deemed to have been valued in that manner, if the Minister so directs.

History: 1972, c. 23, s. 79.
Corresponding Federal Provision: 10(3).

Fair market value.

85.1. For the purposes of section 83, the fair market value of the property described in the inventory of a taxpayer means, in the case of work in progress at the end of a taxation year of a business that is a profession, the amount that can reasonably be expected to become receivable in respect thereof after the end of the year and, in other cases, the replacement cost of the property.

History: 1982, c. 5, s. 23; 1984, c. 15, s. 17.
Corresponding Federal Provision: 10(4).

Restriction.

85.2. Section 85.1 does not apply to property that is obsolete, damaged or defective or that is held for sale or lease or for the purpose of being processed, fabricated, manufactured, incorporated into, attached to, or otherwise converted into property for sale or lease.

History: 1982, c. 5, s. 23.
Corresponding Federal Provision: 10(4).

Property included in inventory.

85.3. Without restricting the generality of this chapter,

(*a*) property, other than capital property, of a taxpayer that is work in progress of a business that is a profession, advertising or packaging material, parts or supplies must be included in his inventory;

(*b*) property used primarily for the purposes of advertising or packaging property that is included in the inventory of a taxpayer shall be deemed not to be property held for sale or lease or for any of the purposes referred to in section 85.2; and

(*c*) property of a taxpayer, the cost to him of which was deductible by virtue of paragraph *n* of section 157 must be included in his inventory having a cost to him, except for the purposes of that paragraph, of nil.

History: 1982, c. 5, s. 23; 1984, c. 15, s. 18; 1986, c. 15, s. 46; 1997, c. 14, s. 28.
Corresponding Federal Provision: 10(5).

Metal recycling business.

85.3.1. Without restricting the generality of this Title, for the purposes of computing the income of a taxpayer derived for a taxation year from a metal recycling business, the cost of a property owned by the taxpayer as is described in the inventory of the business is deemed to be nil, unless the taxpayer,

(*a*) where the property is acquired by the taxpayer from a person or a partnership who or which is registered for the purposes of the Québec sales tax, obtains from that person or partnership, at the time of the acquisition, the registration number that is assigned to the person or partnership in accordance with the Act respecting the Québec sales tax (chapter T-0.1); or

(*b*) in any other case, fills out, at the time of the acquisition of the property, a document signed by the individual who delivers the property to the taxpayer and containing the information required by section 85.3.2 in relation to the acquisition.

History: 2000, c. 39, s. 7; 2001, c. 51, s. 21.

Information.

85.3.2. For the purposes of paragraph *b* of section 85.3.1, the information that must be included in the document filled out by the taxpayer is the following:

(*a*) the name, address, date of birth and Social Insurance Number of the individual who delivers the property to the taxpayer to whom that paragraph *b* refers;

(*b*) the description of the goods acquired, the purchase price and the method of payment;

(*c*) if the individual who delivers the property to the taxpayer is not the vendor of the property, the name and address of the vendor and the vendor's Social Insurance Number or, as the case may be, the vendor's Québec business number assigned under the Act respecting the legal publicity of enterprises (chapter P-44.1).

Confirmation.

The individual referred to in subparagraph *a* of the first paragraph shall produce one of the following supporting documents to confirm the individual's name, address and Social Insurance Number, and the document containing that information must specify the supporting document so produced:

(*a*) the individual's health insurance card issued by the Régie de l'assurance maladie du Québec;

(*b*) the individual's birth certificate;

(*c*) the individual's driver's licence issued by the Société de l'assurance automobile du Québec;

(*d*) the registration certificate of the vehicle used for the transportation of the property that is issued by the Société de l'assurance automobile du Québec.

History: 2001, c. 51, s. 22; 2005, c. 14, s. 51; 2010, c. 7, s. 212 [in force: O.C. 928-2010].

"artistic endeavour".

85.4. For the purposes of sections 83 to 85.6, the expression "artistic endeavour" of an individual means the business of creating paintings, prints, etchings, drawings, sculptures or similar works of art, where such works of art are created by the individual, but does not include a business of reproducing works of art.

History: 1987, c. 67, s. 18.
Corresponding Federal Provision: 10(8).

Value of property in inventory.

85.5. Despite section 83, for the purpose of computing the income of an individual other than a trust for a taxation year from an artistic endeavour, the value of the property in the individual's inventory for the year is deemed to be nil if the individual makes, in relation to the year, a valid election under subsection 6 of section 10 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in respect of the artistic endeavour.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 6 of section 10 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1987, c. 67, s. 18; 2009, c. 5, s. 49.
Corresponding Federal Provision: 10(6).

Value in later years.

85.6. If the value of the property in an individual's inventory in relation to an artistic endeavour is deemed to be nil for a taxation year because of an election referred to in the first paragraph of section 85.5 made in relation to that year, the value of the property in the individual's inventory in relation to the artistic endeavour is deemed to be nil for each subsequent taxation year, unless the taxation year is a year in relation to which a revocation, made by the individual under subsection 7 of section 10 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006, of an election made under subsection 6 of section 10 of that Act in respect of the artistic endeavour, is valid.

Conditions.

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 artistic endeavour.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to a revocation made under subsection 7 of section 10 of the

Income Tax Act or in relation to a revocation made under this section before 20 December 2006.

History: 1987, c. 67, s. 18; 2009, c. 5, s. 49.
Corresponding Federal Provision: 10(7).

Eligible derivative marked to market property.

85.7. Where a taxpayer has made a valid election under subsection 1 of section 10.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the following rules apply in respect of the taxation years to which the election applies for the purposes of that Act (each such taxation year being referred to in this section as a "particular taxation year"):

(*a*) where the taxpayer is a financial institution, within the meaning of section 851.22.1, in the particular taxation year, each eligible derivative held by the taxpayer in the particular year is, for the purposes of this Act and with the necessary modifications, deemed to be mark-to-market property, within the meaning of section 851.22.1, of the taxpayer for the particular year; and

(*b*) in any other case, the taxpayer is deemed

i. to have disposed, immediately before the end of the particular taxation year, of each eligible derivative held by the taxpayer at the end of that year and received proceeds of disposition or paid an amount, as the case may be, equal to the fair market value of the eligible derivative at the time of disposition, and

ii. to have reacquired, or reissued or renewed, at the end of the taxation year, each of the eligible derivatives referred to in subparagraph i at an amount equal to the proceeds of disposition or the amount paid, as the case may be, referred to in subparagraph i, in respect of the eligible derivative.

Revoked election.

For the purposes of the first paragraph, where a taxpayer revokes, under subsection 2 of section 10.1 of the Income Tax Act and for the purposes of that Act, an election made under subsection 1 of that section 10.1, a taxation year in relation to which the revocation applies for the purposes of that Act is not a particular taxation year.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 1 of section 10.1 of the Income Tax Act or an application for revocation made under subsection 2 of that section 10.1.

History: 2020, c. 16, s. 32.

Eligible derivative.

85.8. For the purposes of sections 85.7 and 85.9 to 85.12, an eligible derivative of a taxpayer for a taxation year means a swap agreement, a forward purchase or sale agreement, a forward rate agreement, a futures agreement, an option agreement or a similar agreement, held in the year by the taxpayer, where

(*a*) the agreement is not a capital property, a Canadian resource property, a foreign resource property or an obligation on account of capital of the taxpayer;

(*b*) either

i. the taxpayer has produced audited financial statements prepared in accordance with generally accepted accounting principles for the taxation year, or

ii. if the taxpayer has not produced financial statements described in subparagraph i, the agreement has a readily ascertainable fair market value; and

(*c*) if the agreement is held by a financial institution within the meaning of section 851.22.1, the agreement is not a tracking property within the meaning of that section (other than an excluded property within the meaning of that section) of the financial institution.

History: 2020, c. 16, s. 32.

Transitional rule for computing profit or loss of a taxpayer for the year of election.

85.9. Where a taxpayer holds an eligible derivative at the beginning of its first taxation year in respect of which an election provided for in section 85.7 applies (in this section referred to as the "election year") and, in the taxation year immediately preceding the election year, the taxpayer did not compute its profit or loss in respect of that eligible derivative in accordance with a method of profit computation that produces a substantially similar effect to that provided for in subparagraph *b* of the first paragraph of section 85.7, the following rules apply:

(*a*) the taxpayer is deemed

i. to have disposed of the eligible derivative immediately before the beginning of the election year and received proceeds of disposition or paid an amount, as the case may be, equal to the fair market value of the eligible derivative at that time, and

ii. to have reacquired, or reissued or renewed, the eligible derivative at the beginning of the election year at an amount equal to the proceeds of disposition or the amount paid, as the case may be, referred to in subparagraph i;

(*b*) the profit or loss that would arise, but for this paragraph, on the deemed disposition under subparagraph i of paragraph *a*

i. is deemed not to arise in the taxation year immediately preceding the election year, and

ii. is deemed to arise in the taxation year in which the taxpayer disposes of the eligible derivative (otherwise than under subparagraph i of subparagraph *b* of the first paragraph of section 85.7 or paragraph *a* of section 851.22.15); and

(*c*) for the purposes of section 175.9, in respect of the disposition of the eligible derivative referred to in subparagraph ii of paragraph *b*, the profit or loss deemed to arise because of the application of that subparagraph is included in determining the amount of the transferor's loss, if any, from the disposition.

History: 2020, c. 16, s. 32.

Mark-to-market profit computation method not applicable.

85.10. Where section 85.7 does not apply to a taxpayer referred to in subparagraph *b* of the first paragraph of that section in respect of a taxation year, the taxpayer shall not use a method of profit computation that produces a substantially similar effect to that provided for in that subparagraph *b* for the purpose of computing the taxpayer's income from a business or property in respect of a swap agreement, a forward purchase or sale agreement, a forward rate agreement, a futures agreement, an option agreement or a similar agreement for the year.

History: 2020, c. 16, s. 32.

Eligible derivative that is not a property of a taxpayer.

85.11. For the purposes of sections 85.7 to 85.9, if an agreement that is an eligible derivative of a taxpayer is not a property of the taxpayer, the taxpayer is deemed

(*a*) to hold the eligible derivative at any time while the taxpayer is a party to the agreement; and

(*b*) to have disposed of the eligible derivative when it is settled or extinguished in respect of the taxpayer.

History: 2020, c. 16, s. 32.

Amalgamation.

85.12. Where there has been an amalgamation, within the meaning of section 544, of two or more corporations and subparagraph *b* of the first paragraph of section 85.7 applies to a predecessor corporation, within the meaning of section 544, in its last taxation year, each eligible derivative of the predecessor corporation immediately before the end of its last taxation year is deemed to have been reacquired, or reissued or renewed, as the case may be, by the new corporation, within the meaning of section 544, at its fair market value immediately before the amalgamation.

Where the rules set out in sections 556 to 564.1 and 565 apply to the winding-up of a subsidiary, within the meaning of section 556, the subsidiary's taxation year in which an eligible derivative was distributed to, or assumed by, the parent, within the meaning of section 556, on the winding-up is deemed, for the purposes of subparagraph *b* of the first paragraph of section 85.7, to have ended immediately before the time when the eligible derivative was distributed or assumed.

History: 2020, c. 16, s. 32.

Proprietor of a business.

86. Subject to sections 217.2 to 217.9.1, where an individual is a proprietor of a business, the individual's income from the business for a taxation year is deemed to be the income from the business for the fiscal periods of the business that end in the year.

Reference to "taxation year".

Where an individual's income for a taxation year includes income from a business the fiscal period of which does not coincide with the calendar year, any reference in respect of the business to the taxation year or the year, in this Title and in sections 487 to 487.0.4, is to be read as a reference to the fiscal period ending in the year, unless the context otherwise requires.

History: 1972, c. 23, s. 80; 1991, c. 25, s. 19; 1995, c. 49, s. 31; 1997, c. 31, s. 10; 2000, c. 5, s. 293; 2015, c. 24, s. 24.
Corresponding Federal Provision: 11(1).

CHAPTER II
INCLUSIONS

DIVISION I
SPECIFIC AMOUNTS

Inclusions.

87. A taxpayer shall include in computing his income from a business or property for a taxation year,

(*a*) any amount he receives in the year in the course of a business, even if such amount

i. is paid him for services not rendered or goods not delivered before the end of the year, or may be regarded as not having been earned in the year or a previous year, or

ii. is, under an arrangement or understanding, repayable in whole or in part on the return or resale to the taxpayer of articles in or by means of which goods were delivered to a customer;

(*b*) any amount receivable in respect of property sold or services rendered in the course of a business in the year, even if that amount or any part thereof is not due until a subsequent year, unless the method adopted for computing his income from the business and accepted for the purposes of this Part does not require him to include, in computing his income for a taxation year, an amount not received in the year and, for the purposes of this paragraph, an amount is deemed to have become receivable in respect of services rendered in the course of a business on a day that is the

earlier of the day upon which the account in respect of the services was rendered and the day upon which that account would have been rendered had there been no undue delay;

(*c*) subject to sections 92 and 92.1.1, any amount received or receivable by the taxpayer in the year as interest, depending on the method regularly followed by the taxpayer in computing the taxpayer's income, to the extent that the interest was not included in computing the taxpayer's income for a preceding taxation year;

(*d*) any amount deducted under section 140 as a reserve in computing his income for the preceding taxation year;

(*d.*1) any amount deducted under section 140.2 as a reserve in computing his income for the preceding taxation year;

(*e*) any amount deducted in computing his income from a business for the preceding year

i. under section 150, including any amount substituted under section 151,

ii. under sections 150.1 and 152, or

iii. under section 153;

(*e.*1) where the taxpayer is an insurer, any amount prescribed in respect of the insurer for the year;

(*f*) any amount received or receivable under an insurance policy or otherwise, as compensation for damage to his depreciable property, that he expends for repair of the damage within the year and within a reasonable time after the damage;

(*g*) any amount received by the taxpayer in the year and established in respect of the use of or production from property, even if that amount is an instalment of the sale price of such property, but not including an instalment of the sale price of agricultural land;

(*g.*1) any proceeds of disposition in respect of which section 158.6 applies;

(*h*) any amount deducted as an allowance for the quadrennial or special inspection of a vessel under section 154 in computing his income for the previous year;

(*i*) any amount, other than an amount referred to in paragraph *i*.1, received in the year on account of a debt or a loan or lending asset in respect of which a deduction for bad debts or uncollectible loans or lending assets had been made in computing his income for a preceding taxation year;

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

(*j*) any amount received by him in the year out of or under an employee trust or a profit sharing plan established for the benefit of employees of the taxpayer or of a person with whom the taxpayer does not deal at arm's length;

(*j.*1) the amount by which the aggregate of amounts received by him in the year out of or under an employee benefit plan to which he has contributed as an employer, other than amounts included in computing his income by virtue of paragraph *n*, exceeds the amount by which the aggregate of all amounts so contributed by him to the plan, or included in computing his income for any preceding taxation year by virtue of this paragraph, exceeds the aggregate of all amounts deducted by him in respect of his contributions to the plan in computing his income for the year or any preceding taxation year, or received by him out of or under the plan in any preceding taxation year, other than amounts included in computing his income by virtue of paragraph *n*;

(*j.*2) any amount in respect of deferred amounts under a salary deferral arrangement in respect of another person, that was deductible under section 78.2 in computing the income of that other person for a taxation year ending in the year where the deferred amounts have been deducted under paragraph *p* of section 157 in computing the taxpayer's income for preceding taxation years;

(*j.*3) any amount he must include in computing his income for the year under section 890.11;

(*k*) any amount he must include in computing his income for the year under Title IX in respect of a dividend paid by a corporation resident in Canada on a share of its capital stock;

(*l*) any amount required by Title X to be included in computing the taxpayer's income for the year;

(*m*) any amount that is, under Title XI, income from a business or property of the taxpayer;

(*m.*1) the aggregate of all amounts each of which is an amount determined, in relation to a partnership, in accordance with section 87.0.1;

(*n*) any amount he must include in computing his income for the year under Title XII or section 1121.1, except

i. any amount deemed to be a taxable capital gain of the taxpayer under that Title, and

ii. any amount paid or payable to the taxpayer out of or under an RCA trust within the meaning assigned by section 890.1;

(*o*) any amount received by the taxpayer in the year as a stabilization payment, or as a refund of a levy, under the Western Grain Stabilization Act (Revised Statutes of Canada, 1985, chapter W-7) or as a payment, or a refund of a premium, in respect of the gross revenue insurance program established under the Farm Income Protection Act (Statutes of Canada, 1991, chapter 22);

(*p*) any prescribed amount deducted by him for the year as employment tax credit;

(*q*) any amount that, in respect of a property described in his inventory, at the end of the year, is an allowance in respect of depreciation, obsolescence or depletion included in the cost amount of that property to him at the end of the year;

(*r*) *(paragraph repealed)*;

(*s*) the amount of any grant received by him in the year under a prescribed program relating to home insulation or energy conversion in respect of a property used by him principally for the purpose of gaining or producing income from a business or property;

(*t*) the amount by which the aggregate of amounts determined at the end of the year in respect of him under section 225 exceeds the aggregate of amounts determined at that time in respect of him under sections 222 to 224;

(*u*) the prescribed amount deducted in respect of a property acquired or an expenditure made in a preceding taxation year in computing the taxpayer's tax payable for a preceding taxation year under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), to the extent that such amount was not included in computing his income for a preceding taxation year under this paragraph or is not included in an amount determined under subparagraph *f* of the second paragraph of section 93, section 101 or 225, subparagraph vi of paragraph *l* of section 257, subparagraph ii of paragraph *n* of section 257 or paragraph *g* of section 399;

(*v*) *(paragraph repealed)*;

(*w*) any particular amount, other than a prescribed amount, received by the taxpayer in the year, in the course of earning income from a business or property, from a government, municipality or other public authority, a person or partnership in this paragraph referred to as the "particular person", who pays the particular amount in the course of earning income from a business or property, or in order to achieve a benefit for the particular person or for persons with whom the particular person does not deal at arm's length, or in circumstances where it is reasonable to conclude that the particular person would not have paid the particular amount but for the receipt by the particular person of amounts from another particular person referred to in this paragraph or a government, municipality or public authority, where the particular amount can reasonably be considered to have been received as a refund, reimbursement, contribution or allowance or as assistance, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of assistance, in respect of an amount included in, or deducted as, the cost of property or in respect of an outlay or expense, or as an inducement, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of inducement, to the extent that the particular amount

i. was not otherwise included in computing the taxpayer's income, or deducted in computing, for the purposes of this Part, any balance of undeducted outlays, expenses or other amounts, for the year or a preceding taxation year,

ii. except as provided by any provision of any of Titles III.3 to III.5 of Book V or of Chapter III.1 of Title III of Book IX, does not reduce, for the purposes of this Part, the cost or capital cost of the property or the amount of the outlay or expense, as the case may be,

iii. does not reduce, pursuant to paragraph *f*.2 of section 257 or section 87.4 or 101.6, the cost or capital cost of the property or the amount of the outlay or expense, as the case may be,

iv. may not reasonably be considered to be a payment made in respect of the acquisition by the particular person or the public authority of an interest in the taxpayer, a right in the taxpayer's business or a real right in the taxpayer's property, or

v. is not an amount received by the taxpayer in respect of a restrictive covenant, within the meaning assigned by section 333.4, that was included under section 333.5 in computing the income of a person related to the taxpayer;

(*w*.1) where the year ends after 31 December 2006, any amount, other than an amount otherwise included in computing the taxpayer's income for the year or a preceding taxation year, that was received by the taxpayer, including by way of a deduction from tax, in the year as a refund, reimbursement, contribution or allowance, in respect of an amount that was at any time receivable, directly or indirectly in any manner whatever, by the State or Her Majesty in right of Canada or of a province, other than Québec, in relation to the acquisition, development or ownership of a Canadian resource property or the production in Canada from a mineral resource, a natural accumulation of petroleum or natural gas, or an oil or gas well, except that, where the year includes 31 December 2006,

i. this paragraph shall be read with "the proportion that the number of days in the year that follow that date is of the number of days in the year, of" inserted before "any amount, other than an amount" in the portion before this subparagraph, and

ii. this paragraph shall not be taken into account for the purposes of the regulations made under paragraph *z*.4 or section 145 or 360;

(*x*) an amount that, where the taxpayer is an individual who is a member of a partnership or an employee of a member of a partnership and the partnership makes an automobile available in the year to the taxpayer or to a person related to the taxpayer, would be included, by reason of section 41, in computing the taxpayer's income for the year if the taxpayer were employed by the partnership;

(*y*) any amount in respect of an amateur athlete trust required by section 851.35 to be included in computing his income for the year;

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

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

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

(*z*.3) any amount required because of section 979.21 to be included in computing the taxpayer's income for the year;

(*z*.4) where the year begins before 1 January 2007, 25% of the taxpayer's resource loss for the year, as determined by regulation, except that, where the year includes that date, that percentage shall be replaced by the percentage obtained by multiplying 25% by the proportion that the number of days in the year that precede that date is of the number of days in the year;

(*z*.5) any amount received by the taxpayer in the year in respect of a refund of an amount that was deducted under paragraph *u* of section 157 in computing the taxpayer's income for any taxation year;

(*z*.6) any amount required by section 935.26.1 or section 207.061 of the Income Tax Act to be included in computing the taxpayer's income for the year; and

(*z*.7) the total of all amounts each of which is

i. if the taxpayer acquires a property under a derivative forward agreement in the year, the amount by which the fair market value of the property at the time it is acquired by the taxpayer exceeds the cost to the taxpayer of the property, or

ii. if the taxpayer disposes of a property under a derivative forward agreement in the year, the amount by which the proceeds of disposition, within the meaning of section 251, of the property exceeds the fair market value of the property at the time the agreement is entered into by the taxpayer.

History: 1972, c. 23, s. 81; 1973, c. 18, s. 3; 1975, c. 22, s. 7; 1977, c. 26, s. 6; 1978, c. 26, s. 11; 1980, c. 13, s. 6; 1982, c. 5, s. 24; 1984, c. 15, s. 19; 1985, c. 25, s. 24; 1987, c. 67, s. 19; 1988, c. 18, s. 7; 1989, c. 5, s. 34; 1989, c. 77, s. 14; 1990, c. 59, s. 47; 1991, c. 25, s. 20; 1992, c. 1, s. 22; 1994, c. 22, s. 64; 1995, c. 1, s. 21; 1995, c. 49, s. 32; 1995, c. 63, s. 26; 1996, c. 39, s. 27; 1997, c. 3, s. 71; 1997, c. 14, s. 29; 1997, c. 31, s. 11; 1997, c. 85, s. 49; 1998, c. 16, s. 81; 1999, c. 83, s. 30; 2000, c. 5, s. 30; 2001, c. 7, s. 9; 2001, c. 51, s. 23; 2001, c. 53, s. 24; 2003, c. 2, s. 30; 2005, c. 1, s. 29; 2007, c. 12, s. 34; 2009, c. 5, s. 50; 2010, c. 5, s. 19; 2011, c. 6, s. 118; 2015, c. 21, s. 111; 2015, c. 24, s. 25; 2015, c. 36, s. 9; 2017, c. 1, s. 83; 2020, c. 16, s. 33.

Interpretation Bulletins: IMP. 87-6/R1; IMP. 257-2; IMP. 280-1/R2; IMP. 1029.8.17-1/R1.

Corresponding Federal Provision: 12(1).

Member of a partnership — inclusion in computing income.

87.0.1. The amount that a taxpayer is required to include under paragraph *m*.1 of section 87 in computing the taxpayer's income for a taxation year in respect of a partnership is 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 an amount of interest that is

i. deductible by the partnership, and

ii. paid by the partnership in, or payable by the partnership in respect of, the taxation year of the taxpayer (depending on the method regularly followed by the taxpayer in computing the taxpayer's income) on a debt amount included, in accordance with section 171, in the taxpayer's outstanding debts to specified persons not resident in Canada;

(*b*) B is the proportion determined under section 170 in respect of the taxpayer for the taxation year; and

(*c*) C is the aggregate of all amounts each of which is an amount included under section 580 in computing the income of the taxpayer for the taxation year or a subsequent taxation year, or of the partnership for a fiscal period, that may reasonably be considered to be in respect of an amount of interest described in subparagraph *a*.

Expressions defined:

For the purposes of subparagraph ii of subparagraph *a* of the second paragraph,

"debt amount";
"debt amount" has the meaning assigned by paragraph a of section 174.1;

"specified person not resident in Canada".
"specified person not resident in Canada" has the meaning assigned by subparagraph *c* of the first paragraph of section 172.

History: 2015, c. 21, s. 112.

87.1. *(Repealed).*

History: 1982, c. 5, s. 25; 1991, c. 25, s. 21.

Personal services business.

87.2. A corporation carrying on in the year a personal services business or that carried on such a business in a previous taxation year is required to include in computing its income for the year every amount deemed in section 487.1 to be a benefit it receives in that year.

History: 1983, c. 44, s. 20; 1997, c. 3, s. 71; 1997, c. 14, s. 30.
Interpretation Bulletins: IMP. 135.2-1/R1.
Corresponding Federal Provision: 12(1)(w).

No deferral of income.

87.2.1. Paragraph g of section 87 does not defer the inclusion in computing the income of any amount that would, but for that paragraph, have been included in computing the income of a taxpayer in accordance with sections 80 to 82.

History: 2015, c. 21, s. 113.
Corresponding Federal Provision: 12(2.01).

Source of income.

87.2.2. For the purposes of this Act, if an amount is included in computing the income of a taxpayer for a taxation year because of paragraph *m*.1 of section 87 in relation to interest that is deductible by a partnership in computing its income from a particular source or from sources in a particular place, the amount is deemed to be from the particular source or from sources in the particular place, as the case may be.

History: 2015, c. 24, s. 26.
Corresponding Federal Provision: 12(2.02).

Beneficiary of trust or member of partnership.

87.3. For the purposes of paragraph *w* of section 87, where at a particular time a taxpayer who is a beneficiary of a trust or a member of a partnership has received an amount in respect of the activities of the trust or partnership, or in respect of the cost of property or in respect of an outlay or expense of the trust or partnership, on any basis contemplated in that paragraph, the amount is deemed to have been received at that time by the trust or partnership, as the case may be, on the same basis.

History: 1987, c. 67, s. 20; 1991, c. 25, s. 22; 1997, c. 3, s. 71.
Interpretation Bulletins: IMP. 87-4/R1.
Corresponding Federal Provision: 12(2.1).

Application of section 87.3 in respect of the tax credit relating to resources.

87.3.1. For the purposes of section 87.3, the amount that, in relation to expenses described in paragraphs *a*.1 and *c*.1 of the definition of "eligible expenses" in the first paragraph of section 1029.8.36.167, is received at a particular time by a corporation that is a member of a partnership under Division II.6.15 of Chapter III.1 of Title III of Book IX shall be computed without reference to the second paragraph of section 1029.8.36.169, the third paragraph of section 1029.8.36.171 and sections 1029.8.36.171.1 and 1029.8.36.171.2.

History: 2004, c. 21, s. 49.

Deemed outlay or expense.

87.4. A taxpayer who has in a taxation year received an amount that would, but for this section, be included in computing his income for the year under paragraph *w* of section 87 in respect of an outlay or expense made or incurred by him before the end of the following taxation year, other than an outlay or expense in respect of the cost of property of the taxpayer, may elect under this section, on or before the taxpayer's filing-due date for the year or, where the outlay or expense is made or incurred in the following taxation year, for that following year, that the amount of the outlay or expense be deemed, for the purpose of computing his income, other than for the purposes of this section, paragraph *w* of section 87 and paragraph *o* of section 157, to have always been the amount by which the amount of the outlay or expense exceeds the lesser of the amount elected by the taxpayer under this section and the amount so received by the taxpayer.

Assessment by the Minister.

Notwithstanding sections 1010 to 1011, the Minister shall make, under this Part, such assessment or reassessment of the tax, interest and penalties of the taxpayer referred to in the first paragraph as is necessary for any taxation year to give effect to the election made by the taxpayer under the first paragraph.

History: 1991, c. 25, s. 23; 1994, c. 22, s. 65; 1997, c. 31, s. 12.
Interpretation Bulletins: IMP. 87-4/R1; IMP. 87-6.
Corresponding Federal Provision: 12(2.2).

Cash bonus on Québec or Canada Savings Bonds.

88. Notwithstanding any other provision of this Act, where, in a taxation year, a taxpayer receives a cash bonus that the Gouvernement du Québec or the Government of Canada has undertaken to pay in respect of a Québec or Canada Savings Bond, he shall, in computing his income for the year, include as interest in respect of the Québec or Canada Savings Bond one-half of the cash bonus so received.

Exception.

This section does not apply to a bonus that the Gouvernement du Québec or the Government of Canada has agreed to pay at the time of the issue of the bond under the terms of the bond.

History: 1975, c. 21, s. 3; 1977, c. 5, s. 14; 1987, c. 67, s. 21.
Corresponding Federal Provision: 12.1.

Royalties.

89. A taxpayer shall, in computing the income of the taxpayer from a business or property for a taxation year that begins before 1 January 2007, include any amount that becomes receivable in the year by a person referred to in section 90 and that can reasonably be considered to be a royalty, tax, rental or bonus, or to be in respect of the late receipt or non-receipt of such an amount, in relation to

(*a*) the acquisition, development or ownership of a Canadian resource property of the taxpayer; or

(*b*) the production in Canada

i. of petroleum, natural gas or related hydrocarbons from a natural accumulation of petroleum or natural gas other than a mineral resource or from an oil or gas well,

i.1. of sulphur from a natural accumulation of petroleum or natural gas, from an oil or gas well or from a mineral resource,

ii. to any stage that is not beyond the prime metal stage or its equivalent, of metal, minerals other than iron or petroleum or related hydrocarbons, or coal from a mineral resource,

iii. to any stage that is not beyond the pellet stage or its equivalent, of iron from a mineral resource, or

iv. to any stage that is not beyond the crude oil stage or its equivalent, of petroleum or related hydrocarbons from a deposit of bituminous sands or oil shales.

Royalties or similar amounts in relation to the production in Canada of petroleum, natural gas, metals or minerals.

For the purposes of subparagraph *b* of the first paragraph, the natural accumulation of petroleum or natural gas, the oil or gas well, the mineral resource and the deposit of bituminous sands or oil shales referred to in that subparagraph must be property situated in Canada in respect of which the taxpayer has an interest.

Taxation year that includes 1 January 2007.

Where the taxation year referred to in the first paragraph includes 1 January 2007, the first paragraph, except for the purposes of the regulations made under paragraph *z*.4 of section 87 or section 145 or 360, applies only in respect of the proportion of each amount referred to in the first paragraph that the number of days in the year that precede that date is of the number of days in the year.

History: 1975, c. 22, s. 8; 1977, c. 26, s. 7; 1978, c. 26, s. 12; 1984, c. 15, s. 20; 1985, c. 25, s. 25; 1986, c. 19, s. 10; 1987, c. 67, s. 22; 1993, c. 16, s. 47; 1995, c. 49, s. 236; 1996, c. 39, s. 273; 1998, c. 16, s. 82; 2005, c. 1, s. 30.
Corresponding Federal Provision: 12(1)(o).

Royalties receivable by the State, Her Majesty or one of their mandataries.

90. Section 89 applies where the amount mentioned therein becomes receivable by the State or Her Majesty in right of Canada or a province, other than Québec, by a mandatary of the State or Her Majesty in right of Canada or a province, other than Québec, or by a corporation, commission or association that is controlled by the State or Her Majesty in right of Canada or a province, other than Québec, or a mandatary of the State or Her Majesty in right of Canada or a province, other than Québec.

History: 1975, c. 22, s. 8; 1978, c. 26, s. 13; 1990, c. 59, s. 48; 1997, c. 3, s. 71; 1998, c. 16, s. 83; 2001, c. 7, s. 10.
Corresponding Federal Provision: 12(1)(o).

Exception.

91. Section 89 does not apply to an amount described in subsection 1 of section 144, to a tax or portion thereof that may reasonably be considered to be a school or municipal tax, or to a prescribed amount.

History: 1975, c. 22, s. 8; 1977, c. 26, s. 8; 1978, c. 26, s. 14; 1984, c. 15, s. 21; 2005, c. 1, s. 31.
Corresponding Federal Provision: 12(1)(o).

Amount included.

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

Interpretation.

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

History: 2003, c. 2, s. 31.
Corresponding Federal Provision: 12(1)(o.1).

Interest income.

92. Subject to section 92.1.1, in computing its income for a taxation year, a corporation, partnership, unit trust or any trust of which a corporation or a partnership is a beneficiary shall include any interest on a debt obligation that accrues to it to the end of the year, or becomes receivable or is received by it before the end of the year, to the extent that the interest was not included in computing its income for a preceding taxation year.

Applicability.

However, the first paragraph does not apply to interest accrued, received or that became receivable in respect of a net income stabilization account, a farm income stabilization account, an income bond, an income debenture, a small business bond, an indexed debt obligation or a development bond.

History: 1975, c. 22, s. 8; 1982, c. 5, s. 26; 1984, c. 15, s. 21; 1994, c. 22, s. 66; 1995, c. 49, s. 33; 1997, c. 3, s. 71; 2001, c. 7, s. 11; 2004, c. 21, s. 50.

Corresponding Federal Provision: 12(3) and (4).

Interest from an investment contract.

92.1. Subject to section 92.1.1, where in a taxation year a taxpayer, other than a taxpayer to whom section 92 applies, holds an interest in an investment contract on any anniversary day of the contract, the taxpayer shall include in computing the taxpayer's income for the year the interest that accrued to the taxpayer to the end of that day with respect to the investment contract, to the extent that the interest was not otherwise included in computing the taxpayer's income for the year or any preceding taxation year.

History: 1982, c. 5, s. 26; 1984, c. 15, s. 21; 1991, c. 25, s. 24; 2001, c. 7, s. 12.

Corresponding Federal Provision: 12(4).

Impaired debt obligations.

92.1.1. Paragraph *c* of section 87 and sections 92 and 92.1 do not apply to a taxpayer in respect of a debt obligation for the part of a taxation year throughout which the obligation is impaired where an amount in respect of the obligation is deductible because of paragraph *b* of section 140 in computing the taxpayer's income for the year.

History: 2001, c. 7, s. 13.

Corresponding Federal Provision: 12(4.1).

92.2. *(Repealed).*

History: 1982, c. 5, s. 26; 1984, c. 15, s. 21; 1991, c. 25, s. 25.

92.3. *(Repealed).*

History: 1982, c. 5, s. 26; 1984, c. 15, s. 21; 1991, c. 25, s. 25.

92.4. *(Repealed).*

History: 1984, c. 15, s. 21; 1986, c. 19, s. 11; 1991, c. 25, s. 25.

Deemed accrual.

92.5. For the purposes of sections 92, 92.1, 92.7, 157.6 and 167, where a taxpayer acquires a right in a prescribed debt obligation, interest on the obligation, computed in prescribed manner, is deemed to accrue to the taxpayer in each taxation year during which the taxpayer holds the right.

History: 1984, c. 15, s. 21; 1985, c. 25, s. 26; 1991, c. 25, s. 26; 1993, c. 16, s. 48; 2020, c. 16, s. 34.

Corresponding Federal Provision: 12(9).

Disposition of a right in a debt obligation.

92.5.1. Where a taxpayer disposes of a right in a debt obligation that is a debt obligation in respect of which the proportion of the payments of principal to which the taxpayer is entitled is not equal to the proportion of the payment of interest to which the taxpayer is entitled, such portion of the proceeds of disposition received by the taxpayer as may reasonably be considered to represent a recovery of the cost to the taxpayer of the right in the debt obligation must not, despite any other provision of this Part, be included in computing the taxpayer's income.

Debt obligation.

A debt obligation referred to in the first paragraph includes, for greater certainty, all of the issuer's obligations to pay principal and interest under that debt obligation.

History: 1986, c. 19, s. 12; 1994, c. 22, s. 67; 2020, c. 16, s. 35.

Corresponding Federal Provision: 12(9.1).

NISA receipts.

92.5.2. There shall be included in computing the income of a taxpayer for a taxation year from a property the aggregate of all amounts each of which is the amount determined by the formula

A − B.

Interpretation.

For the purposes of the formula in the first paragraph,

(*a*) A is an amount paid at a particular time in the year out of the taxpayer's NISA Fund No. 2; and

(*b*) B is the amount by which

i. the aggregate of all amounts each of which is deemed to have been paid before the particular time out of the NISA Fund No. 2

(1) of the taxpayer under section 92.5.2.1 or section 656.3 or 660.1, as it read in its application to the taxpayer's taxation year 2015, or

(2) of another person under section 437.1 or 462.0.1, on being transferred to the taxpayer's NISA Fund No. 2, exceeds

ii. the aggregate of all amounts each of which is the amount by which an amount otherwise determined under this section in respect of a payment out of the taxpayer's NISA Fund No. 2, before the particular time, was reduced because of the letter described in this subparagraph.

History: 1994, c. 22, s. 68; 2009, c. 15, s. 48; 2017, c. 1, s. 84.

Corresponding Federal Provision: 12(10.2).

Acquisition of control.

92.5.2.1. If at any time there is an acquisition of control of a corporation, the balance of the corporation's NISA Fund No. 2 at that time is deemed to be paid out to the corporation immediately before that time.

History: 2009, c. 15, s. 49.

Corresponding Federal Provision: 12(10.4).

Amount credited or added not included in income.

92.5.3. Notwithstanding any other provision of this Part, an amount added or credited to a taxpayer's NISA Fund No. 2 shall not be included in computing the taxpayer's income solely because of that adding or crediting.

History: 1994, c. 22, s. 68.

Corresponding Federal Provision: 12(10.3).

Payment out of the farm income stabilization account.

92.5.3.1. There shall be included in computing the income of a taxpayer for a taxation year from a business the aggregate of all amounts each of which is an amount determined by the formula

A − B.

Interpretation.

For the purposes of the formula in the first paragraph,

(*a*) A is an amount paid at a particular time in the year out of the taxpayer's farm income stabilization account; and

(*b*) B is the amount by which the aggregate described in the third paragraph is exceeded by the aggregate of all amounts each of which is an amount deemed to have been paid before the particular time out of the farm income stabilization account

i. of the taxpayer under section 656.3.1 or 660.2, as it read in its application to the taxpayer's taxation year 2015, or

ii. of another person under section 437.2 or 462.0.2, on being transferred to the taxpayer's farm income stabilization account.

Aggregate referred to.

The aggregate to which subparagraph *b* of the second paragraph refers is the aggregate of all amounts each of which is the amount by which an amount otherwise determined under this section in respect of a payment out of the taxpayer's farm income stabilization account, before the particular time, was reduced because of that subparagraph *b*.

History: 2004, c. 21, s. 51; 2017, c. 1, s. 85.

Amount not included in computing income.

92.5.3.2. Notwithstanding any other provision of this Part, an amount added or credited to a taxpayer's farm income stabilization account shall not be included in computing the taxpayer's income solely because of that adding or crediting.

History: 2004, c. 21, s. 51.

Presumptions.

92.5.3.3. For the purposes of this Act and the regulations, a taxpayer who ceased to carry on a farming business in Québec in respect of which the taxpayer owns a farm income stabilization account is, until the account balance is nil, deemed to continue carrying on that farming business and to have an establishment in Québec in relation to that farming business.

History: 2004, c. 21, s. 51.

92.5.4. *(Repealed).*

History: 2000, c. 39, s. 8; 2009, c. 5, s. 51.

92.6. *(Repealed).*

History: 1984, c. 15, s. 21; 1991, c. 25, s. 27.

Definitions:

92.7. For the purposes of sections 92 to 92.7,

"investment contract";

(*a*) "investment contract", in relation to a taxpayer, means any debt obligation other than

i. a salary deferral arrangement or a plan or arrangement that, but for any of paragraphs *a*, *b* and *d* to *l* of section 47.16, would be a salary deferral arrangement,

ii. a retirement compensation arrangement or a plan or arrangement that, but for any of subparagraphs *a*, *b*, *d* and *f* to *n* of the second paragraph of section 890.1, would be a retirement compensation arrangement,

iii. an employee benefit plan or a plan or arrangement that, but for the second paragraph of section 47.6, would be an employee benefit plan,

iv. a foreign retirement arrangement,

iv.1. a tax-free savings account,

v. an income bond or debenture,

vi. a development bond,

vii. a small business bond,

viii. an obligation in respect of which the taxpayer has, otherwise than by reason of section 92.1, at periodic intervals of not more than one year included, in computing his income throughout the period in which he held a right in the obligation, the income accrued thereon for such intervals,

viii.1. an obligation in respect of a net income stabilization account,

viii.1.1. an obligation in respect of a farm income stabilization account,

viii.2. an indexed debt obligation, and

ix. a prescribed contract;

"anniversary day".

(*b*) "anniversary day" of an investment contract means the day that is one year after the day immediately preceding the date of issue of the contract, the day that occurs at every successive one year interval from the anniversary day determined in the first instance under this paragraph, and the day on which the contract was disposed of.

History: 1984, c. 15, s. 21; 1985, c. 25, s. 27; 1986, c. 19, s. 13; 1988, c. 18, s. 8; 1991, c. 25, s. 28; 1993, c. 16, s. 49; 1994, c. 22, s. 69; 1995, c. 49, s. 34; 2001, c. 53, s. 25; 2004, c. 21, s. 52; 2010, c. 5, s. 20; 2020, c. 16, s. 188.

Corresponding Federal Provision: 12(11) "investment contract" and "anniversary day".

92.8. *(Repealed).*

History: 1984, c. 15, s. 21; 1989, c. 77, s. 15; 1991, c. 25, s. 29.

92.9. *(Repealed).*

History: 1984, c. 15, s. 21; 1986, c. 19, s. 14; 1993, c. 16, s. 50.

92.10. *(Repealed).*

History: 1984, c. 15, s. 21; 1986, c. 19, s. 15; 1991, c. 25, s. 30.

Interest in a life insurance policy.

92.11. Where in a taxation year a taxpayer holds an interest in a life insurance policy last acquired after 31 December 1989, on any anniversary day of the policy, the taxpayer shall include in computing his income for the year the amount by which the accumulating fund on that day, as determined in prescribed manner, in respect of the interest in the policy exceeds the adjusted cost basis to the taxpayer of the interest in the policy on that day.

Applicability.

The first paragraph does not apply to an interest in

(*a*) an exempt policy,

(*b*) a prescribed annuity contract, or

(*c*) an annuity contract received, as proceeds from a life insurance policy that was not an annuity contract and that was last acquired before 2 December 1982, by the policyholder under the terms and conditions of the policy.

History: 1984, c. 15, s. 21; 1986, c. 19, s. 16; 1991, c. 25, s. 31; 1993, c. 16, s. 51.

Corresponding Federal Provision: 12.2(1).

92.12. *(Repealed).*

History: 1984, c. 15, s. 21; 1986, c. 15, s. 47; 1986, c. 19, s. 17; 1991, c. 25, s. 32.

92.12.1. *(Repealed).*

History: 1986, c. 19, s. 18; 1991, c. 25, s. 32.

Interest in an annuity contract.

92.13. Where in a taxation year section 92.11 applies with respect to a taxpayer's interest in an annuity contract, or would apply if the contract had an anniversary day in the year at the time when the taxpayer held the interest, and at the end of the year the aggregate determined under section 976.1 in respect of the interest exceeds the aggregate determined under section 976 in respect of the interest, the taxpayer shall include the excess in computing his income for the year.

History: 1984, c. 15, s. 21; 1991, c. 25, s. 33; 1993, c. 16, s. 52.

Corresponding Federal Provision: 12.2(5).

92.14. *(Repealed).*

History: 1984, c. 15, s. 21; 1991, c. 25, s. 34.

92.15. *(Repealed).*

History: 1984, c. 15, s. 21; 1991, c. 25, s. 34.

Deemed acquisition of interest in an annuity contract.

92.16. For the purposes of sections 92.11 to 92.19, where the first premium under an annuity contract last acquired by a taxpayer before 1 January 1990 was not fixed before that date and was paid after 31 December 1989 by or on behalf of the taxpayer, the premium is deemed to have been paid to acquire, at the time the premium was paid, an interest in a separate annuity contract issued at that time, to the extent that the amount of the premium was not fixed before 1 January 1990, and each subsequent premium paid under the contract is deemed to have been paid under the separate contract, to the extent that the amount of that subsequent premium was not fixed before 1 January 1990.

Applicability.

The first paragraph does not apply in respect of an annuity contract described in subparagraph *b* of the second paragraph of section 92.9 or to which section 92.9 or 92.12 applies, as that subparagraph and those sections read in their application to life insurance policies last acquired before 1 January 1990, or to which section 92 applies.

History: 1984, c. 15, s. 21; 1991, c. 25, s. 35; 1993, c. 16, s. 53; 2001, c. 53, s. 26.

Corresponding Federal Provision: 12.2(8).

92.17. *(Repealed).*

History: 1984, c. 15, s. 21; 1991, c. 25, s. 36.

Riders.

92.18. For the purposes of this Part, a rider added at any time after 31 December 1989 to a life insurance policy last acquired before 1 January 1990 that provides additional life insurance is deemed to be a separate life insurance policy issued at that time, unless the only additional life insurance provided by the rider is an accidental death benefit or the life insurance policy is an exempt policy last acquired before 1 December 1982 or an annuity contract.

History: 1984, c. 15, s. 21; 1991, c. 25, s. 37; 2001, c. 7, s. 14; 2001, c. 53, s. 27.
Corresponding Federal Provision: 12.2(10).

Definitions:

92.19. For the purposes of sections 92.11 to 92.19, 160 and 161, paragraph *c* of section 312 and sections 966 to 977.1,

"exempt policy";
(*a*) "exempt policy" has the meaning prescribed by regulation; and

"anniversary day".
(*b*) "anniversary day" of a life insurance policy means the day that is one year after the day immediately preceding the day on which the policy was issued and each day that occurs at each successive one-year interval after the anniversary day determined firstly under this paragraph.

History: 1984, c. 15, s. 21; 1991, c. 25, s. 38; 1993, c. 16, s. 54; 2001, c. 53, s. 28.
Corresponding Federal Provision: 12.2(11) "exempt policy" and "anniversary day".

92.20. *(Repealed).*

History: 1984, c. 15, s. 21; 1991, c. 25, s. 39.

92.21. *(Repealed).*

History: 1990, c. 59, s. 49; 1996, c. 39, s. 28; 2015, c. 21, s. 114.
Corresponding Federal Provision: 12.3.

Bad debt inclusion.

92.22. Where, in a taxation year, a taxpayer disposes of a property described in his inventory and an amount has been deducted under section 141 in respect of the property in computing his income for the year or a preceding taxation year, he shall include in computing his income for the year from the business in which the property was used or held, the amount by which

(*a*) the aggregate of all amounts each of which is an amount deducted by him under section 141 in respect of the property in computing his income for the year or a preceding taxation year, exceeds

(*b*) the aggregate of all amounts each of which is an amount included by him under paragraph *i* of section 87 in respect of the property in computing his income for the year or a preceding taxation year.

History: 1990, c. 59, s. 49.
Corresponding Federal Provision: 12.4.

Definitions:

92.23. In this section and sections 92.24 to 92.30,

"base year";
"base year" of an insurer means the insurer's taxation year that precedes its transition year;

"insurance business";
"insurance business" of an insurer means an insurance business carried on by the insurer, other than a life insurance business;

"reserve transition amount";
"reserve transition amount" of an insurer, in respect of an insurance business carried on by it in Canada in its transition year, is the positive or negative amount determined by the formula

A − B;

"transition year".
"transition year" of an insurer means the insurer's first taxation year that begins after 30 September 2006.

Interpretation.

In the formula in the definition of "reserve transition amount" in the first paragraph,

(*a*) A is the maximum amount that the insurer would be permitted to claim under the second paragraph of section 152 as a reserve for its base year in respect of its insurance policies if

i. the generally accepted accounting principles that applied to the insurer in valuing its assets and liabilities for its transition year had applied to it for its base year, and

ii. the regulations made under the second paragraph of section 152, as they read for the insurer's transition year, applied to its base year; and

(*b*) B is the maximum amount that the insurer is permitted to claim under the second paragraph of section 152 as a reserve for its base year.

History: 2010, c. 25, s. 12.
Corresponding Federal Provision: 12.5(1).

Transition year income inclusion.

92.24. There must be included in computing an insurer's income for its transition year from an insurance business carried on by it in Canada in the transition year, the positive

amount of the insurer's reserve transition amount in respect of that insurance business.

History: 2010, c. 25, s. 12.
Corresponding Federal Provision: 12.5(2).

Taxation year income deduction reversal.

92.25. If an amount has been deducted under section 175.2.17 in computing an insurer's income for its transition year from an insurance business carried on by it in Canada, there must be included 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 deducted under section 175.2.17 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. 12.
Corresponding Federal Provision: 12.5(3).

Winding-up.

92.26. If an insurer has, in a winding-up to which section 556 has applied, been wound up into another corporation (in this section referred to as the "parent"), and immediately after the winding-up the parent carries on an insurance business, in applying sections 92.25 and 175.2.18 in computing the incomes of the insurer and of the parent for the particular taxation years that end on or after the first day (in this section referred to as the "start day") on which assets of the insurer were distributed to the parent on the winding-up, the following rules apply:

(*a*) the parent is, on and after the start day, deemed to be the same corporation as and a continuation of the insurer in respect of

i. any amount included under section 92.24 or deducted under section 175.2.17 in computing the insurer's income from an insurance business for its transition year,

ii. any amount included under section 92.25 or deducted under section 175.2.18 in computing the insurer's income from an insurance business for a taxation year of the insurer that begins before the start day, and

iii. any amount that would—in the absence of this section and if the insurer existed and carried on an insurance business on each day that is the start day or a subsequent day and on which the parent carries on an insurance business—be required to be included under section 92.25 or deducted under section 175.2.18, in respect of any of those days, in computing the insurer's income from an insurance business; and

(*b*) the insurer is, in respect of each of its particular taxation years, to determine the number of days that is referred to in subparagraph *b* of the second paragraph of sections 92.25 and 175.2.18 without reference to the start day and days after the start day.

History: 2010, c. 25, s. 12.
Corresponding Federal Provision: 12.5(4).

Transfer of insurance business.

92.27. The rules in section 92.28 apply if, at any time, an insurer (in this section and section 92.28 referred to as the "transferor") transfers, to a corporation (in this section and section 92.28 referred to as the "transferee") that is related to the transferor, property in respect of an insurance business carried on by the transferor in Canada (in this section and section 92.28 referred to as the "transferred business") and

(*a*) section 832.3 or 832.9 applies to the transfer; or

(*b*) section 518 applies to the transfer, the transfer includes all or substantially all of the property and liabilities of the transferred business and, immediately after the transfer, the transferee carries on an insurance business.

History: 2010, c. 25, s. 12.
Corresponding Federal Provision: 12.5(6).

Rules applicable.

92.28. The rules to which section 92.27 refers and that apply to the transfer of property at any time are as follows:

(*a*) the transferee is, at and after that time, deemed to be the same corporation as and a continuation of the transferor in respect of

i. any amount included under section 92.24 or deducted under section 175.2.17 in computing the transferor's income for its transition year that can reasonably be attributed to the transferred business,

ii. any amount included under section 92.25 or deducted under section 175.2.18 in computing the transferor's income for a taxation year of the transferor that begins before that time that can reasonably be attributed to the transferred business,

iii. any amount that would—in the absence of this section and if the transferor existed and carried on an insurance business on each day that includes that time or is a subsequent day and on which the transferee carries on an insurance business—be required to be included under

section 92.25 or deducted under section 175.2.18, in respect of any of those days, in computing the transferor's income that can reasonably be attributed to the transferred business; and

(*b*) for the purpose of determining, in respect of the day that includes that time or any subsequent day, any amount that is required to be included under section 92.25 or deducted under section 175.2.18 in computing the transferor's income for each particular taxation year from the transferred business, the amount referred to in subparagraph *a* of the second paragraph of those sections is deemed to be nil.

History: 2010, c. 25, s. 12.

Corresponding Federal Provision: 12.5(7).

Ceasing to carry on business.

92.29. 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 included 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 deducted under section 175.2.17 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 included under section 92.25 in computing the insurer's income from the discontinued business for a taxation year that began before that time.

History: 2010, c. 25, s. 12.

Corresponding Federal Provision: 12.5(8).

Ceasing to exist.

92.30. If at any time an insurer that carried on an insurance business ceases to exist (otherwise than as a result of a winding-up described in section 92.26 or of an amalgamation within the meaning of subsections 1 and 2 of section 544), for the purposes of sections 92.29 and 175.2.19, the insurer is deemed to have ceased to carry on the insurance business at the time (determined without reference to this section) at which the insurer ceased to carry on the insurance business or, if it is earlier, the time that is immediately before the end of the last taxation year of the insurer that ended at or before the time at which the insurer ceased to exist.

History: 2010, c. 25, s. 12.

Corresponding Federal Provision: 12.5(9).

Where the second paragraph applies.

92.31. The second paragraph applies for a taxation year of an entity in respect of a security of the entity if

(*a*) the security becomes, at a particular time in the taxation year, a stapled security of the entity and, as a consequence, section 158.18 applies to deny the deductibility of amounts described in paragraphs *a* and *b* of that section;

(*b*) the security (or any security for which the security was substituted) ceased, at an earlier time, to be a stapled security of any entity and, as a consequence, section 158.18 ceased to apply to deny the deductibility of amounts that would have been described in paragraphs *a* and *b* of that section if the security had not ceased to be a stapled security; and

(*c*) throughout the period that began immediately after the most recent time referred to in subparagraph *b* and that ends at the particular time, the security (or any security for which the security was substituted) was not a stapled security of any entity.

Income inclusion.

Where this paragraph applies for a taxation year of an entity in respect of a security of the entity, the entity must include in computing its income for the year each amount that

(*a*) was deducted by the entity (or by another entity that issued a security for which the security was substituted) in computing its income for a taxation year that includes any part of the period described in subparagraph *c* of the first paragraph; and

(*b*) would not have been so deductible if section 158.18 had applied in respect of the amount.

Definitions.

The definitions in section 158.16 apply to this section and section 92.32.

History: 2017, c. 1, s. 86.

Corresponding Federal Provision: 12.6(1) à (3).

Deemed amount of unpaid tax.

92.32. For the purposes of section 1037, where the second paragraph of section 92.31 provides for the inclusion of a particular amount described in subparagraph *a* of that second paragraph in computing the income of an entity for a taxation year, the entity is deemed to have an amount of unpaid tax immediately after the entity's balance-due day for the year computed as if

(*a*) the entity had been resident in Canada throughout the year;

(*b*) the entity's tax payable for the year were equal to the tax payable by the entity on its taxable income for the year;

(*c*) the particular amount were the entity's only taxable income for the year;

(*d*) the entity had claimed no deductions under Book V for the year;

(*e*) the entity had not paid any amounts on account of its tax payable for the year; and

(*f*) the tax payable to which paragraph *b* applies had been an amount of unpaid tax throughout the period that begins immediately after the end of the taxation year for which the particular amount was deducted and that ends on the entity's balance-due day for the year.

History: 2017, c. 1, s. 86.

Corresponding Federal Provision: 12.6(4).

DIVISION II
DISPOSITION OF DEPRECIABLE PROPERTY

Definitions:

93. In this division, in sections 130.1, 142 and 149 and in the regulations made under paragraph *a* of section 130, the expression

(*a*) *(subparagraph repealed)*;

"total depreciation";
(*b*) "total depreciation" allowed to a taxpayer before any time for property of a prescribed class means the aggregate of all amounts each of which is an amount deducted by the taxpayer by reason of paragraph *a* of section 130 in respect of property of that class or an amount deducted under section 130.1, or that would have been so deducted but for the fifth paragraph of section 130.1, in computing his income for the taxation years ending before that time;

"depreciable property";
(*c*) "depreciable property" of a taxpayer as of any time in a taxation year means property acquired by the taxpayer in respect of which he has been allowed, or would, if he owned the property at the end of the year and if this Part were read without reference to section 93.6, be entitled to, a deduction under paragraph *a* of section 130 in computing his income for that taxation year or a previous taxation year;

"timber resource property";
(*d*) "timber resource property" of a taxpayer means:

i. a right or licence to cut or remove timber from a limit or area in Canada, hereinafter referred to as an "original right", if that original right is acquired by the taxpayer after 6 May 1974 and not in the manner referred to in subparagraph ii and if at the time of the acquisition the taxpayer may either reasonably be regarded as having directly or indirectly acquired the right to extend or renew that right or to acquire a similar one in substitution therefor, or reasonably expect, in the ordinary course of events, to be able to extend, renew or acquire that right, or

ii. any right or licence owned by the taxpayer to cut or remove timber from a limit or area in Canada if that right or licence may reasonably be regarded as an extension or renewal of an original right of the taxpayer, or as having been acquired in substitution for or as one of a series of substitutions of an original right of the taxpayer or for such an extension or renewal;

"undepreciated capital cost";
(*e*) "undepreciated capital cost" of depreciable property of a prescribed class of a taxpayer as of any time means the amount that is equal to the amount by which the aggregate of the following amounts exceeds the amount determined under the second paragraph:

i. the aggregate of all amounts each of which is the capital cost to the taxpayer of a depreciable property of that class acquired before that time,

ii. the aggregate of all amounts included in computing the taxpayer's income under sections 93 to 104 for a taxation year ending before that time, to the extent that those amounts relate to depreciable property of that class,

ii.1. the aggregate of all amounts each of which is an amount of assistance that has been repaid by the taxpayer, pursuant to an obligation to repay, in respect of a depreciable property of that class subsequent to the disposition thereof by the taxpayer that would have been included in computing the capital cost of the property under section 101 had the repayment been made before the disposition,

ii.2. the aggregate of all amounts each of which is an amount repaid in respect of a property of that class subsequent to the disposition thereof by the taxpayer that would have been an amount described in paragraph *b* of section 101.6 had the repayment been made before the disposition,

ii.3. the aggregate of all amounts each of which is an amount paid by the taxpayer before that time as or on account of an existing or proposed countervailing or anti-dumping duty in respect of depreciable property of that class,

iii. *(subparagraph repealed)*,

iii.1. *(subparagraph repealed)*,

iv. *(subparagraph repealed)*,

v. *(subparagraph repealed)*,

vi. *(subparagraph repealed)*,

vi.1. *(subparagraph repealed)*,

vii. *(subparagraph repealed)*;

"proceeds of disposition".

"proceeds of disposition".

(*f*) "proceeds of disposition" of property includes:

i. the sale price of property disposed of,

ii. compensation for property unlawfully appropriated,

iii. compensation for property destroyed and any amount received or receivable under an insurance policy in respect of the loss or destruction of property,

iv. compensation for property appropriated by a person under statutory authority or in respect of which he has given notice of his intention to appropriate,

v. compensation for acts and omissions of a person whether or not acting in the exercise of a right, under statutory authority or otherwise, that injuriously affect property,

vi. compensation for property damaged and any amount received or receivable under an insurance policy covering such damage, except to the extent that such compensation or amount, as the case may be, is expended on repairing the damage within a reasonable delay after the damage is caused,

vii. the amount by which the liability of a taxpayer to a hypothecary creditor or mortgagee is reduced as a result of the sale of the hypothecated or mortgaged property under a provision of the hypothec or mortgage, plus any amount received by the taxpayer out of the proceeds of such sale, and

viii. any amount included, because of sections 484 to 484.6, in computing a taxpayer's proceeds of disposition of property.

Amount subtracted from undepreciated capital cost.

For the purpose of determining the undepreciated capital cost of depreciable property of a prescribed class of a taxpayer as of any time, the amount to which subparagraph *e* of the first paragraph refers is equal to the aggregate of

(*a*) the amount of the total depreciation allowed to the taxpayer for property of that class before that time, including, if the taxpayer is an insurer, depreciation deemed to have been allowed before that time under section 101.1 or 101.2 as they applied to the taxpayer's last taxation year that began before 1 November 2011;

(*b*) the aggregate of all amounts each of which is an amount by which the undepreciated capital cost to the taxpayer of depreciable property of that class is required, otherwise than because of a reduction in the capital cost to the taxpayer of depreciable property, to be reduced at or before that time because of section 485.6;

(*c*) for each disposition by the taxpayer before that time of property of that class, other than a timber resource property, the lesser of the proceeds of disposition of the property minus any expenses made or incurred by the taxpayer for the purpose of making the disposition, and the capital cost to the taxpayer of the property;

(*d*) for each disposition by the taxpayer before that time of a timber resource property of that class, the proceeds of disposition of the property minus any expenses made or incurred by the taxpayer for the purpose of making the disposition;

(*e*) where property of that class was acquired by the taxpayer for the purpose of gaining or producing income from a mine and the taxpayer so elects in the prescribed manner and within the prescribed time in respect of that property, the amount equal to that portion of the income derived from the operation of the mine that is, by virtue of the provisions of the Act respecting the application of the Taxation Act (chapter I-4) relating to income from the operation of new mines, not included in computing income of the taxpayer or any other person;

(*f*) the aggregate of all amounts each of which is an amount, other than a prescribed amount, deducted under subsection 5 or 6 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in respect of a depreciable property of that class, in computing the tax payable under that Act by the taxpayer for a taxation year ending before that time and subsequent to the disposition of that property by the taxpayer;

(*g*) the aggregate of all amounts each of which is an amount of assistance that the taxpayer received or was entitled to receive before that time, in respect of or for the acquisition of a depreciable property of that class subsequent to the disposition of that property by the taxpayer, that would have been included, under section 101, in the amount of assistance that the taxpayer received or was entitled to receive in respect of that property had the amount been received before the disposition; and

(*h*) the aggregate of all amounts each of which is an amount received by the taxpayer before that time in respect of a refund of an amount added to the undepreciated capital cost of depreciable property of that class because of the application of subparagraph ii.3 of subparagraph *e* of the first paragraph.

History: 1972, c. 23, s. 82; 1975, c. 22, s. 9; 1977, c. 26, s. 9; 1978, c. 26, s. 15; 1982, c. 5, s. 27; 1987, c. 67, s. 23; 1990, c. 59, s. 50; 1992, c. 1, s. 23; 1993, c. 16, s. 55; 1996, c. 39, s. 29; 2001, c. 53, s. 29; 2003, c. 2, s. 32; 2005, c. 1, s. 32; 2019, c. 14, s. 72.

Interpretation Bulletins: IMP. 87-6; IMP. 101-1/R2; IMP. 280-1/R2.

Corresponding Federal Provision: 13(21).

Disposition of a building.

93.1. For the purposes of subparagraph *c* of the second paragraph of section 93 and of Title IV, sections 93.2 and 93.3 apply, notwithstanding sections 99 and 251, where

at any particular time in a taxation year a taxpayer disposes of a building of a prescribed class and the proceeds of disposition of the building determined without reference to this section and sections 93.2 to 93.3.1 are less than the lesser of the cost amount and the capital cost to the taxpayer of the building immediately before the disposition.

History: 1984, c. 15, s. 22; 1986, c. 19, s. 19; 2000, c. 5, s. 31; 2001, c. 53, s. 30.

Corresponding Federal Provision: 13(21.1) before (a).

Disposition of land contiguous to a building.

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

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

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

(1) the fair market value of the land immediately before its disposition, and

(2) the amount by which the cost amount to the vendor of the land, determined without reference to this section and sections 93.1 and 93.3, exceeds the aggregate of the capital gains, determined without reference to subparagraph *b* of the first paragraph and the second paragraph of section 234, in respect of dispositions of the land within three years before the particular time by the taxpayer or by a person with whom the taxpayer was not dealing at arm's length to the taxpayer or to another person with whom the taxpayer was not dealing at arm's length, and

ii. the greater of the fair market value of the building at the particular time and the lesser of the cost amount and the capital cost to the taxpayer of the building immediately before its disposition;

(*b*) notwithstanding any other provision of this Part, the proceeds of disposition of the land are deemed to be equal to the amount by which the aggregate of the proceeds of disposition of the building and of the land determined without reference to this section and sections 93.1, 93.3 and 93.3.1 exceeds the proceeds of disposition of the building as determined under paragraph *a*; and

(*c*) the cost to the purchaser of the land shall be determined without reference to this section and sections 93.1 and 93.3.

History: 1984, c. 15, s. 22; 1986, c. 19, s. 20; 2000, c. 5, s. 31.

Corresponding Federal Provision: 13(21.1)(a).

Proceeds of disposition.

93.3. Where section 93.2 does not apply with respect to the disposition referred to in section 93.1 and, before the disposition, the taxpayer or a person with whom the taxpayer did not deal at arm's length owned the land subjacent to, or immediately contiguous to and necessary for the use of, the building, the proceeds of disposition of the building are deemed to be equal to the aggregate of the proceeds of disposition of the building determined without reference to this section and sections 93.1, 93.2 and 93.3.1, and, subject to the second paragraph, 1/2 of the amount by which the greater of the cost amount to the taxpayer of the building immediately before its disposition and the fair market value of the building immediately before its disposition exceeds the proceeds of disposition of the building determined without reference to this section and sections 93.1, 93.2 and 93.3.1.

Transitional rule.

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

History: 1984, c. 15, s. 22; 1990, c. 59, s. 51; 2000, c. 5, s. 31; 2003, c. 2, s. 33.

Corresponding Federal Provision: 13(21.1)(b).

Loss on certain transfers.

93.3.1. The rules in the second paragraph apply where

(*a*) a person or partnership, in this section referred to as the "transferor", disposes at a particular time, otherwise than in a disposition described in any of paragraphs *a* to *e* of section 238, of a particular depreciable property of a particular prescribed class of the transferor;

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

i. the capital cost to the transferor of the particular property, and

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

(*c*) on the thirtieth day after the particular time, a particular person or partnership, who is the transferor or a person affiliated with the transferor, owns or has a right to acquire the particular property, other than a right, as security only,

derived from a hypothec, mortgage, agreement of sale or similar obligation.

Rules applicable.

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

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

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

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

ii. if two or more properties of a prescribed class of the transferor are disposed of at the same time, subparagraph i applies in their respect as if each property so disposed of had been separately disposed of in the following order:

(1) if an order is designated after 19 December 2006 in their respect under subparagraph ii of paragraph *e* of subsection 21.2 of section 13 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the order so designated, and

(2) if subparagraph 1 does not apply, the order designated by the transferor or, if the transferor does not designate an order, in the order designated by the Minister,

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

(1) at which a 30-day period begins throughout which neither the transferor nor a person affiliated with the transferor owns or has a right to acquire the particular property, other than a right, as security only, derived from a hypothec, mortgage, agreement of sale or similar obligation,

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

(3) at which the particular property would, if it were owned by the transferor, be deemed under Chapter I of Title I.1 of Book VI or section 999.1 to have been disposed of by the transferor,

(4) that is immediately before the transferor is subject to a loss restriction event, or

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

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

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

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

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

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

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

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

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to a designation made under subparagraph ii of paragraph *e* of subsection 21.2 of section 13 of the Income Tax Act or in relation to a designation made under subparagraph ii of subparagraph *b* of the second paragraph before 20 December 2006 and must, if the order referred to in subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph was designated by the Minister of National

Revenue, apply, with the necessary modifications, as if the designation had been made by the transferor.

History: 2000, c. 5, s. 32; 2004, c. 8, s. 18; 2004, c. 21, s. 53; 2005, c. 1, s. 33; 2009, c. 5, s. 52; 2017, c. 1, s. 87.
Interpretation Bulletins: IMP. 521.2-1/R1.
Corresponding Federal Provision: 13(21.2).

Loss restriction event.

93.4. For the purposes of subparagraph i of subparagraph *e* of the first paragraph of section 93, where, at a particular time, a taxpayer is subject to a loss restriction event and, within the 12-month period that ended immediately before that time, the taxpayer, a partnership of which the taxpayer was a majority-interest partner or a trust of which the taxpayer was a majority-interest beneficiary, within the meaning of section 21.0.1, acquired depreciable property that was not used, or acquired for use, by the taxpayer, partnership or trust in a business that was carried on by it immediately before the 12-month period began,

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

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

Exception.

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

History: 1989, c. 77, s. 16; 1997, c. 3, s. 71; 2000, c. 5, s. 33; 2001, c. 53, s. 260; 2017, c. 1, s. 88.
Corresponding Federal Provision: 13(24).

Affiliation — section 93.4.

93.5. For the purposes of section 93.4, where the taxpayer referred to in that section was formed or created in the 12-month period referred to in the first paragraph of that section, the taxpayer is deemed to have been

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

(*b*) affiliated, throughout the period referred to in paragraph *a*, with every person with whom it was affiliated, otherwise than because of a right referred to in paragraph *b* of section 20, throughout the period that began when it was formed or created and ended immediately before the time at which the taxpayer was subject to the loss restriction event referred to in that section.

History: 1989, c. 77, s. 16; 1997, c. 3, s. 71; 2000, c. 5, s. 33; 2017, c. 1, s. 88.
Corresponding Federal Provision: 13(25).

Restriction on deduction before property is available for use.

93.6. In applying subparagraph *e* of the first paragraph of section 93 in respect of paragraph *a* of section 130 and any regulations made under that paragraph *a*, for the purpose of computing a taxpayer's income for a taxation year from a business or property, no amount shall be included in calculating the undepreciated capital cost to the taxpayer of depreciable property of a prescribed class in respect of the capital cost to the taxpayer of a property of that class, other than prescribed property or property that is a certified Québec film, a Québec film production or a certified production, within the meaning of the regulations made under paragraph *a* of section 130, before the time at which the property is considered to have become available for use by the taxpayer.

History: 1993, c. 16, s. 56; 1997, c. 14, s. 31; 2001, c. 53, s. 260.
Interpretation Bulletins: IMP. 130-7/R2.
Corresponding Federal Provision: 13(26).

Property available for use.

93.7. For the purposes of section 93.6 and subject to section 93.9, property, other than a building or part thereof, acquired by a taxpayer shall be considered to have become available for use by the taxpayer at the time that is the earliest of

(*a*) the time at which the property is first used by the taxpayer for the purpose of earning income,

(*b*) the time that is immediately after the commencement of the first taxation year of the taxpayer commencing more than 357 days after the end of the taxation year of the taxpayer in which the property was acquired by the taxpayer,

(*c*) the time that is immediately before the disposition of the property by the taxpayer,

(*d*) the time at which the property

i. has been delivered to the taxpayer, or to a person or partnership that will use the property for the benefit of the taxpayer, or, where the property is not of a type that is deliverable, is made available to the taxpayer or the person or partnership, and

ii. is capable, either alone or in combination with other property in the possession at that time of the taxpayer or the person or partnership referred to in subparagraph i, of being

used by or for the benefit of the taxpayer or that person or partnership to produce a commercially saleable product or to perform a commercially saleable service, including an intermediate product or service that is used or consumed, or to be used or consumed, by or for the benefit of the taxpayer or the person or partnership in producing or performing any such product or service,

(*e*) in the case of property acquired by the taxpayer for the prevention, reduction or elimination of air or water pollution created by operations carried on by the taxpayer or that would be created by such operations if the property had not been acquired, the time at which the property is installed and capable of performing the function for which it was acquired,

(*f*) in the case of property acquired by a corporation a class of shares of the capital stock of which is listed on a designated stock exchange, a corporation that is a public corporation by reason of an election made under subparagraph i of paragraph *b* of the definition of "public corporation" in subsection 1 of section 89 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) or a designation made by the Minister of Revenue of Canada in a notice to the corporation under subparagraph ii of paragraph *b* of that definition, or a subsidiary wholly-owned corporation of any such corporation, the end of the taxation year for which depreciation in respect of the property is first deducted in computing the earnings of the corporation in accordance with generally accepted accounting principles and for the purposes of the financial statements of the corporation for the year presented to its shareholders,

(*g*) in the case of property acquired by the taxpayer in the course of carrying on a business of farming or fishing, the time at which the property has been delivered to the taxpayer and is capable of performing the function for which it was acquired,

(*h*) in the case of property of a taxpayer that is a motor vehicle, trailer, trolleybus, aircraft or vessel for which one or more permits, certificates or licences evidencing that the property may be operated by the taxpayer in accordance with any laws regulating the use of such property are required to be obtained, the time at which all such permits, certificates or licences have been obtained,

(*i*) in the case of property that is a spare part intended to replace a part of another property of the taxpayer if required due to the breakdown of that other property, the time at which that other property became available for use by the taxpayer,

(*j*) in the case of a concrete gravity base structure and topside modules intended to be used at an oil production facility in a commercial discovery area, within the meaning assigned by the Canada Petroleum Resources Act (Revised Statutes of Canada, 1985, chapter 36, 2nd Supplement), on which the drilling of the first well that indicated the discovery commenced before 5 March 1982, in a prescribed offshore region, the time at which the gravity base structure deballasts and lifts the assembled topside modules, and

(*k*) where the property is, within the meaning of subsection 3 of section 96, a replacement for a former property described in paragraph *a* of subsection 1 of that section that was acquired before 1 January 1990 or that had become available for use at or before the time at which the replacement property is acquired, the time at which the replacement property is acquired.

Portion of a property.

For the purposes of subparagraph *f* of the first paragraph, where the depreciation referred to therein in respect of property is calculated by reference to a proportion of the cost of the property, only that portion of the property shall be considered to have become available for use at the end of the taxation year referred to in that subparagraph.

History: 1993, c. 16, s. 56; 1995, c. 49, s. 35; 1997, c. 3, s. 71; 2000, c. 5, s. 293; 2001, c. 7, s. 15; 2010, c. 5, s. 21.

Corresponding Federal Provision: 13(27).

Building available for use.

93.8. For the purposes of section 93.6 and subject to section 93.9, property that is a building or part thereof of a taxpayer shall be considered to have become available for use by the taxpayer at the time that is the earliest of

(*a*) the time at which all or substantially all of the building is first used for the purpose for which it was acquired,

(*b*) the time at which the construction of the building is complete,

(*c*) the time that is immediately after the commencement of the first taxation year of the taxpayer commencing more than 357 days after the end of the taxation year of the taxpayer in which the property was acquired by the taxpayer,

(*d*) the time that is immediately before the disposition of the property by the taxpayer, and

(*e*) where the property is, within the meaning of subsection 3 of section 96, a replacement for a former property described in paragraph *a* of subsection 1 of that section that was acquired before 1 January 1990 or that had become available for use at or before the time at which the replacement property is acquired, the time at which the replacement property is acquired.

Renovation, alteration or addition.

For the purposes of this section, a renovation, alteration or addition to a particular building shall be considered to be a building separate from the particular building.

History: 1993, c. 16, s. 56.

Corresponding Federal Provision: 13(28).

Election regarding property that is a part of a project.

93.9. For the purposes of section 93.6, where a taxpayer has acquired property, other than a building that is used or is to be used by the taxpayer principally for the purpose of gaining or producing gross revenue that is rent, in the taxpayer's first taxation year, in this section referred to as the "particular year", commencing more than 357 days after the end of the taxpayer's taxation year in which the taxpayer first acquired property after 31 December 1989 that is part of a project of the taxpayer, or in a taxation year subsequent to the particular year, and at the end of any taxation year, in this section referred to as the "inclusion year", of the taxpayer, the property may reasonably be considered to be part of the project and has not otherwise become available for use, if the taxpayer so elects in prescribed form filed with the taxpayer's fiscal return under this Part for the particular year, that particular portion of the property the capital cost of which does not exceed the amount determined under the second paragraph is deemed to have become available for use immediately before the end of the inclusion year.

Computation.

The amount referred to in the first paragraph is equal to the amount by which the aggregate of all amounts each of which is the capital cost to the taxpayer of a depreciable property, other than a building that is used or is to be used by the taxpayer principally for the purpose of gaining or producing gross revenue that is rent, that is part of the project referred to in the first paragraph, that was acquired by the taxpayer after 31 December 1989 and before the end of the taxpayer's last taxation year ending more than 357 days before the commencement of the inclusion year and that has not become available for use at or before the end of the inclusion year, except where the property has first become available for use before the end of the inclusion year by reason of subparagraph *b* of the first paragraph of section 93.7, subparagraph *c* of the first paragraph of section 93.8 or this section, exceeds the aggregate of all amounts each of which is the capital cost to the taxpayer of a depreciable property, other than the particular portion of the property, that is part of the project to the extent that the property is considered, by reason of this section, to have become available for use before the end of the inclusion year.

History: 1993, c. 16, s. 56; 1996, c. 39, s. 273.
Corresponding Federal Provision: 13(29).

Transfer of property.

93.10. For the purposes of section 93.6 and notwithstanding sections 93.7 to 93.9, property of a taxpayer is deemed to have become available for use by the taxpayer at the earlier of the time the property was acquired by the taxpayer and, if applicable, a prescribed time, where

(*a*) the property was acquired from a person with whom the taxpayer was not dealing at arm's length, otherwise than by reason of a right referred to in paragraph *b* of section 20, at the time the property was acquired by the taxpayer, or in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, section 308.1 would not apply to the dividend by reason of the application of section 308.3; and

(*b*) before the property was acquired by the taxpayer, the property became available for use, determined without reference to subparagraph *c* of the first paragraph of section 93.7 and subparagraph *d* of the first paragraph of section 93.8, by the person from whom it was acquired.

History: 1993, c. 16, s. 56; 1994, c. 22, s. 70; 1997, c. 3, s. 71.
Corresponding Federal Provision: 13(30).

Transfer of property.

93.11. For the purposes of subparagraph *b* of the first paragraph of section 93.7, subparagraph *c* of the first paragraph of section 93.8 and section 93.9, where a property of a taxpayer was acquired from a person, the taxpayer is deemed to have acquired the property at the time it was acquired by the person, where

(*a*) the taxpayer was, at the time the taxpayer acquired the property, not dealing at arm's length with the person, otherwise than by reason of a right referred to in paragraph *b* of section 20, or

(*b*) the property was acquired in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, section 308.1 would not apply to the dividend by reason of the application of section 308.3.

History: 1993, c. 16, s. 56; 1997, c. 3, s. 71.
Corresponding Federal Provision: 13(31).

Leased property.

93.12. Where a taxpayer has leased property that is depreciable property of a person with whom the taxpayer does not deal at arm's length, the amount determined under the second paragraph is deemed to be the cost to the taxpayer of a property included in Class 13 in Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1) and not to be an amount paid or payable for the use of, or the right to use, the property.

Computation.

The amount referred to in the first paragraph is equal to the amount by which the aggregate of any amounts paid or payable by the taxpayer for the use of, or the right to use, the property in a particular taxation year and before the time at which the property would have been considered to have become available for use by the taxpayer if the taxpayer had acquired the property, and that, but for this section, would be

deductible in computing the taxpayer's income for any taxation year exceeds the aggregate of any amounts received or receivable by the taxpayer for the use of, or the right to use, the property in the particular taxation year and before that time and that are included in the income of the taxpayer for any taxation year.

History: 1993, c. 16, s. 56; 1994, c. 22, s. 71.
Corresponding Federal Provision: 13(32).

Consideration for depreciable property.

93.13. Where a person acquires a depreciable property for consideration that can reasonably be considered to include another property, the portion of the cost to the person of the depreciable property attributable to the other property is deemed not to exceed the fair market value of that other property.

History: 1995, c. 49, s. 36.
Corresponding Federal Provision: 13(33).

Goodwill.

93.14. Where a taxpayer carries on a particular business, the following rules apply:

(*a*) there is deemed to be a single goodwill property in respect of the particular business;

(*b*) if at a particular time the taxpayer acquires goodwill as part of an acquisition of all or a part of another business that is carried on, after the acquisition, as part of the particular business—or is deemed in accordance with section 93.15 to acquire goodwill at a particular time in respect of the particular business—the cost of the goodwill is added at that time to the cost of the goodwill property in respect of the particular business;

(*c*) where at a particular time the taxpayer disposes of goodwill as part of the disposition of part of the particular business, receives proceeds of disposition a portion of which is attributable to goodwill and continues to carry on the particular business or is deemed in accordance with section 93.17 to dispose of goodwill at a particular time in respect of the particular business,

i. the taxpayer is deemed to dispose at that time of a portion of the goodwill property in respect of the particular business having a cost equal to the lesser of the cost of the goodwill property otherwise determined in respect of the particular business and the portion of the proceeds attributable to goodwill, and

ii. the cost of the goodwill property in respect of the particular business is reduced at that time by the amount determined under subparagraph i; and

(*d*) if subparagraph *c* applies to more than one disposition of goodwill at the same time, that subparagraph *c* and section 93.19 apply as if each disposition had occurred separately in the order determined in its respect in accordance with paragraph *d* of subsection 34 of section 13 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

Additional rules.

Chapter V.2 of Title II of Book I applies to each of the dispositions referred to in subparagraph *d* of the first paragraph in relation to the order determined in its respect in accordance with paragraph *d* of subsection 34 of section 13 of the Income Tax Act.

History: 2004, c. 8, s. 19; 2009, c. 15, s. 50; 2019, c. 14, s. 73.
Corresponding Federal Provision: 13(34).

Outlays not relating to property..

93.15. Where at a particular time a taxpayer makes or incurs an outlay or expense on account of capital for the purpose of earning income from a business carried on by the taxpayer, the taxpayer is deemed to acquire at that time goodwill in respect of the business with a cost equal to the amount of the outlay or expense if no portion of the amount is

(*a*) the cost, or any part of the cost, of a property;

(*b*) but for this section, deductible in computing the taxpayer's income from the business;

(*c*) non-deductible in computing the taxpayer's income from the business because of any provision of this Part (other than section 129) or the Regulation respecting the Taxation Act (chapter I-3, r. 1);

(*d*) paid or payable to a creditor of the taxpayer as, on account of or in lieu of full or partial payment of any debt, or on account of the redemption, cancellation or purchase of any bond or debenture; or

(*e*) where the taxpayer is a corporation, partnership or trust, paid or payable to a person as a shareholder, member or beneficiary, as the case may be, of the taxpayer.

History: 2019, c. 14, s. 74.
Corresponding Federal Provision: 13(35).

Exception.

93.16. No amount paid or payable may be included in Class 14.1 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1) if the amount is

(*a*) in consideration for the purchase of shares; or

(*b*) in consideration for the cancellation or assignment of an obligation to pay consideration referred to in paragraph *a*.

History: 2019, c. 14, s. 74.
Corresponding Federal Provision: 13(36).

Amounts not relating to property.

93.17. Where at a particular time in a taxation year a taxpayer has or may become entitled to receive a particular amount on account of capital in respect of a business that is or was carried on by the taxpayer, the taxpayer is deemed to dispose, at that time, of goodwill in respect of the business for proceeds of disposition equal to the amount by which the particular amount exceeds the aggregate of all outlays or expenses that were made or incurred by the taxpayer for the purpose of obtaining the particular amount and that were not otherwise deductible in computing the taxpayer's income, if, but for this section, the following conditions were satisfied:

(*a*) for the purposes of this Part, the particular amount is not included in computing the taxpayer's income or deducted in computing any balance of undeducted outlays, expenses or other amounts for the taxation year or a preceding taxation year;

(*b*) the particular amount does not reduce the cost or capital cost of a property or the amount of an outlay or expense; and

(*c*) the particular amount is not included in computing any gain or loss of the taxpayer from a disposition of a capital property.

History: 2019, c. 14, s. 74.

Corresponding Federal Provision: 13(37).

Class 14.1 — transitional rules.

93.18. Where a taxpayer has incurred an incorporeal capital amount in respect of a business before 1 January 2017, the following rules apply:

(*a*) at the beginning of 1 January 2017, the total capital cost of all property of the taxpayer 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, each of which was an incorporeal capital property of the taxpayer immediately before that day or is the goodwill property in respect of the business, is deemed to be equal to the amount determined by the formula

$4/3 \times (A + B - C)$;

(*b*) at the beginning of 1 January 2017, the capital cost of each property of the taxpayer included in Class 14.1 of Schedule B to the Regulation respecting the Taxation Act in respect of the business, each of which was an incorporeal capital property of the taxpayer immediately before that day or is the goodwill property in respect of the business, is to be determined as follows:

i. the order for determining the capital cost of each property that is not the goodwill property is identical to the order that is determined for the same purposes under subparagraph i of paragraph *b* of subsection 38 of section 13 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement),

ii. the capital cost of a particular property that is not the goodwill property in respect of the business is deemed to be equal to the lesser of the incorporeal capital amount of the taxpayer in respect of the particular property and the amount by which the total capital cost of property of the class determined under subparagraph *a* exceeds the aggregate of all amounts each of which is an amount deemed under this subparagraph ii to be the capital cost of a property that is determined in advance of the determination of the capital cost of the particular property, and

iii. the capital cost of the goodwill property is deemed to be equal to the amount by which the total capital cost of property of that Class 14.1 exceeds the aggregate of all amounts each of which is an amount deemed under subparagraph ii to be the capital cost of a property;

(*c*) an amount equal to the amount by which the aggregate of the total capital cost of property of that Class 14.1 and the amount determined under subparagraph *c* of the second paragraph exceeds the amount determined under subparagraph *a* of the second paragraph is deemed to have been allowed to the taxpayer as depreciation in respect of property of that class under paragraph *a* of section 130 in computing the taxpayer's income for taxation years ending before 1 January 2017; and

(*d*) if no taxation year of the taxpayer ends immediately before 1 January 2017 and the taxpayer would have had a particular amount included, because of paragraph *b* of section 105, as it read before being repealed, in computing the taxpayer's income from the business for the particular taxation year that includes that day if the particular year had ended immediately before that day,

i. for the purposes of the formula in subparagraph *a*, 3/2 of the particular amount is to be included in computing the amount determined under subparagraph *b* of the first paragraph of section 107, as it read before being repealed,

ii. the taxpayer is deemed to dispose of a capital property in respect of the business immediately before 1 January 2017 for proceeds of disposition equal to twice the particular amount,

iii. if the taxpayer makes a valid election under subparagraph iii of paragraph *d* of subsection 38 of section 13 of the Income Tax Act, subparagraph ii does not apply and an amount equal to the particular amount is to be included in computing the taxpayer's income from the business for the particular year,

iv. if, after 31 December 2016 and in the particular year, the taxpayer acquires a property included in that Class 14.1 in respect of the business or is deemed under section 93.15 to acquire goodwill in respect of the business, and the taxpayer

makes a valid election under subparagraph iv of paragraph *d* of subsection 38 of section 13 of the Income Tax Act,

(1) for the purposes of subparagraphs ii and iii, the particular amount must be reduced by the lesser of the particular amount otherwise determined and 1/2 of the capital cost of the property or goodwill acquired (determined without reference to subparagraph 2), and

(2) the capital cost of the property or goodwill acquired, as the case may be, must be reduced by twice the amount of the reduction under subparagraph 1, and

v. if, in the part of the particular year preceding that day, the taxpayer disposed of a qualified farm or fishing property (as defined in subparagraph *a*.0.2 of the first paragraph of section 726.6) that was an incorporeal capital property of the taxpayer, the capital property disposed of by the taxpayer under subparagraph ii is deemed to be such a property to the extent of the lesser of

(1) the proceeds of disposition of the capital property, and

(2) the amount by which the proceeds of disposition of the qualified farm or fishing property exceed its cost.

Formula elements.

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

(*a*) A is the eligible incorporeal capital amount of the taxpayer in respect of the business at the beginning of 1 January 2017;

(*b*) B is the excess amount determined under subparagraph *a* of the second paragraph of section 107, as it read before being repealed, in respect of the business at the beginning of 1 January 2017; and

(*c*) C is the amount by which the amount determined under the second paragraph of section 107, as it read before being repealed, in respect of the business exceeds the aggregate of all amounts each of which is an amount determined under any of subparagraphs *a* to *e* of the first paragraph of that section in respect of the business at the beginning of 1 January 2017, with reference to any adjustment provided for in subparagraph i of subparagraph *d* of the first paragraph.

Additional rules.

For the purposes of subparagraph i of subparagraph *b* of the first paragraph and subparagraphs iii and iv of subparagraph *d* of that paragraph, Chapter V.2 of Title II of Book I applies in relation to the order for determining the capital cost of a property in accordance with subparagraph i of paragraph *b* of subsection 38 of section 13 of the Income Tax Act and in relation to an election referred to in subparagraphs iii and iv of paragraph *d* of that subsection 38.

History: 2019, c. 14, s. 74.

Corresponding Federal Provision: 13(38).

Class 14.1 — transitional rule.

93.19. Where at a particular time a taxpayer disposes of a particular property 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 and none of sections 189, 437, 460 to 462, 521 to 526, 528, 556 to 564.1, 565, 620 to 632, 688 and 692.8 apply in respect of the disposition, the taxpayer is deemed, for the purpose of determining the undepreciated capital cost of the class, to have acquired a property of the class immediately before that time for a capital cost equal to the least of 1/4 of the proceeds of disposition of the particular property, 1/4 of the capital cost of the particular property and

(*a*) if the particular property is not goodwill and is acquired before 1 January 2017 by the taxpayer, 1/4 of the capital cost of the particular property;

(*b*) if the particular property is not goodwill, is acquired after 31 December 2016 by the taxpayer and an amount is deemed to have been allowed as depreciation under section 93.20 in respect of the taxpayer's acquisition of the particular property under paragraph *a* of section 130, that amount;

(*c*) if the particular property (other than a property to which paragraph *b* applies) is not goodwill and is acquired after 31 December 2016 by the taxpayer—in circumstances under which any of sections 189, 437, 460 to 462, 521 to 526, 528, 556 to 564.1, 565, 620 to 632, 688 and 692.8 apply—from a person or partnership that would have been deemed under this section to have acquired a property if none of those sections had applied, the capital cost of the property that would have been deemed under this section to have been acquired by the person or partnership;

(*d*) if the particular property is goodwill, the amount by which the aggregate of all amounts each of which is the capital cost of a property deemed under this section to have been acquired by the taxpayer at or before the particular time in respect of another disposition of goodwill property in respect of the business is exceeded by the aggregate of all amounts each of which is

i. 1/4 of the amount determined under subparagraph iii of subparagraph *b* of the first paragraph of section 93.18 in respect of the business,

ii. if goodwill is acquired after 31 December 2016 by the taxpayer and an amount is deemed to have been allowed as depreciation under section 93.20 in respect of the taxpayer's acquisition of the goodwill under paragraph *a* of section 130, that amount, and

iii. if goodwill is acquired (other than an acquisition in respect of which subparagraph ii applies) after 31 December 2016 by the taxpayer—in circumstances under which any of sections 189, 437, 460 to 462, 521 to 526, 528,

556 to 564.1, 565, 620 to 632, 688 and 692.8 apply—from a person or partnership that would have been deemed under this section to have acquired a property if none of those sections had applied, the capital cost of the property that would have been deemed under this section to have been acquired by the person or partnership; or

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

History: 2019, c. 14, s. 74.
Corresponding Federal Provision: 13(39).

Class 14.1 — transitional rule.

93.20. Where at a particular time a taxpayer acquires a particular property 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, the acquisition of the particular property is part of a transaction or series of transactions or events that includes a disposition (in this section referred to as the "prior disposition") at or before that time of the particular property, or a similar property, by the taxpayer or a person or partnership that does not deal at arm's length with the taxpayer and section 93.19 applies in respect of the prior disposition, an amount is deemed, for the purpose of determining the undepreciated capital cost of property of the class, to have been allowed to the taxpayer as depreciation in respect of the particular property under paragraph *a* of section 130 in computing the taxpayer's income for taxation years ending before the acquisition equal to the lesser of the capital cost of the property deemed under section 93.19 to be acquired in respect of the prior disposition and 1/4 of the capital cost of the particular property.

History: 2019, c. 14, s. 74.
Corresponding Federal Provision: 13(40).

Interpretation.

93.21. For the purposes of sections 93.18 to 93.20 and 93.22, "incorporeal capital amount", "eligible incorporeal capital amount", "exempt gains balance" and "incorporeal capital property" have the meaning assigned by sections 106, 107, 107.2 and 250, respectively, as they read before being repealed.

History: 2019, c. 14, s. 74.
Corresponding Federal Provision: 13(41).

Class 14.1 — transitional rules.

93.22. Where a taxpayer owns property 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 at the beginning of the calendar year 2017 and the property was an incorporeal capital property in respect of the business immediately before 1 January 2017, the following rules apply:

(*a*) for the purposes of this Part and its regulations (other than sections 93 to 104, 130 and 130.1 and any regulations made under paragraph *a* of section 130), if the amount determined under subparagraph *a* of the first paragraph of section 107, as it read before being repealed, would have been increased immediately before 1 January 2017 if the property had been disposed of immediately before that time, the capital cost of the property is deemed to be increased by 4/3 of the amount of that increase;

(*b*) for the purposes of sections 93 to 104, 130 and 130.1 and any regulations made under paragraph *a* of section 130, where the taxpayer was deemed under subparagraphs *a* and *b* of the second paragraph of section 106.4, as it read before being repealed, to continue to own incorporeal capital property in respect of the business and not to have ceased to carry on the business until a time that is after 31 December 2016, the taxpayer is deemed to continue to own the incorporeal capital property and to continue to carry on the business until the time that is immediately before the time from among those described in subparagraphs i to v of subparagraph *a* of the second paragraph of that section 106.4 that would occur first if subparagraph ii of that subparagraph *a* were read as if "incorporeal capital property" were replaced by "incorporeal capital property or capital property";

(*c*) for the purposes of subparagraph ii.3 of subparagraph *e* of the first paragraph of section 93 and subparagraph *h* of the second paragraph of that section, the taxpayer is deemed not to have paid or received an amount before 1 January 2017 as or on account of an existing or proposed countervailing or anti-dumping duty in respect of depreciable property of the class; and

(*d*) section 101 does not apply to assistance that a taxpayer received or is entitled to receive before 1 January 2017 in respect of a property that was an incorporeal capital property immediately before 1 January 2017.

History: 2019, c. 14, s. 74.
Corresponding Federal Provision: 13(42).

Recaptured depreciation to be included in computing the taxpayer's income.

94. Where, at the end of a taxation year, the amount determined under the second paragraph of section 93 in respect of a taxpayer's depreciable property of a prescribed class exceeds the aggregate of the amounts determined under subparagraphs i to ii.3 of subparagraph *e* of the first paragraph of that section in respect thereof, the excess shall be included in computing the taxpayer's income for the year.

History: 1972, c. 23, s. 83; 1975, c. 22, s. 10; 1977, c. 26, s. 10; 1982, c. 5, s. 28; 1990, c. 59, s. 52; 2001, c. 53, s. 31.
Interpretation Bulletins: IMP. 64-1/R2; IMP. 101-1/R2.
Corresponding Federal Provision: 13(1).

Recaptured depreciation not to be included in computing the taxpayer's income.

94.1. Notwithstanding section 94, the excess determined at the end of a taxation year under that section shall not be

included in computing the taxpayer's income for the year where it is in respect of a passenger vehicle in respect of which paragraph *d*.3 or *d*.4 of section 99 or section 525.1 applied to the taxpayer.

Amount deemed included as recaptured depreciation.

However, the excess referred to in the first paragraph is deemed, for the purposes of subparagraph ii of subparagraph *e* of the first paragraph of section 93, to be an amount included in computing the taxpayer's income for the year under sections 93 to 104.

History: 1990, c. 59, s. 53; 2001, c. 53, s. 260.

Corresponding Federal Provision: 13(2).

Reference to taxation year and income of an individual.

95. Where a taxpayer is an individual and his income for a taxation year includes income from a business the fiscal period of which does not coincide with the calendar year, and the taxpayer has disposed of depreciable property acquired for the purpose of gaining or producing income from the business,

(*a*) each reference in sections 94, 94.1 and 130.1 to "year" and "taxation year" shall read as a reference to "fiscal period", except so far as the said sections apply to a disposition by a taxpayer, after ceasing to operate a business, of depreciable property of a prescribed class he had acquired to gain income from the business and had subsequently used for no other purpose; and

(*b*) the expression "the taxpayer's income", in section 94, means "the taxpayer's income from the business".

History: 1972, c. 23, s. 85; 1977, c. 26, s. 12; 1978, c. 26, s. 16; 1991, c. 25, s. 40.

Corresponding Federal Provision: 13(3) and (8).

Proceeds of insurance policies, replacement for a former property.

96. (*1*) Subsection 2 applies where an amount in respect of the disposition in a taxation year of depreciable property of a prescribed class of a taxpayer, in this section and section 96.0.2 referred to as the "former property", would, but for this section, be the amount determined under subparagraph *c* or *d* of the second paragraph of section 93 in respect of the disposition of the former property that is either

(*a*) property the proceeds of disposition of which were compensation or an amount described in subparagraph ii, iii or iv of subparagraph *f* of the first paragraph of section 93; or

(*b*) a property that was, immediately before the disposition, a former business property of the taxpayer.

Replacement for a former property.

(2) If the taxpayer acquires, in a taxation year, a depreciable property of a prescribed class of the taxpayer that is a replacement property for a former property of the taxpayer and the taxpayer makes a valid election under subsection 4 of section 13 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 96.0.1 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 amount determined under subparagraph *c* or *d* of the second paragraph of section 93, in respect of the disposition of the former property, must be reduced by the lesser of the amount by which the amount otherwise determined under that subparagraph *c* or *d*, in respect of that disposition, exceeds the undepreciated capital cost to the taxpayer of property of the prescribed class to which the former property belonged at the time immediately before the time that the former property was disposed of, and the amount that has been used by the taxpayer to acquire, in the case of a former property referred to in paragraph *a* of subsection 1, before the end of the second taxation year following the year referred to in subsection 1 or, if it is later, before the end of the 24-month period following the year referred to in subsection 1, or, in any other case, before the end of the first taxation year following the year referred to in subsection 1 or, if it is later, before the end of the 12-month period following the year referred to in subsection 1, a replacement property that has not been disposed of by the taxpayer before the time at which the taxpayer disposed of the former property; and

(*b*) the amount of the reduction determined under paragraph *a* is deemed to be proceeds of disposition of a depreciable property of the taxpayer that had a capital cost equal to that amount and that was property of the same class as the replacement property, from a disposition made on the day on which the replacement property was acquired by the taxpayer or, if it is later, on the day on which the former property was disposed of by the taxpayer.

Replacement for a former property.

(3) For the purposes of this section, a depreciable property of a prescribed class of a taxpayer is a replacement property for the taxpayer's former property where

(*a*) it is reasonable to conclude that the property was acquired by the taxpayer to replace the former property;

(*a.*1) it was acquired by the taxpayer and used by the taxpayer or a person related to the taxpayer for a use that is the same as or similar to the use to which the taxpayer or a person related to the taxpayer put the former property;

(*b*) where the former property was used by the taxpayer or a person related to the taxpayer for the purpose of gaining or producing income from a business, the property was acquired by the taxpayer either for the purpose of gaining or

producing income from that or a similar business or for use by a person related to the taxpayer for such a purpose;

(*c*) where the former property was a taxable Canadian property of the taxpayer, the property is a taxable Canadian property of the taxpayer; and

(*d*) where the former property was a taxable Canadian property, other than tax-agreement-protected property, of the taxpayer, the property is a taxable Canadian property, other than tax-agreement-protected property, of the taxpayer.

Additional rules.

(4) Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 4 of section 13 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 96.0.1.

History: 1972, c. 23, s. 86; 1975, c. 22, s. 11; 1977, c. 26, s. 13; 1978, c. 26, s. 17; 1993, c. 16, s. 57; 1994, c. 22, s. 72; 2001, c. 7, s. 16; 2001, c. 53, s. 32; 2009, c. 5, s. 53; 2009, c. 15, s. 51.

Corresponding Federal Provision: 13(4) and (4.1).

Property deemed acquired before end of period.

96.0.1. For the purposes of paragraph *a* of subsection 2 of section 96, if a taxpayer acquires a replacement property after the end of the period provided for in that paragraph *a* for the acquisition, and, in the Minister's opinion, the taxpayer was unable to acquire the replacement property before the end of the period because of the specific nature of the former property referred to in section 96, the taxpayer is deemed to have acquired the replacement property before the end of the period.

History: 2002, c. 40, s. 20; 2009, c. 15, s. 52.

Franchise, concession or licence for limited period.

96.0.2. The rules set out in the second paragraph apply if

(*a*) a taxpayer (in this section referred to as the "transferor") has, pursuant to a written agreement with a person or partnership (in this section referred to as the "transferee"), disposed of or terminated a former property that is a franchise, concession or licence for a limited period that is wholly attributable to the carrying on of a business at a fixed place;

(*b*) the transferee acquired the former property from the transferor or, on the termination, acquired a similar property in respect of the same fixed place from another person or partnership; and

(*c*) the transferor and the transferee make a valid election under paragraph *c* of subsection 4.2 of section 13 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in respect of the acquisition and the disposition or termination.

Rules applicable.

The rules to which the first paragraph refers in respect of an acquisition and a disposition or termination are as follows:

(*a*) if the transferee acquires a similar property referred to in subparagraph *b* of the first paragraph, the transferee is deemed to have also acquired the former property at the time that the former property was terminated and to own the former property until the transferee no longer owns the similar property;

(*b*) if the transferee acquires the former property referred to in subparagraph *b* of the first paragraph, the transferee is deemed to own the former property until such time as the transferee owns neither the former property nor a similar property in respect of the same fixed place to which the former property related;

(*c*) for the purpose of calculating the amount deductible under paragraph *a* of section 130 in respect of the former property in computing the transferee's income, the useful life of the former property remaining on its acquisition by the transferee is deemed to be equal to the period that was the useful life of the former property remaining on its acquisition by the transferor; and

(*d*) any amount that would, but for this paragraph, be included in the cost of a property of the transferor included in Class 14.1 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1) (including a deemed acquisition under section 93.15) or included in the proceeds of disposition of a property of the transferee included in that class (including a deemed disposition under section 93.17) in respect of the disposition or termination of the former property by the transferor is deemed to be

i. neither included in the cost nor in the proceeds of disposition of property included in that class,

ii. an amount required to be included in computing the capital cost to the transferee of the former property, and

iii. an amount required to be included in computing the proceeds of disposition to the transferor in respect of a disposition of the former property.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under paragraph *c* of subsection 4.2 of section 13 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 2009, c. 15, s. 53; 2019, c. 14, s. 75.

Corresponding Federal Provision: 13(4.2) and (4.3).

Reassessments.

96.1. Notwithstanding sections 1010 to 1011, where a taxpayer has made an election under subsection 2 of section 96, 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: 1979, c. 18, s. 8; 2002, c. 40, s. 21; 2009, c. 5, s. 54.
Corresponding Federal Provision: 13(18).

Ascertainment of certain property.

96.2. For the purpose of determining whether property meets the prescribed criteria in respect of prescribed energy conservation property, the Technical Guide to Class 43.1 and 43.2, as amended from time to time and published by the Department of Natural Resources of Canada, applies conclusively, with the necessary modifications, with respect to engineering and scientific matters.

History: 1998, c. 16, s. 84; 2000, c. 39, s. 9; 2015, c. 36, s. 10.
Corresponding Federal Provision: 13(18.1).

Reclassification of property.

97. Where one or more depreciable properties of a taxpayer that were included in a prescribed class, in this section referred to as the "old class", become included at any time, in this section referred to as the "transfer time", in another prescribed class, in this section referred to as the "new class", the following rules apply for the purpose of determining at any subsequent time the undepreciated capital cost to the taxpayer of depreciable property of the old class and the new class:

(*a*) for the purposes of subparagraph i of subparagraph *e* of the first paragraph of section 93, each of those depreciable properties is deemed to be property of the new class acquired before the subsequent time and never to have been included in the old class; and

(*b*) the taxpayer shall deduct in computing the total depreciation allowed to the taxpayer before the subsequent time in respect of property of the old class, and add in computing the total depreciation allowed to the taxpayer before the subsequent time in respect of property of the new class, an amount equal to the greater of

i. the amount by which the aggregate of all amounts each of which is the capital cost to the taxpayer of each of those depreciable properties exceeds the undepreciated capital cost to the taxpayer of depreciable property of the old class at the transfer time, and

ii. the aggregate of all amounts each of which is an amount that would have been deducted under paragraph *a* of section 130 in respect of a depreciable property that is one of those depreciable properties in computing the taxpayer's income for a taxation year that ended before the transfer time and at the end of which the property was included in the old class, had the property been the only property included in a separate prescribed class and had the rate prescribed by the regulations made under that paragraph *a* in respect of that separate prescribed class been the effective rate that was used by the taxpayer to determine the amounts deducted by the taxpayer under that paragraph *a* in respect of property of the old class for the year.

History: 1972, c. 23, s. 87; 1975, c. 22, s. 12; 1990, c. 59, s. 54; 1998, c. 16, s. 85; 2001, c. 53, s. 260.
Corresponding Federal Provision: 13(5).

Rules applicable.

97.1. Where at any time in a taxation year, a taxpayer acquires a particular property in respect of which, immediately before that time, he had a leasehold interest that was included in a prescribed class, for the purposes of this division, sections 130.1, 142 and 149 and the regulations made under paragraph *a* of section 130, the following rules apply:

(*a*) the leasehold interest is deemed to have been disposed of by the taxpayer at that time for proceeds of disposition equal to the amount by which the capital cost of the leasehold interest, immediately before that time, exceeds the aggregate of all amounts claimed by the taxpayer in respect of the leasehold interest that were deductible under paragraph *a* of section 130 in computing his income for previous taxation years;

(*b*) the property is deemed to be depreciable property of a prescribed class of the taxpayer acquired by him at that time and the taxpayer shall add to the capital cost of that property an amount equal to the capital cost referred to in paragraph *a*; and

(*c*) the taxpayer shall add the aggregate referred to in paragraph *a* to the total depreciation allowed to the taxpayer before that time in respect of the class to which that property belongs.

History: 1978, c. 26, s. 18; 2005, c. 23, s. 39.
Corresponding Federal Provision: 13(5.1).

Rules applicable.

97.2. Where, at any time, a taxpayer acquires a capital property that is depreciable property or immovable property in respect of which, before that time, the taxpayer or any person with whom he was not dealing at arm's length was entitled to a deduction in computing his income in respect of any amount paid or payable for the use of, or the right to use, the property and the cost or the capital cost, determined without reference to this section, at that time of the property to the taxpayer is less than the fair market value thereof at that time determined without reference to any option with respect to that property, for the purposes of this division, sections 130, 130.1, 142 and 149 and any regulations made under paragraph *a* of section 130 or under section 130.1, the following rules apply:

(*a*) the taxpayer is deemed to acquire the property at that time at a cost equal to the lesser of the fair market value of the property at that time determined without reference to any option with respect to that property, and the aggregate of the cost or the capital cost, determined without reference to this section, of the property to the taxpayer and all amounts each of which is an outlay or expense made or incurred by the taxpayer or by a person with whom he was not dealing at arm's length at any time for the use of, or the right to use, the property, other than amounts paid or payable to a person with whom the taxpayer was not dealing at arm's length;

(*b*) the taxpayer shall add, to the total depreciation allowed to him before that time in respect of the prescribed class to which the property belongs, the amount by which the cost of the property determined under paragraph *a* exceeds the cost or the capital cost thereof, determined without reference to this section; and

(*c*) where the property would, but for this paragraph, not be depreciable property of the taxpayer, it is deemed to be depreciable property of a separate prescribed class of the taxpayer.

History: 1982, c. 5, s. 29; 2020, c. 16, s. 190.
Corresponding Federal Provision: 13(5.2).

Rules applicable.

97.3. Where, in a taxation year, a taxpayer disposes of a capital property that is an option with respect to depreciable property or immovable property in respect of which the taxpayer or any person with whom he is not dealing at arm's length is entitled to a deduction in computing his income in respect of any amount paid for the use of, or the right to use, the property, for the purposes of this division, the amount, if any, by which the proceeds of disposition to the taxpayer of the option exceed his cost in respect thereof is deemed to be an excess referred to in section 94 in respect of the taxpayer for the year.

History: 1982, c. 5, s. 29; 2020, c. 16, s. 190.
Corresponding Federal Provision: 13(5.3).

Corporation deemed in existence.

97.4. For the purposes of paragraph *a* of section 97.2 and section 97.3, where a particular corporation has been incorporated or otherwise formed after the time any other corporation, with which the particular corporation would not have been dealing at arm's length had the particular corporation been in existence before such time, was formed, the particular corporation is deemed to have been in existence from the time of the formation of the other corporation and to have been not dealing at arm's length with the other corporation.

History: 1982, c. 5, s. 29; 1997, c. 3, s. 71.
Corresponding Federal Provision: 13(5.2)(a) after (ii).

Disposition of depreciable property.

97.5. Where, before the disposition of a capital property that was depreciable property of a taxpayer, the taxpayer, or any person with whom he was not dealing at arm's length, was entitled to a deduction in computing his income in respect of any outlay or expense made or incurred for the use of, or the right to use, during a period of time, that capital property, other than an outlay or expense made or incurred by the taxpayer or a person with whom he was not dealing at arm's length before the acquisition of the property, except where the taxpayer disposes of the property to a person with whom he is not dealing at arm's length and that person is subject to the provisions of sections 97.2 and 97.4 with respect to the acquisition by him of the property, the following rules apply:

(*a*) the person who owned the property immediately before the disposition shall at that time add to the capital cost of the property the lesser of

i. the aggregate of all amounts, other than amounts paid or payable to the taxpayer or a person with whom the taxpayer was not dealing at arm's length, each of which was a deductible outlay or expense made or incurred before the disposition by the taxpayer, or by a person with whom he was not dealing at arm's length, for the use of, or the right to use, during the period of time, the property, and

ii. the amount by which the fair market value of the property at the earlier of the expiration of the last period of time in respect of which the deductible outlay or expense referred to in subparagraph i was made or incurred, and the time of the disposition exceeds the capital cost to the taxpayer of the property immediately before that time; and

(*b*) the taxpayer shall add, immediately before the disposition, to the total depreciation allowed to him before the disposition in respect of the prescribed class to which the property belongs, the amount added to the capital cost to him of the property pursuant to paragraph *a*.

History: 1984, c. 15, s. 23; 1997, c. 14, s. 32.
Corresponding Federal Provision: 13(5.4).

Amount deemed not to be an outlay.

97.6. For the purposes of section 97.5, an amount deductible by a taxpayer under paragraph *g* or *g*.1 of section 157 is deemed not to be an outlay or expense that was made or incurred by him for the use of, or the right to use, the property.

History: 1984, c. 15, s. 23.
Corresponding Federal Provision: 13(5.5).

Misclassified property.

98. Where, in calculating the amount of a deduction allowed under section 130.1 or regulations made under paragraph *a* of section 130 in respect of depreciable property

of a prescribed class, in this section referred to as the "particular class", there has been added to the capital cost of depreciable property of the particular class the capital cost of depreciable property, in this section referred to as "added property", of another prescribed class, for the purposes of this division, sections 130.1, 142 and 149 and any regulations made under paragraph *a* of section 130, the added property is, if the Minister so directs with respect to any taxation year for which the Minister may make any assessment, reassessment or additional assessment, in accordance with section 1010, deemed to have been, at all times before the beginning of that year, property of the particular class and not of the other class.

Presumption.

Except to the extent that the added property or any part thereof has been disposed of by the taxpayer before the beginning of the year, the added property is deemed to have been transferred from the particular class to the other class at the beginning of that year.

History: 1972, c. 23, s. 88; 1974, c. 18, s. 4; 1978, c. 26, s. 19; 1997, c. 14, s. 33.

Corresponding Federal Provision: 13(6).

Rules applicable.

99. Subject to section 450.10, for the purposes of this division, Chapter III, sections 64 and 78.4 and any regulations made under paragraph *a* of section 130, the following rules apply:

(*a*) where a taxpayer, having acquired property to gain income, begins at a later time to use it for some other purpose, the taxpayer is deemed to have disposed of it at that time for proceeds of disposition equal to its fair market value and to have reacquired it immediately thereafter at a cost equal to that fair market value;

(*b*) subject to section 284, where a taxpayer, having acquired property for some other purpose, begins at a particular time to use it to gain income, the taxpayer is deemed to have acquired it at that time at a capital cost to the taxpayer equal to the lesser of

i. its fair market value at that time;

ii. the aggregate of its cost to the taxpayer at that time determined without reference to this paragraph, paragraph *a* and subparagraph ii of paragraph *d*, and, subject to section 99.1, 1/2 of the amount by which the fair market value of the property at that time exceeds the aggregate of the cost to the taxpayer of the property at that time determined without reference to this paragraph, paragraph *a* and subparagraph ii of paragraph *d*, and, subject to section 99.1, twice the amount deducted by the taxpayer under Title VI.5 of Book IV in respect of the amount by which the fair market value of the property at that time exceeds the cost to the taxpayer of the property at that time determined without reference to this paragraph, paragraph *a* and subparagraph ii of paragraph *d*;

(*c*) where property has, since it was acquired by a taxpayer, been regularly used in part to gain income and in part for some other purpose, the proportion of the property acquired by the taxpayer to gain such income, the proportion of its capital cost and the proportion of the proceeds of disposition of such property, as the case may be, are deemed to be the same as the proportion that its use to gain income is of its whole use;

(*d*) where there has been a change in the relation between the proportion of the use made of the property to gain income and the proportion of the use made of it for some other purpose, the following rules apply:

i. where the proportion of the use made of the property to gain income has increased at a particular time, the taxpayer is deemed to have acquired at that time depreciable property of that class at a capital cost equal to the aggregate of the proportion of the lesser of its fair market value at that time, and its cost to the taxpayer at that time determined without reference to this subparagraph, subparagraph ii and paragraph *a* that the amount of the increase in the use regularly made by the taxpayer of the property to gain income is of the whole of the use regularly made of the property, and, subject to section 99.1, 1/2 of the amount by which the amount deemed under section 283 to be the taxpayer's proceeds of disposition of the property in respect of the change in the use made of the property exceeds the aggregate of that proportion of the cost to the taxpayer of the property at that time determined without reference to this subparagraph, subparagraph ii and paragraph *a*, that the amount of the increase in the use regularly made by the taxpayer of the property to gain income is of the whole of the use regularly made of the property, and, subject to section 99.1, twice the amount deducted by the taxpayer under Title VI.5 of Book IV in respect of the amount by which the amount deemed under section 283 to be the taxpayer's proceeds of disposition of the property in respect of the change in the use made of the property exceeds that proportion of the cost to the taxpayer of the property at that time determined without reference to this subparagraph, subparagraph ii and paragraph *a* that the amount of the increase in the use regularly made by the taxpayer of the property to gain income is of the whole of the use regularly made of the property;

i.1. for greater certainty, where the property is a passenger vehicle in respect of which paragraph *d*.3 or *d*.4 applies, the capital cost established under subparagraph i shall in no case be greater than the proportion referred to in the said subparagraph of the capital cost of the property established under paragraph *d*.3 or *d*.4, as the case may be;

ii. where the proportion of the use made of the property to gain income has decreased at a particular time, the taxpayer is deemed to have disposed at that time of depreciable

property of that class and the proceeds of disposition are deemed to be an amount equal to the proportion of the fair market value of the property as of that time that the amount of the decrease in the use regularly made by the taxpayer of the property to gain income is of the whole of the use regularly made of it;

(*d.*1) notwithstanding any other provision of this Part except section 450.10, where at any time a particular person or partnership has, in any manner whatever, acquired, otherwise than as a consequence of the death of the transferor, a depreciable property of a prescribed class, other than a timber resource property or a passenger vehicle in respect of which paragraph *d*.3 or *d*.4 or section 525.1 applies, from a transferor being a person or partnership with whom the particular person or partnership did not deal at arm's length and the property was, immediately before the transfer, a capital property of the transferor, the following rules apply:

i. where the transferor was an individual resident in Canada or a partnership any member of which was either an individual resident in Canada or another partnership and the cost of the property to the particular person or partnership at that time determined without reference to this paragraph exceeds the cost or, where the property was depreciable property, the capital cost of the property to the transferor immediately before the transferor disposed of it, the capital cost of the property to the particular person or partnership at that time is deemed to be the amount, in this subparagraph referred to as "the particular amount", that is equal to the aggregate of the cost or capital cost, as the case may be, of the property to the transferor immediately before that time and, subject to section 99.1, 1/2 of the amount by which the transferor's proceeds of disposition of the property exceed the aggregate of the cost or capital cost, as the case may be, of the property to the transferor immediately before that time, the amount required by section 726.9.4 to be deducted in computing the capital cost to the particular person or partnership of the property at that time, and, subject to section 99.1, twice the amount deducted by any person under Title VI.5 of Book IV in respect of the amount by which the transferor's proceeds of disposition of the property exceed the cost or capital cost, as the case may be, of the property to the transferor immediately before that time and, for the purposes of paragraph *b* and subparagraph i of paragraph *d*, the cost of the property to the particular person or partnership is deemed to be equal to the particular amount,

ii. where the transferor was not a transferor described in subparagraph i, the rules provided in that subparagraph, which shall be read as if the reference therein to "exceed the aggregate of the cost or capital cost" were a reference to "exceed the cost or capital cost" and without reference to ", the amount required by section 726.9.4 to be deducted in computing the capital cost to the particular person or partnership of the property at that time, and, subject to section 99.1, twice the amount deducted by any person under Title VI.5 of Book IV in respect of the amount by which the transferor's proceeds of disposition of the property exceed the cost or capital cost, as the case may be, of the property to the transferor immediately before that time", apply in the same manner, and

iii. where the cost or capital cost, as the case may be, of the property to the transferor immediately before the transferor disposed of it exceeds the capital cost of the property to the particular person or partnership at that time determined without reference to this paragraph, the capital cost of the property to the particular person or partnership at that time is deemed to be an amount equal to the cost or capital cost, as the case may be, of the property to the transferor immediately before the transferor disposed of it and the excess is deemed to have been allowed as depreciation to the particular person or partnership in respect of the property under regulations made under paragraph *a* of section 130 in computing the income of the particular person or partnership for taxation years ending before the acquisition of the property by the particular person or partnership;

(*d.*1.1) where a taxpayer is deemed by subparagraph *a* of the first paragraph of section 726.9.2 to have disposed of and reacquired a property that immediately before the disposition was a depreciable property, the taxpayer is deemed to have acquired the property from himself, herself or itself and, in so having acquired the property, not to have been dealing with himself, herself or itself at arm's length;

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

i. the capital cost to the taxpayer of the property at the time of the disposition, and

ii. subject to section 99.1, 1/2 of the amount by which the taxpayer's proceeds of disposition of the property exceed the capital cost to the taxpayer of the property at the time of the disposition;

(*d.*3) where the cost to a taxpayer of a passenger vehicle exceeds $20,000 or such other amount as may be prescribed, the capital cost to the taxpayer of the passenger vehicle is deemed to be equal to $20,000 or to that other amount, as the case may be;

(*d.*4) notwithstanding paragraph *d*.3, where a passenger vehicle is acquired at any time by a taxpayer from a person with whom the taxpayer does not deal at arm's length and this paragraph, paragraph *d*.3 or section 525.1 applies to the person in respect of that passenger vehicle, the capital cost thereof to the taxpayer is deemed to be equal to the least of the following amounts:

i. the fair market value of the passenger vehicle at that time,

ii. the amount that immediately before that time was the cost amount to that person of the passenger vehicle minus, as the case may be, the amount deducted by that person under paragraph *a* of section 130 in respect of the passenger vehicle in computing income for that person's taxation year in which that person disposed of the passenger vehicle, and

iii. $20,000 or such other amount as may be prescribed for the purposes of paragraph *d*.3;

(*e*) for the purposes of this Part, a taxpayer who has acquired prescribed property between 3 December 1970 and 1 April 1972 for use in a prescribed manufacturing or processing business carried on by the taxpayer, is deemed to have acquired that property at a capital cost equal to 115% of the amount that, but for this paragraph and section 180, would have been the capital cost of that property, if that property was not used for any purpose whatever before it was acquired by the taxpayer;

(*f*) where any part of a self-contained domestic establishment (in this paragraph referred to as the "work space") in which an individual resides is the principal place of business of the individual or a partnership of which the individual is a member, or is used exclusively for the purpose of earning income from a business and on a regular and continuous basis for meeting clients, customers or patients of the individual or partnership in the course of the business, as the case may be, except a work space that relates to the operation of a private residential home or 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), where the individual or partnership holds a classification certificate of the appropriate class to which the tourist accommodation establishment belongs, issued under that Act, the following rules apply:

i. the capital cost at any time of the work space to the individual or partnership is deemed to be equal to the aggregate of

(1) 50% of the portion of the capital cost of the work space to the individual or partnership, determined without reference to this subparagraph i, that cannot reasonably be considered to be attributable to the amount of an expenditure of a capital nature relating solely to the work space that the individual or partnership made before that time, and

(2) the portion of the capital cost of the work space to the individual or partnership, determined without reference to this subparagraph i, that may reasonably be considered to be attributable to the amount of an expenditure of a capital nature relating solely to the work space that the individual or partnership made before that time,

ii. the proceeds of disposition of the work space to the individual or partnership, reduced by the total of all expenditures made or incurred by the individual or partnership for the purpose of making the disposition, are deemed to be equal to the aggregate of

(1) 50% of such proportion of the proceeds of disposition to the individual or partnership of the work space so reduced, determined without reference to this subparagraph ii, as the portion of the capital cost of the work space to the individual or partnership immediately before the disposition, determined without reference to this paragraph, that cannot reasonably be considered to be attributable to the amount of an expenditure of a capital nature relating solely to the work space that the individual or partnership made is of the capital cost of the work space to the individual or partnership immediately before the disposition, determined without reference to this paragraph, and

(2) such proportion of the proceeds of disposition to the individual or partnership of the work space so reduced, determined without reference to this subparagraph ii, as the portion of the capital cost of the work space to the individual or partnership immediately before the disposition, determined without reference to this paragraph, that may reasonably be considered to be attributable to the amount of an expenditure of a capital nature relating solely to the work space that the individual or partnership made is of the capital cost of the work space to the individual or partnership immediately before the disposition, determined without reference to this paragraph, and

iii. each of the amounts that increased or reduced the undepreciated capital cost to an individual or a partnership of the class that includes the work space, for a taxation year or a fiscal period, as the case may be, that begins before 10 May 1996, otherwise than because of subparagraph i of subparagraph *e* of the first paragraph of section 93 or subparagraph *c* of the second paragraph of that section, to the extent that it may reasonably be considered that the amount is attributable to an expenditure of a capital nature which does not relate solely to the work space that the individual or partnership made, is deemed, for a taxation year or a fiscal period, as the case may be, that begins after 9 May 1996, to be equal to 50% of that amount.

History: 1972, c. 23, s. 89; 1975, c. 22, s. 13; 1977, c. 26, s. 14; 1978, c. 26, s. 20; 1987, c. 67, s. 24; 1989, c. 77, s. 17; 1990, c. 59, s. 55; 1993, c. 16, s. 58; 1994, c. 22, s. 73; 1995, c. 49, s. 37; 1996, c. 39, s. 30; 1997, c. 3, s. 71; 1998, c. 16, s. 86; 2000, c. 5, s. 34; 2000, c. 39, s. 10; 2001, c. 53, s. 33; 2003, c. 2, s. 34; 2006, c. 13, s. 28; 2017, c. 1, s. 89; 2017, c. 29, s. 30.

Interpretation Bulletins: IMP. 521.2-1/R1.
Corresponding Federal Provision: 13(7) and (10).

Application of transitional rules.

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

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

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

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

Rules applicable.

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

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

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

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

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

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

History: 2003, c. 2, s. 35.

Meaning of "to gain income".

100. For the purposes of paragraphs *a* to *d* of section 99, where a taxpayer is not resident in Canada, the expression "to gain income", in relation to a business, shall be construed as meaning to gain income from a business wholly carried on in Canada or from such part of a business as is so carried on.

History: 1972, c. 23, s. 90; 1990, c. 59, s. 56.

Corresponding Federal Provision: 13(9).
Corresponding Federal Provision: 13(9).

Capital cost of property acquired through an assistance.

101. For the purposes of this Part, where the capital cost to a taxpayer of a depreciable property was reduced, because of sections 485 to 485.18 or a taxpayer deducted a particular amount, other than a prescribed amount, under subsection 5 or 6 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of a depreciable property in computing his tax payable under the said Act or received or is entitled to receive assistance, other than prescribed assistance, from a government, municipality or other public authority in respect of, or for the acquisition of, depreciable property, whether as a subsidy, grant, forgivable loan, deduction from tax, investment allowance or as any other form, the capital cost of the property to the taxpayer at any particular time is deemed to be the amount by which the aggregate of the capital cost of the property, determined without reference to this section and sections 101.6, 101.7 and 485 to 485.18 and the amount of the assistance, in respect of that property, repaid by the taxpayer, pursuant to an obligation to do so, before the disposition of the property and before the particular time, exceeds the aggregate of

(*a*) where the property was acquired in a taxation year ending before the particular time, all particular amounts deducted under the said subsections 5 and 6 by the taxpayer, in respect of that property, for a taxation year ending before the particular time and before the disposition of that property;

(*b*) the amount of assistance the taxpayer has received or is entitled, before the particular time, to receive in respect of that property before the disposition thereof; and

(*c*) any amount by which the capital cost of the property to the taxpayer is required, because of sections 485 to 485.18, to be reduced at or before that particular time.

History: 1975, c. 22, s. 14; 1982, c. 5, s. 30; 1987, c. 67, s. 25; 1990, c. 59, s. 57; 1992, c. 1, s. 24; 1996, c. 39, s. 31; 2001, c. 53, s. 260.
Interpretation Bulletins: IMP. 87-4/R1; IMP. 87-6/R1; IMP. 101-1/R2.
Corresponding Federal Provision: 13(7.1).

101.1. *(Repealed).*

History: 1978, c. 26, s. 21; 2001, c. 53, s. 34; 2019, c. 14, s. 76.
Corresponding Federal Provision: 13(22).

101.2. *(Repealed).*

History: 1978, c. 26, s. 21; 2001, c. 53, s. 35; 2019, c. 14, s. 76.
Corresponding Federal Provision: 13(23).

Amount deemed to be received as assistance.

101.3. For the purposes of section 101, where a prescribed amount must be taken into account to determine a prescribed tax deduction to which a member of a partnership or beneficiary of a trust, as the case may be, is entitled at the end of his taxation year, such portion of that amount as can reasonably be considered to relate to depreciable property is deemed to have been received by the partnership or trust, as the case may be, at the end of its fiscal period ending in that taxation year, as assistance from a government for the acquisition of depreciable property.

History: 1982, c. 5, s. 31; 1984, c. 15, s. 24; 1997, c. 3, s. 71; 1997, c. 31, s. 13.
Interpretation Bulletins: IMP. 101-1/R2.
Corresponding Federal Provision: 127(12).

Amount deemed to be received as assistance.

101.4. For the purposes of section 101, where at a particular time a taxpayer who is a beneficiary of a trust or a member of a partnership has received or is entitled to receive 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, the amount of the assistance that may reasonably be considered to be in respect of, or for the acquisition of, depreciable property of the trust or partnership is deemed to have been received at that time by the trust or partnership, as the case may be, as assistance from the government, municipality or other public authority for the acquisition of depreciable property.

History: 1986, c. 19, s. 21; 1997, c. 3, s. 71; 1997, c. 14, s. 34; 2001, c. 53, s. 260.
Interpretation Bulletins: IMP. 101-1/R2.
Corresponding Federal Provision: 13(7.2).

Corporations controlled by one trustee.

101.5. For the purposes of paragraph *d*.1 of section 99, two corporations are deemed not to be related to each other at a particular time where, but for this section, they would be related to one another by reason of their being controlled by the same trustee, liquidator of a succession or executor and it is established that

(*a*) the trustee, liquidator of a succession or executor did not acquire control of the corporations as a result of one or more trusts or successions created by the same individual or by two or more individuals not dealing with each other at arm's length; and

(*b*) the trust or succession under which the trustee, liquidator of a succession or executor acquired control of each of the corporations arose only on the death of the individual creating the trust or succession.

History: 1987, c. 67, s. 26; 1994, c. 22, s. 74; 1997, c. 3, s. 71; 1998, c. 16, s. 87; 2005, c. 1, s. 34.
Corresponding Federal Provision: 13(7.3).

Amount elected as capital cost of property.

101.6. Notwithstanding section 101, where a taxpayer has in a taxation year received an amount that would, but for this section, be included in his income under paragraph *w* of section 87 in respect of the cost of a depreciable property acquired by him in the year, in the three taxation years immediately preceding the year or in the taxation year immediately 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 immediately following the year, for that following year, that the capital cost of the property to him be deemed to be the amount by which the aggregate of the following amounts exceeds the amount elected by him under this section:

(*a*) the capital cost of the property to him otherwise determined, applying section 101, where necessary;

(*b*) such part, if any, of the amount so received by the taxpayer as has been repaid by him pursuant to a legal obligation to repay all or any part of that amount, in respect of that property and before the disposition thereof by him, and as may reasonably be considered to be in respect of the amount elected under this section in respect of the property.

History: 1987, c. 67, s. 26; 1993, c. 16, s. 59; 1997, c. 31, s. 14.
Interpretation Bulletins: IMP. 87-4/R1; IMP. 101-1/R2.
Corresponding Federal Provision: 13(7.4)(a) and (b).

Limit.

101.7. For the purposes of section 101.6, in no case shall the amount elected by the taxpayer under this section exceed the least of

(*a*) the amount received by the taxpayer and to which that section refers;

(*b*) the capital cost of the property to the taxpayer otherwise determined;

(*c*) where the taxpayer has disposed of the property before the year, nil.

History: 1987, c. 67, s. 26.
Interpretation Bulletins: IMP. 101-1/R2.
Corresponding Federal Provision: 13(7.4)(c) to (e).

Deemed capital cost.

101.7.1. Section 93.18 applies in respect of an amount repaid after 31 December 2016 as if that amount was repaid immediately before 1 January 2017, if

(*a*) the amount is repaid by the taxpayer under 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 a business, within the meaning of section 106, as it read before being repealed;

(*b*) the incorporeal capital amount of the taxpayer in respect of the business was reduced in accordance with paragraph *b* of section 106.2, as it read before being repealed, because of the assistance referred to in paragraph *a*; and

(*c*) paragraph *o*.1 of section 157 does not apply in respect of the amount repaid.

History: 2019, c. 14, s. 77.
Corresponding Federal Provision: 13(7.41).

Timing of deduction.

101.7.2. No amount may be deducted under paragraph *a* of section 130 in respect of an amount of repaid assistance referred to in section 101.7.1 for any taxation year prior to the taxation year in which the assistance is repaid.

History: 2019, c. 14, s. 77.
Corresponding Federal Provision: 13(7.42).

Deemed capital cost.

101.8. For the purposes of this Part,

(*a*) where a taxpayer, to acquire a property prescribed in respect of the taxpayer, is required under the terms of a contract entered into after 6 March 1996 to make a payment to the State, to Her Majesty in right of Canada or a province, other than Québec, or to a Canadian municipality in respect of costs incurred or to be incurred by the recipient of the payment, the taxpayer is deemed to have acquired the property at the later of the time the payment is made and the time at which those costs are incurred at a capital cost equal to the portion of that payment made by the taxpayer that can reasonably be regarded as being in respect of those costs;

(*b*) where at any time after 6 March 1996 a taxpayer incurs a cost on account of capital for the building of, for the right to use or in respect of, a prescribed property, and the amount of the cost would, if this paragraph did not apply, not be included in the capital cost to the taxpayer of depreciable property of a prescribed class, the taxpayer is deemed to have acquired the property at that time at a capital cost equal to the amount of the cost;

(*c*) where a taxpayer acquires an incorporeal property as a consequence of making a payment to which subparagraph *a* of this paragraph applies or incurring a cost to which subparagraph *b* of this paragraph applies,

i. the property referred to in subparagraph *a* or *b* of this paragraph is deemed to include the incorporeal property, and

ii. the portion of the capital cost referred to in subparagraph *a* or *b* of this paragraph that applies to the incorporeal property is deemed to be equal to the amount determined by the formula

A × B / C;

(*d*) any property deemed by subparagraph *a* or *b* of this paragraph to have been acquired at any time by a taxpayer as a consequence of making a payment or incurring a cost is deemed

i. to have been acquired for the purpose for which the payment was made or the cost was incurred, and

ii. to be owned by the taxpayer at any subsequent time that the taxpayer benefits from the property.

Interpretation.

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

(*a*) A is the lesser of the amount of the payment made or cost incurred and the amount described in subparagraph *c* of this paragraph;

(*b*) B is the fair market value of the incorporeal property at the time the payment was made or the cost was incurred; and

(*c*) C is the fair market value at the time the payment was made or the cost was incurred of all incorporeal properties acquired as a consequence of making the payment or incurring the cost.

History: 1998, c. 16, s. 88; 2001, c. 7, s. 169; 2005, c. 1, s. 35.
Corresponding Federal Provision: 13(7.5).

Amortization in respect of property used in the performance of duties.

102. For the purposes of this division, every deduction as amortization made under section 64 or 78.4, section 12 of the Corporation Tax Act (Revised Statutes, 1964, chapter 67) or section 13 of the Provincial Income Tax Act (Revised Statutes, 1964, chapter 69) is deemed to have been made in accordance with the regulations made under paragraph *a* of section 130.

History: 1972, c. 23, s. 91; 1972, c. 26, s. 41; 1987, c. 21, s. 12; 1990, c. 59, s. 58.
Corresponding Federal Provision: 13(11).

Deduction of representation expenses.

103. The amount deducted under section 155 or for which a deduction is made under section 156 is deemed, if it is a payment on account of the capital cost of depreciable property, to have been allowed the taxpayer in respect of such property, under regulations made under paragraph *a* of section 130, in computing his income for the year, or for the

year in which the property was acquired, whichever is more recent.

History: 1972, c. 23, s. 92.
Corresponding Federal Provision: 13(12).

Disposition of vessel.

104. The rules contained in this division apply to the disposition of a vessel that is a depreciable property, subject to the regulations.

History: 1972, c. 23, s. 93.
Corresponding Federal Provision: 13(13) to (20) and (21) "conversion", "conversion cost" and "vessel".

DIVISION II.I
INCLUSIONS IN RESPECT OF CERTAIN INVESTMENTS

Income inclusion.

104.1. Where an amount in respect of depreciable property of a prescribed class is included under section 94 in computing the income for a taxation year of a taxpayer, whether that taxpayer is an individual or a corporation, and an amount was deducted or is deemed, pursuant to section 104.3, to have been deducted under section 156.1 or 156.1.1 in respect of that property in computing the taxpayer's income from a business for a preceding taxation year, there shall be included in computing the taxpayer's income from a business for the year an amount equal to the product obtained by multiplying the aggregate of the amounts determined in accordance with any of sections 156.2 to 156.3.1 in respect of the property for a preceding taxation year by the amount determined by the formula

A / B × C / D.

Interpretation.

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

(*a*) the letter A represents the amount included under section 94 in computing the income of the taxpayer for the year in respect of the property referred to in the first paragraph;

(*b*) the letter B represents the total depreciation, within the meaning of subparagraph *b* of the first paragraph of section 93, allowed to the taxpayer in respect of the property referred to in the first paragraph;

(*c*) the letter C represents

i. where the taxpayer is an individual, the aggregate of the income earned in Québec and elsewhere by the individual for the year;

ii. where the taxpayer is a corporation, the aggregate of the business carried on in Canada or in Québec and elsewhere by the corporation in the year;

(*d*) the letter D represents

i. where the taxpayer is an individual, the income earned in Québec by the individual for the year;

ii. where the taxpayer is a corporation, the business carried on in Québec by the corporation in the year.

History: 1989, c. 5, s. 35; 1993, c. 16, s. 60; 1995, c. 1, s. 199; 1997, c. 3, s. 71; 1999, c. 83, s. 31; 2001, c. 53, s. 36.

Inclusion in income from a business.

104.1.1. A partnership shall include in computing the partnership's income from a business for a fiscal period, in this section referred to as the "particular fiscal period", the amount determined under the second paragraph, if

(*a*) an amount in respect of depreciable property of a prescribed class is included under section 94 in computing the partnership's income for the particular fiscal period; and

(*b*) an amount was deducted or is deemed, pursuant to section 104.3, to have been deducted, in respect of the property referred to in subparagraph *a*, in computing the partnership's income from a business for a fiscal period preceding the particular fiscal period under any of sections 156.1 and 156.1.1.

Amount to be included.

The amount to which the first paragraph refers that the partnership is required to include in computing its income for the particular fiscal period is equal to the amount determined by the formula

A × B / C.

Interpretation.

In the formula provided for in the second paragraph,

(*a*) A is the product obtained by multiplying the aggregate of the amounts determined under any of sections 156.2 to 156.3.1, in respect of the depreciable property for a fiscal period preceding the particular fiscal period, by the quotient obtained by dividing the amount included in computing the partnership's income for the particular fiscal period under section 94 in respect of the property by the total depreciation, within the meaning of subparagraph *b* of the first paragraph of section 93, allowed to the partnership in respect of the property;

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

(*c*) C is the business carried on in Québec by the partnership in the particular fiscal period.

History: 1993, c. 16, s. 61; 1995, c. 1, s. 199; 1997, c. 3, s. 71; 1999, c. 83, s. 32; 2001, c. 53, s. 37.

Rules applicable.

104.2. For the purposes of sections 104.1 and 104.1.1, 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 business carried on in Canada, of business carried on in Québec and of business carried on in Québec and elsewhere by a corporation is made in the manner prescribed by the regulations made pursuant to section 771, with the necessary modifications, and the computation of business carried on in Canada, of business carried on in Québec and of business carried on in Québec and elsewhere by a partnership is made in the manner so prescribed by those regulations, with the necessary modifications, as if the partnership were a corporation and its fiscal period were a taxation year.

History: 1989, c. 5, s. 35; 1993, c. 16, s. 62; 1995, c. 1, s. 22; 1995, c. 63, s. 261; 2001, c. 53, s. 38.

Transferor and transferee not dealing at arm's length.

104.3. For the purposes of this division, where at any time a taxpayer or a partnership has, in any manner whatever, acquired depreciable property of a prescribed class from a transferor, any of sections 7.6, 99, 439, 444, 450, 455, 462, 527, 565, 617, 624, 630, 688, 690.1 to 690.3 and 832.4 applied in respect of the acquisition, the property was, immediately before its acquisition by the taxpayer or the partnership, a capital property of the transferor and an amount was deducted under section 156.1 or 156.1.1 in respect of the property in computing the income of the transferor for any taxation year or fiscal period, the taxpayer or the partnership, as the case may be, is deemed to have deducted under section 156.1 or 156.1.1, as the case may be, in respect of the property in computing his or its income from a business for the taxation years or the fiscal periods preceding the taxation year or the fiscal period in which the taxpayer or the partnership, as the case may be, acquired the property, an amount equal to the amount so allowed as a deduction under those sections 156.1 and 156.1.1 in respect of the property in computing the income of the transferor.

History: 1989, c. 5, s. 35; 1993, c. 16, s. 63; 1999, c. 83, s. 33.

DIVISION II.2

AMOUNT TO BE INCLUDED IN RESPECT OF THE SUPPLEMENTARY DEDUCTION FOR CERTAIN INVESTMENTS

Inclusion in income from a business.

104.4. A taxpayer, who is an individual or a corporation, shall include in computing the taxpayer's income for a taxation year from a business the amount referred to in the second paragraph, if

(*a*) an amount was deducted, in respect of depreciable property of a prescribed class, in computing the taxpayer's income from a business for a preceding taxation year under section 156.5; and

(*b*) an amount in respect of the depreciable property, in this section referred to as the "particular amount", that is an amount of assistance described in section 101 or an amount deducted by the taxpayer in respect of the property under subsection 5 or 6 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), is taken into account for the first time for the purpose of determining, at any time in the year, the capital cost to the taxpayer of the property or the undepreciated capital cost of the taxpayer's property of that class.

Amount to be included.

The amount referred to in the first paragraph that the taxpayer is required to include in computing the taxpayer's income for the year is equal to 25% of the amount determined by the formula

A × (B / C).

Interpretation.

In the formula provided for in the second paragraph,

(*a*) A is the lesser of

i. the aggregate of all amounts each of which is, for the taxpayer, a particular amount in respect of the depreciable property for the year, and

ii. the amount included in computing the taxpayer's income for the year under section 94 in respect of the depreciable property;

(*b*) B is

i. where the taxpayer is an individual, the aggregate of the individual's income earned in Québec and elsewhere for the year, and

ii. where the taxpayer is a corporation, the aggregate of the business carried on in Canada or in Québec and elsewhere by the corporation in the year; and

(*c*) C is

i. where the taxpayer is an individual, the individual's income earned in Québec for the year, and

ii. where the taxpayer is a corporation, the business carried on in Québec by the corporation in the year.

History: 2000, c. 39, s. 11.

Inclusion in income from a business.

104.5. A partnership shall include in computing the partnership's income from a business for a fiscal period, in this section referred to as the "particular period", the amount referred to in the second paragraph, if

(*a*) an amount was deducted, in respect of depreciable property of a prescribed class, in computing the partnership's income from a business for a preceding fiscal period under section 156.5.1; and

(*b*) an amount in respect of the depreciable property, in this section referred to as the "particular amount", that is an amount of assistance described in section 101 or an amount that is deemed to be such an amount of assistance because of the application of section 101.3 or 101.4, is taken into account for the first time for the purpose of determining, at any time in the particular period, the capital cost to the partnership of the property or the undepreciated capital cost of the partnership's property of that class.

Amount to be included.

The amount to which the first paragraph refers that the partnership is required to include in computing its income for the particular period is equal to 25% of the amount determined by the formula

A × B / C.

Interpretation.

In the formula provided for in the second paragraph,

(*a*) A is the lesser of

i. the aggregate of all amounts each of which is, for the partnership, a particular amount in respect of the depreciable property for the particular period, and

ii. the amount included in computing the partnership's income for the particular period under section 94 in respect of the depreciable property;

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

(*c*) C is the business carried on in Québec by the partnership in the particular period.

History: 2000, c. 39, s. 11.

Taxpayer carrying on business in Québec and elsewhere.

104.6. For the purposes of sections 104.4 and 104.5, 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 business carried on in Canada, of business carried on in Québec and of business carried on in Québec and elsewhere by a corporation is made in the manner prescribed by the regulations made pursuant to subsection 2 of section 771, with the necessary modifications, and the computation of business carried on in Canada, of business carried on in Québec and of business carried on in Québec and elsewhere by a partnership is made in the manner so prescribed by those regulations, with the necessary modifications, as if the partnership were a corporation and its fiscal period were a taxation year.

History: 2000, c. 39, s. 11.

DIVISION III
(Repealed).

105. *(Repealed).*

History: 1972, c. 23, s. 94; 1978, c. 26, s. 22; 1990, c. 59, s. 59; 1993, c. 16, s. 64; 1994, c. 22, s. 75; 1996, c. 39, s. 32; 1997, c. 3, s. 71; 2000, c. 5, s. 35; 2003, c. 2, s. 36; 2019, c. 14, s. 78.

105.1. *(Repealed).*

History: 1995, c. 49, s. 38; 2003, c. 2, s. 37.

105.2. *(Repealed).*

History: 1996, c. 39, s. 33; 2003, c. 2, s. 38; 2019, c. 14, s. 78.

105.2.1. *(Repealed).*

History: 2003, c. 2, s. 39; 2004, c. 21, s. 54; 2005, c. 1, s. 37; 2007, c. 12, s. 35; 2017, c. 29, s. 31; 2019, c. 14, s. 78.

105.2.2. *(Repealed).*

History: 2007, c. 12, s. 36; 2017, c. 29, s. 32; 2019, c. 14, s. 78.

105.2.3. *(Repealed).*

History: 2007, c. 12, s. 36; 2019, c. 14, s. 78.

105.3. *(Repealed).*

History: 2000, c. 5, s. 36; 2003, c. 2, s. 40; 2005, c. 1, s. 38; 2017, c. 29, s. 33; 2019, c. 14, s. 78.

105.4. *(Repealed).*

History: 2004, c. 21, s. 55; 2005, c. 1, s. 39; 2007, c. 12, s. 37; 2017, c. 29, s. 34.
Corresponding Federal Provision: 14(1.2).

106. *(Repealed).*

History: 1972, c. 23, s. 95; 1973, c. 17, s. 10; 1974, c. 18, s. 5; 1996, c. 39, s. 34; 1997, c. 3, s. 71; 2005, c. 1, s. 40; 2019, c. 14, s. 78.

106.1. *(Repealed).*

History: 1990, c. 59, s. 60; 1993, c. 16, s. 65; 1997, c. 3, s. 71; 2003, c. 2, s. 41; 2005, c. 1, s. 41; 2007, c. 12, s. 38; 2009, c. 5, s. 55; 2019, c. 14, s. 78.

106.2. *(Repealed).*

History: 1996, c. 39, s. 35; 2001, c. 53, s. 260; 2005, c. 1, s. 42; 2019, c. 14, s. 78.

106.3. *(Repealed).*

History: 1996, c. 39, s. 35; 1997, c. 3, s. 71; 2001, c. 53, s. 260; 2005, c. 1, s. 43; 2019, c. 14, s. 78.

106.4. *(Repealed).*

History: 2000, c. 5, s. 37; 2004, c. 8, s. 20; 2005, c. 1, s. 44; 2017, c. 1, s. 90; 2019, c. 14, s. 78.

106.5. *(Repealed).*

History: 2004, c. 8, s. 21; 2005, c. 1, s. 45; 2019, c. 14, s. 78.

106.6. *(Repealed).*

History: 2004, c. 8, s. 21; 2005, c. 1, s. 46; 2019, c. 14, s. 78.

107. *(Repealed).*

History: 1972, c. 23, s. 96; 1978, c. 26, s. 23; 1990, c. 59, s. 61; 1993, c. 16, s. 66; 1996, c. 39, s. 36; 2003, c. 2, s. 42; 2005, c. 1, s. 47; 2007, c. 12, s. 39; 2019, c. 14, s. 78.

107.0.1. *(Repealed).*

History: 2009, c. 5, s. 56; 2019, c. 14, s. 78.

107.1. *(Repealed).*

History: 1990, c. 59, s. 62; 1997, c. 3, s. 71; 2015, c. 21, s. 115; 2019, c. 14, s. 78.

107.2. *(Repealed).*

History: 1996, c. 39, s. 37; 2005, c. 1, s. 48; 2019, c. 14, s. 78.

107.3. *(Repealed).*

History: 1996, c. 39, s. 37; 2005, c. 1, s. 49; 2019, c. 14, s. 78.

108. *(Repealed).*

History: 1972, c. 23, s. 97; 1978, c. 26, s. 24; 2019, c. 14, s. 78.

109. *(Repealed).*

History: 1972, c. 23, s. 98; 1974, c. 18, s. 6; 1978, c. 26, s. 25.

110. *(Repealed).*

History: 1972, c. 23, s. 99; 2019, c. 14, s. 78.

110.1. *(Repealed).*

History: 1978, c. 26, s. 26; 1982, c. 5, s. 32; 1990, c. 59, s. 63; 1993, c. 16, s. 67; 2001, c. 7, s. 17; 2003, c. 2, s. 43; 2005, c. 1, s. 50; 2009, c. 5, s. 57; 2009, c. 15, s. 54; 2019, c. 14, s. 78.

DIVISION IV
BENEFITS CONFERRED ON A SHAREHOLDER

Benefit conferred on shareholder.

111. Where, at any time, a benefit is conferred by a corporation on a shareholder of the corporation, on a member of a partnership that is a shareholder of the corporation or on a contemplated shareholder of the corporation, the amount or value of the benefit must be included in computing the income of the shareholder, member or contemplated shareholder, as the case may be, for its taxation year that includes the time.

History: 1972, c. 23, s. 100; 1982, c. 5, s. 33; 1990, c. 59, s. 65; 1994, c. 22, s. 76; 1997, c. 3, s. 71; 2015, c. 21, s. 116.
Interpretation Bulletins: IMP. 422-1/R1.
Corresponding Federal Provision: 15(1) before (a).

Forgiveness of shareholder debt.

111.1. For the purposes of section 111, the value of the benefit where an obligation issued by a debtor is settled or extinguished at any time is deemed to be the forgiven amount at that time in respect of the obligation.

Forgiven amount.

In the first paragraph, the "forgiven amount" at any time in respect of an obligation issued by a debtor has the meaning that would be assigned by section 485 if

(*a*) the obligation were a commercial obligation, within the meaning assigned by section 485, issued by the debtor;

(*b*) no amount included in computing income, otherwise than pursuant to section 37, because of the obligation being settled or extinguished at that time were taken into account;

(*c*) the definition of "forgiven amount" in section 485 were read without reference to paragraphs *f* and *h*; and

(*d*) section 485.3 were read without reference to subparagraphs *b* and *r* of the first paragraph of that section.

History: 1989, c. 77, s. 18; 1996, c. 39, s. 38.
Corresponding Federal Provision: 15(1.2) and (1.21).

Application of section 111.

112. Section 111 does not apply in respect of a benefit conferred by a corporation to the extent that the amount or value of the benefit is deemed to be a dividend under Chapter III of Title IX or if it arises out of,

(*a*) where the corporation is resident in Canada at the time referred to in section 111,

i. the reduction of the paid-up capital of the corporation,

ii. the acquisition, cancellation or redemption by the corporation of shares of its capital stock,

iii. the winding-up, discontinuance or reorganization of the corporation's business, or

iv. a transaction to which Chapter VII or VIII of Title IX applies;

(*a.*1) where the corporation is not resident in Canada at the time referred to in section 111,

i. a distribution to which section 578.4 applies,

ii. a reduction of the paid-up capital of the corporation to which subparagraph 2 of subparagraph i of paragraph *j* of section 257 would apply if that subparagraph 2 were read without reference to "after 31 December 1971 and before 20 August 2011, or" or to which subparagraph ii of that paragraph *j* applies,

iii. the acquisition, cancellation or redemption by the corporation of shares of its capital stock, or

iv. the winding-up, or liquidation and dissolution, of the corporation;

(*b*) the payment of a dividend or a stock dividend;

(*c*) the conferring, on all owners of common shares of the capital stock of the corporation at the time referred to in section 111, of a right in respect of each common share, that is identical to every other right conferred at that time in respect of each other such share, to acquire additional shares of the capital stock of the corporation; or

(*d*) a transaction described in any of paragraphs *d* to *f* of subsection 2 of section 504.

Identical shares and rights.

For the purposes of subparagraph *c* of the first paragraph,

(*a*) where the voting rights attached to a particular class of common shares of the capital stock of a corporation differ from the voting rights attached to another class of common shares of the capital stock of the corporation and there are no other differences between the terms and conditions of the classes of shares that could cause the fair market value of a share of the particular class to differ materially from the fair market value of a share of the other class, the common shares of the particular class are deemed to be identical to those of the other class; and

(*b*) rights are not considered identical if the cost of acquiring the rights differs.

History: 1972, c. 23, s. 101; 1974, c. 18, s. 7; 1978, c. 26, s. 27; 1979, c. 18, s. 9; 1982, c. 5, s. 34; 1990, c. 59, s. 66; 1993, c. 16, s. 68; 1994, c. 22, s. 77; 1995, c. 49, s. 39; 1997, c. 3, s. 71; 2015, c. 21, s. 117.

Corresponding Federal Provision: 15(1)(a) to (d).

Stock dividend.

112.1. Notwithstanding sections 111 and 112, a person shall include in computing his income for a taxation year the fair market value of a stock dividend paid to him by a corporation in the year, except to the extent that it is otherwise included in computing that person's income under the first paragraph of section 497, if it may reasonably be considered that one of the purposes of such payment was to significantly alter the value of the interest of any specified shareholder of the corporation.

History: 1987, c. 67, s. 27; 1997, c. 3, s. 71; 2001, c. 7, s. 18.

Corresponding Federal Provision: 15(1.1).

112.2. *(Repealed).*

History: 1991, c. 25, s. 41; 1994, c. 22, s. 78; 1995, c. 1, s. 23; 1995, c. 49, s. 40; 1997, c. 3, s. 71; 1997, c. 31, s. 15.

112.2.1. *(Repealed).*

History: 1994, c. 22, s. 79; 1995, c. 1, s. 24; 1997, c. 3, s. 71; 1997, c. 14, s. 35; 1997, c. 31, s. 15.

Determination of the cost of a property or service.

112.3. To the extent that the cost to a person of purchasing a property or service or an amount payable by a person for the purpose of leasing property is taken into account in determining an amount required under this division to be included in computing a taxpayer's income for a taxation year, other than such an amount that is the value of a benefit determined under section 117, that cost or that amount payable, as the case may be, shall include any tax that was payable by the person in respect of the property or service or that would have been so payable if the person were not exempt from the payment of that tax because of the nature of the person or the use to which the property or service is to be put.

History: 1991, c. 25, s. 41; 1994, c. 22, s. 80; 1997, c. 3, s. 71; 1997, c. 31, s. 16.

Corresponding Federal Provision: 15(1.3).

Interpretation — sections 111 and 112.

112.3.1. For the purposes of this section and sections 111 and 112, the following rules apply:

(*a*) a contemplated shareholder of a corporation is

i. a person or partnership on whom a benefit is conferred by the corporation in contemplation of the person or partnership becoming a shareholder of the corporation, or

ii. a member of a partnership on whom a benefit is conferred by the corporation in contemplation of the partnership becoming a shareholder of the corporation;

(*b*) a person or partnership that is (or is deemed by this subparagraph to be) a member of a particular partnership that is a member of another partnership is deemed to be a member of the other partnership;

(*c*) a benefit conferred by a corporation on an individual is a benefit conferred on a shareholder of the corporation, a member of a partnership that is a shareholder of the corporation or a contemplated shareholder of the corporation — except to the extent that the amount or value of the benefit is included in computing the income of the individual or any other person—if the individual is an individual, other than an excluded trust in respect of the corporation, who does not deal at arm's length with, or is affiliated with, the shareholder, member of the partnership or contemplated shareholder, as the case may be; and

(*d*) if a corporation not resident in Canada (in this subparagraph referred to as the "original corporation") governed by the laws of a foreign jurisdiction is divided under those laws into two or more corporations not resident in Canada and, as a consequence of the division, a shareholder of the original corporation acquires at any time one or more shares of another corporation (in this subparagraph referred to as the "new corporation"), the original corporation is deemed at that time to have conferred a benefit on the shareholder equal to the value at that time of the shares of the new corporation acquired by the shareholder except to the extent that any of subparagraphs i to iii of subparagraph *a*.1 of the first paragraph of section 112 or subparagraph *b* of that first paragraph applies to the acquisition of the shares.

Interpretation.

For the purposes of subparagraph *c* of the first paragraph, an excluded trust in respect of a corporation is a trust in which no individual (other than an excluded trust in respect of the corporation) who does not deal at arm's length with, or is affiliated with, a shareholder of the corporation, a member of a partnership that is a shareholder of the corporation or a contemplated shareholder of the corporation, is beneficially interested.

History: 2015, c. 21, s. 118.

Corresponding Federal Provision: 15(1.4).

Shareholder debt.

113. Where a person or a partnership is a shareholder of a corporation, is a person or a partnership that does not deal at arm's length with, or is affiliated with, a shareholder of a corporation, or is a member of a partnership, or a beneficiary of a trust, that is a shareholder of a corporation and the person or partnership has in a taxation year received a loan from or become indebted to the corporation, any other corporation related to the corporation or a partnership of which the corporation or a corporation related to the corporation is a member, the amount of the loan or indebtedness (other than a pertinent loan or indebtedness) must be included in computing the income for the year of the person or partnership.

History: 1972, c. 23, s. 102; 1978, c. 26, s. 28; 1984, c. 15, s. 25; 1994, c. 22, s. 80; 1997, c. 3, s. 71; 2015, c. 21, s. 119; 2017, c. 29, s. 35.

Corresponding Federal Provision: 15(2).

Pertinent loan or indebtedness.

113.1. For the purposes of section 113 and subject to section 127.19, "pertinent loan or indebtedness" means a loan received, or an indebtedness incurred, at any time, by a corporation not resident in Canada (in this section referred to as the "subject corporation"), or by a partnership of which the subject corporation is, at that time, a member, if the loan or indebtedness is an amount owing to a corporation resident in Canada (in this section and sections 113.2 and 113.3 referred to as the "Canadian corporation") or to a qualifying Canadian partnership in respect of a Canadian corporation and if

(*a*) section 113 would, in the absence of this section, apply to the amount owing;

(*b*) the amount becomes owing after 28 March 2012;

(*c*) at that time, the Canadian corporation is controlled by

i. the subject corporation, or

ii. a corporation not resident in Canada that does not deal at arm's length with the subject corporation; and

(*d*) a valid election has been made, in relation to the amount owing, under subparagraph i or ii of paragraph *d* of subsection 2.11 of section 15 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) by

i. where the amount is owing to the Canadian corporation, the Canadian corporation and a corporation not resident in Canada that controls the Canadian corporation, or

ii. where the amount is owing to the qualifying Canadian partnership, all the members of the qualifying Canadian

partnership and a corporation not resident in Canada that controls the Canadian corporation.

Election under the Income Tax Act — rules applicable.

Chapter V.2 of Title II of Book I applies in relation to an election made under subparagraph i or ii of paragraph *d* of subsection 2.11 of section 15 of the Income Tax Act.

History: 2017, c. 29, s. 36.
Corresponding Federal Provision: 15(2.11).

Penalty for late-filed election.

113.2. Where an election referred to in subparagraph *d* of the first paragraph of section 113.1 is, as a consequence of the application of subsection 2.12 of section 15 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), deemed to have been made on or before the date on which it had to be made, the Canadian corporation that is one of the electors incurs a penalty of $100 for each month or part of a month during the period beginning on that date and ending on the day on which the election was actually made.

History: 2017, c. 29, s. 36.
Corresponding Federal Provision: 15(2.13).

Partnerships.

113.3. For the purposes of this section and section 113.1:

(*a*) "qualifying Canadian partnership", at any time, in respect of a Canadian corporation, means a partnership each member of which is, at that time, the Canadian corporation or another corporation resident in Canada to which the Canadian corporation is, at that time, related; and

(*b*) any person who is (or is deemed under this paragraph to be) a member of a partnership that is a member of a particular partnership is deemed to be a member of the particular partnership.

History: 2017, c. 29, s. 36.
Corresponding Federal Provision: 15(2.14).

Funding arrangement — deemed loan.

113.4. Where, at a particular time, a person or partnership (in this section and sections 113.5 to 113.7 referred to as the "intended borrower") owes an amount as or on account of a debt or other obligation to pay an amount (in this section and sections 113.5 to 113.7 referred to as the "shareholder debt") to another person or partnership (in this section and sections 113.5 to 113.7 referred to as the "immediate funder") and the conditions of the second paragraph are met at that time, the intended borrower is, for the purposes of this division and sections 487.1 to 487.5.4, deemed to receive a loan at that time from each particular ultimate funder to whom the second paragraph refers, the amount of which is equal to the amount determined by the formula

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

Conditions for application.

The conditions referred to in the first paragraph are as follows:

(*a*) in the absence of this section, section 113 would not apply in respect of the shareholder debt;

(*b*) at the particular time, a funder, in respect of a particular funding arrangement,

i. owes an amount to a person or partnership as or on account of a debt or other obligation to pay an amount that is not a debt or other obligation in respect of which section 113 applies, or would apply if it were not a pertinent loan or indebtedness within the meaning of section 113.1, and that is a debt or other obligation in respect of which either 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 a funding arrangement, or

(2) it can reasonably be concluded that all or a portion of the particular funding arrangement was entered into 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 funder 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 person or partnership and

(1) the existence of the specified right is required under the terms and conditions of the particular funding arrangement, or

(2) it can reasonably be concluded that all or a portion of the particular funding arrangement was entered into, or was permitted to remain in effect, because the specified right was granted or the funder anticipated that it would be granted; and

(*c*) at the particular time, one or more funders is an ultimate funder.

Interpretation.

In the formula in the first paragraph,

(*a*) A is the lesser of

i. the amount owing as or on account of the shareholder debt at the particular time, and

ii. the aggregate of all amounts each of which is, at the particular time,

(1) an amount owing as or on account of a debt or other obligation that is owed by a funder (other than an ultimate funder) to an ultimate funder under a funding arrangement in respect of the shareholder debt, or

(2) the fair market value of a particular property in respect of which an ultimate funder has granted a specified right to a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt;

(*b*) B is the aggregate of all amounts each of which is, at the particular time,

i. an amount owing as or on account of a debt or other obligation that is owed by a funder (other than an ultimate funder) to the particular ultimate funder under a funding arrangement in respect of the shareholder debt, or

ii. the fair market value of a particular property in respect of which the particular ultimate funder has granted a specified right to a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt;

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

(*d*) D is the aggregate of all amounts each of which is, in respect of the shareholder debt, an amount that the intended borrower has been deemed under this section to have received from the particular ultimate funder as a loan at any time before the particular time; and

(*e*) E is the aggregate of all amounts each of which is a repayment deemed, under section 113.5 or 113.6, to have occurred before the particular time, in respect of a loan that has been deemed to have been received from the particular ultimate funder and that is referred to in subparagraph *d*.

History: 2020, c. 16, s. 36.

Funding arrangement — deemed repayment.

113.5. Where section 113.4 has applied, before a particular time, in respect of a shareholder debt to deem one or more loans to have been received by an intended borrower from a particular ultimate funder and, at that time, any of the conditions of the second paragraph is met, the intended borrower is, for the purposes of this division and sections 177 and 487.1 to 487.5.4, deemed to repay at that time, in whole or in part, one or more of the deemed loans, and the total amount of the deemed repayments is determined by the formula

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

Conditions for application.

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

(*a*) an amount owing in respect of the shareholder debt is repaid in whole or in part;

(*b*) an amount owing as or on account of a debt or other obligation that is owed by a funder (other than an ultimate funder) to the particular ultimate funder under a funding arrangement in respect of the shareholder debt is repaid in whole or in part; and

(*c*) either

i. there is a decrease in the fair market value of a property in respect of which a specified right was granted by the particular ultimate funder to a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt, or

ii. a right described in subparagraph i is extinguished.

Interpretation.

In the formula in the first paragraph,

(*a*) A is the aggregate of all amounts each of which is the amount of a loan deemed, under section 113.4, to have been received, at any time before the particular time, by an intended borrower from the particular ultimate funder in respect of the shareholder debt;

(*b*) B is the aggregate of all amounts deemed under this section to have been repaid, at any time before the particular time, by the intended borrower in respect of a loan referred to in subparagraph *a*;

(*c*) C is the lesser of

i. the amount owing as or on account of the shareholder debt, immediately after the particular time, and

ii. the aggregate of all amounts each of which is, immediately after the particular time,

(1) an amount owing as or on account of a debt or other obligation that is owed by a funder (other than an ultimate funder) to an ultimate funder under a funding arrangement in respect of the shareholder debt, or

(2) the fair market value of a particular property in respect of which an ultimate funder has granted a specified right to a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt;

(*d*) D is the aggregate of all amounts each of which is, immediately after the particular time,

i. an amount owing as or on account of a debt or other obligation that is owed by a funder (other than an ultimate funder) to the particular ultimate funder under a funding arrangement in respect of the shareholder debt, or

ii. the fair market value of a particular property in respect of which the particular ultimate funder has granted a specified right to a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt; and

(*e*) E is the aggregate determined under subparagraph ii of subparagraph *c*.

History: 2020, c. 16, s. 36.

Funding arrangement — negative amount.

113.6. Where the amount determined, at a particular time, by the formula in the first paragraph of section 113.4 would, but for section 7.5, be less than zero, the intended borrower is, for the purposes of this division and sections 177 and 487.1 to 487.5.4, deemed to repay, in whole or in part, one or more of the loans deemed under section 113.4 to have been received, before that time, by the intended borrower from the particular ultimate funder and the total amount of the deemed repayments is equal to the absolute value of that negative amount.

History: 2020, c. 16, s. 36.

Funding arrangement — definitions.

113.7. In this section and sections 113.4 to 113.6,

"funder";
"funder", in respect of a funding arrangement, means

(*a*) if the funding arrangement is described in paragraph *a* of the definition of that expression, the immediate funder;

(*b*) if the funding arrangement is described in paragraph *b* of the definition of that expression, the creditor in respect of the debt or other obligation or the grantor of the specified right, as the case may be; or

(*c*) a person or partnership who does not deal at arm's length with a person or partnership referred to in paragraph *a* or *b*;

"funding arrangement";
"funding arrangement" means

(*a*) the shareholder debt; and

(*b*) each debt or other obligation or specified right, owing by or granted to a funder, in respect of a particular funding arrangement, if the conditions of subparagraph i or ii, as the case may be, of subparagraph *b* of the second paragraph of section 113.4 are met in respect of the debt or other obligation or specified right;

"specified right";
"specified right" has the meaning assigned by subparagraph *b*.5.1 of the first paragraph of section 172, with the necessary modifications;

"ultimate funder".
"ultimate funder" means a funder whose substitution to the immediate funder as creditor of the shareholder debt would result in the application of section 113 in respect of the shareholder debt.

History: 2020, c. 16, s. 36.

Provision not to apply.

114. Section 113 does not apply if the loan was made or the indebtedness arose in the ordinary course of the lender's or creditor's business, and *bona fide* arrangements were made, at the time the loan was made or the indebtedness arose, for repayment thereof within a reasonable time and, in the case of a loan, if the lending of money was part of the lender's ordinary business.

Provision not to apply.

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

(*a*) in respect of a person who is an employee of the lender or creditor to enable or assist the person to acquire a motor vehicle to be used by him in the performance of his duties;

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

(*b*) where the lender or creditor is a corporation, in respect of a person who is an employee of the lender or creditor or of another corporation that is related to the lender or creditor, to enable or assist the person to acquire shares, described in any of the following subparagraphs, to be held by the person for the person's own benefit:

i. a previously unissued fully paid share of the capital stock of the lender or creditor, which share is acquired from the lender or creditor, or

ii. a previously unissued fully paid share of the capital stock of a corporation related to the lender or creditor, which share is acquired from the related corporation,

iii. *(subparagraph repealed)*;

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

Conditions.

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

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

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

History: 1972, c. 23, s. 103; 1978, c. 26, s. 28; 1979, c. 18, s. 10; 1982, c. 5, s. 35; 1984, c. 15, s. 25; 1988, c. 4, s. 26; 1990, c. 59, s. 67; 1993, c. 16, s. 69; 1994, c. 22, s. 81; 1997, c. 3, s. 71; 1997, c. 85, s. 330; 1999, c. 83, s. 34; 2000, c. 5, s. 38.

Corresponding Federal Provision: 15(2.3) and (2.4).

Provision not to apply.

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

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

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

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

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

History: 2000, c. 5, s. 39.

Corresponding Federal Provision: 15(2.5).

Provision not to apply.

115. Section 113 does not apply if the loan or indebtedness was repaid within one year from the end of the taxation year of the lender or creditor in which it was made or incurred and it is established that the repayment was not made as part of a series of transactions and repayments.

History: 1972, c. 23, s. 104; 1978, c. 26, s. 28; 1984, c. 15, s. 25; 1994, c. 22, s. 82.

Corresponding Federal Provision: 15(2.6).

Provision not to apply.

116. Section 113 does not apply where the loan was made to

(*a*) a corporation resident in Canada or a partnership each member of which is such a corporation;

(*b*) a person not resident in Canada, if the lender is also such a person; or

(*c*) a person that does not deal at arm's length with, or is affiliated with, a shareholder of a corporation, if that person is a foreign affiliate of the corporation or a foreign affiliate of a person resident in Canada that does not deal at arm's length with that corporation.

Provision not to apply.

In addition, section 113 does not apply where the debtor is a person or partnership described in subparagraph *a* or *c* of the first paragraph or a person not resident in Canada, if the creditor is also such a person.

History: 1972, c. 23, s. 105; 1978, c. 26, s. 28; 1984, c. 15, s. 25; 1994, c. 22, s. 82; 1997, c. 3, s. 71; 2015, c. 21, s. 120.

Corresponding Federal Provision: 15(2) (part), (2.1) and (2.2).

Employee of a partnership.

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

History: 2000, c. 5, s. 40.

Corresponding Federal Provision: 15(2.7).

Automobile benefit.

117. If a corporation has made, in the year, an automobile available to a shareholder, or a person related to the shareholder, the value of the benefit to be included in computing the income of the shareholder for the year under section 111 is, except when an amount has been included in computing the shareholder's income under section 41 in respect of the automobile, computed on the assumption that Divisions I and II of Chapter II of Title II apply in respect of that benefit, with the necessary modifications, and as though the references therein to "the employer", "an employer" or "his employer" were read as references to "the corporation".

History: 1972, c. 23, s. 106; 1984, c. 15, s. 25; 1986, c. 15, s. 48; 1995, c. 49, s. 41; 1995, c. 63, s. 261; 1997, c. 3, s. 71.

Interpretation Bulletins: IMP. 81-1/R8; 111-1/R2.

Corresponding Federal Provision: 15(5).

Application of ss. 111 to 117.

118. Sections 111 to 117 apply to the computing, for the purposes of this Part, of the income of a shareholder, of a person or of a partnership, whether or not the corporation or the creditor, as the case may be, has resided or carried on business in Canada.

History: 1972, c. 23, s. 107; 1978, c. 26, s. 29; 1984, c. 15, s. 25; 1997, c. 3, s. 71.

Corresponding Federal Provision: 15(7).

Payments under income bond or debenture.

119. An amount paid as interest or a dividend by a corporation resident in Canada to a taxpayer in respect of an income bond or income debenture is deemed to have been paid by the corporation and received by the taxpayer as a dividend on a share of the capital stock of the corporation, unless the corporation is entitled to deduct the amount in computing its income.

Payments under income bond or debenture.

The same applies if the corporation is not resident in Canada unless the amount so paid is, under the laws of the country in which that corporation resides, deductible in computing the amount for the year on which the corporation is liable to pay income tax to the government of that country.

History: 1972, c. 23, s. 108; 1980, c. 13, s. 7; 1997, c. 3, s. 71.
Corresponding Federal Provision: 15(3) and (4).

Deemed benefit to shareholder.

119.1. For the purposes of section 111, a person or a partnership referred to in section 487.3 is deemed to receive the benefit provided for in the said section 487.3 as a shareholder.

History: 1978, c. 26, s. 30; 1983, c. 44, s. 21, 1997, c. 3, s. 71.
Corresponding Federal Provision: 15(9).

DIVISION IV.1
DEVELOPMENT BONDS

Definitions:

119.2. In this division,

"development bond";
"development bond" at any time means an obligation that is at that time a qualifying debt obligation issued

(*a*) after 31 December 1981 and before 1 January 1988 by a Canadian-controlled private corporation and in respect of which a joint election was made within 90 days after the later of its issue date and 30 March 1983;

(*b*) after 25 February 1992 by a Canadian-controlled private corporation and in respect of which a joint election was made within 90 days after its issue date; or

(*c*) by a Canadian-controlled private corporation if

i. it is reasonable to consider that the corporation and the holder of the obligation intended that this division apply to the obligation, having regard to such factors as may be relevant, including the rate of interest stipulated under the terms of the obligation and the manner in which the corporation and the holder have treated the obligation for the purposes of this Part, and

ii. the holder files with the Minister a joint election in respect of the obligation within 90 days from the date of notification by the Minister that a joint election in respect of the obligation has not been filed;

"joint election";
"joint election" in respect of any obligation means an election that is made in prescribed form, containing prescribed information, jointly by the issuer corporation of the obligation and the person who is the holder of the obligation at the time of the election, that is filed with the Minister by the holder and in which the holder and the issuer corporation elect that this division apply to the obligation;

"qualified corporation";
"qualified corporation" has the meaning assigned by the regulations;

"qualifying debt obligation".
"qualifying debt obligation" of a corporation at a particular time means an obligation that is a bond, debenture, bill, note, hypothecary claim, mortgage or similar obligation issued between 25 February 1992 and 1 January 1995 and not more than five years before the particular time, the principal amount of which is not less than $10,000 nor more than $500,000, that is issued for a term of not more than five years and, except in the event of a failure or default under the terms or conditions of the obligation, not less than one year, if the obligation is issued by the corporation

(*a*) as part of a proposal to, or an arrangement with, its creditors that has been approved by a competent court under the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3);

(*b*) at a time when all or substantially all of its assets are under the control of a receiver, receiver-manager, sequestrator or trustee in bankruptcy; or

(*c*) in whole or in part, directly or indirectly in exchange or substitution for a debt held by a person with whom the corporation was dealing at arm's length at a time when, by reason of financial difficulties, the corporation

i. is in default on that debt, or

ii. could reasonably be expected to default on that debt.

History: 1982, c. 5, s. 36; 1984, c. 15, s. 26; 1985, c. 25, s. 28; 1987, c. 67, s. 28; 1989, c. 5, s. 36; 1994, c. 22, s. 83; 1995, c. 49, s. 42; 1995, c. 63, s. 27; 1996, c. 39, s. 39; 1997, c. 3, s. 19; 2000, c. 5, s. 41; 2005, c. 1, s. 51.
Corresponding Federal Provision: 15.1(3).

Amount as a taxable dividend.

119.3. Where a corporation pays an amount to a taxpayer as interest on a development bond it has issued, that amount is deemed to have been received by the taxpayer as a taxable dividend.

History: 1982, c. 5, s. 36; 1997, c. 3, s. 71.
Corresponding Federal Provision: 15.1(1).

Development bond.

119.4. Notwithstanding any other provision of this Part, where a corporation has issued an obligation that is at any time a development bond, the following rules apply:

(*a*) no deduction may be made in computing its income for a taxation year in respect of an amount paid or payable as interest on that bond, depending on the method regularly followed by the corporation in computing its income for a period that includes that time;

(*b*) any amount paid by the corporation as interest on the bond, to the extent that it is not allowed as a deduction by virtue of paragraph *a* is, when paid, deemed to have been paid as a taxable dividend.

History: 1982, c. 5, s. 36; 1987, c. 67, s. 29; 1997, c. 3, s. 71.
Corresponding Federal Provision: 15.1(2)(a) and (b).

Taxable income.

119.5. Notwithstanding any other provision of this Part, except for the purposes of subparagraph i of paragraph *d*.2 of subsection 1 of section 771 and sections 771.2.1.2, 771.8.3 and 771.8.5, the taxable income of a corporation that has issued an obligation that is at any time a development bond is deemed, for a taxation year that includes a period throughout which the obligation was a development bond, to be an amount equal to the aggregate of its taxable income otherwise determined for the year and the amount paid or payable, depending on the method regularly followed in computing the income of the corporation, as interest on the obligation in respect of that period, at a time when

(*a*) the corporation was not a qualified corporation; or

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

(*c*) all or substantially all of the proceeds from the issue of the obligation cannot reasonably be regarded as having been used by the corporation or a corporation with which it was not dealing at arm's length in the financing of a qualified business carried on in Canada immediately before the time of the issue of the obligation.

History: 1982, c. 5, s. 36; 1984, c. 15, s. 27; 1987, c. 67, s. 30; 1989, c. 5, s. 37; 1992, c. 1, s. 25; 1994, c. 22, s. 84; 1995, c. 63, s. 28; 1997, c. 3, s. 71; 1997, c. 85, s. 50; 2000, c. 39, s. 12; 2005, c. 38, s. 61.
Corresponding Federal Provision: 15.1(2)(c).

119.6. *(Repealed).*

History: 1982, c. 5, s. 36; 1994, c. 22, s. 85.

Amount deemed to be paid for earning income from a business or property.

119.7. Notwithstanding any other provision of this Act, an amount paid or payable by a taxpayer pursuant to a legal obligation to pay interest on borrowed money used for the purpose of acquiring a development bond is deemed to be an amount paid or payable, as the case may be, on borrowed money used for the purpose of earning income from a business or property.

History: 1982, c. 5, s. 36.
Corresponding Federal Provision: 15.1(4).

Amount payable in the case of a false declaration.

119.8. Where the Minister establishes that a corporation has, knowingly or under circumstances amounting to gross negligence, made a false declaration in a joint election in respect of an obligation it has issued, the reference in section 119.5 to "the amount paid" shall be read, in respect of that obligation, as a reference to "three times the amount paid".

History: 1982, c. 5, s. 36; 1994, c. 22, s. 86; 1997, c. 3, s. 71.
Corresponding Federal Provision: 15.1(5).

Disqualification.

119.9. Where at any particular time a corporation makes a joint election in respect of an obligation it has issued and at or before that time the corporation or a person or partnership described in the second paragraph made a joint election in respect of any development bond or small business bond, as the case may be, the corporation, for the purposes of this division, is deemed not to be a qualified corporation in respect of the obligation.

Person or partnership.

The person or partnership referred to in the first paragraph is a corporation associated with the corporation at the time the obligation was issued, an individual who controls or is a member of a related group that controls the corporation, or a partnership any member of which, who is a majority-interest partner of the partnership, controls or is a member of a related group that controls the corporation.

History: 1982, c. 5, s. 36; 1989, c. 5, s. 38; 1994, c. 22, s. 86; 1995, c. 63, s. 261; 1996, c. 39, s. 273; 1997, c. 3, s. 71.
Corresponding Federal Provision: 15.1(6).

119.10. *(Repealed).*

History: 1982, c. 5, s. 36; 1994, c. 22, s. 87.

Exception.

119.11. Section 119.9 does not apply to an obligation issued at any time where the issue price of the obligation does not exceed the amount by which $500,000 exceeds the aggregate of all amounts each of which is the principal amount outstanding, immediately after that time, of

(*a*) another development bond issued by the corporation or a corporation associated with the corporation; or

(*b*) a small business bond issued by an individual who controls or is a member of a related group that controls the

corporation, or by a partnership any member of which, who is a majority-interest partner of the partnership, controls or is a member of a related group that controls the corporation.

History: 1984, c. 15, s. 28; 1987, c. 67, s. 31; 1989, c. 5, s. 39; 1994, c. 22, s. 88; 1997, c. 3, s. 71.
Corresponding Federal Provision: 15.1(7).

119.12. *(Repealed).*

History: 1984, c. 15, s. 28; 1994, c. 22, s. 89.

119.13. *(Repealed).*

History: 1984, c. 15, s. 28; 1994, c. 22, s. 89.

119.14. *(Repealed).*

History: 1984, c. 15, s. 28; 1994, c. 22, s. 89.

DIVISION IV.2
SMALL BUSINESS BOND

Definitions:

119.15. In this division,

"eligible issuer";
"eligible issuer" at any time means

(*a*) an individual, other than a trust, who is resident in Canada and who

i. has not made a joint election before that time in respect of a small business bond,

ii. is not a majority-interest partner of a partnership that has made a joint election before that time in respect of a small business bond, and

iii. neither controls nor is a member of a related group that controls a corporation that has made a joint election before that time in respect of a small business development bond, or a corporation that is associated with such a corporation; or

(*b*) a partnership

i. each member of which is an individual, other than a trust, who is resident in Canada,

ii. each majority-interest partner, if any, of which is an eligible issuer, and

iii. that has not made a joint election before that time in respect of a small business bond;

"joint election";
"joint election" in respect of any obligation means an election that is made in prescribed form, containing prescribed information, jointly by the issuer of the obligation and the person who is the holder of the obligation at the time of the election, that is filed with the Minister by the holder and in which the holder and the issuer elect that this division apply to the obligation;

"qualifying debt obligation";
"qualifying debt obligation" of an individual or a partnership at a particular time means an obligation that is a bill, note, hypothecary claim, mortgage or similar obligation issued between 25 February 1992 and 1 January 1995 and not more than five years before the particular time, the principal amount of which is not less than $10,000 nor more than $500,000, that is issued for a term of not more than five years and, except in the event of a failure or default under the terms or conditions of the obligation, not less than one year, if the proceeds from the issue of the obligation are used in Canada in a business the individual or partnership carried on immediately before the time of issue, and if the obligation is issued by the individual or partnership

(*a*) as part of a proposal to, or an arrangement with, his or its creditors that has been approved by a competent court under the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3);

(*b*) at a time when all or substantially all of his or its assets are under the control of a receiver, receiver-manager, sequestrator or trustee in bankruptcy; or

(*c*) in whole or in part, directly or indirectly in exchange or substitution for a debt incurred in the course of the business of the individual or partnership and held by a person with whom the individual or each member of the partnership was dealing at arm's length, at a time when, because of financial difficulty, the individual or partnership

i. is in default on that debt, or

ii. could reasonably be expected to default on that debt;

"small business bond".
"small business bond" at any time means an obligation that is at that time a qualifying debt obligation issued by

(*a*) an individual or a partnership in respect of which a joint election was made within 90 days after its issue date; or

(*b*) an individual or a partnership if

i. it is reasonable to consider that the holder of the obligation and the individual or partnership, as the case may be, intended that this division apply to the obligation, having regard to such factors as may be relevant, including the rate of interest stipulated under the terms of the obligation and the manner in which the holder and the individual or partnership, as the case may be, have treated the obligation for the purposes of this Part, and

ii. the holder files with the Minister a joint election in respect of the obligation within 90 days from the date of notification by the Minister that a joint election in respect of the obligation has not been filed in accordance with paragraph *a*.

History: 1984, c. 15, s. 28; 1985, c. 25, s. 29; 1987, c. 67, s. 32; 1994, c. 22, s. 90; 1995, c. 49, s. 43; 1996, c. 39, s. 40; 1997, c. 3, s. 71; 2000, c. 5, s. 41; 2005, c. 1, s. 52.
Corresponding Federal Provision: 15.2(3).

Taxable dividend.

119.16. Where an individual or partnership pays any amount to a taxpayer as or on account of interest in respect of a small business bond, the amount is deemed to have been received by the taxpayer as a taxable dividend from a taxable Canadian corporation.

History: 1984, c. 15, s. 28; 1997, c. 3, s. 71.
Corresponding Federal Provision: 15.2(1).

Small business bond.

119.17. Where an individual or partnership has issued an obligation that is at any time a small business bond, notwithstanding any other provision of this Part, in computing his or its income for a taxation year, no deduction may be made in respect of any amount paid or payable as or on account of interest on the bond, depending on the method regularly followed by the individual or the partnership in computing his or its income, for a period that includes that time.

History: 1984, c. 15, s. 28; 1987, c. 67, s. 33; 1997, c. 3, s. 71.
Corresponding Federal Provision: 15.2(2)(a).

Rules for small business bonds.

119.18. Notwithstanding any other provision of this Part, where an issuer that is an individual or partnership has issued an obligation that is at any time a small business bond, the issuer shall add to his or its tax otherwise payable for a taxation year under this Part an amount equal to 24% of the amount of interest paid or payable in respect of the obligation, depending on the method regularly followed by the issuer in computing his or its income, in respect of a period of the taxation year throughout which the obligation was a small business bond and throughout which

(*a*) the issuer is not an eligible issuer, or

(*b*) all or substantially all of the proceeds from the issue of the obligation are not used by the eligible issuer in the financing of a qualified business carried on by him or it in Canada immediately before the time of the issue of the obligation.

History: 1984, c. 15, s. 28; 1987, c. 67, s. 34; 1989, c. 5, s. 40; 1994, c. 22, s. 91; 1997, c. 3, s. 71.
Corresponding Federal Provision: 15.2(2)(b).

Money borrowed to acquire small business bond.

119.19. Notwithstanding any other provision of this Part, an amount paid or payable by a taxpayer pursuant to a legal obligation to pay interest on borrowed money used for the purpose of acquiring a small business bond is deemed to be an amount paid or payable, on borrowed money used for the purpose of earning income from a business or property.

History: 1984, c. 15, s. 28.
Corresponding Federal Provision: 15.2(4).

False declaration.

119.20. Where the Minister establishes that an individual or partnership has, knowingly or under circumstances amounting to gross negligence, made a false declaration in a joint election in respect of an obligation that was issued by the individual or partnership, the reference in section 119.18 to "24%" shall be read, in respect of that obligation, as a reference to "72%".

History: 1984, c. 15, s. 28; 1987, c. 67, s. 35; 1994, c. 22, s. 92; 1997, c. 3, s. 71.
Corresponding Federal Provision: 15.2(5).

Partnerships.

119.21. For the purposes of section 119.18, where the issuer is a partnership, the reference therein to "the issuer shall add" shall be read as a reference to "each member of the partnership shall add", and each member shall add to his tax otherwise payable under this Part for the taxation year that includes the period described in section 119.18 the amount that can reasonably be regarded as his share of the amount determined under that section 119.18 in respect of the partnership.

History: 1984, c. 15, s. 28; 1994, c. 22, s. 92; 1997, c. 3, s. 71.
Corresponding Federal Provision: 15.2(6).

Deemed eligible issuer.

119.22. Where, but for subparagraphs i to iii of paragraph *a* and subparagraph ii of paragraph *b* of the definition of "eligible issuer" in section 119.15, an individual or a partnership would be an eligible issuer, the individual or partnership is deemed to be an eligible issuer in respect of a small business bond at any time where the issue price of the bond does not exceed the amount by which $500,000 exceeds the aggregate determined in the second paragraph.

Interpretation.

The aggregate referred to in the first paragraph is

(*a*) where the issuer is an individual, the aggregate of all amounts each of which is the principal amount outstanding immediately after that time in respect of

i. another obligation that is a small business bond issued by the individual, or by a partnership of which the individual is a majority-interest partner, or

ii. a development bond issued by a corporation that is controlled by the individual or by a related group of which the individual is a member, or by a corporation that is associated with such a corporation; or

(*b*) where the issuer is a partnership, the aggregate of all amounts each of which is the principal amount outstanding immediately after that time in respect of

i. another obligation that is a small business bond issued by

(1) the partnership,

(2) an individual who is a majority-interest partner of the partnership, or

(3) a partnership of which the individual referred to in subparagraph 2 is a majority-interest partner, or

ii. a development bond issued by a corporation that is controlled by the individual referred to in subparagraph 2 of subparagraph i or by a related group of which the individual is a member, or by a corporation that is associated with such a corporation.

History: 1984, c. 15, s. 28; 1987, c. 67, s. 36; 1989, c. 5, s. 41; 1994, c. 22, s. 92; 1997, c. 3, s. 71.
Corresponding Federal Provision: 15.2(7).

119.23. *(Repealed).*

History: 1984, c. 15, s. 28; 1994, c. 22, s. 93.

119.24. *(Repealed).*

History: 1984, c. 15, s. 28; 1994, c. 22, s. 93.

DIVISION V
AMOUNTS INCLUDING CAPITAL AND INTEREST

Capital and interest combined.

120. Except in the cases in which section 123 applies, where, under a contract or other arrangement, an amount can reasonably be regarded as being in part an amount of capital and in part interest or other amount of an income nature, the following rules apply:

(*a*) the part of the amount that can reasonably be regarded as interest is, irrespective of when the contract or arrangement was made or the form or legal effect thereof, deemed to be interest on a debt obligation held by the person to whom the amount is paid or payable;

(*b*) the part of the amount that can reasonably be regarded as an amount of an income nature, other than interest, shall, irrespective of when the contract or arrangement was made or the form or legal effect thereof, be included in computing the income of the taxpayer to whom the amount is paid or payable for the taxation year in which the amount is received or has become due, to the extent that it has not otherwise been included in computing the taxpayer's income.

History: 1972, c. 23, s. 109; 1984, c. 15, s. 29; 1990, c. 59, s. 69.
Corresponding Federal Provision: 16(1) and (5).

Provision not to apply.

121. Section 120 does not apply to any amount received by a taxpayer

(*a*) as an annuity payment;

(*b*) in satisfaction of his rights under an annuity contract.

History: 1972, c. 23, s. 110; 1978, c. 26, s. 31; 1984, c. 15, s. 30.
Corresponding Federal Provision: 16(4).

"obligation".

122. For the purposes of sections 123 to 125, "obligation" means a bond, debenture, bill, hypothecary claim, mortgage or other similar obligation issued by a person exempt from tax under sections 980 to 998, a person not resident in Canada who is not carrying on business in Canada, or a government, municipality or public body performing a function of government.

History: 1972, c. 23, s. 111; 1996, c. 39, s. 41; 1997, c. 14, s. 36; 2005, c. 1, s. 53.
Corresponding Federal Provision: 16(2) and (3).

Obligation issued at discount.

123. Where an obligation is issued at a discount, the first owner of the obligation who is resident in Canada, who is not a person exempt, because of sections 980 to 998, from tax on part or on all of the person's taxable income and of whom the obligation is a capital property shall include, in computing his income for the taxation year in which he has become the owner of the obligation, the amount by which the principal amount of the obligation exceeds the amount for which the obligation was issued,

(*a*) in the case of an obligation issued after 20 December 1960 and before 19 June 1971, if the stipulated rate of interest payable on the obligation is less than 5% annually and if the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued, exceeds such annual rate of interest by more than one-third; or

(*b*) in the case of an obligation issued after 18 June 1971, other than an obligation that is a prescribed debt obligation for the purposes of section 92.5, if the yield from the obligation, expressed in the same manner, exceeds by more than one-third the stipulated rate of interest payable on such obligation.

History: 1972, c. 23, s. 112; 1973, c. 17, s. 11; 1994, c. 22, s. 94; 1995, c. 49, s. 44; 1996, c. 39, s. 42.
Corresponding Federal Provision: 16(2) and (3).

Rate of interest.

124. For the purposes of section 123, the stipulated rate of interest means the annual percentage rate payable on the principal amount of the obligation if no amount is payable as principal before the maturity of such obligation or on the amount outstanding as principal in other cases.

History: 1972, c. 23, s. 113; 1996, c. 39, s. 43.

Corresponding Federal Provision: 16(2)(b)(i), (ii), (3)(b)(i) and (ii).

Calculating annual yield rate.

125. For the purposes of section 123, the annual yield rate must, if the terms of the obligations or any related contract would empower its holder to require payment of the principal amount of the obligation or the amount outstanding as principal before such obligation comes to maturity, be calculated on the basis of the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional upon the exercise of the right mentioned in this section.

History: 1972, c. 23, s. 114; 1996, c. 39, s. 44.
Corresponding Federal Provision: 16(2)c) and (3)b).

Indexed debt obligations.

125.0.1. For the purposes of this Part and subject to section 125.0.3, where at any time in a taxpayer's taxation year an interest in an indexed debt obligation is held by the taxpayer, the following rules apply:

(*a*) an amount determined in prescribed manner is deemed to be received or receivable by the taxpayer in the year as interest in respect of the obligation; and

(*b*) an amount determined in prescribed manner is deemed to be paid or payable in respect of the year by the taxpayer as interest pursuant to a legal obligation of the taxpayer to pay interest on borrowed money used for the purpose of earning income from a business or property.

History: 1994, c. 22, s. 95; 2001, c. 7, s. 19.
Corresponding Federal Provision: 16(6)(a).

Indexed debt obligations.

125.0.2. For the purposes of this Part, where at any time in a taxation year of a taxpayer an indexed debt obligation is an obligation of the taxpayer,

(*a*) an amount determined in prescribed manner is deemed to be payable in respect of the year by the taxpayer as interest in respect of the obligation; and

(*b*) an amount determined in prescribed manner is deemed to be received or receivable by the taxpayer in the year as interest in respect of the obligation.

Payment or crediting of interest.

Where the taxpayer pays or credits an amount in respect of an amount determined under subparagraph *a* of the first paragraph in respect of an indexed debt obligation, the payment or crediting is deemed to be a payment or crediting of interest on the obligation.

History: 1994, c. 22, s. 95.
Corresponding Federal Provision: 16(6)(b) and (c).

Impaired indexed debt obligations.

125.0.3. Section 125.0.1 does not apply to a taxpayer in respect of an indexed debt obligation for the part of a taxation year throughout which the obligation is impaired where an amount in respect of the obligation is deductible because of paragraph *b* of section 140 in computing the taxpayer's income for the year.

History: 2001, c. 7, s. 20.
Corresponding Federal Provision: 16(7).

DIVISION V.1
LEASING PROPERTIES

Rules applicable.

125.1. Where a taxpayer, in this division referred to as the "lessee", has leased corporeal property, other than prescribed property, that would, if the lessee had acquired the property, have been depreciable property of the lessee, from a person resident in Canada other than a person whose taxable income is exempt from tax under this Part, or from a person not resident in Canada who holds the lease in the course of carrying on a business through an establishment in Canada any income from which is subject to tax under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), who owns the property and with whom the lessee was dealing at arm's length, in this division referred to as the "lessor", for a term of more than one year, the following rules apply for the purpose of computing the income of the lessee for the taxation year that includes the particular time when the lease began and for all subsequent taxation years, if the lessee and the lessor have jointly so elected in a prescribed form filed with their fiscal returns under this Part for their respective taxation years that include the particular time:

(*a*) in respect of any amount paid or payable for the use of, or for the right to use, the property, the lease is deemed not to be a lease;

(*b*) the lessee is deemed to have acquired the property from the lessor at the particular time at a cost equal to its fair market value at that time;

(*c*) the lessee is deemed to have borrowed money from the lessor at the particular time, for the purpose of acquiring the property, in a principal amount equal to the fair market value of the property at that time;

(*d*) interest, capitalized semi-annually, not in advance, is deemed to accrue on the principal amount of the borrowed money outstanding from time to time, at the prescribed rate in effect at the beginning of the period for which the interest is being calculated, where the lease provides that the amount payable by the lessee for the use of, or the right to use, the property varies according to prevailing interest rates in effect from time to time, and the lessee so elects, in respect of all of the property that is subject to the lease, in his fiscal return

under this Part for his taxation year in which the lease commenced, or at the prescribed rate in effect on the earlier of the particular time and the time, before the particular time, at which the lessee last entered into an agreement to lease the property;

(*e*) the amounts paid or payable by or on behalf of the lessee for the use of, or the right to use, the property in the year are deemed to be blended payments, paid or payable by the lessee, of principal and interest on the borrowed money outstanding from time to time, calculated in accordance with paragraph *d*, applied firstly on account of interest on principal, secondly on account of interest on unpaid interest and thirdly on account of unpaid principal, if any, and the amount by which the aggregate of such amounts paid or payable exceeds the aggregate of the amounts so applied is deemed to be paid or payable on account of interest, and any amount deemed by reason of this paragraph to be a payment of interest is deemed to have been an amount paid or payable, as the case may be, pursuant to a legal obligation to pay interest in respect of the year on the borrowed money;

(*f*) at the time of the expiration or cancellation of the lease, the assignment of the lease or the sublease of the property by the lessee, the lessee is deemed, except where section 125.4 applies, to dispose of the property at that time for proceeds of disposition equal to the amount by which the aggregate of the amount referred to in paragraph *c* and the amounts received or receivable by the lessee in respect of the cancellation or assignment of the lease or the sublease of the property exceeds the aggregate of the amounts deemed under paragraph *e* to have been paid or payable, as the case may be, by the lessee on account of the principal amount of the borrowed money and the amounts paid or payable by or on behalf of the lessee in respect of the cancellation or assignment of the lease or the sublease of the property;

(*g*) for the purposes of sections 97.2 to 97.4, each amount paid or payable by or on behalf of the lessee that would, but for this section, have been an amount paid or payable for the use of, or the right to use of, the property is deemed to have been deducted in computing the lessee's income as an amount paid or payable by the lessee for the use of, or the right to use, the property after the particular time;

(*h*) any amount paid or payable by or on behalf of the lessee in respect of the granting or assignment of the lease or the sublease of the property that would, but for this paragraph, be the capital cost to the lessee of a leasehold interest in the property is deemed to be an amount paid or payable, as the case may be, by the lessee for the use of, or the right to use, the property for the remaining term of the lease;

(*i*) where the lessee has made an election under this section in respect of a property and, at any time after the lease was entered into, the owner of the property is a person not resident in Canada who does not hold the lease in the course of carrying on a business through an establishment in Canada any income from which is subject to tax under Part I of the Income Tax Act, the lease is deemed, for the purposes of this section, to have been cancelled at that time.

History: 1991, c. 25, s. 42; 1993, c. 16, s. 70; 1994, c. 22, s. 96; 1996, c. 39, s. 45; 2001, c. 53, s. 39; 2005, c. 1, s. 54; 2005, c. 23, s. 40.

Corresponding Federal Provision: 16.1(1).

Assignment of lease or sublease of property.

125.2. Subject to sections 125.3 and 125.4, where at any particular time a lessee who has made an election under section 125.1 in respect of a leased property assigns the lease or subleases the property to another person, in this division referred to as the "assignee", the following rules apply:

(*a*) section 125.1 does not apply in computing the income of the lessee in respect of the lease for any period after the particular time;

(*b*) if the lessee and the assignee have jointly so elected by filing the prescribed form with their fiscal returns under this Part for their respective taxation years that include the particular time, section 125.1 applies to the assignee as if

i. the assignee had leased the property at the particular time from the owner of the property for a term of more than one year, and

ii. the assignee and the owner of the property had jointly elected under the said section 125.1 in respect of the property by filing the prescribed form with their fiscal returns under this Part for their respective taxation years that include the particular time.

History: 1991, c. 25, s. 42; 1993, c. 16, s. 71; 1994, c. 22, s. 97; 1996, c. 39, s. 46.

Corresponding Federal Provision: 16.1(2).

Assignment of lease or sublease of property.

125.3. Subject to section 125.4, where at any particular time a lessee who has made an election under section 125.1 in respect of a leased property assigns the lease or subleases the property to another person with whom he is not dealing at arm's length, the other person is deemed, for the purposes of section 125.1 and for the purposes of computing his income in respect of the lease for any period after the particular time, to be the same person as, and the continuation of, the lessee.

Presumption.

However, notwithstanding paragraph *b* of section 125.1, that other person is deemed to have acquired the property from the lessee at the time that it was acquired by the lessee, at a cost equal to the lessee's proceeds of disposition of the property that would be determined under paragraph *f* of section 125.1 if the said paragraph *f* were read without reference to "and the amounts received or receivable by the lessee in respect of the cancellation or assignment of the lease or the sublease of the property" and to "and the

amounts paid or payable by or on behalf of the lessee in respect of the cancellation or assignment of the lease or the sublease of the property", with the necessary modifications.

History: 1991, c. 25, s. 42; 1994, c. 22, s. 98; 1995, c. 63, s. 261.
Corresponding Federal Provision: 16.1(3).

Assignment of lease by reason of amalgamation or winding-up.

125.4. Notwithstanding section 125.2, where at any time a particular corporation that has made an election under section 125.1 in respect of a lease assigns the lease by reason of an amalgamation, within the meaning of subsections 1 and 2 of section 544, or in the course of the winding-up of a Canadian corporation in respect of which sections 556 to 564.1 and 565 apply, to another corporation with which it does not deal at arm's length, the other corporation is deemed, for the purposes of section 125.1 and for the purposes of computing its income in respect of the lease after that time, to be the same person as, and a continuation of, the particular corporation.

History: 1991, c. 25, s. 42; 1997, c. 3, s. 71.
Corresponding Federal Provision: 16.1(4).

Replacement property.

125.5. For the purposes of section 125.1, property that is provided at any time by a lessor to a lessee as a replacement for a similar property of the lessor that was leased by the lessor to the lessee is deemed to be the same property as the similar property where the amount payable by the lessee for the use of, or the right to use, the replacement property is the same as the amount that was payable in respect of the similar property.

History: 1993, c. 16, s. 72; 1994, c. 22, s. 99.
Corresponding Federal Provision: 16.1(5).

Additional property.

125.6. For the purposes of section 125.1, where at any particular time, an addition or alteration, in this section referred to as the "additional property", is made by a lessor to a property, in this section referred to as the "original property", of the lessor that is the subject of a lease, the lessor and the lessee of the original property have filed the joint election referred to in section 125.1 in respect of the original property, and, as a consequence of the addition or alteration, the total amount payable by the lessee for the use of, or the right to use, the original property and the additional property exceeds the amount so payable in respect of the original property, the following rules apply:

(*a*) the lessee is deemed to have leased the additional property from the lessor at the particular time,

(*b*) the term of the lease of the additional property is deemed to be greater than one year,

(*c*) the lessor and the lessee are deemed to have jointly elected in accordance with section 125.1 in respect of the additional property,

(*d*) the prescribed rate in effect at the particular time in respect of the additional property is deemed to be equal to the prescribed rate in effect in respect of the original property at the particular time,

(*e*) the additional property is deemed, for the purposes of section 125.1, not to be prescribed property, and

(*f*) the amount by which the total amount payable by the lessee for the use of, or the right to use, the original property and the additional property exceeds the amount so payable in respect of the original property is deemed to be an amount payable by the lessee for the use of, or the right to use, the additional property.

History: 1993, c. 16, s. 72; 1994, c. 22, s. 100.
Corresponding Federal Provision: 16.1(6).

Renegotiation of lease.

125.7. For the purposes of section 125.1, where at any time a lease, in this section referred to as the "original lease", is renegotiated in the course of a *bona fide* renegotiation and, as a result of the renegotiation, the amount payable by the lessee for the use of, or the right to use, the property that is the subject of the lease is altered in respect of a period after that time, otherwise than by reason of an addition or alteration in respect of which section 125.6 applies, the original lease is deemed to have expired and the renegotiated lease is deemed to be a new lease of the property entered into at that time.

History: 1993, c. 16, s. 72.
Corresponding Federal Provision: 16.1(7).

DIVISION VI
(Repealed).

126. *(Repealed).*

History: 1972, c. 23, s. 115; 1978, c. 26, s. 32; 1986, c. 19, s. 22; 1997, c. 3, s. 71; 1997, c. 14, s. 38; 2001, c. 53, s. 40.

127. *(Repealed).*

History: 1972, c. 23, s. 116; 1973, c. 17, s. 12; 1997, c. 3, s. 71; 2001, c. 53, s. 40.

DIVISION VII
AMOUNT OWING BY A PERSON NOT RESIDENT IN CANADA

Definitions:

127.1. In this division,

"active business";
"active business" has the meaning assigned by subsection 1 of section 95 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

"controlled foreign affiliate";
"controlled foreign affiliate", at any time, of a taxpayer resident in Canada, means a corporation that would, at that time, be a controlled foreign affiliate of the taxpayer within the meaning of section 572 if that section were read as if "resident in Canada" were inserted after "any person" in subparagraphs ii and iv of its paragraph *b*;

"exempt loan or transfer";
"exempt loan or transfer" means

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

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

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

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

"income from an active business";
"income from an active business" has the meaning assigned by subsection 1 of section 95 of the Income Tax Act;

"non-discretionary trust";
"non-discretionary trust", at any time, means a trust in which all interests were vested indefeasibly at the beginning of the trust's taxation year that includes that time;

"settlor".
"settlor" in respect of a trust, at any time, means any person or partnership that has made a loan or transfer of property, either directly or indirectly in any manner whatever, to or for the benefit of the trust at or before that time, other than, where the person or partnership deals at arm's length with the trust at that time,

(*a*) a loan made by the person or partnership to the trust at a reasonable rate of interest; or

(*b*) a transfer of property made by the person or partnership to the trust for fair market value consideration.

History: 2001, c. 53, s. 41; 2004, c. 8, s. 22; 2010, c. 25, s. 13.

Corresponding Federal Provision: 17(15) and 95(1) "active business", "controlled foreign affiliate" and "income from an active business".

Persons related and controlled foreign affiliate.

127.2. For the purposes of this division, the following rules apply in determining whether persons are related to each other and whether a corporation not resident in Canada is a controlled foreign affiliate of a corporation resident in Canada at any time:

(*a*) each member of a partnership is deemed to own that proportion of the number of shares of a class of the capital stock of a corporation that are owned by the partnership at that time that the fair market value at that time of the member's interest in the partnership is of the fair market value at that time of the interests of all members in the partnership; and

(*b*) each beneficiary of a non-discretionary trust is deemed to own that proportion of the number of shares of a class of the capital stock of a corporation that are owned by the trust at that time that the fair market value at that time of the beneficiary's beneficial interest in the trust is of the fair market value at that time of all the beneficial interests in the trust.

History: 2001, c. 53, s. 41.
Corresponding Federal Provision: 17(10).

Persons related.

127.3. For the purposes of this division, in determining whether persons are related to each other at any time, each settlor in respect of a trust, other than a non-discretionary trust, is deemed to own the shares of a class of the capital stock of a corporation owned by the trust at that time.

History: 2001, c. 53, s. 41.
Corresponding Federal Provision: 17(11).

Rule for determining whether persons are related.

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

History: 2004, c. 8, s. 23.
Corresponding Federal Provision: 17(11.1).

Multiple loans.

127.3.2. For the purposes of section 127.7 and paragraph *b* of section 127.8, where an intermediate lender makes a loan to an intended borrower, and that loan arises

out of another loan which the intermediate lender received from an initial lender, the following rules apply:

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

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

Interpretation.

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

History: 2004, c. 8, s. 23.
Corresponding Federal Provision: 17(11.2).

Rule for determining whether persons are related.

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

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

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

History: 2004, c. 8, s. 23.
Corresponding Federal Provision: 17(11.3).

Controlled foreign affiliate.

127.4. For the purposes of this division, in determining whether a person who is not resident in Canada is a controlled foreign affiliate of a corporation resident in Canada at any time, each settlor in respect of a trust, other than a non-discretionary trust, is deemed to own that proportion of the number of shares of a class of the capital stock of a corporation owned by the trust at that time that one is of the number of settlors in respect of the trust at that time.

History: 2001, c. 53, s. 41.
Corresponding Federal Provision: 17(12).

Deemed controlled foreign affiliate.

127.5. For the purposes of this division, where, at any time, two corporations resident in Canada are related, otherwise than because of a right referred to in paragraph *b* of section 20, any corporation that is a controlled foreign affiliate of one of the corporations at that time is deemed to be a controlled foreign affiliate of the other corporation at that time.

History: 2001, c. 53, s. 41.
Corresponding Federal Provision: 17(13).

Amount owing by a person not resident in Canada.

127.6. Where the conditions of the third paragraph are met in respect of a corporation resident in Canada in relation to an amount owing to the corporation (in this section referred to as the "debt"), the corporation shall include in computing its income for a taxation year the amount determined by the formula

A − B.

Interpretation.

In the formula in the first paragraph,

(*a*) A is the amount of interest that would be included in computing the corporation's income for the year in respect of the debt if interest on the debt were computed at the prescribed rate for the period in the year during which the debt was outstanding; and

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

i. an amount included in computing the corporation's income for the year as, on account of, in lieu of or in satisfaction of, interest in respect of the debt,

ii. an amount received or receivable by the corporation from a trust that is included in computing the corporation's income for the year or a subsequent year and that can reasonably be attributed to interest on the debt for the period in the year during which the debt was outstanding, or

iii. an amount included in computing the corporation's income for the year or a subsequent taxation year under section 580 that can reasonably be attributed to interest on an amount owing (in this section referred to as the "original debt")—or if the amount of the original debt exceeds the amount of the debt, a portion of the original debt that is equal to the amount of the debt—for the period in the year during which the debt was outstanding if

(1) without the existence of the original debt, section 127.7 would not have deemed the debt to be owed by a person not resident in Canada and referred to in subparagraph *a* of the third paragraph,

(2) the original debt was owed by a person not resident in Canada or a partnership each member of which is such a person, and

(3) where section 127.3.2 applies in respect of the original debt, an amount determined under subparagraph *a* or *b* of the first paragraph of that section in respect of the original debt is an amount referred to in paragraph *a* of section 127.7 and, because of the amount referred to in that paragraph *a*, the debt is deemed to be owed by the person not resident in Canada and referred to in subparagraph *a* of the third paragraph, and the original debt was owing by an intermediate lender to an initial lender or by an intended borrower to an intermediate lender, within the meaning assigned to those expressions by the second paragraph of section 127.3.2.

Conditions for application.

The conditions to which the first paragraph refers in relation to a debt contracted with a corporation resident in Canada are met if at any time in a taxation year of the corporation,

(*a*) a person not resident in Canada owes the amount to the corporation;

(*b*) the amount has been or remains outstanding for more than a year; and

(*c*) the amount that would be determined under subparagraph *b* of the second paragraph, if the first and second paragraphs of this section applied, for the year in respect of a debt is less than the amount of interest that would be included in computing the corporation's income for the year in respect of the debt if that interest were computed at a reasonable rate for the period in the year during which the amount was outstanding.

History: 2001, c. 53, s. 41; 2017, c. 1, s. 91.
Corresponding Federal Provision: 17(1) and (1.1).

Indirect loan.

127.7. For the purposes of this division and subject to section 127.8, a person not resident in Canada is deemed at any time to owe to a corporation resident in Canada an amount equal to the amount, or a portion of the amount, as the case may be, owing to a particular person or partnership where

(*a*) the person not resident in Canada owes an amount at that time to the particular person or partnership, other than a corporation resident in Canada; and

(*b*) it may reasonably be considered that the amount or a portion of the amount became owing, or was permitted to remain owing, to the particular person or partnership because a corporation resident in Canada made a loan or transfer of property, or the particular person or partnership anticipated that a corporation resident in Canada would make a loan or transfer of property, either directly or indirectly in any manner whatever, to or for the benefit of any person or partnership (other than an exempt loan or transfer).

History: 2001, c. 53, s. 41; 2017, c. 1, s. 92.
Corresponding Federal Provision: 17(2).

Indirect loan.

127.8. Section 127.7 does not apply to an amount owing at any time by a person not resident in Canada to a particular person or partnership where

(*a*) at that time, the person not resident in Canada and the particular person or each member of the particular partnership, as the case may be, are controlled foreign affiliates of the corporation resident in Canada; or

(*b*) at that time,

i. the person not resident in Canada and the particular person are not related or the person not resident in Canada and each member of the particular partnership are not related, as the case may be,

ii. the terms and conditions made or imposed in respect of the amount owing, determined without reference to any loan or transfer of property by a corporation resident in Canada described in paragraph *b* of section 127.7 in respect of the amount owing, are such that persons dealing at arm's length would have been willing to enter into them at the time that they were entered into, and

iii. if there were an amount of interest payable on the amount owing at that time that would be required to be included in computing the income of a foreign affiliate of the corporation resident in Canada for a taxation year, that amount of interest would not be required to be included in computing the foreign accrual property income, within the meaning of section 579, of the foreign affiliate for that year.

History: 2001, c. 53, s. 41.
Corresponding Federal Provision: 17(3).

Loan through partnership.

127.9. For the purposes of this division, where a person not resident in Canada owes a particular amount at any time to a partnership and section 127.7 does not deem the person not resident in Canada to owe an amount equal to that particular amount to a corporation resident in Canada, the person not resident in Canada is deemed to owe at that time to each member of the partnership, on the same terms and conditions as those that apply in respect of the amount owing to the partnership, that proportion of the amount owing to the partnership at that time that the fair market value at that time of the member's interest in the partnership is of the fair market value at that time of the interests of all members in the partnership.

History: 2001, c. 53, s. 41.
Corresponding Federal Provision: 17(4).

Loan through trust.

127.10. For the purposes of this division, where a person not resident in Canada owes a particular amount at any time to a trust and section 127.7 does not deem that person to owe an amount equal to that particular amount to a corporation resident in Canada, the following rules apply:

(*a*) where the trust is a non-discretionary trust at that time, the person not resident in Canada is deemed to owe at that time to each beneficiary of the trust, on the same terms and conditions as those that apply in respect of the amount owing to the trust, an amount equal to that proportion of the amount owing to the trust at that time that the fair market value at that time of the beneficiary's beneficial interest in the trust is of the fair market value at that time of all the beneficial interests in the trust; and

(*b*) in any other case, the person not resident in Canada is deemed to owe at that time to each settlor in respect of the trust, on the same terms and conditions as those that apply in respect of the amount owing to the trust, an amount equal to the amount owing to the trust.

History: 2001, c. 53, s. 41.
Corresponding Federal Provision: 17(5).

Loan to partnership.

127.11. For the purposes of this division, where a particular partnership owes an amount at any time to any person or any other partnership, in this section referred to as the "lender", each member of the particular partnership is deemed to owe at that time to the lender, on the same terms and conditions as those that apply in respect of the amount owing by the particular partnership to the lender, an amount equal to that proportion of the amount owing to the lender at that time that the fair market value at that time of the member's interest in the particular partnership is of the fair market value at that time of the interests of all members in the particular partnership.

History: 2001, c. 53, s. 41.
Corresponding Federal Provision: 17(6).

Exception.

127.12. Section 127.6 does not apply to an amount owing to a corporation resident in Canada by a person not resident in Canada if a prescribed tax has been paid on the amount owing.

Application.

For the purposes of this section, a prescribed tax is deemed not to have been paid on that portion of the amount owing in respect of which an amount was repaid or applied in accordance with subsection 6.1 of section 227 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 2001, c. 53, s. 41.
Corresponding Federal Provision: 17(7).

Exception.

127.13. Section 127.6 does not apply to a corporation resident in Canada for a taxation year of the corporation in respect of an amount owing to the corporation by a person not resident in Canada if that person is a controlled foreign affiliate of the corporation throughout the period in the year during which the amount is owing to the extent that it is established that the amount owing

(*a*) arose as a loan or advance of money to the affiliate that the affiliate has used, throughout the period that began when the loan or advance was made and that ended at the earlier of the end of the year and the time at which the amount was repaid,

i. for the purpose of earning income from an active business of the affiliate or income that was included under subsection 2 of section 95 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in computing the income from an active business of the affiliate, or

ii. for the purpose of making a loan or advance to another controlled foreign affiliate of the corporation where, if interest became payable on the loan or advance at any time in the period and the affiliate was required to include the interest in computing its income for a taxation year, that interest would not be required to be included in computing the affiliate's foreign accrual property income, within the meaning of section 579, for that year; or

(*b*) arose in the course of an active business carried on by the affiliate throughout the period that began when the amount owing arose and that ended at the earlier of the end of the year and the time at which the amount was repaid.

History: 2001, c. 53, s. 41; 2010, c. 25, s. 14.
Corresponding Federal Provision: 17(8).

Borrowed money.

127.13.1. The presumption in the second paragraph applies in respect of money (in this section referred to as "new borrowings") that a controlled foreign affiliate of a particular corporation resident in Canada has borrowed from the particular corporation to the extent that the affiliate has used the new borrowings

(*a*) to repay money (in this section referred to as "previous borrowings") previously borrowed from any person or partnership, if

i. the previous borrowings became owing after the last time at which the affiliate became a controlled foreign affiliate of the particular corporation, and

ii. the previous borrowings were, at all times after they became owing, used for any of the purposes described in subparagraphs i and ii of paragraph *a* of section 127.13; or

(*b*) to pay an amount owing (in this section referred to as the "unpaid purchase price") by the affiliate for a property previously acquired from any person or partnership, if

i. the property was acquired, and the unpaid purchase price became owing, by the affiliate after the last time at which it became a controlled foreign affiliate of the particular corporation,

ii. the unpaid purchase price is in respect of the property, and

iii. throughout the period that began when the unpaid purchase price became owing by the affiliate and ended when the unpaid purchase price was so paid, the property was used principally to earn income described in subparagraph i of paragraph *a* of section 127.13.

Presumption.

For the purposes of section 127.13, the new borrowings are deemed to have been used for the purposes for which the previous borrowings were used or were deemed by this paragraph to have been used, or to acquire the property in respect of which the unpaid purchase price was payable, as the case may be.

History: 2010, c. 25, s. 15.
Corresponding Federal Provision: 17(8.1) and (8.2).

Exception.

127.14. Section 127.6 does not apply to a corporation resident in Canada for a taxation year of the corporation in respect of an amount owing to the corporation by a person not resident in Canada if

(*a*) the corporation is not related to the person not resident in Canada throughout the period in the year during which the amount owing remains outstanding;

(*b*) the amount owing arose in respect of goods sold or services provided to the person not resident in Canada by the corporation in the ordinary course of the business carried on by the corporation; and

(*c*) the terms and conditions in respect of the amount owing are such that persons dealing at arm's length would have been willing to enter into them at the time that they were entered into.

History: 2001, c. 53, s. 41.
Corresponding Federal Provision: 17(9).

Anti-avoidance rules.

127.15. For the purposes of this division,

(*a*) where any person or partnership has a right under a contract or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares of the capital stock of a corporation, that person or partnership is deemed to own those shares if it can reasonably be considered that the principal purpose for the existence of the right is to avoid or reduce the amount of income that a corporation would otherwise be required to include in computing its income for a taxation year under section 127.6; and

(*b*) where any person or partnership acquires or disposes of shares of the capital stock of a corporation, either directly or indirectly, and it can reasonably be considered that the principal purpose for the acquisition or disposition of the shares is to avoid or reduce the amount of income that a corporation would otherwise be required to include in computing its income for a taxation year under section 127.6, those shares are deemed not to have been acquired or disposed of, as the case may be, and where the shares were unissued by the corporation immediately before the acquisition, those shares are deemed not to have been issued.

History: 2001, c. 53, s. 41.
Corresponding Federal Provision: 17(14).

DIVISION VIII
DEEMED INTEREST INCOME

Definitions:

127.16. In this division,

"Canadian corporation";
"Canadian corporation" means a corporation resident in Canada;

"qualifying Canadian partnership".
"qualifying Canadian partnership", at any time, in respect of a Canadian corporation, means a partnership each member of which is, at that time, the Canadian corporation or another corporation resident in Canada to which the Canadian corporation is, at that time, related.

Rules of construction.

For the purposes of this division,

(*a*) either of the following is a pertinent loan or indebtedness:

i. a pertinent loan or indebtedness within the meaning of section 113.1, or

ii. a pertinent loan or indebtedness within the meaning of subsection 11 of section 212.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); and

(*b*) any person who is (or is deemed under this subparagraph to be) a member of a partnership that is a member of a

particular partnership is deemed to be a member of the particular partnership.

Election under the Income Tax Act — rules applicable.

Where a loan or indebtedness is a pertinent loan or indebtedness within the meaning of subparagraph ii of subparagraph *a* of the second paragraph, Chapter V.2 of Title II of Book I applies in relation to an election made under paragraph c of subsection 11 of section 212.3 of the Income Tax Act in respect of the loan or indebtedness.

History: 2017, c. 29, s. 37.

Corresponding Federal Provision: 15(2.11) and (2.14) and 17.1(1) before (a).

Deemed interest income.

127.17. Where, at any time in a taxation year of a Canadian corporation or in a fiscal period of a qualifying Canadian partnership in respect of a Canadian corporation, a corporation not resident in Canada, or a partnership of which a corporation not resident in Canada is a member, owes an amount to the Canadian corporation or the qualifying Canadian partnership, as the case may be, and the amount owing is a pertinent loan or indebtedness, the following rules apply:

(*a*) Division VII does not apply in respect of the amount owing; and

(*b*) subject to section 127.18, the amount, if any, determined by the following formula is to be included in computing the income of the Canadian corporation for the year or of the qualifying Canadian partnership for the fiscal period, as the case may be:

A − B.

Interpretation.

In the formula in the first paragraph,

(*a*) A is the amount that is the greater of

i. the amount of interest that should be included in computing the income of the Canadian corporation for the year or of the qualifying Canadian partnership for the fiscal period, as the case may be, in respect of the amount owing for the period in the year, or the fiscal period, during which the amount owing was a pertinent loan or indebtedness (in this paragraph referred to as the "particular period") if that interest were computed at the prescribed rate for that period, and

ii. the aggregate of all amounts of interest payable for the particular period by the Canadian corporation, the qualifying Canadian partnership, a particular person resident in Canada with which the Canadian corporation did not, at the time the amount owing arose, deal at arm's length or a partnership of which the Canadian corporation or the particular person is a member, in respect of a debt obligation—arisen as part of a series of transactions or events that includes the transaction by which the amount owing arose—to the extent that the proceeds of the debt obligation may reasonably be considered to have directly or indirectly funded, in whole or in part, the amount owing; and

(*b*) B is an amount included in computing the income of the Canadian corporation for the year or of the qualifying Canadian partnership for the fiscal period, as the case may be, as, or in lieu of, full or partial payment of interest on the amount owing for the particular period.

History: 2017, c. 29, s. 37.

Corresponding Federal Provision: 17.1(1).

Acquisition of control.

127.18. No amount is to be included under section 127.17 in computing the income of a Canadian corporation in respect of a pertinent loan or indebtedness, within the meaning of subparagraph ii of subparagraph *a* of the second paragraph of section 127.16, for the 180-day period that begins at any time a parent referred to in section 212.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) acquires control of the Canadian corporation, if the Canadian corporation was not controlled by a corporation not resident in Canada immediately before that time.

History: 2017, c. 29, s. 37.

Corresponding Federal Provision: 17.1(2).

Tax agreement.

127.19. A particular loan or indebtedness is deemed not to be a pertinent loan or indebtedness if, because of a provision of a tax agreement, the amount that would, but for this section, be included in computing the income of the Canadian corporation for any taxation year or of the qualifying Canadian partnership for any fiscal period, as the case may be, in respect of the particular loan or indebtedness is less than it would be if no tax agreement applied.

History: 2017, c. 29, s. 37.

Corresponding Federal Provision: 17.1(3).

CHAPTER III
DEDUCTIONS

DIVISION I
GENERALITIES

Restrictions respecting deductible expenses.

128. A taxpayer may deduct, in computing his income from a business or property for a taxation year, only the outlays or expenses made or incurred by him during such year or payable in respect of such year, to the extent that they may reasonably be regarded as being related to such business or property and that they were made or incurred to gain income from such business or property and to the extent

provided in this chapter, unless otherwise provided in this Part.

History: 1972, c. 23, s. 117; 1997, c. 85, s. 330.
Interpretation Bulletins: IMP. 128-11/R3; IMP. 135.2-1/R1; IMP. 293-1/R2.
Corresponding Federal Provision: 18(1)(a) and 20(1).

Capital loss or disbursement not included.

129. Such amounts shall not include any loss or replacement of capital, a payment or amount disbursed on account of capital or an allowance in respect of depreciation, obsolescence or depletion except as expressly permitted by this Part.

History: 1972, c. 23, s. 118.
Interpretation Bulletins: IMP. 128-4/R3.
Corresponding Federal Provision: 18(1)(b).

Capital cost of property.

130. A taxpayer may however deduct:

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

(*b*) the lesser of

i. the portion of the amount (that is not otherwise deductible in computing the income of the taxpayer) that is an expense incurred in the year for the incorporation of a corporation, and

ii. the amount by which $3,000 exceeds the aggregate of all amounts each of which is an amount deducted by another taxpayer in respect of the incorporation of the corporation.

History: 1972, c. 23, s. 119; 1989, c. 5, s. 42; 1990, c. 59, s. 70; 2003, c. 2, s. 44; 2005, c. 1, s. 55; 2019, c. 14, s. 79.
Interpretation Bulletins: IMP. 128-4/R3; IMP. 130-1/R5.
Corresponding Federal Provision: 20(1)(a) and (b).

Certified Québec film.

130.0.1. An individual shall not however deduct under paragraph *a* of section 130, in computing his income from a business or property for a taxation year subsequent to his taxation year 1987, the prescribed part or amount of the capital cost of property that is a certified Québec film within the meaning of the regulations under the said section.

History: 1989, c. 5, s. 43.

Prescribed classes of property which the taxpayer no longer owns at the end of a taxation year.

130.1. Notwithstanding sections 128, 129 and 133, no amount may be deducted by a taxpayer in computing the taxpayer's income for a taxation year under paragraph *a* of section 130 in respect of the taxpayer's depreciable property of a prescribed class where, at the end of the year, the aggregate of the amounts determined under subparagraphs i to ii.3 of subparagraph *e* of the first paragraph of section 93 exceeds the amount determined under the second paragraph of that section in respect of the taxpayer's depreciable property of that class and, at that time, the taxpayer no longer owns any property of that class.

Terminal loss.

However, subject to the third and fourth paragraphs, the taxpayer shall deduct that excess amount in computing his income for the year.

Exception where a prescribed class includes an automobile.

Where the excess amount referred to in the first paragraph concerns a prescribed class that includes an automobile acquired by the taxpayer before 18 June 1987 or after 17 June 1987 pursuant to an obligation in writing entered into before 18 June 1987, no amount shall be deducted by the taxpayer in computing his income for the year other than an amount equal to what the excess amount would be if the capital cost of the automobile did not exceed the prescribed amount and, subject to the fifth paragraph, where the excess amount referred to in the first paragraph concerns a prescribed class that includes either an automobile, other than an automobile used under a permit for the transportation of passengers for remuneration, acquired by the taxpayer before 18 June 1987 or after 17 June 1987 pursuant to an obligation in writing entered into before 18 June 1987, or an automobile that would have been such an automobile had it been acquired by the taxpayer before 18 June 1987 and that is a passenger vehicle acquired by him in his taxation year 1987, and the taxpayer is an individual who used the automobile partly to gain income from a business or property and partly for his personal use, no amount shall be deducted by the taxpayer in computing his income for the year other than an amount equal to the prescribed part of the excess amount.

Exception in the case of a certified Québec film.

Where the excess amount referred to in the first paragraph concerns a prescribed class and includes a certified Québec film within the meaning of the regulations under section 130, a taxpayer shall not deduct that excess amount in computing his income from a business or property for a taxation year subsequent to his taxation year 1987.

Exception.

This section does not apply

(*a*) in respect of a prescribed class that includes a passenger vehicle of a taxpayer in respect of which paragraph *d*.3 or *d*.4 of section 99 or section 525.1 applied to the taxpayer; or

(*b*) in respect of a taxation year in relation to a property that was a former property deemed by subparagraph *a* or *b* of the second paragraph of section 96.0.2 to be owned by a taxpayer, if

i. within 24 months after the taxpayer last owned the former property, the taxpayer or a person not dealing at arm's length with the taxpayer acquires a similar property in respect of the same fixed place to which the former property related, and

ii. at the end of the taxation year, the taxpayer or the person owns the similar property or another similar property in respect of the same fixed place to which the former property related;

(*c*) in respect of a taxation year in relation to a property included in Class 14.1 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1), unless the taxpayer has ceased to carry on the business to which the class relates.

History: 1978, c. 26, s. 33; 1982, c. 5, s. 37; 1989, c. 5, s. 44; 1990, c. 59, s. 71; 1991, c. 25, s. 187; 1993, c. 16, s. 73; 1994, c. 22, s. 101; 2001, c. 53, s. 42; 2009, c. 15, s. 55; 2019, c. 14, s. 80.

Interpretation Bulletins: IMP. 101-1/R2; IMP. 521.2-1/R1.
Corresponding Federal Provision: 20(16) and (16.1).

Outlay to gain exempt income.

131. No outlay or expense may be deducted to the extent that it may reasonably be regarded as having been made or incurred to gain or produce exempt income or in connection with property the income from which is exempt.

History: 1972, c. 23, s. 120.
Corresponding Federal Provision: 18(1)(c).

Annual value of property.

132. The annual value of property shall not be deducted except rent for property leased by the taxpayer for use in his business.

Reserves.

The same applies to any amount as, or in full or partial payment of, a reserve, a contingent liability or amount or a sinking fund, except as expressly permitted by this Part.

History: 1972, c. 23, s. 121; 1990, c. 59, s. 72.
Corresponding Federal Provision: 18(1)(d) and (e).

Claims received by an insurer.

132.1. A taxpayer who is an insurer shall not deduct, in computing his income from a business or property for a taxation year, an amount in respect of claims that were received by him before the end of the year under insurance policies and that are unpaid at the end of the year, except as expressly permitted by this Part.

History: 1990, c. 59, s. 73; 1994, c. 22, s. 102.
Corresponding Federal Provision: 18(1)(e.1).

Loss, depreciation or reduction in the value or amortized cost of a loan or lending asset.

132.2. A taxpayer shall not deduct, in computing his income from a business or property for a taxation year, an amount in respect of any loss, depreciation or reduction in the value or amortized cost of a loan or lending asset made or acquired by him in the ordinary course of his business of insurance or the lending of money and not disposed of by him in the taxation year, except as expressly permitted by this Part.

History: 1990, c. 59, s. 73; 1993, c. 16, s. 74.
Corresponding Federal Provision: 18(1)(s).

Expenses relating to security options.

132.3. A taxpayer shall not deduct, in computing the taxpayer's income from a business or property for a taxation year, an amount in respect of which a valid election was made by or on behalf of the taxpayer under subsection 1.1 of section 110 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 2011, c. 34, s. 25.
Corresponding Federal Provision: 18(1)(m).

Political contributions.

132.4. A taxpayer shall not deduct, in computing the taxpayer's income from a business or property for a taxation year, the amount of a contribution the taxpayer paid, directly or indirectly, for political purposes.

History: 2017, c. 1, s. 93.
Corresponding Federal Provision: 18(1)n).

Personal or living expenses.

133. A taxpayer shall not deduct, in computing the taxpayer's income from a business or property for a taxation year, personal or living expenses of the taxpayer, other than travel expenses incurred by the taxpayer while away from home in the course of carrying on the taxpayer's business.

History: 1972, c. 23, s. 122; 1990, c. 59, s. 74; 1997, c. 85, s. 51.
Corresponding Federal Provision: 18(1)(h).

133.1. *(Repealed).*

History: 1978, c. 26, s. 34; 1979, c. 38, s. 8; 1984, c. 35, s. 11; 1990, c. 59, s. 75.

133.2. *(Repealed).*

History: 1978, c. 26, s. 34; 1990, c. 59, s. 75.

Allowance for the use of an automobile.

133.2.1. A taxpayer shall not deduct, in computing his income from a business or property for a taxation year, any portion in excess of the prescribed amount of an amount paid or payable by him as an allowance for the use by an individual of an automobile, except where the amount so

paid or payable is required to be included in computing the individual's income.

History: 1990, c. 59, s. 76.
Corresponding Federal Provision: 18(1)(r).

133.3. *(Repealed).*

History: 1978, c. 26, s. 34; 1984, c. 15, s. 31; 1994, c. 22, s. 103; 1998, c. 16, s. 89; 2005, c. 1, s. 56.

Service fees not deductible.

133.4. A taxpayer shall not, in computing the income of the taxpayer from a business or property for a taxation year, deduct any amount paid or payable by the taxpayer for services in respect of a retirement savings plan, retirement income fund or tax-free savings account under or of which the taxpayer is the annuitant or holder.

History: 1998, c. 16, s. 90; 2009, c. 15, s. 56.
Corresponding Federal Provision: 18(1)(u).

Clothing expenses not deductible.

133.5. An individual, other than a performing artist, shall not deduct any amount in computing the individual's income from a business or property, in respect of an outlay or an expense made or incurred by the individual in respect of an article of clothing to be worn by the individual, except where it may reasonably be considered that the article of clothing cannot be worn by the individual otherwise than for the purpose of earning income from a business or property, or of earning income from a business or property and from another source.

Meaning of "performing artist".

For the purposes of the first paragraph, "performing artist" means an individual engaged in activities as a program host or who performs in a creative field such as the theatre, motion pictures, music, dance, variety shows, multimedia, dubbing or advertising.

History: 2000, c. 39, s. 13; 2005, c. 38, s. 62.

Authorized foreign bank.

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

History: 2004, c. 8, s. 24.
Corresponding Federal Provision: 18(1)(v).

Underlying payments on securities.

133.7. A taxpayer shall not deduct, in computing the taxpayer's income from a business or property for a taxation year, an amount that is deemed under section 21.32 to have been received by another person as an amount described in any of subparagraphs *a* to *c* of the first paragraph of that section, except as expressly permitted by this Part.

History: 2015, c. 24, s. 27.
Corresponding Federal Provision: 18(1)w).

Derivatives — lower of cost and market.

133.8. A taxpayer shall not deduct, in computing the taxpayer's income from a business or property for a taxation year, an amount that corresponds to a reduction in the year in the value of a property if

(*a*) the method used by the taxpayer to value the property at the end of the year for the purpose of computing the taxpayer's profit from a business or property consists in valuing the property at the cost at which the taxpayer acquired it or its fair market value at the end of the year, whichever is lower;

(*b*) the property is described in section 83.0.7; and

(*c*) the property is not disposed of by the taxpayer in the year.

History: 2019, c. 14, s. 81.
Corresponding Federal Provision: 18(1)(x).

Payment for shares.

133.9. A taxpayer shall not deduct, in computing the taxpayer's income from a business or property for a taxation year, an amount referred to in section 93.16.

History: 2019, c. 14, s. 81.
Corresponding Federal Provision: 18(1)(y)).

Use or maintenance of recreational facilities.

134. No amount disbursed or expended by the taxpayer after 1971 for the use or maintenance of a yacht, a lodge, a camp or a golf course or facility may be deducted unless the taxpayer's business provides any of the foregoing for hire or reward and such outlay or expense is made or incurred in the ordinary course of such business.

Club fees.

The same applies to such an amount when expended or disbursed as fees or dues, whether membership dues, initiation fees or otherwise, in any club the main purpose of which is to provide dining, recreational or sporting facilities for its members.

Exception.

However, this section does not apply to such an amount that is a gift or award referred to in section 37.1.5.

History: 1972, c. 23, s. 123; 1986, c. 19, s. 23; 2003, c. 9, s. 20.
Interpretation Bulletins: IMP. 134-1/R1; IMP. 134-2/R1; TVQ. 457.1-1.
Corresponding Federal Provision: 18(1)(l).

Dues not deductible by an individual.

134.1. An individual shall not deduct, in computing his income for a taxation year, any amount paid by him in the year, or payable by him in respect of that year, as

(*a*) annual professional membership dues the payment of which was necessary to maintain a professional status recognized by statute;

(*a.*1) dues the individual is required to pay to a recognized association under the Act respecting the representation of certain home childcare providers and the negotiation process for their group agreements (chapter R-24.0.1) as a home childcare provider represented by that association;

(*b*) annual dues the payment of which was necessary to maintain membership in an artists' association recognized by the Minister on the recommendation of the Minister of Culture and Communications;

(*c*) a contribution the individual was required to pay under section 10 of the Act to amend the Professional Code (1995, chapter 50) or section 196.2 of the Professional Code (chapter C-26) .

Exclusions.

The dues described in any of subparagraphs *a* to *b* of the first paragraph do not include the portion thereof that is, in effect, levied under a retirement plan, a plan for annuities, insurance or similar benefits, or for any other purpose not directly related to the ordinary operating expenses of the entity to which they were paid, or that corresponds to the Québec sales tax or the goods and services tax in respect of such dues.

History: 1997, c. 14, s. 39; O.C. 1159-2008; 2008, c. 11, s. 185; O.C. 938-2008; 2009, c. 36, s. 72; 2010, c. 25, s. 16.

Dues not deductible by a partnership.

134.2. A partnership shall not deduct, in computing its income for a taxation year, any amount paid by it in the year, or payable by it in respect of the year, on behalf of an individual who is a member of the partnership, as

(*a*) annual professional membership dues the payment of which was necessary for the individual to maintain a professional status recognized by statute;

(*b*) annual dues the payment of which was necessary for membership of the individual in an artists' association recognized by the Minister on the recommendation of the Minister of Culture and Communications;

(*c*) a contribution the individual was required to pay under section 10 of the Act to amend the Professional Code (1995, chapter 50) or section 196.2 of the Professional Code (chapter C-26).

Exclusions.

The annual dues described in subparagraph *a* or *b* of the first paragraph do not include the portion thereof that is, in effect, levied under a retirement plan, a plan for annuities, insurance or similar benefits, or for any other purpose not directly related to the ordinary operating expenses of the entity to which they were paid, or that corresponds to the Québec sales tax or the goods and services tax in respect of such dues.

History: 1997, c. 14, s. 39; 2008, c. 11, s. 185; O.C. 938-2008; O.C. 1159-2008.

Partnership member's share of dues not deductible.

134.3. Where an amount would, but for section 134.2, be deductible in computing the income of a partnership for a particular taxation year 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, the following rules apply:

(*a*) where a corporation is a member of the partnership at the end of the particular taxation year, the corporation's share of the amount shall be deductible in computing the corporation's income for the taxation year in which the particular taxation year ends;

(*b*) where a particular partnership is a member of the partnership at the end of the particular taxation year, the particular partnership's share of the amount is deemed to be an amount paid by the particular partnership in the particular partnership's taxation year in which the particular taxation year ends, or an amount payable by the particular partnership in respect of the particular partnership's taxation year in which the particular taxation year ends, as dues described in subparagraph *a* or *b* of the first paragraph of section 134.2 or as a contribution described in subparagraph *c* of that paragraph, as the case may be;

(*c*) where an individual is a member of the partnership at the end of the particular taxation year, the individual's share of the amount is deemed to be an amount paid by the individual in the individual's taxation year in which the particular taxation year ends, or an amount payable by the individual in respect of the individual's taxation year in which the particular taxation year ends, as dues described in subparagraph *a* or *b* of the first paragraph of section 134.1 or as a contribution described in subparagraph *c* of that paragraph, as the case may be.

History: 1997, c. 14, s. 39.

Amounts not deductible.

135. A taxpayer shall not deduct:

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

(*b*) an amount paid in respect of patronage dividends granted to his customers, except as provided in section 786;

(*c*) an amount paid or payable as a contribution to an employee benefit plan;

(*d*) an outlay or expense made or incurred under a salary deferral arrangement in respect of another person, except as expressly permitted by paragraphs *p* and *q* of section 157;

(*e*) except as expressly permitted by section 139.1, contributions made under a retirement compensation arrangement;

(*f*) except as expressly permitted by section 139.2, contributions made to an employee life and health trust.

History: 1972, c. 23, s. 124; 1979, c. 18, s. 11; 1982, c. 5, s. 38; 1987, c. 67, s. 37; 1988, c. 18, s. 9; 1989, c. 5, s. 45; 1989, c. 77, s. 19; 1991, c. 25, s. 176; 1993, c. 16, s. 75; 2011, c. 6, s. 119.
Corresponding Federal Provision: 18(1)(o) to (o.3) and 20(1)(u).

Employee benefit plan.

135.1. Paragraph *c* of section 135 does not apply in respect of a contribution made to an employee benefit plan, to the extent that

(*a*) the contribution

i. is made in respect of services performed by an employee who is not resident in Canada and is regularly employed in a country other than Canada, and

ii. cannot reasonably be regarded as having been made in respect of services performed or to be performed during a period when the employee is resident in Canada;

(*b*) when the custodian of the plan is not resident in Canada, the contribution

i. is made in respect of an employee who is not resident in Canada at the time the contribution is made, and

ii. cannot reasonably be regarded as having been made in respect of services performed or to be performed during a period when the employee is resident in Canada; or

(*c*) when the custodian of the plan is not resident in Canada, the contribution can reasonably be regarded as having been made in respect of services performed by an employee during a particular month, if the employee

i. was resident in Canada throughout no more than 60 of the 72 calendar months ending with the particular month, and

ii. became a member of the plan before the end of the month after the month in which he became resident in Canada.

Replacement benefits deemed received under same plan.

For the purposes of subparagraph *c* of the first paragraph, where the benefits provided in respect of an employee under a particular employee benefit plan are replaced by the benefits provided under another employee benefit plan, the other plan is deemed, in respect of the employee, to be the same plan as the particular plan.

History: 1982, c. 5, s. 39; 1991, c. 25, s. 176; 1995, c. 49, s. 45.
Corresponding Federal Provision: 18(10).

Salary deferral arrangement for the benefit of employees not resident in Canada.

135.1.1. Paragraph *d* of section 135 does not apply to an outlay or expense made or incurred under a salary deferral arrangement that was established primarily for the benefit of one or more employees not resident in Canada in respect of services to be rendered outside Canada.

History: 1988, c. 18, s. 10; 1993, c. 16, s. 76.
Corresponding Federal Provision: 18(1)(o.1).

Deductions of corporations providing personal services.

135.2. A corporation which carries on a personal services business may deduct in respect of that business under this chapter, only the following amounts to the extent that they would otherwise be deductible:

(*a*) a salary, wages or other remuneration paid in the year to its incorporated employee;

(*b*) the cost to the corporation of an allowance or a benefit granted in the year to an incorporated employee;

(*c*) an expense which, had it been made by an individual, would have been deductible in computing his income for the year under section 62;

(*d*) an amount it pays during the year as judicial or extrajudicial expenses to recover an amount owing to it for services it provided.

History: 1983, c. 44, s. 22; 1997, c. 3, s. 20; 1997, c. 14, s. 40; 2014, c. 1, s. 778 [in force: O.C. 1066-2015]; 2017, c. 29, s. 38.
Interpretation Bulletins: IMP. 135.2-1/R1.
Corresponding Federal Provision: 18(1)(p).

Amount paid for the cancellation of a lease.

135.3. A taxpayer shall not deduct an amount paid or payable for the cancellation of a lease of property of the taxpayer leased by him to another person, except to the extent permitted by paragraph *g* or *g*.1 of section 157.

History: 1984, c. 15, s. 32.
Corresponding Federal Provision: 18(1)(q).

Deduction not permitted.

135.3.1. A taxpayer shall not deduct any amount paid or payable under Part VI.1, or under Part I.3 or VI of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 1990, c. 59, s. 77; 1991, c. 25, s. 43; 1997, c. 14, s. 41.

Rental of safety deposit box.

135.3.2. No individual may deduct, in computing the individual's income from a business or property for a taxation year, an amount paid in that year or payable in respect of that year as safety deposit box rental fees with a financial institution.

History: 1997, c. 85, s. 52.

Clothing manufacturers.

135.3.3. A taxpayer who, under section 350.49 of the Act respecting the Québec sales tax (chapter T-0.1), is required to file an information return in respect of a supply referred to in that section, may not deduct or otherwise take into account in computing the taxpayer's income for a taxation year, an amount that the taxpayer is required to declare in the information return if the taxpayer has not filed the information return in accordance with that section 350.49 or if, in the information return, the taxpayer did not declare the amount or did not furnish any of the other information required in respect of the amount.

History: 2002, c. 9, s. 6.

Costs relating to the construction of a building or the ownership of land.

135.4. Notwithstanding any other provision of this Part, in computing a taxpayer's income for a taxation year, no deduction shall be made in respect of any outlay or expense made or incurred by the taxpayer, other than an amount deductible by reason of paragraph *a* of section 130, paragraphs *h*, *h*.1 and *h*.1.1 of section 157 or section 157.14, that may reasonably be regarded as a cost attributable to the period of the construction, renovation or alteration of a building by or on behalf of the taxpayer, a 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 and relating to the construction, renovation or alteration, or a cost attributable to that period and relating to the ownership during that period of land that is subjacent to the building or that is contiguous land necessary for the use or intended use of the building and used or intended to be used for a parking area, driveway, yard or garden or any similar use.

History: 1984, c. 15, s. 32; 1985, c. 25, s. 30; 1986, c. 19, s. 24; 1990, c. 59, s. 78; 1993, c. 16, s. 77; 1997, c. 3, s. 71; 2006, c. 36, s. 26.

Interpretation Bulletins: IMP. 128-4/R3.

Corresponding Federal Provision: 18(3.1)(a).

Amount included in capital cost.

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

History: 1984, c. 15, s. 32; 1990, c. 59, s. 78; 1997, c. 3, s. 71; 2004, c. 8, s. 25.

Corresponding Federal Provision: 18(3.1)(b).

Costs relating to the construction or renovation of a building.

135.6. For the purposes of sections 135.4 and 135.5, costs relating to the construction, renovation or alteration of a building or to the ownership of land include

(*a*) interest paid or payable by a taxpayer in respect of borrowed money that cannot be identified with a particular building or particular land, but that can reasonably be considered, having regard to all the circumstances, as interest on borrowed money used by the taxpayer in respect of the construction, renovation or alteration of a building or the ownership of land; and

(*b*) interest paid or payable by a taxpayer in respect of borrowed money that can reasonably be considered, having regard to all the circumstances, to have been used to assist, directly or indirectly, a 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 construct, renovate or alter a building or to purchase land, 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: 1984, c. 15, s. 32; 1986, c. 15, s. 49; 1990, c. 59, s. 79; 1997, c. 3, s. 71.

Interpretation Bulletins: 18(3.2).

Completion of construction or renovation.

135.7. For the purposes of sections 135.4 and 135.5, the construction, renovation or alteration of a building is completed at the earlier of the day on which the construction, renovation or alteration is actually completed and the day on which all or substantially all of the building is used for the purpose for which it was constructed, renovated or altered.

History: 1984, c. 15, s. 32.

Corresponding Federal Provision: 18(3.3).

Restrictions not applicable to certain corporations or partnerships.

135.8. Sections 135.4 and 135.5 do not apply to prohibit a deduction in a taxation year of an amount corresponding to the product obtained by multiplying by the percentage specified in the second paragraph any outlay or expense made or incurred before 1 January 1992 by

(*a*) a corporation whose principal business is throughout the year 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, or

(*b*) a partnership each member of which is a corporation described in subparagraph *a* if the principal business of the partnership is throughout the year the leasing, rental or sale, or the development for lease, rental or sale, or any combination thereof, of immovable property held by it, to or for a person with whom each member of the partnership is dealing at arm's length.

Proportion.

The percentage to which the first paragraph refers is equal to

(*a*) 80%, in respect of an outlay or expense made or incurred after 31 December 1987 and before 1 January 1989;

(*b*) 60%, in respect of an outlay or expense made or incurred after 31 December 1988 and before 1 January 1990;

(*c*) 40%, in respect of an outlay or expense made or incurred after 31 December 1989 and before 1 January 1991;

(*d*) 20%, in respect of an outlay or expense made or incurred after 31 December 1990 and before 1 January 1992.

History: 1984, c. 15, s. 32; 1990, c. 59, s. 80; 1997, c. 3, s. 71.

Corresponding Federal Provision: 18(3.4).

Provisions not to apply.

135.9. Sections 135.4 and 135.5 do not apply in respect of an outlay or expense made or incurred in respect of a building or land described in section 135.4 in respect of the building

(*a*) where the construction, renovation or alteration of the building was in progress on 12 November 1981;

(*b*) where the installation of the footings or other base support of the building commenced between 12 November 1981 and 1 January 1982;

(*c*) if, in the case of a new building being constructed in Canada or an existing building being renovated or altered in Canada, arrangements, evidenced in writing, for such construction, renovation or alteration were substantially advanced before 13 November 1981 and the installation of footings or other base support for the new building or the renovation or alteration of the existing building, as the case may be, commenced before 1 June 1982; or

(*d*) if, in the case of a new building being constructed in Canada, the taxpayer was obligated to construct the building under the terms of an agreement in writing entered into before 13 November 1981, and arrangements, evidenced in writing, respecting the construction of the building were substantially advanced before 1 June 1982 and the installation of footings or other base support therefor commenced before 1 January 1983.

Restriction.

The first paragraph applies only if the construction, renovation or alteration of the building proceeds after 31 December 1982 without undue delay, having regard to superior force, labour disputes, fire, accidents or unusual delay by common carriers or suppliers of materials or equipment.

History: 1984, c. 15, s. 32; 1993, c. 16, s. 78; 1997, c. 3, s. 21; 1997, c. 31, s. 17.

Corresponding Federal Provision: 18(3.5).

Undue delay.

135.10. For the purposes of section 135.9, where more than one building is being constructed under any of the circumstances described in that section on one site or on contiguous sites, no undue delay is regarded as occurring in the construction of any such building if construction of at least one such building proceeds after 31 December 1982 without undue delay and continuous construction of all other such buildings proceeds after 31 December 1983 without undue delay.

History: 1984, c. 15, s. 32.

Corresponding Federal Provision: 18(3.6).

Installation of footings.

135.11. For the purposes of sections 135.4 to 135.10, the installation of footings or other base support for a building is deemed to commence on the first placement of concrete, pilings or other material that is to provide permanent support for the building.

History: 1984, c. 15, s. 32.

Corresponding Federal Provision: 18(3.7).

DIVISION II
RETIREMENT PLANS

Limit on deductions of employer's contributions.

136. No employer may deduct an amount paid under a retirement plan except as provided in this division.

History: 1972, c. 23, s. 125.

Corresponding Federal Provision: 18(1)(k)(iii).

Deductions permitted.

137. There may be deducted in computing an employer's income for a taxation year such amount as is deductible in computing that income for the year to the extent provided in section 965.0.2 or 965.0.23.

History: 1972, c. 23, s. 126; 1976, c. 18, s. 3; 1979, c. 38, s. 9; 1991, c. 25, s. 44; 2015, c. 21, s. 121.
Corresponding Federal Provision: 20(1)(q).

137.1. *(Repealed).*

History: 1972, c. 5, s. 40; 1991, c. 25, s. 45.

138. *(Repealed).*

History: 1972, c. 23, s. 127; 1982, c. 5, s. 41.

139. *(Repealed).*

History: 1972, c. 23, s. 128; 1972, c. 26, s. 42; 1982, c. 5, s. 42; 1991, c. 25, s. 46.

DIVISION II.1
RETIREMENT COMPENSATION ARRANGEMENT

Retirement compensation arrangement.

139.1. A taxpayer may deduct, in computing his income for a taxation year, the amount deductible under section 890.12 in computing his income for the year.

History: 1989, c. 77, s. 20.
Corresponding Federal Provision: 20(1)(r).

DIVISION II.2
EMPLOYEE LIFE AND HEALTH TRUST

Deduction permitted.

139.2. An employer may deduct, in computing the employer's income for a taxation year, an amount in respect of employer contributions paid to a trustee under an employee life and health trust as is permitted by sections 869.4 to 869.7.

History: 2011, c. 6, s. 120.
Corresponding Federal Provision: 20(1)(s).

DIVISION III
DOUBTFUL OR BAD DEBTS AND CREDIT RISKS

Doubtful or impaired debts.

140. A taxpayer may deduct in computing the taxpayer's income for a taxation year, as a reserve, the aggregate of

(*a*) a reasonable amount in respect of doubtful debts, other than a debt in respect of which paragraph *b* applies, that have been included in computing the taxpayer's income for the year or a preceding taxation year, and

(*b*) where the taxpayer is a financial institution, within the meaning of section 851.22.1, in the year or a taxpayer whose ordinary business includes the lending of money, an amount not exceeding the particular amount determined for the year under section 140.1 in respect of properties, other than mark-to-market properties, as defined in the first paragraph of that section 851.22.1, that are impaired loans or lending assets that are specified debt obligations, as defined in that paragraph, of the taxpayer, or impaired loans or lending assets that were made or acquired by the taxpayer in the ordinary course of the taxpayer's business of insurance or the lending of money.

History: 1972, c. 23, s. 129; 1990, c. 59, s. 82; 2001, c. 7, s. 21.
Corresponding Federal Provision: 20(1)(l).

Determination of the particular amount in respect of impaired loans.

140.1. The particular amount, referred to in paragraph *b* of section 140, for a taxation year in respect of impaired loans or lending assets of a taxpayer is equal to the aggregate of

(*a*) the percentage, not exceeding 100%, that the taxpayer claims of the prescribed reserve amount for the taxpayer for the year, and

(*b*) in respect of loans, lending assets or specified debt obligations that are impaired and for which no amount was deductible for the year under subparagraph *a*, each of which in this paragraph is referred to as a "particular loan", the taxpayer's specified percentage for the year of the lesser of

i. the aggregate of all amounts each of which is a reasonable amount as a reserve, other than any portion of which is in respect of a sectoral reserve, for a particular loan in respect of the amortized cost of the particular loan to the taxpayer at the end of the year, and

ii. the amount determined by the formula

$0.9\ A - B.$

Interpretation.

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

(*a*) A is the amount that is the taxpayer's reserve or allowance for impairment, other than any portion of the amount that is in respect of a sectoral reserve, for all of the taxpayer's particular loans that is determined for the year in accordance with generally accepted accounting principles; and

(*b*) B is the aggregate of all amounts each of which is the specified reserve adjustment for a particular loan, other than an income bond, an income debenture, a small business bond or small business development bond, for the year or a preceding taxation year.

History: 1990, c. 59, s. 83; 2001, c. 7, s. 22.
Corresponding Federal Provision: 20(1)(l).

Sectoral reserve.

140.1.1. For the purposes of subparagraph i of subparagraph *b* of the first paragraph of section 140.1, a sectoral reserve is a reserve or an allowance for impairment for a loan that is determined on a sector-by-sector basis, including a geographic sector, an industrial sector or a sector of any other nature, and not on a property-by-property basis.

History: 2001, c. 7, s. 23.
Corresponding Federal Provision: 20(2.3).

Specified percentage.

140.1.2. For the purposes of subparagraph *b* of the first paragraph of section 140.1, a taxpayer's specified percentage for a taxation year is

(*a*) where the taxpayer has a prescribed reserve amount for the year for the purposes of subparagraph *a* of the first paragraph of section 140.1, the percentage that is the percentage of the prescribed reserve amount of the taxpayer for the year claimed by the taxpayer under that subparagraph *a* for the year; and

(*b*) in any other case, 100%.

History: 2001, c. 7, s. 23.
Corresponding Federal Provision: 20(2.4).

Specified reserve adjustment.

140.1.3. For the purposes of subparagraph *b* of the second paragraph of section 140.1, the specified reserve adjustment for a loan of a taxpayer for a taxation year is the amount determined by the formula

0.1 (A × B × C / 365).

Interpretation.

In the formula provided for in the first paragraph,

(*a*) A is the carrying amount of the impaired loan that is used or would be used in determining the interest income on the loan for the taxation year in accordance with generally accepted accounting principles;

(*b*) B is the effective interest rate on the loan for the year determined in accordance with generally accepted accounting principles; and

(*c*) C is the number of days in the taxation year on which the loan is impaired.

History: 2001, c. 7, s. 23.
Corresponding Federal Provision: 20(30).

Reserve in respect of credit risks.

140.2. A taxpayer who is an insurer or whose ordinary business includes the lending of money may deduct in computing the taxpayer's income for a taxation year, as a reserve in respect of credit risks under guarantees, indemnities, letters of credit or other credit facilities, bankers' acceptances, interest rate or currency swaps, foreign exchange or other future or option contracts, interest rate protection agreements, risk participations and other similar instruments or commitments issued, made or assumed by the taxpayer in the ordinary course of the taxpayer's business of insurance or the lending of money in favour of persons with whom the taxpayer deals at arm's length, an amount not exceeding the lesser of

(*a*) a reasonable amount as a reserve for credit risk losses of the taxpayer expected to arise after the end of the year in respect of those instruments or commitments, and

(*b*) 90% of the reserve for credit risk losses referred to in paragraph *a* determined for the year in accordance with generally accepted accounting principles.

History: 1990, c. 59, s. 83; 2001, c. 7, s. 24.
Corresponding Federal Provision: 20(1)(l.1).

Bad debts.

141. A taxpayer may deduct in computing the taxpayer's income for a taxation year the aggregate of

(*a*) all debts owing to the taxpayer that have been included by the taxpayer in computing the taxpayer's income for the year or a preceding taxation year and that are established by the taxpayer to have become bad debts in the year, and

(*b*) all amounts each of which is that part of the amortized cost to the taxpayer at the end of the year of a loan or lending asset, other than a mark-to-market property, as defined in section 851.22.1, that is established in the year by the taxpayer to have become uncollectible and that,

i. where the taxpayer is an insurer or a taxpayer whose ordinary business includes the lending of money, was made or acquired in the ordinary course of the taxpayer's business of insurance or the lending of money, or

ii. where the taxpayer is a financial institution, within the meaning of section 851.22.1, in the year, is a specified debt obligation, as defined in the first paragraph of that section, of the taxpayer.

History: 1972, c. 23, s. 130; 1990, c. 59, s. 84; 1995, c. 49, s. 236; 2001, c. 7, s. 25.
Corresponding Federal Provision: 20(1)(p).

Deemed acquisition in the ordinary course of business.

141.1. For the purposes of computing a deduction under sections 140 to 141 from the income of a taxpayer for a taxation year who is an insurer or whose ordinary business includes the lending of money, an instrument or commitment described in section 140.2 or a loan or lending asset acquired by the taxpayer from a person with whom he is not dealing at

arm's length for an amount equal to its fair market value is deemed to have been acquired by the taxpayer in the ordinary course of his business of insurance or the lending of money where

(*a*) the person from whom the instrument or commitment or loan or lending asset is acquired carries on the business of insurance or the lending of money; and

(*b*) the instrument or commitment has been issued, made or assumed, or the loan or lending asset has been made or acquired, by the person in the ordinary course of his business of insurance or the lending of money.

History: 1990, c. 59, s. 85.
Corresponding Federal Provision: 20(27).

Bad debt from the disposition of depreciable property.

142. Where a taxpayer to whom an amount is owing as the proceeds of disposition of depreciable property of a prescribed class of the taxpayer, other than a passenger vehicle having a cost to the taxpayer in excess of $20,000 or any other amount prescribed for the purposes of paragraph *d*.3 of section 99, establishes that the amount has become a bad debt in a taxation year, he may deduct in computing his income for the year the lesser of the amount so owing to him and the amount by which the capital cost to him of that property exceeds the aggregate of the amounts realized by him as the proceeds of disposition.

Timber resource property.

However, in the case of a bad debt resulting from the disposition of a timber resource property, the taxpayer may deduct the amount so owing to him.

History: 1972, c. 23, s. 131; 1975, c. 22, s. 15; 1993, c. 16, s. 79; 1995, c. 49, s. 236.
Corresponding Federal Provision: 20(4) and (4.1).

Depreciable property.

142.1. Where an amount is deductible under section 142 in respect of the disposition of a depreciable property to which section 93.19 applied, the amount deductible under section 142 is equal to 3/4 of the amount that would be deductible, but for this section.

History: 1990, c. 59, s. 86; 1995, c. 49, s. 236; 1996, c. 39, s. 47; 2003, c. 2, s. 45; 2004, c. 21, s. 56; 2005, c. 1, s. 57; 2017, c. 29, s. 39; 2019, c. 14, s. 82.
Corresponding Federal Provision: 20(4.2).

142.2. *(Repealed).*

History: 2003, c. 2, s. 46; 2005, c. 1, s. 58; 2019, c. 14, s. 83.
Corresponding Federal Provision: 20(4.3).

DIVISION IV
INCOME TAX, DUTIES AND OTHER PAYMENTS

Taxes on income from mining operations.

143. A taxpayer may deduct any amount allowed by regulation in respect of taxes on income for the year from mining operations.

History: 1972, c. 23, s. 132.
Corresponding Federal Provision: 20(1)(v).

Disallowed deduction.

144. (1) A taxpayer shall not, in computing the income of the taxpayer from a business or property for a taxation year that begins before 1 January 2008, deduct any amount paid or payable in the year to a person referred to in section 90 and that can reasonably be considered to be a royalty, tax, rental or bonus, or to be in respect of the late receipt or non-receipt of such an amount, in relation to

(*a*) the acquisition, development or ownership of a Canadian resource property; or

(*b*) the production in Canada of

i. petroleum, natural gas or related hydrocarbons from a natural accumulation of petroleum or natural gas in Canada other than a mineral resource or from an oil or gas well in Canada;

i.1. sulphur from a natural accumulation of petroleum or natural gas situated in Canada, from an oil or gas well situated in Canada or from a mineral resource situated in Canada;

ii. metal, minerals other than iron, petroleum or other related hydrocarbons, or coal from a mineral resource in Canada to any stage that is not beyond the prime metal stage or its equivalent;

iii. iron from a mineral resource in Canada to any stage that is not beyond the pellet stage or its equivalent;

iv. petroleum or related hydrocarbons from a deposit of bituminous sands or oil shales in Canada to any stage that is not beyond the crude oil stage or its equivalent.

Provision not to apply.

(2) Subsection 1 does not apply to a prescribed amount for the purposes of section 91 or to a tax or part thereof that may reasonably be considered to be a municipal or school tax.

Taxation year ending after 31 December 2006.

(3) Where the taxation year referred to in subsection 1 ends after 31 December 2006, subsection 1, except for the purposes of the regulations made under paragraph *z*.4 of section 87 or section 145 or 360, applies despite section 143

and only in respect of the proportion of each amount referred to in subsection 1 that the number of days in the year that precede 1 January 2007 is of the number of days in the year.

History: 1975, c. 22, s. 17; 1978, c. 26, s. 35; 1984, c. 15, s. 33; 1986, c. 19, s. 25; 1987, c. 67, s. 38; 1993, c. 16, s. 80; 1995, c. 49, s. 236; 1996, c. 39, s. 273; 1998, c. 16, s. 91; 2005, c. 1, s. 59; 2015, c. 24, s. 28.
Corresponding Federal Provision: 18(1)(m).

144.1. *(Repealed).*

History: 1982, c. 5, s. 43; 2005, c. 1, s. 60.

Petroleum or natural gas accumulations.

145. A taxpayer may, in computing the taxpayer's income from a business or property for a taxation year that begins before 1 January 2007, deduct the amount determined under the regulations in respect of a natural accumulation of petroleum or natural gas, an oil or gas well or mineral resource in Canada.

Allowance.

Such regulations may allow an amount for any or all accumulations, wells or mineral resources and the Government may prescribe a formula to determine such amount.

Taxation year that includes 1 January 2007.

Where the taxation year referred to in the first paragraph includes 1 January 2007, that paragraph shall be read with "the proportion that the number of days in the year that precede that date is of the number of days in the year, of" inserted before "the amount".

History: 1975, c. 22, s. 17; 1987, c. 67, s. 39; 2005, c. 1, s. 61.
Corresponding Federal Provision: 20(1)(v.1) and (15).

Foreign tax on income from property.

146. An individual may, in computing his income from property other than immovable property for a taxation year after 1975 and from a source outside Canada, deduct such part of all the income or profits tax for the year that he paid to the government of a country other than Canada as may reasonably be regarded as having been paid in respect of an amount that has been included in computing his income for the year from the property, to the extent that such part exceeds 15% of that amount.

History: 1972, c. 23, s. 134; 1977, c. 26, s. 15; 2020, c. 16, s. 190.
Corresponding Federal Provision: 20(11).

Foreign non-business-income tax.

146.1. Subject to section 772.6.1, a taxpayer who is resident in Canada at any time in a taxation year may deduct, in computing the taxpayer's income for the year from a business or property, such amount not exceeding the non-business-income tax, within the meaning assigned by section 772.2 read without reference to paragraph *c* and subparagraphs iii and v of paragraph *d* of the definition of "non-business-income tax", paid by the taxpayer for the year to the government of a foreign country or political subdivision of a foreign country in respect of the income from a business or property, to the extent that such tax

(*a*) cannot reasonably be regarded as having been paid by a corporation in respect of income from a share of the capital stock of a foreign affiliate of the corporation; and

(*b*) is not deducted under section 126 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) nor an amount determined under subsection 2 of section 127.54 of that Act and deducted, in computing any tax payable by the taxpayer for the year under that Act.

History: 1979, c. 18, s. 12; 1982, c. 5, s. 44; 1994, c. 22, s. 104; 1995, c. 1, s. 25; 1995, c. 63, s. 30; 1997, c. 3, s. 71; 2003, c. 2, s. 47; 2004, c. 8, s. 26; 2015, c. 21, s. 122.
Interpretation Bulletins: IMP. 772-1/R2.
Corresponding Federal Provision: 20(12).

Foreign tax where no economic profit.

146.2. Subject to section 772.6.1, a taxpayer may deduct, in computing the taxpayer's income from a business for a taxation year, an amount not exceeding the lesser of

(*a*) the amount of income or profits tax described in section 772.5.1 that

i. is in respect of a property used in the business for a period of ownership by the taxpayer or in respect of a related transaction, as defined in section 772.2,

ii. is paid by the taxpayer for the year,

iii. is, because of section 772.5.1, not included in computing the taxpayer's business-income tax or non-business-income tax, as defined in section 772.2, and

iv. where the taxpayer is a corporation, is not an amount that can reasonably be regarded as having been paid in respect of income from a share of the capital stock of a foreign affiliate of the taxpayer; and

(*b*) the portion of the taxpayer's income for the year from the business that is attributable to the property for the period or to a related transaction, as defined in section 772.2.

History: 2001, c. 53, s. 43; 2004, c. 8, s. 27.
Corresponding Federal Provision: 20(12.1).

DIVISION V
EXPENSES IN RESPECT OF CERTAIN SECURITIES

Deduction of certain expenses on issue or sale.

147. Subject to section 147.1, a taxpayer may deduct the portion of an amount, other than an amount referred to in the second paragraph of section 176, that is not otherwise deductible in computing the taxpayer's income and that is an expense incurred in the year or a preceding taxation year in the course of an issuance or sale of a unit of a trust or of a share of the capital stock of a corporation, if the taxpayer is a unit trust or a corporation, or in the course of an issuance or sale, by a partnership, of an interest in the partnership or, by a syndicate, of a share in the syndicate.

Exceptions.

For the purposes of the first paragraph, an expense incurred in a particular taxation year or any preceding taxation year by a taxpayer does not include an expense to which relates

(*a*) an amount renounced under section 726.4.17.12 or 716.4.17.13, as the case may be, by the taxpayer at or before the end of the year that follows the particular year, in respect of an issue of flow-through shares or an issue of securities that are interests in a partnership; or

(*b*) an amount, not greater than the amount that would be determined under the second paragraph of section 965.31.5 in respect of a qualified investment made by a Québec business investment company entirely out of the proceeds of a share issue if the amount of the qualified investment were equal to the amount, in respect of the share issue, by which the aggregate referred to in subparagraph *b* of the first paragraph of section 965.31.5 exceeds the aggregate referred to in subparagraph *a* of the first paragraph of the said section 965.31.5, renounced under the said section 965.31.5 by the taxpayer at or before the end of the particular year, in respect of the share issue.

History: 1972, c. 23, s. 135; 1980, c. 13, s. 8; 1990, c. 59, s. 87; 1992, c. 1, s. 26; 1997, c. 3, s. 71; 2000, c. 5, s. 42; 2007, c. 12, s. 40.
Corresponding Federal Provision: 20(1)(e) before (ii) and (iv.1).

Restriction.

147.1. The amount deductible under section 147 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 amount of 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. 88.
Corresponding Federal Provision: 20(1)(e)(iii) and (iv).

Dissolved partnership.

147.2. For the purposes of sections 147 and 147.1, 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 147 in computing its income for the 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 147 by the partnership in the fiscal period 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. 88; 1997, c. 3, s. 71.
Corresponding Federal Provision: 20(1)(e)(vi).

Fees paid to a transfer agent, stock exchange.

148. A corporation may deduct:

(*a*) an amount payable as a fee for services rendered by a person as an agent for the transfer of the shares of its capital stock or as an agent for the remittance to its shareholders of the dividends declared by it;

(*b*) an amount payable as a fee to a stock exchange for the listing of the shares of its capital stock; and

(*c*) an expense incurred for the printing and issuing of a financial report to its shareholders or to any other person entitled by law to receive such report.

History: 1972, c. 23, s. 136; 1997, c. 3, s. 71.
Corresponding Federal Provision: 20(1)(g).

DIVISION VI
SALE OF CERTAIN PROPERTY

Agreement to sell, hypothecary claim or mortgage included in proceeds of disposition.

149. Where a taxpayer has in a taxation year disposed of depreciable property to a person with whom he was dealing at arm's length and the proceeds of disposition, within the meaning assigned by subparagraph *f* of the first paragraph of section 93, include an agreement to sell, or a hypothecary claim or mortgage on, land that the taxpayer has, in a subsequent taxation year, sold to a person with whom he was dealing at arm's length, he may deduct in computing his income for the subsequent year the lesser of

(*a*) the amount by which the principal amount of the agreement to sell or the obligation outstanding at the time of the sale exceeds the consideration paid by the purchaser to the taxpayer for the agreement to sell or the obligation; and

(*b*) the amount determined under subparagraph *a* less the amount by which the proceeds of disposition of the depreciable property exceed the capital cost of that property.

Disposition of a timber resource property.

However, in the case of the disposition of a timber resource property, the taxpayer may deduct the amount described in subparagraph *a* of the first paragraph.

History: 1972, c. 23, s. 137; 1975, c. 22, s. 18; 1996, c. 39, s. 48; 2001, c. 53, s. 260; 2005, c. 1, s. 62.
Corresponding Federal Provision: 20(5) and (5.1).

DIVISION VII
RESERVES

Reserves in respect of services rendered.

150. Where amounts contemplated in paragraph *a* of section 87 have been included in computing the income from a business of the taxpayer for the year or a previous year, he may deduct a reasonable amount as a reserve in respect of

(*a*) goods or services that it is reasonably anticipated will be delivered or rendered after the end of the year;

(*b*) periods for which rent or other amounts for the possession or use of land or movable property have been paid in advance; or

(*c*) repayments under arrangements or understandings contemplated in subparagraph ii of paragraph *a* of section 87 that it is reasonably anticipated will have to be made after the end of the year on the return or resale to the taxpayer of articles other than bottles.

History: 1972, c. 23, s. 138; 1997, c. 14, s. 43.
Corresponding Federal Provision: 20(1)(m).

Reserves in respect of anticipated delivery of goods or services.

150.1. Where an amount described in paragraph *a* of section 87 has been included in computing a taxpayer's income from a business for the year or a preceding taxation year, the taxpayer may deduct a reasonable amount as a reserve in respect of goods or services that it is reasonably anticipated will have to be delivered or rendered after the end of the year pursuant to an agreement for an extended warranty entered into by the taxpayer with a person with whom he was dealing at arm's length, and under which the only obligation of the taxpayer is to provide such goods or services with respect to property manufactured by the taxpayer or by a corporation related to the taxpayer.

Restriction.

In no case may the reserve exceed that portion of the amount paid or payable by the taxpayer to an insurer that carries on an insurance business in Canada to insure his liability under the agreement in respect of an outlay or expense made or incurred after 11 December 1979 and in respect of the period after the end of the year.

History: 1984, c. 15, s. 34; 1997, c. 3, s. 71.
Corresponding Federal Provision: 20(1)(m.1).

Restrictions in case of articles of food or drink, transportation.

151. Where an amount is deductible under section 150 in respect of articles of food or drink or transportation that it is reasonably anticipated will have to be delivered or provided after the end of the year, there shall be substituted for the amount determined thereunder an amount not exceeding the aggregate of amounts included in computing the taxpayer's income from the business for the year that were received or receivable in the year, depending on the method regularly followed by the taxpayer in computing his income from the business, in respect of articles of food or drink or transportation not delivered or provided before the end of the year, as the case may be.

History: 1972, c. 23, s. 139; 1997, c. 14, s. 44.
Corresponding Federal Provision: 20(6).

Cases where deductions not allowed under section 150.

152. No deduction is allowed under section 150 in respect of guarantees or indemnities, in respect of a reclamation obligation, or in the case of a farming business if the taxpayer uses the cash method of accounting in accordance with section 194.

Insurance policies.

The same applies to reserves in respect of insurance policies, except that in computing an insurer's income for a taxation year from an insurance business, other than a life insurance business, carried on by it, there may be deducted any amount not exceeding the amount prescribed in respect of the insurer for the year.

History: 1972, c. 23, s. 140; 1997, c. 14, s. 45; 1998, c. 16, s. 92; 2015, c. 21, s. 123.
Corresponding Federal Provision: 20(7).

Reserve for unpaid amounts.

153. Where an amount included in computing the taxpayer's income from a business for the year or for a preceding taxation year in respect of a property sold in the course of the business is payable to the taxpayer after the end of the year and, except where the property is immovable property, all or part of the amount was, at the time of the sale, not due until at least two years after that time, the taxpayer may deduct a reasonable amount as a reserve in respect of such part of the amount so included in computing his income

as can reasonably be regarded as a portion of the profit from the sale.

Restrictions.

However, no deduction is allowed to a taxpayer under this section in respect of a property sold in the course of a business if

(*a*) the taxpayer, at the end of the taxation year or in the following year,

i. is exempt from tax under this Part, or

ii. is not resident in Canada and does not carry on the business in Canada;

(*b*) the sale of the property occurred more than 36 months before the end of the year;

(*c*) 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 that controls the taxpayer, directly or indirectly, in any manner whatever, or

iii. controls the taxpayer, directly or indirectly, in any manner whatever; or

(*d*) the purchaser of the property sold is a partnership in which the taxpayer is, immediately after the sale, a majority-interest partner.

History: 1972, c. 23, s. 141; 1975, c. 22, s. 19; 1984, c. 15, s. 35; 1986, c. 19, s. 26; 1996, c. 39, s. 49; 2009, c. 5, s. 58; 2020, c. 16, s. 190.

Corresponding Federal Provision: 20(1)(n) and (8).

Allowance for quadrennial survey.

154. A taxpayer may deduct any amount prescribed as an allowance for expenses to be incurred by him by reason of quadrennial or special surveys concerning a vessel, if such surveys are required under the law.

History: 1972, c. 23, s. 142.

Corresponding Federal Provision: 20(1)(o).

154.1. *(Repealed).*

History: 1985, c. 25, s. 31; 2007, c. 12, s. 41.

154.2. *(Repealed).*

History: 2000, c. 39, s. 14; 2003, c. 8, s. 6; 2006, c. 3, s. 35; 2009, c. 5, s. 59.