

CHAPTER V.1 SHARES HELD BY A PARTNERSHIP

Shares held by a partnership.

592.1. For the purpose of determining whether a corporation not resident in Canada is a foreign affiliate of a corporation resident in Canada for the purposes of a provision among those mentioned in the second paragraph, the shares of a class of the capital stock of a corporation that, based on the assumptions contained in paragraph *c* of section 600, are owned at a particular time by a partnership or are deemed under this section to be owned at a particular time by the partnership, are deemed to be owned at that time by each member of the partnership in proportion to the number of all of those shares that the fair market value of the member's interest in the partnership at that time is of the fair market value of all members' interests in the partnership at that time.

Provisions referred to.

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

(a) sections 146.1, 262.0.1, 576.2, 577, 577.2 to 577.11, 589 to 592, 592.2, 592.7 to 592.10 and 746 to 749 and paragraph *d* of section 785.1;

(b) sections 571 to 576.1, 578 and 579, where those sections apply for the purposes of the provisions mentioned in subparagraph *a*;

(c) the regulations made under the provisions mentioned in subparagraph *a*; and

(d) the provisions of Chapter I of Title III of Book V.

History: 2004, c. 8, s. 123; 2015, c. 21, s. 205; 2017, c. 1, s. 143.

Corresponding Federal Provision: 93.1(1) and (1.1)(a).

Dividends deemed to be received by members of a partnership.

592.2. Where shares of a class of the capital stock of a foreign affiliate of a particular corporation resident in Canada are owned, based on the assumptions contained in paragraph *c* of section 600, by a partnership at the time when the foreign affiliate pays a dividend on those shares to the partnership, the following rules apply:

(a) for the purposes of sections 589 to 592 and 746 to 749 and any regulations made under those sections,

i. each member of the partnership (other than another partnership) is deemed to have received a portion of the dividend equal to the proportion of the dividend that the fair market value of the member's interest held, directly or indirectly through an interest in one or more other partnerships, in the partnership at that time is of the fair

market value of all the interests in the partnership held directly by members of the partnership at that time, and

ii. the portion of the dividend that is deemed to have been received by a member of the partnership at that time, under subparagraph i, is deemed to have been received by the member in equal proportions on each share of the foreign affiliate that is property of the partnership at that time; and

(b) for the purpose of applying sections 746 to 749, in relation to the dividend referred to in subparagraph i of subparagraph *a*, each share of the foreign affiliate referred to in subparagraph ii of subparagraph *a* is deemed to be owned by each member of the partnership.

Limitation.

In addition, notwithstanding subparagraphs *a* and *b* of the first paragraph, the following rules apply:

(a) where the particular corporation is a member of the partnership, the amount deductible under sections 746 to 749, in relation to the dividend referred to in subparagraph i of subparagraph *a* of the first paragraph shall not exceed the portion of the amount of the dividend included in computing its income pursuant to section 600; and

(b) where another foreign affiliate of the particular corporation is a member of the partnership, the amount included in computing the income of that other foreign affiliate, in relation to the dividend referred to in subparagraph i of subparagraph *a* of the first paragraph shall not exceed the amount that would be included in computing its income pursuant to section 600, in relation to that dividend, but for this section and if the foreign accrual property income of that other foreign affiliate were determined without reference to the value of H of the formula provided for in the definition of "foreign accrual property income" in subsection 1 of section 95 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 2004, c. 8, s. 123; 2017, c. 1, s. 144.

Corresponding Federal Provision: 93.1(2).

Tiered partnerships.

592.3. A person or partnership that is (or is deemed by this section 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 and to have, directly, rights to the income or capital of the other partnership to the extent of the person or partnership's direct and indirect rights to that income or capital, for the purpose of applying

(a) except to the extent that the context requires otherwise, a provision of this Title; and

(b) sections 262.0.1 and 555.0.3.

History: 2015, c. 21, s. 206; 2017, c. 1, s. 145.

Corresponding Federal Provision: 93.1(3).

CHAPTER V.2 NON-RESIDENT CORPORATIONS WITHOUT SHARE CAPITAL

Definitions:

592.4. In this chapter,

“equity interest”;

“equity interest”, in a non-resident corporation without share capital, means any right, whether immediate or future and whether absolute or contingent, conferred by the corporation to receive an amount that can reasonably be regarded as all or any part of the capital, revenue or income of the corporation, but does not include a right as creditor;

“non-resident corporation without share capital”.

“non-resident corporation without share capital” means a corporation not resident in Canada that, determined without reference to this chapter, does not have capital divided into shares.

History: 2017, c. 1, s. 146.

Corresponding Federal Provision: 93.2(1).

Non-resident corporation without share capital.

592.5. For the purposes of this Part, the following rules apply:

(a) equity interests in a non-resident corporation without share capital that have identical rights and obligations, determined without reference to proportionate differences in all of those rights and obligations, are deemed to be shares of a separate class of the capital stock of the corporation;

(b) the corporation is deemed to have 100 issued and outstanding shares of each class of shares of its capital stock;

(c) each person or partnership that holds, at any time, an equity interest in a particular class of the capital stock of the corporation is deemed to own, at that time, that number of shares of the capital stock of the particular class that is equal to the proportion of 100 that the fair market value, at that time, of all the equity interests of the particular class held by the person or partnership is of the fair market value, at that time, of all the equity interests of the particular class; and

(d) shares of a particular class of shares of the capital stock of the corporation are deemed to have rights and obligations that are the same as those of the corresponding equity interests.

History: 2017, c. 1, s. 146.

Corresponding Federal Provision: 93.2(2).

Non-resident corporation without share capital.

592.6. For the purposes of Division XIII of Chapter IV of Title IV, section 540 and Chapter V of Title IX, the following rules apply:

(a) subject to subparagraph *b*, where at any time a taxpayer resident in Canada or a foreign affiliate of the taxpayer (in this section referred to as the “vendor”) disposes of capital property that is shares of the capital stock of a foreign affiliate of the taxpayer, or a debt obligation owing to the taxpayer by the affiliate, to—or exchanges the shares or debt for shares of the capital stock of—a non-resident corporation without share capital, that is immediately after that time a foreign affiliate of the taxpayer, in a manner that increases the fair market value of a class of shares of the capital stock of the non-resident corporation, the non-resident corporation is deemed to have issued, and the vendor is deemed to have received, new shares of the class as consideration in respect of the disposition or exchange; and

(b) if the taxpayer makes a valid election under paragraph *b* of subsection 3 of section 93.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), subparagraph *a* does not apply in relation to the disposition or exchange.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under paragraph *b* of subsection 3 of section 93.2 of the Income Tax Act.

History: 2017, c. 1, s. 146.

Corresponding Federal Provision: 93.2(3).

CHAPTER V.3 AUSTRALIAN TRUSTS

Definitions:

592.7. In this chapter,

“Australian trust”;

“Australian trust”, at any time, means a trust in respect of which the following conditions are met at that time:

(a) in the absence of section 592.9, the trust would be described in paragraph *h* of the definition of “exempt foreign trust” in the first paragraph of section 593;

(b) the trust is resident in Australia;

(c) the interest of each beneficiary under the trust is described by reference to units of the trust; and

(d) the liability of each beneficiary under the trust is limited by the operation of any law governing the trust;

“fixed interest”.

“fixed interest” has the meaning assigned by the first paragraph of section 593.

History: 2017, c. 1, s. 146.

Corresponding Federal Provision: 93.3(1), (2)(d) and (3) and c).

Conditions for section 592.9.

592.8. The rules of section 592.9 apply at any time, for the specified purpose provided for in section 592.10, in respect of a taxpayer resident in Canada in relation to a trust if

(a) a corporation not resident in Canada is at that time beneficially interested in the trust;

(b) the corporation not resident in Canada is at that time a foreign affiliate of the taxpayer in respect of which the taxpayer has a qualifying interest, within the meaning of paragraph *m* of subsection 2 of section 95 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(c) the trust is at that time an Australian trust;

(d) the total fair market value at that time of all fixed interests of a class in the trust held by the corporation not resident in Canada, or persons or partnerships that do not deal at arm's length with the corporation, is equal to at least 10% of the fair market value at that time of all fixed interests of the class; and

(e) unless the corporation not resident in Canada first acquires a beneficial interest in the trust at that time, immediately before that time section 592.9 applied

i. to the taxpayer in relation to the trust, or

ii. to a corporation resident in Canada that, immediately before that time, did not deal at arm's length with the taxpayer, in relation to the trust.

History: 2017, c. 1, s. 146.

Corresponding Federal Provision: 93.3(2).

Tax consequences.

592.9. The rules to which section 592.8 refers in respect of a taxpayer resident in Canada in relation to a trust are the following:

(a) the trust is deemed to be a corporation not resident in Canada that is resident in Australia and not to be a trust;

(b) each particular class of fixed interests in the trust is deemed to be a separate class of 100 issued shares, of the capital stock of the corporation not resident in Canada, that have the same attributes as the interests of the particular class;

(c) each beneficiary under the trust is deemed to hold the number of shares of each separate class described in paragraph *b* equal to the proportion of 100 that the fair market value, at the time referred to in section 592.8, of that

beneficiary's fixed interests in the corresponding particular class of fixed interests in the trust is of the fair market value at that time of all fixed interests in the particular class;

(d) the corporation not resident in Canada is deemed to be controlled by the taxpayer resident in Canada—a foreign affiliate of which is referred to in paragraph *b* of section 592.8 and is beneficially interested in the trust—that has the greatest equity percentage in the corporation not resident in Canada;

(e) a particular foreign affiliate of the taxpayer in which the taxpayer has a direct equity percentage at a particular time, and that is not a controlled foreign affiliate of the taxpayer at that time, is deemed to be a controlled foreign affiliate of the taxpayer at that time if, at that time,

i. the particular foreign affiliate has an equity percentage in the foreign affiliate referred to in paragraph *b* of section 592.8, or

ii. the particular foreign affiliate is the foreign affiliate referred to in paragraph *b* of section 592.8; and

(f) Chapter VI.2 does not apply in respect of the taxpayer in relation to the trust.

History: 2017, c. 1, s. 146.

Corresponding Federal Provision: 93.3(3).

Specified purposes.

592.10. The specified purpose to which section 592.8 refers is the determination, in respect of an interest in an Australian trust, of the Québec tax results (as defined in section 21.4.16) of the taxpayer resident in Canada referred to in section 592.8 for a taxation year in respect of shares of the capital stock of a foreign affiliate of the taxpayer.

History: 2017, c. 1, s. 146.

Corresponding Federal Provision: 93.3(4).

**CHAPTER VI
FOREIGN TRUSTS**

Definitions:

593. In this chapter and Chapter VI.2,

“arm's length transfer”;

“arm's length transfer” at any time by a person or partnership (in this definition referred to as the “transferor”) means a transfer or loan (which transfer or loan is referred to in this definition as the “transfer”) of property (other than restricted property) that is made at that time (in this definition referred to as the “transfer time”) by the transferor to another person or partnership (in this definition referred to as the “recipient”) where

(a) it is reasonable to conclude that none of the reasons (with reference to all the circumstances including the terms of a trust, an intention, the laws of a country or the existence

of an agreement, a memorandum, a letter of wishes or any other arrangement) for the transfer is the acquisition at any time by any person or partnership of an interest as a beneficiary under a trust that is not resident in Canada; and

(b) the transfer is

i. a payment of interest, of dividends, of rent, of royalties or of any other return on investment, or any substitute for such a return on investment, in respect of a particular property held by the recipient, if the amount of the payment is not more than the amount that the transferor would have paid if the transferor dealt at arm's length with the recipient,

ii. a payment made by a corporation on a reduction of the paid-up capital in respect of shares of a class of its capital stock held by the recipient, if the amount of the payment is not more than the lesser of the amount of the reduction in the paid-up capital and the consideration for which the shares were issued,

iii. a transfer in exchange for which the recipient transfers or loans property to the transferor, or becomes obligated to transfer or loan property to the transferor, and for which it is reasonable to conclude

(1) having regard only to the transfer and the exchange, that the transferor would have been willing to make the transfer if the transferor dealt at arm's length with the recipient, and

(2) that the terms and conditions, and circumstances, under which the transfer was made would have been acceptable to the transferor if the transferor dealt at arm's length with the recipient,

iv. a transfer made in satisfaction of an obligation referred to in subparagraph iii and for which it is reasonable to conclude

(1) having regard only to the transfer and the obligation, that the transferor would have been willing to make the transfer if the transferor dealt at arm's length with the recipient, and

(2) that the terms and conditions, and circumstances, under which the transfer was made would have been acceptable to the transferor if the transferor dealt at arm's length with the recipient,

v. a payment of an amount owing by the transferor under a written agreement the terms and conditions of which, when entered into, were terms and conditions that, having regard only to the amount owing and the agreement, would have been acceptable to the transferor if the transferor dealt at arm's length with the recipient,

vi. a payment made before 1 January 2002 to a trust, to a corporation controlled by a trust or to a partnership of which a trust is a majority-interest partner in repayment of or otherwise in respect of a loan made by a trust, corporation or partnership to the transferor, or

vii. a payment made after 31 December 2001 to a trust, to a corporation controlled by the trust or to a partnership of which the trust is a majority-interest partner, in repayment of or otherwise in respect of a particular loan made by the trust, corporation or partnership to the transferor and either

(1) the payment is made before 1 January 2011 and they would have been willing to enter into the particular loan if they dealt at arm's length with each other, or

(2) the payment is made before 1 January 2005 in accordance with fixed repayment terms agreed to before 23 June 2000;

“beneficiary”;

“beneficiary” under a trust includes

(a) a person or partnership that is beneficially interested in the trust; and

(b) a person or partnership that would be beneficially interested in the trust if subparagraph ii of subparagraph b of the first paragraph of section 7.11.1 were read as follows:

“ii. because of the terms or conditions of the particular trust or any agreement in respect of the particular trust at the particular time (including the terms or conditions of a share, or any agreement in respect of a share, of the capital stock of a corporation that is beneficially interested in the particular trust), the particular person or partnership becomes (or could become on the exercise of any discretion by any person or partnership), directly or indirectly, entitled to any amount derived, directly or indirectly, from the income or capital of the particular trust or 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”;

“closely held corporation”;

“closely held corporation” at any time means any corporation, other than a corporation in respect of which

(a) there is at least one class of shares of its capital stock that consists of shares prescribed for the purposes of paragraph d of subsection 1 of section 110 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

(b) it is reasonable to conclude that at that time, in respect of each class of shares described in paragraph a, shares of the class are held by at least 150 shareholders each of whom holds shares of the class that have a total fair market value of at least \$500; and

(c) it is reasonable to conclude that at that time in no case does a particular shareholder (or a particular shareholder together with one or more other shareholders with whom the particular shareholder does not deal at arm's length) hold shares of the corporation

i. that would give the particular shareholder (or the group of other shareholders not dealing with each other at arm's

length and of which the particular shareholder is a member) 10% or more of the votes that could be cast under any circumstance at an annual meeting of shareholders of the corporation if the meeting were held at that time, or

ii. that have a fair market value of 10% or more of the fair market value of all of the issued and outstanding shares of the corporation;

“connected contributor”;

“connected contributor” to a trust at any time means a contributor to the trust at that time, other than a person all of whose contributions to the trust made at or before that time were made at a non-resident time of the person;

“contribution”;

“contribution” to a trust by a particular person or partnership means

(a) a transfer or loan (other than an arm’s length transfer) of property to the trust by the particular person or partnership;

(b) where a particular transfer or loan (other than an arm’s length transfer) of property is made by the particular person or partnership as part of a series of transactions that includes another transfer or loan (other than an arm’s length transfer) of property to the trust by another person or partnership, that other transfer or loan to the extent that it can reasonably be considered to have been made in respect of the particular transfer or loan; or

(c) where the particular person or partnership undertakes to make a transfer or loan (other than a transfer or loan that would, if it were made, be an arm’s length transfer) of property as part of a series of transactions that includes another transfer or loan (other than an arm’s length transfer) of property to the trust by another person or partnership, that other transfer or loan to the extent that it can reasonably be considered to have been made in respect of the undertaking;

“contributor”;

“contributor” to a trust at any time means a person, including a person that has ceased to exist, that is not an exempt person and that, at or before that time, has made a contribution to the trust;

“electing contributor”;

“electing contributor” to a trust at any time means a resident contributor, to the trust, who has made a valid election under the definition of “electing contributor” in subsection 1 of section 94 of the Income Tax Act to have subsection 16 of that section 94 apply in respect of the contributor and the trust for a taxation year of the contributor that includes that time or that ends before that time and for any subsequent taxation year;

“electing trust”;

“electing trust” in respect of a particular taxation year means a trust that

(a) holds at any time in the particular taxation year, or in a prior taxation year throughout which it was deemed, for the purpose of computing its income, to be resident in Canada

under paragraph *a* of section 595, property that is at that time included in its non-resident portion; and

(b) has made a valid election under paragraph *b* of the definition of “electing trust” in subsection 1 of section 94 of the Income Tax Act;

“exempt foreign trust”;

“exempt foreign trust” at a particular time means either a prescribed trust at the particular time or a trust that is not resident in Canada and that

(a) is a trust in respect of which the following conditions are met:

i. each beneficiary under the trust at the particular time is

(1) an individual (in this paragraph referred to as an “infirm beneficiary”) who, because of mental or physical infirmity, was, at the time that the trust was created, dependent on an individual who is a contributor to the trust or on an individual related to such a contributor, or

(2) a person who is entitled, only after the particular time, to receive or otherwise obtain the enjoyment of all or part of the trust’s income or capital,

ii. at the particular time there is at least one infirm beneficiary under the trust who suffers from a mental or physical infirmity that causes the beneficiary to be dependent on a person,

iii. each infirm beneficiary is, at all times that the infirm beneficiary is a beneficiary under the trust during the trust’s taxation year that includes the particular time, not resident in Canada, and

iv. each contribution to the trust made at or before the particular time can reasonably be considered to have been, at the time that the contribution was made, made to provide for the maintenance of an infirm beneficiary during the expected period of the beneficiary’s infirmity;

(b) is a trust in respect of which the following conditions are met:

i. the trust was created because of the breakdown of a marriage of two particular individuals to provide for the maintenance of a beneficiary under the trust who was, during that marriage,

(1) a child of both of those particular individuals (in this paragraph referred to as a “child beneficiary”), or

(2) one of those particular individuals (in this paragraph referred to as the “adult beneficiary”),

ii. each beneficiary under the trust at the particular time is

(1) a child beneficiary under 21 years of age,

- (2) a child beneficiary under 31 years of age who is enrolled at any time in the trust's taxation year that includes the particular time at an educational institution that is described in the third paragraph,
- (3) the adult beneficiary, or
- (4) a person who is entitled, only after the particular time, to receive or otherwise obtain the enjoyment of all or part of the trust's income or capital,
- iii. each beneficiary described in any of subparagraphs 1 to 3 of subparagraph ii is, at all times that the beneficiary is a beneficiary under the trust during the trust's taxation year that includes the particular time, not resident in Canada, and
- iv. each contribution to the trust, at the time that the contribution was made, was
- (1) an amount paid by the particular individual other than the adult beneficiary that would be a support amount as defined in section 312.3 if it had been paid by that particular individual directly to the adult beneficiary, or
- (2) a contribution made by one of those particular individuals or a person related to one of those particular individuals to provide for the maintenance of a child beneficiary while the child was either under 21 years of age or under 31 years of age and enrolled at an educational institution located outside Canada that is described in the third paragraph;
- (c) is a trust in respect of which one of the following conditions is met:
- i. at the particular time the trust is an agency of the United Nations,
- ii. at the particular time the trust owns and administers a university described in subparagraph iv of paragraph *a* of the definition of "qualified donee" in subsection 1 of section 149.1 of the Income Tax Act,
- iii. at any time in the trust's taxation year that includes the particular time or at any time in the preceding calendar year Her Majesty in right of Canada has made a gift to the trust, or
- iv. the trust is created under the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992, or any protocol to it that has been ratified by the Government of Canada;
- (d) is a trust in respect of which the following conditions are met:
- i. throughout the particular period that began at the time the trust was created and ended at the particular time, the trust would not be resident in Canada for the purposes of the Income Tax Act if that Act were read without reference to subsection 1 of section 94 of that Act as that subsection read in its application to a taxation year that includes 31 December 2000,
- ii. the trust was created exclusively for charitable purposes and has been operated throughout the particular period described in subparagraph i exclusively for charitable purposes,
- iii. if the particular time is more than 24 months after the day on which the trust was created, the trust numbers at the particular time at least 20 persons (other than trusts) each of whom at that time
- (1) is a contributor to the trust,
- (2) exists, and
- (3) deals at arm's length with at least 19 other contributors to the trust,
- iv. the income of the trust (determined in accordance with the laws described in subparagraph v) for each of its taxation years that ends at or before the particular time would, if the income were not distributed and the laws described in subparagraph v did not apply, be subject to an income or profits tax in the country in which it was resident in the taxation year under consideration, and
- v. the trust was, for each of its taxation years that ends at or before the particular time, exempt under the laws of the country in which it was resident from the payment of income or profits tax to the government of that country in recognition of the charitable purposes for which the trust is operated;
- (e) is governed throughout the trust's taxation year that includes the particular time by a profit sharing plan, a retirement compensation arrangement or a foreign retirement arrangement;
- (f) is a trust that
- i. throughout the particular period that began when it was created and ended at the particular time has been operated exclusively for the purpose of administering or providing employee benefits in respect of employees or former employees, and
- ii. meets the following conditions throughout the trust's taxation year that includes the particular time:
- (1) the trust is a trust governed by an employee benefit plan or is a trust described in subparagraph *a.1* of the third paragraph of section 647,
- (2) the trust is maintained for the benefit of natural persons the majority of whom are not resident in Canada, and
- (3) no benefits are provided under the trust other than benefits in respect of qualifying services;

(g) is a trust (other than a trust described in subparagraph *a.1* of the third paragraph of section 647 or a prescribed trust) that throughout the particular period that began when it was created and ended at the particular time

i. has been resident in a foreign country the laws of which have, throughout the particular period,

(1) imposed an income or profits tax, and

(2) exempted the trust from the payment of all income tax, and all profits tax, to the government of that country in recognition of the purposes for which the trust is operated, and

ii. has been operated exclusively for the purpose of administering or providing pension benefits that are primarily in respect of services rendered in the foreign country by natural persons who were not resident in Canada at the time those services were rendered; or

(*h*) is a trust (other than a trust that has made a valid election, described in paragraph *h* of the definition of “exempt foreign trust” in subsection 1 of section 94 of the Income Tax Act, not to be an exempt foreign trust under that paragraph *h* for the taxation year for which the election is made and for any subsequent taxation year) in respect of which the following conditions are met at the particular time:

i. the only beneficiaries under the trust who for any reason are entitled to receive, at or after the particular time and directly from the trust, an amount from the income or capital of the trust are beneficiaries that hold fixed interests in the trust, and

ii. any of the following requirements are complied with:

(1) there are at least 150 beneficiaries among those described in subparagraph i under the trust each of whose fixed interests in the trust have at the particular time a total fair market value of at least \$500,

(2) all fixed interests in the trust are listed on a designated stock exchange and in the 30 days immediately preceding the particular time fixed interests in the trust were traded on a designated stock exchange on at least 10 days,

(3) each outstanding fixed interest in the trust was issued by the trust for consideration that was not less than 90% of the interest’s proportionate share of the net asset value of the trust’s property at the time of its issuance, or was acquired for consideration equal to the fair market value of the interest at the time of its acquisition, or

(4) the trust is governed by a Roth IRA, within the meaning of section 408A of the United States Internal Revenue Code of 1986, as amended from time to time, or by a plan or arrangement created after 21 September 2007 that is subject to that Code and that is described in subclause II of clause D of subparagraph ii of paragraph *h* of the definition of

“exempt foreign trust” in subsection 1 of section 94 of the Income Tax Act;

“exempt person”;

“exempt person” at any time means

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

(*b*) a person whose taxable income for the taxation year that includes that time is exempt from tax under this Part in accordance with Book VIII;

(*c*) a trust resident in Canada or a Canadian corporation

i. that was established by or arises under a law of Canada or of a province, and

ii. the principal activities of which at that time are to administer, manage or invest the monies of one or more superannuation or pension funds or plans established under a law of Canada or of a province;

(*d*) a trust or corporation established by or arising under a law of Canada or of a province in connection with a scheme or program for the compensation of workers injured in an accident arising out of or in the course of their employment;

(*e*) a trust resident in Canada all the beneficiaries under which are at that time exempt persons;

(*f*) a Canadian corporation all the shares, or rights to shares, of which are held at that time by exempt persons;

(*g*) a Canadian corporation without share capital all the property of which is held at that time exclusively for the benefit of exempt persons;

(*h*) a partnership all the members of which are at that time exempt persons; and

(*i*) a trust or corporation that is at that time a mutual fund;

“exempt service”;

“exempt service” means a service rendered at any time by a person or partnership (in this definition referred to as the “service provider”) to, for or on behalf of, another person or partnership (in this definition referred to as the “recipient”) where

(*a*) the recipient is a trust and the service relates to the administration of the trust; or

(*b*) the following conditions are met in respect of the service:

i. the service is rendered in the service provider’s capacity at that time as an employee or agent of the recipient,

ii. in exchange for the service, the recipient transfers or loans property or undertakes to transfer or loan property, and

iii. it is reasonable to conclude

(1) having regard only to the service and the exchange, that the service provider would be willing to provide the service if the service provider were dealing at arm's length with the recipient, and

(2) that the terms, conditions and circumstances under which the service is provided would be acceptable to the service provider if the service provider were dealing at arm's length with the recipient;

“fixed interest”;

“fixed interest” at any time of a person or partnership in a trust means an interest of the person or partnership as a beneficiary (in this definition, determined without reference to section 7.11.1) under the trust provided that no amount 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 or partnership of, or the failure by any person or partnership to exercise, any discretionary power, other than a discretionary power 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 the beneficiaries under the trust if the beneficiaries were 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 under the trust;

“joint contributor”;

“joint contributor” at any time in respect of a contribution to a trust means, if more than one contributor has made the contribution, each of those contributors that is at that time a resident contributor to the trust;

“mutual fund”;

“mutual fund” at any time means a mutual fund corporation or mutual fund trust (in this definition referred to as the “fund”), but does not include a fund in respect of which statements or representations have been made at or before that time—by the fund, or by a promoter or other representative of the fund, in respect of the acquisition or offering of an interest in the fund—that the taxes under this Act on the income, profit or gains for any taxation year—in respect of property that is held by the fund and that is, or derives its value from, an interest in a trust—are less than, or are expected to be less than, the tax that would have been applicable under this Act if the income, profits or gains from the property had been earned directly by a person who acquires an interest in the fund;

“non-resident portion”;

“non-resident portion” of a trust at any time means all property held by the trust to the extent that it is not at that time part of the resident portion of the trust;

“non-resident time”;

“non-resident time” of a person in respect of a contribution to a trust and a particular time means a time (in this definition referred to as the “contribution time”) at which the person made a contribution to a trust that is before the particular time and at which the person was not resident in Canada (or, if the person was not in existence at the contribution time, the person was not resident in Canada at any time in the 18 months before ceasing to exist), if the person was not resident in Canada or not in existence at any time in the period that began 60 months before the contribution time (or, if the person is an individual and the trust arose on and as a consequence of the death of the individual, 18 months before the contribution time) and ends at the earlier of

(a) the time that is 60 months after the contribution time; and

(b) the particular time;

“promoter”;

“promoter” in respect of a trust or corporation at any time means

(a) a person or partnership that at or before that time establishes, organizes or substantially reorganizes the undertakings of the trust or corporation, as the case may be; and

(b) for the purposes of the definition of “mutual fund”, a person or partnership described in paragraph a and a person or partnership who in the course of carrying on a business

i. issues or sells, or promotes the issuance, sale or acquisition of, an interest in a mutual fund corporation or mutual fund trust,

ii. acts as an agent or advisor in respect of the issuance or sale, or the promotion of the issuance, sale or acquisition of, an interest in a mutual fund corporation or mutual fund trust, or

iii. accepts, whether as a principal or agent, consideration in respect of an interest in a mutual fund corporation or mutual fund trust;

“qualifying services”;

“qualifying services” means

(a) services that are rendered to an employer by an employee of the employer, provided that the employee was not resident in Canada at any time in the period during which the services were rendered;

(b) services that are rendered to an employer by an employee of the employer, other than

i. services that were rendered primarily in Canada,

ii. services that were rendered primarily in connection with a business carried on by the employer in Canada, or

iii. any combination of services described in subparagraphs i and ii;

(c) services that are rendered in a particular month to an employer by an employee of the employer, provided that the employee

i. was resident in Canada throughout no more than 60 months during the 72-month period that ended at the end of the particular month, and

ii. became a member of, or a beneficiary under, the plan or trust under which benefits in respect of the services may be provided (or a similar plan or trust for which the plan or the trust was substituted) before the end of the month following the month in which the employee became resident in Canada; or

(d) any combination of services that are qualifying services because of any of paragraphs *a* to *c*;

“resident beneficiary”;

“resident beneficiary” under a trust at any time means a person that is, at that time, a beneficiary under the trust other than a successor beneficiary under the trust or an exempt person, if, at that time,

(a) the person is resident in Canada; and

(b) there is a connected contributor to the trust;

“resident contributor”;

“resident contributor” to a trust at any time means a person that is, at that time, resident in Canada and a contributor to the trust, but—if the trust was created before 1 January 1960 by a person who was not resident in Canada when the trust was created—does not include an individual (other than a trust) who has not, after 31 December 1959, made a contribution to the trust;

“resident portion”;

“resident portion” of a trust at a particular time means all of the trust’s property that is

(a) property in respect of which a contribution has been made at or before the particular time to the trust by a contributor that is at the particular time a resident contributor, or if there is at the particular time a resident beneficiary under the trust a connected contributor, to the trust and, for the purposes of this paragraph, the following rules apply:

i. if property is held by a contributor in common or in partnership immediately before the property is contributed to the trust, it is contributed by the contributor only to the extent that the contributor so held the property, and

ii. if the contribution to the trust is a transfer described in any of paragraphs *a*, *c*, *e* and *g* of section 594, the property in respect of which the contribution has been made is deemed to be

(1) in respect of a transfer under paragraph *a* of section 594 to which subparagraph 1 of subparagraph ii of that

paragraph *a* applies, property the fair market value of which has increased because of a transfer or loan described in subparagraph i of that paragraph *a*, or, in respect of such a transfer to which subparagraph 2 of subparagraph ii of that paragraph *a* applies, property in respect of which a valid election under subclause II of clause A of subparagraph ii of paragraph *a* of the definition of “resident portion” in subsection 1 of section 94 of the Income Tax Act has been made,

(2) in respect of a transfer under paragraph *c* of section 594, property described in subparagraph ii of that paragraph *c*,

(3) in respect of a transfer under paragraph *e* of section 594, property acquired as a result of any undertaking including a guarantee, covenant or agreement given by a person or partnership other than the trust to ensure the repayment, in whole or in part, of a loan or other indebtedness incurred by the trust in accordance with that paragraph *e*, and

(4) in respect of a transfer under paragraph *g* of section 594, property in respect of which a valid election under clause D of subparagraph ii of paragraph *a* of the definition of “resident portion” in subsection 1 of section 94 of the Income Tax Act has been made;

(b) property that is acquired, at or before the particular time, by way of indebtedness incurred by the trust (in this paragraph referred to as the “subject property”), if

i. all or part of the indebtedness is secured on property (other than the subject property) that is held in the trust’s resident portion,

ii. it was reasonable to conclude, at the time that the indebtedness was incurred, that the indebtedness would be repaid with recourse to any property (other than the subject property) held at any time in the trust’s resident portion, or

iii. a person resident in Canada or partnership of which a person resident in Canada is a member is obligated, either absolutely or contingently, to effect any undertaking including any guarantee, covenant or agreement given to ensure the repayment, in whole or in part, of the indebtedness, or provided any other financial assistance in respect of the indebtedness;

(c) property to the extent that it is derived, directly or indirectly, in any manner whatever, from property described in any of paragraphs *a*, *b* and *d*, and, without limiting the generality of the foregoing, including property derived from the income (computed without reference to subparagraph *f* of the first paragraph of section 597.0.14, paragraphs *a* and *b* of section 657 and section 657.1) of the trust for a taxation year of the trust that ends at or before the particular time and property in respect of which an amount would be described at the particular time in respect of the trust in the definition of “capital dividend account” in subsection 1 of section 89 of the Income Tax Act if the trust were at that time a corporation; and

(d) property that is at the particular time substituted for property described in any of paragraphs *a* to *c*;

“restricted property”;

“restricted property” of a person or partnership means property that the person or partnership holds and that

(a) is a share (or a right to acquire a share) of the capital stock of a closely held corporation if the share or right, or property for which the share or right was substituted, was at any time acquired by the person or partnership as part of a transaction or series of transactions under which

i. a specified share of the capital stock of a closely held corporation was acquired by any person or partnership in exchange for or as consideration for the disposition of any property or upon the conversion of any property and the cost of the specified share to the person who acquired it was less than the fair market value of the specified share at the time of the acquisition, or

ii. a share (other than a specified share) of the capital stock of a closely held corporation becomes a specified share of the capital stock of the corporation;

(b) is an indebtedness or other obligation, or a right to acquire an indebtedness or other obligation, of a closely held corporation if

i. the indebtedness, obligation or right, or property for which the indebtedness, obligation or right was substituted, became property of the person or partnership as part of a transaction or series of transactions under which

(1) a specified share of the capital stock of a closely held corporation was acquired by any person or partnership in exchange for or as consideration for the disposition of any property or upon the conversion of any property and the cost of the specified share to the person who acquired it was less than the fair market value of the specified share at the time of the acquisition, or

(2) a share (other than a specified share) of the capital stock of a closely held corporation becomes a specified share of the capital stock of the corporation, and

ii. the amount of any payment under the indebtedness, obligation or right (whether the right to the amount is immediate or future, absolute or contingent or conditional on or subject to the exercise of a discretionary power by any person or partnership) is, directly or indirectly, determined primarily by one or more of the following criteria:

(1) the fair market value of, production from or use of any of the property of the closely held corporation,

(2) gains and profits from the disposition of any of the property of the closely held corporation,

(3) income, profits, revenue and cash flow of the closely held corporation, or

(4) any other criterion similar to a criterion referred to in any of subparagraphs 1 to 3; or

(c) is property

i. that the person or partnership acquired as part of a series of transactions described in paragraph *a* or *b* in respect of another property, and

ii. the fair market value of which is derived in whole or in part, directly or indirectly, from the other property referred to in subparagraph i;

“specified party”;

“specified party” in respect of a particular person at any time means

(a) the particular person’s spouse at that time;

(b) a corporation that at that time

i. is a controlled foreign affiliate of the particular person or the particular person’s spouse, or

ii. would be a controlled foreign affiliate of a partnership, of which the particular person is a majority-interest partner, if the partnership were a person resident in Canada at that time;

(c) a person, or a partnership of which the particular person is a majority-interest partner, for which it is reasonable to conclude that the benefit referred to in subparagraph iv of subparagraph *a* of the first paragraph of section 597.0.5 was conferred

i. in anticipation of the person becoming after that time a corporation described in paragraph *b*, or

ii. to avoid or minimize a liability that arose, or that would otherwise have arisen, under this Act with respect to the particular person; or

(d) a corporation in which the particular person, or partnership of which the particular person is a majority-interest partner, is a shareholder if

i. the corporation is at or before that time a beneficiary under a trust, and

ii. the particular person or the partnership is a beneficiary under the trust solely because of the application of paragraph *b* of the definition of “beneficiary” in respect of the particular person or the partnership and in relation to the corporation;

“specified share”;

“specified share” means a share of the capital stock of a corporation other than a share that is a prescribed share for the purposes of paragraph *d* of subsection 1 of section 110 of the Income Tax Act;

“specified time”;

“specified time” in respect of a trust for a taxation year of the trust means

(a) if the trust exists at the end of the taxation year, the time that is the end of that taxation year; and

(b) in any other case, the time in that taxation year that is immediately before the time at which the trust ceases to exist;

“successor beneficiary”;

“successor beneficiary” at a particular time under a trust means a person that is a beneficiary under the trust solely because of a right of the person to receive all or part of the trust’s income or capital, provided that under that right the person may receive that income or capital only on or after the death after the particular time of an individual who, at the particular time, is alive and

(a) is a contributor to the trust;

(b) is related to (including, for the purposes of this paragraph and paragraph *c*, an uncle, aunt, niece or nephew of) a contributor to the trust; or

(c) would have been related to a contributor to the trust if every individual who was alive before the particular time were alive at that time;

“tax-liable taxpayer”;

“tax-liable taxpayer” in respect of a trust at a particular time in a taxation year means

(a) in the case of a taxpayer who is, at the particular time, either a resident contributor to the trust, a resident beneficiary under the trust or an electing contributor under the trust, or a joint contributor in respect of a contribution to the trust, a person (other than a corporation) who is resident in Québec at the end of the taxation year or a corporation that has an establishment in Québec in the taxation year; or

(b) in the case of a taxpayer who is, at the particular time, a connected contributor to the trust, a person (other than a corporation) who was resident in Québec at a time that is before the particular time and at which the person made a contribution to the trust, or a corporation that had an establishment in Québec at a time that is before the particular time and at which the corporation made a contribution to the trust;

“transaction”.

“transaction” includes an arrangement or event.

Trust.

In this chapter, “trust” includes, for greater certainty, a succession.

Educational institution.

An educational institution referred to in subparagraph 2 of subparagraph ii of paragraph *b* of the definition of “exempt foreign trust” in the first paragraph and in subparagraph 2 of subparagraph iv of that paragraph *b* is an educational institution located outside Canada that

(a) is a university, college or any other institution that provides courses at a post-secondary school level; or

(b) provides courses designed to furnish a person with skills for, or improve a person’s skills in, an occupation.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under the definition of “electing contributor”, “electing trust”, “exempt foreign trust” and “resident portion” in subsection 1 of section 94 of the Income Tax Act or in relation to an election made before 20 December 2006 under paragraph *h* of the definition of “exempt foreign trust” in the first paragraph.

History: 1975, c. 22, s. 164; 1984, c. 15, s. 130; 1994, c. 22, s. 209; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 2015, c. 36, s. 28; 2019, c. 14, s. 157.

Corresponding Federal Provision: 94(1)(a).

Rules of application.

594. For the purposes of this chapter and Chapter VI.2, the following rules apply:

(a) a person or partnership is deemed to have transferred, at any time, property to a trust if

i. at that time the person or partnership transfers or loans property to another person or partnership and the transfer or loan is not an arm’s length transfer, and

ii. because of that transfer or loan

(1) the fair market value of one or more properties held by the trust increases at that time, or

(2) a liability or potential liability of the trust decreases at that time;

(b) the fair market value, at any time, of property deemed under paragraph *a* to be transferred at that time by a person or partnership is deemed to be equal to the amount of the absolute value of the increase or decrease referred to in subparagraph ii of paragraph *a* in respect of the property, and if that time is after 27 August 2010 and the property that the person or partnership transfers or loans at that time is restricted property of the person or partnership, the property deemed under paragraph *a* to be transferred at that time to a trust is deemed to be restricted property transferred at that time to the trust;

(c) a person or partnership is deemed to have transferred, at any time, property to a trust if

i. at that time the person or partnership transfers restricted property, or loans property other than by way of an arm’s length transfer, to another person (in this paragraph and paragraph *d* referred to as the “intermediary”),

ii. at or after that time, the trust holds property (other than property described in subparagraph *b* of the first paragraph of section 597.0.12) the fair market value of which is derived in whole or in part, directly or indirectly, from property held by the intermediary, and

iii. it is reasonable to conclude that one of the reasons the transfer or loan is made is to avoid or minimize a liability under this Act;

(*d*) the fair market value, at any time, of property deemed under paragraph *c* to be transferred at that time by a person or partnership is deemed to be equal to the fair market value of the property referred to in subparagraph *i* of paragraph *c*, and if that time is after 24 October 2012 and the property that the person or partnership transfers or loans to the intermediary is restricted property of the intermediary, the property deemed under paragraph *c* to be transferred at that time by the person or partnership to a trust is deemed to be restricted property transferred at that time to the trust throughout the period in which the intermediary holds the restricted property;

(*e*) where, at any time, a particular person or partnership is obligated, either absolutely or contingently, to effect any undertaking including any guarantee, covenant or agreement given to ensure the repayment, in whole or in part, of a loan or other indebtedness incurred by another person or partnership, or has provided any other financial assistance to another person or partnership,

i. the particular person or partnership is deemed to have transferred, at that time, property to that other person or partnership, and

ii. the property, if any, transferred to the particular person or partnership from the other person or partnership in exchange for the guarantee or other financial assistance is deemed to have been transferred to the particular person or partnership in exchange for the property deemed to have been transferred under subparagraph *i*;

(*f*) the fair market value at any time of property deemed under subparagraph *i* of paragraph *e* to have been transferred at that time to another person or partnership is deemed to be equal to the amount at that time of the loan or indebtedness incurred by the other person or partnership to which the property relates;

(*g*) where, at any time after 22 June 2000, a particular person or partnership renders any service (other than an exempt service) to, for or on behalf of another person or partnership,

i. the particular person or partnership is deemed to have transferred, at that time, property to that other person or partnership, and

ii. the property, if any, transferred to the particular person or partnership from the other person or partnership in exchange for the service is deemed to have been transferred to the particular person or partnership in exchange for the property deemed under subparagraph *i* to have been transferred;

(*h*) each of the following acquisitions of property by a particular person or partnership is deemed to be a transfer of the property, at the time of the acquisition of the property, to the particular person or partnership from the person or partnership from which the property was acquired, namely, the acquisition by the particular person or partnership of

i. a share of a corporation from the corporation,

ii. an interest as a beneficiary under a trust (otherwise than from a beneficiary under the trust),

iii. an interest in a partnership (otherwise than from a member of the partnership),

iv. a debt owing by a person or partnership from the person or partnership, and

v. a right (granted after 22 June 2000 by the person or partnership from which the right was acquired) to acquire or to be loaned property;

(*i*) the fair market value at any time of property deemed under subparagraph *i* of paragraph *g* to have been transferred at that time is deemed to be equal to the fair market value at that time of the service to which the property relates;

(*j*) where, at any time, a person or partnership that becomes obligated to do an act that would, if done, constitute the transfer or loan of property to another person or partnership, the person or partnership is deemed to have become obligated at that time to transfer or loan, as the case may be, property to that other person or partnership;

(*k*) where a trust acquires property of an individual as a consequence of the death of the individual and the individual was immediately before death resident in Canada, the individual is deemed, in applying at any time the definition of “non-resident time” in the first paragraph of section 593, to have transferred the property to the trust immediately before the individual’s death;

(*l*) a transfer or loan of property at any time is deemed to be made at that time jointly by a particular person or partnership and a second person or partnership (in this paragraph referred to as the “specified person”) if

i. the particular person or partnership transfers or loans property at that time to another person or partnership,

ii. the transfer or loan is made at the direction, or with the consent, of the specified person, and

iii. it is reasonable to conclude that one of the reasons the transfer or loan is made is to avoid or minimize the liability, of any person or partnership, under this Act that arose, or that would otherwise have arisen, because of the application of this chapter;

(*m*) a transfer or loan of property made at any time after 8 November 2006 is deemed to be made at that time jointly by a particular person or partnership and a second person or partnership (in this paragraph referred to as the “specified person”) if

i. the particular person or partnership transfers or loans property at that time to another person or partnership, and

ii. a purpose or effect of the transfer or loan may reasonably be considered to be to provide benefits in respect of services rendered by a person as an employee of the specified person (whether or not such a benefit may be received under a right that is immediate or future, absolute or contingent, or conditional on or subject to the exercise of any discretionary power by any person or partnership);

(*n*) a transfer or loan of property at a particular time is deemed to be made at the particular time jointly by a corporation and a person or partnership (in this paragraph referred to as the “specified person”) if

i. the corporation transfers or loans property at the particular time to another person or partnership,

ii. the transfer or loan is made at the direction, or with the consent, of the specified person,

iii. the particular time is not, or would not be if the transfer or loan were a contribution of the specified person,

(1) a non-resident time of the specified person, or

(2) if the specified person is a partnership, a non-resident time of one or more members of the partnership, and

iv. the corporation is, at the particular time, a controlled foreign affiliate of the specified person, or would at that time be a controlled foreign affiliate of the specified person if the specified person were at the particular time resident in Canada, or it is reasonable to conclude that the transfer or loan was made in contemplation of the corporation becoming after the particular time such a controlled foreign affiliate of the specified person;

(*o*) a particular person or partnership is deemed to have transferred, at a particular time, particular property or a particular part of it, as the case may be, to a corporation described in subparagraph i or a second person or partnership described in subparagraph ii if

i. the particular property is a share of the capital stock of a corporation held at the particular time by the particular

person or partnership, and as consideration for the disposition at or before the particular time of the share, the particular person or partnership received at the particular time (or became entitled at the particular time to receive) from the corporation a share of the capital stock of the corporation, or

ii. the particular property (or property for which the particular property is substituted) was acquired, before the particular time, from the second person or partnership by any person or partnership, in circumstances that are described in any of subparagraphs i to v of paragraph *h* (or would be so described if it applied at the time of that acquisition) and at the particular time,

(1) the terms or conditions of the particular property change,

(2) the second person or partnership redeems, acquires or cancels the particular property or the particular part of it,

(3) if the particular property is a debt owing by the second person or partnership, the debt or the particular part of it is settled or cancelled, or

(4) if the particular property is a right to acquire or to be loaned property, the particular person or partnership exercises the right;

(*p*) a contribution made at any time by a particular trust to another trust is deemed to be made at that time jointly by the particular trust and by each person or partnership that is at that time a contributor to the particular trust;

(*q*) a contribution made at any time by a particular partnership to a trust is deemed to be made at that time jointly by the particular partnership and by each person or partnership that is at that time a member of the particular partnership;

(*r*) subject to paragraph *s* and section 597.0.7, the amount of a contribution to a trust at the time it was made is deemed to be equal to the fair market value, at that time, of the property that was the subject of the contribution;

(*s*) a person or partnership that at any time acquires a fixed interest in a trust (or a right, issued by the trust, to acquire a fixed interest in the trust) from another person or partnership (other than from the trust that issued the interest or the right) is deemed to have made at that time a contribution to the trust and the amount of the contribution is deemed to be equal to the fair market value at that time of the interest or right, as the case may be;

(*t*) a particular person or partnership that has acquired a fixed interest in a trust because of making a contribution to the trust—or that has made a contribution to the trust because of having acquired a fixed interest in the trust or a right described in paragraph *s*—is, for the purpose of applying this chapter from the time after the time that the particular person

or partnership transfers the fixed interest or the right, as the case may be, to another person or partnership (which transfer is referred to in this paragraph as the “sale”), deemed not to have made the contribution in respect of the fixed interest, or right, that is the subject of the sale if

i. in exchange for the sale, the other person or partnership transfers or loans, or undertakes to transfer or loan, property (in subparagraph ii referred to as the “consideration”) to the particular person or partnership, and

ii. it is reasonable to conclude

(1) having regard only to the sale and the consideration that the particular person or partnership would be willing to make the sale if the particular person or partnership were dealing at arm’s length with the other person or partnership, and

(2) that the terms and conditions made or imposed in respect of the exchange would be acceptable to the particular person or partnership if the particular person or partnership were dealing at arm’s length with the other person or partnership;

(u) a transfer to a trust by a particular person or partnership is deemed not to be, at a particular time, a contribution to the trust if

i. the particular person or partnership has transferred, at or before the particular time and in the ordinary course of business of the particular person or partnership, property to the trust,

ii. the transfer is not an arm’s length transfer, but would be an arm’s length transfer if the definition of “arm’s length transfer” in the first paragraph of section 593 were read without reference to paragraph *a* and subparagraphs i, ii and iv to vii of paragraph *b*,

iii. it is reasonable to conclude that the particular person or partnership was the only person or partnership that acquired, in respect of the transfer, an interest as a beneficiary under the trust,

iv. the particular person or partnership was required, in accordance with the securities law of a country or of a political subdivision of such a country in respect of the issuance by the trust of interests as a beneficiary under the trust, to acquire an interest because of the particular person or partnership’s status at the time of the transfer as a manager or promoter of the trust,

v. at the particular time the trust is not an exempt foreign trust, but would be at that time an exempt foreign trust if it had not made an election under paragraph *h* of the definition of “exempt foreign trust” in the first paragraph of section 593, and

vi. the particular time is before the earliest of

(1) the first time at which the trust becomes an exempt foreign trust,

(2) the first time at which the particular person or partnership ceases to be a manager or promoter of the trust, and

(3) the time that is 24 months after the first time at which the total fair market value of consideration received by the trust in exchange for interests as a beneficiary (other than the particular person or partnership’s interest referred to in subparagraph iii) under the trust is greater than \$500,000;

(v) a transfer, by a Canadian corporation of property, that is at a particular time a contribution by the Canadian corporation to a trust, is deemed not to be, after the particular time, such a contribution to the trust if

i. the trust acquired the property before the particular time from the Canadian corporation in circumstances described in subparagraph i or iv of paragraph *h*,

ii. as a result of a transfer (in this paragraph referred to as the “sale”) at the particular time by any person or partnership (in this paragraph referred to as the “seller”) to another person or partnership (in this paragraph referred to as the “buyer”) the trust no longer holds any property that is

(1) shares of the capital stock of, or debt issued by, the Canadian corporation, or

(2) property the fair market value of which is derived in whole or in part, directly or indirectly, from shares of the capital stock of, or debt issued by, the Canadian corporation,

iii. the buyer deals at arm’s length immediately before the particular time with the Canadian corporation, the trust and the seller,

iv. in exchange for the sale, the buyer transfers or becomes obligated to transfer property (in this paragraph referred to as the “consideration”) to the seller, and

v. it is reasonable to conclude

(1) having regard only to the sale and the consideration that the seller would be willing to make the sale if the seller were dealing at arm’s length with the buyer,

(2) that the terms and conditions made or imposed in respect of the exchange would be acceptable to the seller if the seller were dealing at arm’s length with the buyer, and

(3) that the value of the consideration is not, from the particular time, determined in whole or in part, directly or indirectly, by reference to shares of the capital stock of, or debt issued by, the Canadian corporation;

(w) a transfer, before 11 October 2002, to a personal trust by an individual (other than a trust) of particular property is deemed not to be a contribution of the particular property by the individual to the trust if the transfer is deemed not to be a contribution of the particular property by the individual to the trust for the purposes of section 94 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in accordance with paragraph *u* of subsection 2 of that section 94; and

(x) a loan made by a specified financial institution to a trust is deemed not to be a contribution to the trust if

i. the loan is made on terms and conditions that would have been agreed to by persons dealing at arm's length, and

ii. the loan is made by the specified financial institution in the ordinary course of the business carried on by it.

History: 1975, c. 22, s. 164; 1984, c. 15, s. 130; 1986, c. 19, s. 129; 1993, c. 16, s. 236; 1997, c. 3, s. 71; 2015, c. 36, s. 28.

Corresponding Federal Provision: 94(2).

Rules of application.

595. Where, but for this section, a trust would not be resident in Canada at a specified time in a particular taxation year and, at that time, there is a resident contributor to the trust or a resident beneficiary under the trust, the following rules apply, unless the trust is an exempt foreign trust at that time:

(a) the trust is deemed to be resident in Canada throughout the particular taxation year for the purpose of

i. computing the trust's income for the particular year,

ii. applying Chapter V of Title XII (except sections 669.3 and 669.4) and section 688.1 in respect of the trust and a beneficiary under the trust,

iii. applying subparagraph 3 of subparagraph i.1 of paragraph *n* of section 257, paragraph *c* of section 597.1, section 688.0.0.2 and Part II, in respect of a beneficiary under the trust,

iv. applying section 733.1,

v. determining the rights and obligations of the trust under Book IX, and

vi. determining whether a foreign affiliate of a taxpayer (other than the trust) is a controlled foreign affiliate of the taxpayer;

(b) no deduction is to be made under section 146 by the trust in computing its income for the particular taxation year, and for the purpose of applying section 146.1 and Chapter I of Title III of Book V to the trust for the particular taxation year, the following rules apply:

i. in determining the non-business-income tax (within the meaning assigned by section 772.2 for the purposes of this section) paid by the trust for the particular taxation year, paragraph *b* of the definition of that expression does not apply, and

ii. where, at that specified time, the trust is resident in a country other than Canada,

(1) the trust's income for the particular taxation year (other than income—not including dividends or interest—from sources in Canada) is deemed to be from sources in that country and not to be from any other source, and

(2) the business-income tax (within the meaning assigned by section 772.2), and the non-business-income tax, paid by the trust for the particular taxation year are deemed to be paid by the trust to the government of that country and not to any other government;

(c) where section 94 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) did not apply to deem, for the purposes of that Act, the trust to be resident in Canada throughout its taxation year (in this paragraph referred to as the "preceding year") immediately preceding the particular taxation year, the trust is deemed to have

i. immediately before the end of the preceding year, disposed of each property (other than property described in any of subparagraphs i to iv of paragraph *b* of section 785.1) held by the trust at that time for proceeds of disposition equal to its fair market value at that time, and

ii. at the beginning of the particular taxation year, acquired each of the properties deemed to be disposed of in accordance with subparagraph i at a cost equal to the property's proceeds of disposition determined under subparagraph i;

(d) where section 94 of the Income Tax Act applied to deem, for the purposes of that Act, the trust to be resident in Canada for its last taxation year that ended before 1 January 2007, the trust is deemed, from the particular taxation year, to have

i. disposed of each property (other than property described in any of subparagraphs i to iv of paragraph *b* of section 785.1) at the time the trust is deemed to have disposed of the property under section 128.1 of the Income Tax Act, because of the application of that section 94, for proceeds of disposition equal to the proceeds determined at that time under that section 128.1, and

ii. at the time the trust is deemed to have acquired the property under section 128.1 of the Income Tax Act, because of the application of that section 94, acquired each of the properties deemed to be disposed of in accordance with subparagraph i at a cost equal to the property's proceeds of disposition determined under subparagraph i;

(e) if the trust (in this paragraph referred to as the “particular trust”) is an electing trust in respect of the particular taxation year, the following rules apply:

i. an inter vivos trust (in this paragraph referred to as the “non-resident portion trust”) is deemed for the purposes of this Act (other than for the purposes of the first and second paragraphs of section 647) to be created at the first time at which the particular trust exists in its first taxation year in respect of which the particular trust is an electing trust and to continue in existence until the earliest of

(1) the time at which the particular trust ceases to be resident in Canada because of section 597 or 597.0.1,

(2) the time at which the particular trust ceases to exist, and

(3) the time at which the particular trust becomes resident in Canada otherwise than because of this section,

ii. all of the particular trust’s property that is part of the particular trust’s non-resident portion is deemed to be the property of the non-resident portion trust and not to be, except for the purposes of this paragraph and the definition of “electing trust” in the first paragraph of section 593, the particular trust’s property,

iii. the terms and conditions of, and rights and obligations of beneficiaries under, the particular trust (determined with reference to all the circumstances including the terms of a trust, an intention, the laws of a country or the existence of an agreement, a memorandum, a letter of wishes or any other arrangement) are deemed to be the terms and conditions of, and rights and obligations of beneficiaries under, the non-resident portion trust,

iv. the trustees of the particular trust are deemed to be the trustees of the non-resident portion trust,

v. the beneficiaries under the particular trust are deemed to be the beneficiaries under the non-resident portion trust,

vi. the non-resident portion trust is deemed not to have a resident contributor or connected contributor to it,

vii. the non-resident portion trust is deemed to be, without affecting the liability of its trustees for their own income tax, in respect of its property an individual,

viii. if all or part of property becomes at a particular time part of the particular trust’s non-resident portion and immediately before the particular time the property or that part of property was part of its resident portion, the particular trust is deemed to have transferred at the particular time the property or that part of property to the non-resident portion trust,

ix. if all or part of property becomes at a particular time part of the particular trust’s resident portion and immediately

before the particular time the property or that part of property was part of its non-resident portion, the non-resident portion trust is deemed to have transferred at the particular time the property or that part of property to the particular trust,

x. the particular trust and the non-resident portion trust are deemed at all times to be affiliated with each other and to not deal with each other at arm’s length,

xi. the particular trust has solidarily with the non-resident portion trust the rights and obligations of the non-resident portion trust in respect of any taxation year under Book IX, and the Tax Administration Act (chapter A-6.002) applies in respect of those rights and obligations, and

xii. if the non-resident portion trust ceases to exist at a particular time determined in accordance with any of subparagraphs 1 to 3 of subparagraph i, the following rules apply:

(1) the non-resident portion trust is deemed, at the time (in this subparagraph xii referred to as the “disposition time”) that is immediately before the time that is immediately before the particular time, to have disposed of each of its properties that is property described in any of subparagraphs i to iv of paragraph b of section 785.1 for proceeds of disposition equal to the cost amount to it of the property at the disposition time and of each of its other properties for proceeds of disposition equal to its fair market value of the property at the disposition time,

(2) the particular trust is deemed to have acquired, at the time that is immediately before the particular time, each property described in subparagraph 1 at a cost equal to the proceeds of disposition determined under subparagraph 1 in respect of the property, and

(3) each person or partnership that is at the time immediately before the particular time a beneficiary under the non-resident portion trust is deemed at the disposition time to have disposed of the beneficiary’s interest as a beneficiary under the non-resident portion trust for proceeds of disposition equal to the beneficiary’s cost amount in the interest at the disposition time and to have ceased to be, other than for purposes of this subparagraph 3, a beneficiary under the non-resident portion trust;

(f) where there is, at that time, a resident contributor to the trust that is a tax-liable taxpayer in respect of the trust or a resident beneficiary under the trust that is a tax-liable taxpayer in respect of the trust if a connected contributor to the trust at that time is a tax-liable taxpayer in respect of the trust at that time, the trust is deemed, for the purpose of applying Book II and determining the trust’s tax liability under this Part, to be resident in Québec on the last day of the particular year and, where the trust is, in respect of the particular year, an electing trust or a trust that does not meet the condition of paragraph a of the definition of “electing trust” in the first paragraph of section 593, its income for the

particular year is deemed to be equal to the portion of that income, otherwise determined, that may reasonably be considered as being attributable to property that was contributed to the trust at or before that time by a contributor that is at that time a resident contributor to the trust and a tax-liable taxpayer in respect of the trust or, if there is at that time a resident beneficiary under the trust that is a tax-liable taxpayer in respect of the trust, a connected contributor to the trust and a tax-liable taxpayer in respect of the trust; and

(g) each person that at any time in the particular taxation year is a resident contributor to the trust (other than an electing contributor to the trust at the specified time) or a resident beneficiary under the trust and that is a tax-liable taxpayer in respect of the trust at any time has, solidarily with the trust and with each other such person that is such a resident contributor or such a resident beneficiary, the rights and obligations of the trust in respect of the particular taxation year under Book IX, and the Tax Administration Act applies in respect of those rights and obligations.

History: 1975, c. 22, s. 164; 1997, c. 3, s. 71; 2015, c. 36, s. 28; 2019, c. 14, s. 158; 2020, c. 16, s. 86.

Corresponding Federal Provision: 94(3).

Rules of application.

596. For greater certainty, section 595 does not deem a trust to be resident in Canada

(a) for the purposes of subparagraph i of subparagraph b of the second paragraph of section 248;

(b) for the purposes of subparagraph i of paragraph b of the definition of “investment fund” in section 21.0.5, sections 440, 454 and 597.0.6, the definition of “Canadian partnership” in the first paragraph of section 599, paragraph c of section 692.5, the definition of “qualified disability trust” in the first paragraph of section 768.2 and paragraph a of section 1120;

(c) for the purpose of determining whether section 467 applies;

(d) for the purposes of the definitions of “arm’s length transfer” and “exempt foreign trust” in the first paragraph of section 593;

(e) for the purpose of determining whether section 692 applies in respect of a distribution of property to the trust after 17 July 2005;

(f) for the purpose of determining whether, in applying section 785.1, the trust becomes resident in Canada at a particular time; and

(g) for the purpose of determining whether, in applying section 785.2, the trust ceases to be resident in Canada at a particular time.

History: 1975, c. 22, s. 164; 1984, c. 15, s. 131; 1994, c. 22, s. 210; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1997, c. 14, s. 92; 2015, c. 36, s. 28; 2017, c. 1, s. 147; 2017, c. 29, s. 83.

Corresponding Federal Provision: 94(4).

Deemed cessation of residence in Canada.

597. A trust is deemed to cease to be resident in Canada at the earliest time at which there is neither a resident contributor to the trust nor a resident beneficiary under the trust in a particular taxation year (determined without reference to section 785.2) of the trust if

(a) the particular taxation year immediately follows a taxation year of the trust throughout which the trust was deemed under section 595 to be resident in Canada for the purpose of computing its income; and

(b) at a specified time in the particular taxation year, the trust

i. is not resident in Canada,

ii. is not an exempt foreign trust, and

iii. has no resident contributor to it or resident beneficiary under it.

History: 1975, c. 22, s. 164; 1987, c. 67, s. 127; 1990, c. 59, s. 210; 2015, c. 36, s. 28.

Corresponding Federal Provision: 94(5).

Deemed cessation of residence in Canada.

597.0.1. A trust is deemed to cease to be resident in Canada at the earliest time at which the trust becomes an exempt foreign trust in a particular taxation year (determined without reference to section 785.2) of the trust if

(a) the particular taxation year immediately follows a taxation year throughout which the trust was deemed under section 595 to be resident in Canada for the purpose of computing its income; and

(b) at a specified time in the particular taxation year,

i. there is a resident contributor to the trust or a resident beneficiary under the trust, and

ii. the trust is an exempt foreign trust.

History: 2015, c. 36, s. 29.

Corresponding Federal Provision: 94(5.1).

Deemed cessation of residence in Canada — rules applicable.

597.0.2. Where a trust is deemed under section 597 or 597.0.1 to cease to be resident in Canada at a particular

time, the following rules apply in respect of the trust in relation to the particular taxation year that is, because of that cessation of residence, deemed to end immediately before the particular time:

(a) the trust's fiscal return for the particular taxation year is deemed to be filed with the Minister on a timely basis if it is filed with the Minister on or before the 90th day after the end of the trust's taxation year that is deemed to start at the particular time because of that cessation of residence; and

(b) an amount that is included in computing the trust's income (determined without reference to paragraphs *a* and *b* of section 657 and section 657.1) for the particular taxation year but that otherwise became payable by the trust in the period after the particular taxation year and before the end of the trust's taxation year that is deemed to start at the particular time because of that cessation of residence, is deemed to have become payable by the trust immediately before the end of the particular taxation year and not at any other time.

History: 2015, c. 36, s. 29.

Corresponding Federal Provision: 94(5.2).

Ceasing to be an exempt foreign trust.

597.0.3. Where at a specified time in a taxation year a trust is an exempt foreign trust, at a particular time in the immediately following taxation year (determined without reference to this section) the trust ceases to be an exempt foreign trust (otherwise than because of becoming resident in Canada), and at the particular time there is a resident contributor to, or resident beneficiary under, the trust, the trust's taxation year (determined without reference to this section) that includes the particular time is deemed to end immediately before the particular time and a new taxation year of the trust is deemed to begin at the particular time.

History: 2015, c. 36, s. 29.

Corresponding Federal Provision: 94(6).

Limit to amount recoverable.

597.0.4. The maximum amount recoverable under paragraph *g* of section 595 at a particular time from a person in respect of a trust (other than a person that is deemed, under section 597.0.10 or 597.0.11, to be a contributor or a resident contributor to the trust) and a particular taxation year of the trust is equal to the person's recovery limit at the particular time in respect of the trust and the particular year if

(a) either

i. the person is liable under paragraph *g* of section 595 in respect of the trust and the particular taxation year solely because the person was a resident beneficiary under the trust that is a tax-liable taxpayer in respect of the trust at a specified time in respect of the trust in the particular taxation year, or

ii. at a specified time in respect of the trust in the particular taxation year, the aggregate of all amounts each of which is the amount, at the time it was made, of a contribution to the trust made before the specified time by the person or by another person or partnership not dealing at arm's length with the person, is not more than the greater of

(1) \$10,000, and

(2) 10% of the aggregate of all amounts each of which is the amount, at the time it was made, of a contribution made to the trust before the specified time;

(b) the person has complied with the requirements of paragraph *b* of subsection 7 of section 94 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the particular time; and

(c) it is reasonable to conclude that for each transaction that occurred before the end of the particular taxation year at the direction of, or with the consent of, the person

i. none of the purposes of the transaction was to enable the person to reduce or avoid any liability under paragraph *g* of section 595 in respect of the trust, and

ii. the transaction was not part of a series of transactions any of the purposes of which was to enable the person to reduce or avoid any liability under paragraph *g* of section 595 in respect of the trust.

History: 2015, c. 36, s. 29.

Corresponding Federal Provision: 94(7).

Recovery limit.

597.0.5. The recovery limit referred to in section 597.0.4 at a particular time of a particular person in respect of a trust and a particular taxation year of the trust is equal to the amount by which the amount determined under the second paragraph is exceeded by the greater of

(a) the aggregate of all amounts each of which is

i. an amount received or receivable after 31 December 2000 and before the particular time by the particular person on the disposition of all or part of the person's interest as a beneficiary under the trust, or by a person or partnership (that was, when the amount became receivable, a specified party in respect of the particular person) on the disposition of all or part of the specified party's interest as a beneficiary under the trust,

ii. an amount (other than an amount described in subparagraph *i*) made payable by the trust after 31 December 2000 and before the particular time to the particular person because of the interest of the particular person as a beneficiary under the trust, or a person or partnership (that was, when the amount became payable, a specified party in respect of the particular person) because of

the interest of the specified party as a beneficiary under the trust,

iii. an amount received after 27 August 2010 by the particular person, or a person or partnership (that was, when the amount was received, a specified party in respect of the particular person), as a loan from the trust to the extent that the amount has not been repaid,

iv. an amount (other than an amount described in any of subparagraphs i to iii) that is the fair market value of a benefit received or enjoyed, after 31 December 2000 and before the particular time, from or under the trust by the particular person, or a person or partnership (that was, when the benefit was received or enjoyed, a specified party in respect of the particular person), or

v. the amount determined in respect of the particular person in accordance with subparagraph v of paragraph *a* of subsection 8 of section 94 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); and

(*b*) the aggregate of all amounts each of which is the amount, when made, of a contribution to the trust before the particular time by the particular person.

Amount referred to.

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

(*a*) an amount recovered before the particular time from the particular person in connection with a liability of the particular person (in respect of the trust and the particular year or a preceding taxation year of the trust) that arose because of the application of section 94 of the Income Tax Act or section 595;

(*b*) an amount (other than an amount to which this subparagraph has applied in respect of any other person) recovered before the particular time from a specified party in respect of the particular person in connection with a liability of the particular person (in respect of the trust and the particular year or a preceding taxation year of the trust) that arose because of the application of section 94 of the Income Tax Act or section 595;

(*c*) the amount by which the particular person's tax payable under this Part for any taxation year in which an amount described in any of subparagraphs i to iv of subparagraph *a* of the first paragraph was paid, became payable, was received, became receivable or was enjoyed by the particular person exceeds the amount that would have been the particular person's tax payable under this Part for that taxation year if no such amount were paid, became payable, were received, became receivable or were enjoyed by the particular person in that taxation year; or

(*d*) the amount determined in respect of the particular person in accordance with paragraph *e* of subsection 8 of section 94 of the Income Tax Act.

History: 2015, c. 36, s. 29.

Corresponding Federal Provision: 94(8).

Deemed transfer of restricted property.

597.0.6. The rules in the second paragraph apply at a particular time in respect of a particular person, and to a particular property, in respect of a trust not resident in Canada, if at that time

(*a*) the particular person is resident in Canada; and

(*b*) the trust holds the particular property on condition that the particular property or property substituted for the particular property may revert to the particular person or pass to one or more persons or partnerships to be determined by the particular person, or may not be disposed of by the trust during the existence of the particular person, except with the particular person's consent or in accordance with the particular person's direction.

Rules.

In applying this chapter in respect of the trust for a taxation year of the trust that includes the particular time, the rules referred to in the first paragraph are as follows:

(*a*) every transfer or loan made at or before the particular time by the particular person (or by a trust or partnership of which the particular person was a beneficiary or member, as the case may be) of the particular property, of another property for which the particular property is a substitute, or of property from which the particular property derives, or the other property derived, its value in whole or in part, directly or indirectly, is deemed to be a transfer or loan, as the case may be, by the particular person

i. that is not an arm's length transfer, and

ii. that is, for the purposes of paragraph *c* of section 594 and section 597.0.7, a transfer or loan of restricted property; and

(*b*) paragraph *c* of section 594 is to be read without reference to its subparagraph iii in its application to each transfer and loan described in subparagraph *a*.

History: 2015, c. 36, s. 29.

Corresponding Federal Provision: 94(8.1) and (8.2).

Determination of contribution amount — restricted property.

597.0.7. Where a person or partnership contributes at any time restricted property to a trust, the amount of the contribution at that time is deemed, for the purposes of this chapter, to be equal to the greater of

(a) the amount, determined without reference to this section, of the contribution at that time; and

(b) the amount that is the greatest fair market value of the restricted property, or property substituted for it, in the period that begins immediately after that time and ends at the end of the third calendar year that ends after that time.

History: 2015, c. 36, s. 29.

Corresponding Federal Provision: 94(9).

Contribution deemed made at a time other than a non-resident time.

597.0.8. In applying this chapter at any specified time, in respect of a trust's taxation year, that is before the particular time at which a contributor to the trust becomes resident in Canada within 60 months after making a contribution to the trust, the contribution is deemed to have been made at a time other than a non-resident time of the contributor if

(a) in applying the definition of "non-resident time" in the first paragraph of section 593 at each of those specified times, the contribution was made at a non-resident time of the contributor; and

(b) in applying the definition of "non-resident time" in the first paragraph of section 593 immediately after the particular time, the contribution is made at a time other than a non-resident time of the contributor.

History: 2015, c. 36, s. 29.

Corresponding Federal Provision: 94(10).

Application of sections 597.0.10 and 597.0.11.

597.0.9. Sections 597.0.10 and 597.0.11 apply to a trust or a person in respect of a trust if

(a) at any time property of a trust (in this section and sections 597.0.10 and 597.0.11 referred to as the "original trust") is transferred or loaned, directly or indirectly, in any manner whatever, to another trust (in this section and sections 597.0.10 and 597.0.11 referred to as the "transferee trust");

(b) the original trust

i. is deemed to be resident in Canada immediately before that time under paragraph *a* of section 595,

ii. would be deemed to be resident in Canada immediately before that time under paragraph *a* of section 595 if this chapter, as it read in its application to the taxation year 2013, were read without reference to paragraph *a* of the definition of "connected contributor" in the first paragraph of section 593 and paragraph *a* of the definition of "resident contributor" in that first paragraph, or

iii. is an original trust to which subparagraph iii or iv of paragraph *b* of subsection 11 of section 94 of the Income Tax

Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applies; and

(c) it is reasonable to conclude that one of the reasons the transfer or loan is made is to reduce or avoid a liability under this Part, where the liability arose, or would otherwise have arisen, because of the application of this chapter, or under Part I of the Income Tax Act, where the liability arose, or would otherwise have arisen, because of the application of section 94 of that Act.

History: 2015, c. 36, s. 29.

Corresponding Federal Provision: 94(11).

Deemed resident contributor.

597.0.10. The original trust described in section 597.0.9 is deemed to be—at and after the time of the transfer or loan referred to in that section and for the purpose of applying this chapter in respect of the transferee trust referred to in that section—a resident contributor to the transferee trust, even if the original trust has ceased to exist.

History: 2015, c. 36, s. 29.

Corresponding Federal Provision: 94(12).

Deemed contributor.

597.0.11. A person that is, at the time of the transfer or loan referred to in section 597.0.9, a contributor to the original trust referred to in that section, is deemed to be at and after that time, even if the person has ceased to exist,

(a) a contributor to the transferee trust referred to in section 597.0.9; and

(b) a connected contributor to the transferee trust, if at that time the person is a connected contributor to the original trust.

History: 2015, c. 36, s. 29.

Corresponding Federal Provision: 94(13).

Restricted property — exception.

597.0.12. A particular property that is, or will be, at a particular time held, loaned or transferred by a particular person or partnership is not restricted property held, loaned or transferred, as the case may be, at that time by the particular person or partnership if

(a) the particular property is property in respect of which the conditions of paragraph *a* of subsection 14 of section 94 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) are met in respect of the particular person or partnership; or

(b) at the particular time

i. the particular property is

- (1) a share of the capital stock of a corporation,
 - (2) a fixed interest in a trust, or
 - (3) an interest, as a member of a partnership, under which, 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,
- ii. there are at least 150 persons each of whom holds at the particular time property that at that time
 - (1) is identical to the particular property, and
 - (2) has a total fair market value of at least \$500,
 - iii. the aggregate of all amounts each of which is the fair market value, at the particular time, of the particular property (or of identical property that is held, at that time, by the particular person or partnership or a person with whom the particular person or partnership does not deal at arm's length) does not exceed 10% of the aggregate of all amounts each of which is the fair market value, at the particular time, of the particular property or of identical property held by any person or partnership,
 - iv. property that is identical to the particular property can normally be acquired by and sold by members of the public in the open market, and
 - v. the particular property, or identical property, is listed on a designated stock exchange.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to property identified by a particular person or partnership for the purposes of subparagraph iii of paragraph *a* of subsection 14 of section 94 of the Income Tax Act.

History: 2015, c. 36, s. 29.

Corresponding Federal Provision: 94(14).

Anti-avoidance.

597.0.13. For the purposes of this chapter, the following rules apply:

- (a) if it can reasonably be considered that one of the main reasons that a person or partnership
 - i. is at any time a shareholder of a corporation is to cause the condition of paragraph *b* of the definition of “closely held corporation” in the first paragraph of section 593 to be satisfied in respect of the corporation, the condition is deemed not to have been satisfied at that time in respect of the corporation,
 - ii. holds at any time an interest in a trust is to cause the condition of subparagraph 1 of subparagraph ii of

paragraph *h* of the definition of “exempt foreign trust” in the first paragraph of section 593 to be satisfied in respect of the trust, the condition is deemed not to have been satisfied at that time in respect of the trust, and

- iii. holds at any time a property is to cause the condition of subparagraph ii of subparagraph *b* of the first paragraph of section 597.0.12 to be satisfied in respect of the property or an identical property held by any person, the condition is deemed not to have been satisfied at that time in respect of the property or the identical property;

- (b) where, at or before a specified time in a trust's particular taxation year, a resident contributor to the trust contributes to the trust property that is restricted property of the trust, or property for which restricted property of the trust is substituted, and the trust is at that specified time an exempt foreign trust because of paragraph *f* of the definition of “exempt foreign trust” in the first paragraph of section 593, the amount of the trust's income for the particular year from the restricted property, and the amount of any taxable capital gain from the disposition in the particular year by the trust of the restricted property, are to be included in computing the income of the resident contributor for its taxation year in which the particular taxation year of the trust ends and not in computing the income of the trust for that particular year; and

- (c) where at a specified time in a particular taxation year a trust is an exempt foreign trust because of paragraph *h* of the definition of “exempt foreign trust” in the first paragraph of section 593, at a time immediately before a particular time in the immediately following taxation year (determined without reference to section 597.0.3) there is a resident contributor to, or resident beneficiary under, the trust, at the time that is immediately before the particular time a beneficiary under the trust holds a fixed interest in the trust, and at the particular time the interest ceases to be a fixed interest in the trust, the following rules apply:

- i. the trust is deemed, other than for the purposes of section 597.0.3, not to be an exempt foreign trust at any time in the trust's taxation year (in this section referred to as the “assessment year”) that ends, in accordance with section 597.0.3, at the time that is immediately before the particular time,

- ii. the trust shall include in computing its income for its assessment year the amount determined by the formula

$A - B - C$, and

- iii. if the trust has tax payable for its assessment year, then throughout the period that begins at the trust's balance-due day for each taxation year that ends in the interest gross-up period, within the meaning assigned by subparagraph *c* of the second paragraph, and ends at the trust's balance-due day for its assessment year, the trust is deemed to have unpaid tax (in addition to any unpaid tax otherwise determined in respect of

the trust under that section) for the purposes of section 1037 equal to the amount determined by the formula

$$D/E \times 25.75\%.$$

Interpretation.

In the formulas in the first paragraph,

(a) A is the amount by which the aggregate of all amounts each of which is equal to the fair market value of a property held by the trust at the end of its assessment year exceeds the aggregate of all amounts each of which is equal to the principal amount outstanding at the end of the assessment year of a liability of the trust;

(b) B is the amount by which the aggregate of all amounts each of which is equal to the fair market value of a property held by the trust at the earliest time (in this paragraph referred to as the “initial time”) at which there is a resident contributor to, or resident beneficiary under, the trust and at which the trust is an exempt foreign trust exceeds the aggregate of all amounts each of which is equal to the principal amount outstanding at the initial time of a liability of the trust;

(c) C is the aggregate of all amounts each of which is the amount of a contribution made to the trust in the period that begins at the initial time and ends at the end of its assessment year (in this paragraph referred to as the “interest gross-up period”);

(d) D is the amount determined in accordance with subparagraph ii of subparagraph *c* of the first paragraph in respect of the trust for the assessment year; and

(e) E is the number of the trust’s taxation years that end in the interest gross-up period.

History: 2015, c. 36, s. 29.

Corresponding Federal Provision: 94(15).

Attribution to electing contributors.

597.014. Where at a specified time in respect of a trust for a taxation year of the trust (in this section referred to as the “trust’s year”), there is an electing contributor in respect of the trust, the following rules apply:

(a) the electing contributor is required to include in computing income for the contributor’s taxation year (in this section referred to as the “contributor’s year”) in which the trust’s year ends, the amount determined by the formula

$$A/B \times (C - D);$$

(b) subject to subparagraph *c*, the amount, if any, required to be included in the electing contributor’s income, in accordance with subparagraph *a*, for the contributor’s year is deemed to be income from property from a source in Canada;

(c) for the purposes of this subparagraph, subparagraph *d* and sections 772.2 to 772.13, an amount in respect of the trust’s income for the trust’s year from a source in a foreign country is deemed to be income of the electing contributor for the contributor’s year from that source if the amount is deemed to be such income of the contributor for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) under paragraph *c* of subsection 16 of section 94 of that Act;

(d) for the purposes of this subparagraph and sections 772.2 to 772.13, the electing contributor is deemed to have paid to the government of a foreign country or of a political subdivision of such a country, as business-income tax or non-business-income tax, as the case may be, for the contributor’s year in respect of a particular source in that country, an amount equal to the amount determined by the formula

$$E \times F/G;$$

(e) in applying section 146.1 and sections 772.2 to 772.13 in respect of the trust’s year there must be deducted

i. in computing the trust’s income from a particular source for the trust’s year the aggregate of all amounts each of which is an amount that, in accordance with subparagraph *c*, is deemed to be income from the particular source of the electing contributor for the contributor’s year, and

ii. in computing the business-income tax or non-business-income tax paid by the trust for the trust’s year in respect of a particular source the aggregate of all amounts in respect of that source each of which is an amount that, in accordance with subparagraph *d*, is deemed to be paid by the electing contributor as business-income tax or non-business-income tax in respect of the particular source;

(f) in computing the trust’s income for the trust’s year the trust may deduct an amount that does not exceed the amount included by the electing contributor, under subparagraph *a*, in computing the electing contributor’s income for the contributor’s year; and

(g) where before the specified time the electing contributor made a contribution to the trust as part of a series of transactions in which another person made the same contribution, in applying subparagraphs *a* to *f* in respect of the electing contributor and the other person, the other person is deemed not to be a joint contributor in respect of the contribution if the other person is deemed not to be a joint contributor in respect of that contribution for the purposes of the Income Tax Act under paragraph *g* of subsection 16 of section 94 of that Act.

Interpretation.

In the formulas in the first paragraph,

(a) A is the aggregate of all amounts each of which is

i. where at or before the specified time the electing contributor has made a contribution to the trust and is not a joint contributor in respect of the trust and the contribution, the amount of the contribution, or

ii. where at or before the specified time the electing contributor has made a contribution to the trust and is a joint contributor in respect of the trust and the contribution, the quotient obtained when the amount of the contribution is divided by the number of joint contributors in respect of the contribution;

(b) B is the aggregate of all amounts each of which is the amount that would be determined in accordance with subparagraph *a* for each resident contributor, or connected contributor, to the trust at the specified time if all of those contributors were electing contributors in respect of the trust;

(c) C is the trust's income, computed without reference to subparagraph *f* of the first paragraph, for the trust's year;

(d) D is the amount deducted by the trust under sections 727 to 737 in computing its taxable income for the trust's year;

(e) E is the amount that, in the absence of subparagraph *i* of subparagraph *e* of the first paragraph, would be the business-income tax or non-business-income tax, as the case may be, paid by the trust to the government of a foreign country or of a political subdivision of such a country in respect of the particular source referred to in subparagraph *d* of the first paragraph for the trust's year;

(f) F is the aggregate of all amounts each of which is an amount deemed under subparagraph *c* of the first paragraph to be an income of the electing contributor for the contributor's year from the particular source referred to in subparagraph *d* of the first paragraph; and

(g) G is the trust's income for the trust's year from the particular source referred to in subparagraph *d* of the first paragraph.

Meaning of certain expressions.

In this section, "business-income tax" and "non-business-income tax" have the meaning assigned by section 772.2.

History: 2015, c. 36, s. 29.

Corresponding Federal Provision: 94(16).

Liability for joint contribution.

597.0.15. Where, at or before a specified time in a trust's taxation year (in this section referred to as the "trust's year"), there is an electing contributor who is both a tax-liable taxpayer in respect of the trust and a joint contributor in respect of a contribution to the trust, the following rules apply:

(a) each person who is both a joint contributor in respect of the contribution and a tax-liable taxpayer in respect of the trust has, in respect of the contribution, solidarily, the rights and obligations under Book IX of each other person (in this section referred to as the "specified person") who is, at or before the specified time, a joint contributor in respect of the contribution and a tax-liable taxpayer in respect of the trust, for the specified person's taxation year in which the trust's year ends, and the Tax Administration Act (chapter A-6.002) applies in respect of those rights and obligations; and

(b) the maximum amount recoverable under subparagraph *a* at a particular time from the person in respect of the contribution and a taxation year, of another person who is the specified person, in which the trust's year ends is the amount determined by the formula

$$A - B - C.$$

Interpretation.

In the formula in the first paragraph,

(a) A is the aggregate of the amounts payable by the specified person under this Part for the specified person's taxation year in which the trust's year ends;

(b) B is the amount that would be determined in accordance with subparagraph *a* if the aggregate of the amounts payable by the specified person under this Part for the specified person's taxation year in which the trust's year ends were computed without reference to the contribution; and

(c) C is the amount recovered before the particular time from the specified person, and any other joint contributor in respect of the trust and the contribution, in connection with the liability of the specified person in respect of the contribution.

History: 2015, c. 36, s. 29.

Corresponding Federal Provision: 94(17).

CHAPTER VI.1 OFFSHORE INVESTMENT FUNDS

Definitions:

597.1. In this chapter, the expression

"offshore investment fund property";

(a) "offshore investment fund property" of a taxpayer means a share of the capital stock of, an interest in, or a debt of, a particular foreign entity other than a controlled foreign affiliate of the taxpayer or a prescribed foreign entity or a right in or a right or option to acquire such a share, interest or debt that may reasonably be considered to derive its value, directly or indirectly, primarily from portfolio investments of that or any other foreign entity in one or more of the assets listed in section 597.2;

“designated cost”;

(b) “designated cost” to a taxpayer at any time in a taxation year of an offshore investment fund property that he holds or has a right in means the amount determined in respect thereof at that time under section 597.3;

“foreign entity”.

(c) “foreign entity” at any time means a corporation that is at that time not resident in Canada, a partnership, organization, fund or entity that is at that time not resident in Canada or is not at that time situated in Canada, or an exempt foreign trust, within the meaning assigned to that expression by the first paragraph of section 593, other than a trust described in any of paragraphs *a* to *g* of the definition of that expression.

History: 1986, c. 15, s. 90; 1997, c. 3, s. 71; 2015, c. 36, s. 30; 2020, c. 16, s. 87.

Corresponding Federal Provision: 94.1(1)(a) and (b) before (i) and (2).

Assets.

597.2. For the purposes of paragraph *a* of section 597.1, the assets referred to therein are the following:

- (a) shares of the capital stock of a corporation;
- (b) indebtedness or annuities;
- (c) interests in a fund, organization, corporation, entity, trust or partnership;
- (d) commodities;
- (e) immovable property;
- (f) Canadian of foreign resource properties;
- (g) foreign currency; and
- (h) rights or options to acquire or dispose of any of the assets listed in paragraphs *a* to *g*.

History: 1986, c. 15, s. 90; 1997, c. 3, s. 71; 2010, c. 5, s. 52.

Corresponding Federal Provision: 94.1(1)(b)(i) to (ix).

Computation of designated cost.

597.3. The amount contemplated in paragraph *b* of section 597.1 at any time in a taxation year in respect of an offshore investment fund property that the taxpayer holds or has a right in is the aggregate of

- (a) the cost amount to the taxpayer of the property at that time determined without reference to paragraphs *c.5* and *h.1* of section 255, paragraphs *b* and *b.1* and subparagraph *i.3* of paragraph *l* of section 257 and Title VIII of Book VI;
- (b) where an additional amount has been made available by a person to another person after the calendar year 1984 and before that time, whether by way of gift, loan, payment for a

share, transfer of property at less than its fair market value or otherwise, in circumstances such that it may reasonably be concluded that one of the main reasons for so making the additional amount available to the other person was to increase the value of the offshore investment fund property, the aggregate of all amounts each of which is the amount by which such an additional amount exceeds any increase in the cost amount to the taxpayer of the offshore investment fund property by virtue of that additional amount;

(c) the aggregate of all amounts each of which is an amount included in respect of the offshore investment fund property by virtue of this chapter in computing the taxpayer’s income for a preceding taxation year;

(d) where the taxpayer has held or has had the right in the property at all times since the end of the calendar year 1984, the amount by which the fair market value of the property at the end of the calendar year 1984 exceeds the cost amount to the taxpayer of the property at the end of the calendar year 1984, or, in any other case, the aggregate of

i. the amount by which the fair market value of the property at the time the taxpayer acquired the property exceeds the cost amount to the taxpayer of the property at that time, and

ii. the amount by which the aggregate of all amounts each of which is an amount that would have been included in respect of the property because of section 597.6 in computing the taxpayer’s income for a taxation year that began before 20 June 1996 if the cost to the taxpayer of the property had been equal to the fair market value of the property at the time the taxpayer acquired it exceeds the aggregate of all amounts each of which is an amount that was included in respect of the property because of section 597.6 in computing the taxpayer’s income for a taxation year that began before 20 June 1996.

Prescribed offshore investment fund property.

Notwithstanding the foregoing, where the property is a prescribed offshore investment fund property, the amount determined under the first paragraph in respect thereof is deemed nil.

History: 1986, c. 15, s. 90; 2001, c. 7, s. 60; 2020, c. 16, s. 882020, c. 16, s. 88.

Corresponding Federal Provision: 94.1(2).

Interest in offshore investment fund property.

597.4. Where in a taxation year a taxpayer holds or has a right in an offshore investment fund property and it may reasonably be concluded, taking all the circumstances into account, that one of the main reasons for the taxpayer acquiring, holding or having the right in such property was to derive a benefit from portfolio investments in assets listed in paragraphs *a* to *h* of section 597.2 in such a manner that the taxes on the income, profits and gains from such assets for a particular year are significantly less than the tax that would

have been payable under this Part if the income, profits and gains had been earned directly by the taxpayer, the amount determined under section 597.6 for that year in respect of that property is to be included in computing the taxpayer's income for the year.

History: 1986, c. 15, s. 90; 1997, c. 3, s. 71; 2015, c. 36, s. 31; 2020, c. 16, s. 89.

Corresponding Federal Provision: 94.1(1) before (a).

Circumstances to be taken into account.

597.5. For the purposes of section 597.4, the circumstances that must be taken into account include

(a) the nature, organization and operation of any foreign entity and the form of, and the terms and conditions governing, the taxpayer's interest in, or connection with, any such entity;

(b) the extent to which any income, profits and gains that may reasonably be considered to be earned or accrued, whether directly or indirectly, for the benefit of any foreign entity are subject to an income or profits tax that is significantly less than the income tax that would be applicable to such income, profits and gains if they were earned directly by the taxpayer;

(c) the extent to which the income, profits and gains of any foreign entity for any fiscal period are distributed in that or the following fiscal period.

History: 1986, c. 15, s. 90.

Corresponding Federal Provision: 94.1(1)(c), (d) and (e).

Amount to be included in computing income.

597.6. The amount to be included in computing a taxpayer's income for a taxation year under section 597.4 in respect of an offshore investment fund property is equal to the amount by which the taxpayer's income for the year from the offshore investment fund property, determined without reference to this section or to section 597.4, is exceeded by the aggregate of all amounts each of which is the product obtained when the designated cost to the taxpayer of the offshore investment fund property at the end of a particular month in the year is multiplied by the quotient obtained when the rate of interest that is the total of the rates determined in accordance with clauses A and B of subparagraph ii of paragraph *f* of subsection 1 of section 94.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) for the period including the particular month is divided by 12.

Capital gain excluded from income.

For the purposes of subparagraph *b* of the first paragraph, the taxpayer's income does not include a capital gain.

History: 1986, c. 15, s. 90; 2010, c. 31, s. 175; 2015, c. 36, s. 32.

Corresponding Federal Provision: 94.1(1)(f) and (g).

CHAPTER VI.2

FOREIGN COMMERCIAL TRUSTS

Investments in foreign commercial trusts.

597.7. Section 597.8 applies to a beneficiary under a trust, and to a particular person of which such a beneficiary is a controlled foreign affiliate, at a particular time if

(a) the trust is at that time an exempt foreign trust (other than a trust described in any of paragraphs *a* to *g* of the definition of "exempt foreign trust" in the first paragraph of section 593);

(b) either

i. the total fair market value at that time of all fixed interests of a particular class in the trust held by the beneficiary, persons or partnerships not dealing at arm's length with the beneficiary, or persons or partnerships that acquired their interests in the trust in exchange for consideration given to the trust by the beneficiary, is at least 10% of the total fair market value at that time of all fixed interests of the particular class, or

ii. the beneficiary or the particular person has at or before that time contributed restricted property to the trust; and

(c) the beneficiary is at that time a

i. resident beneficiary,

ii. mutual fund,

iii. controlled foreign affiliate of the particular person, or

iv. partnership of which a person listed in any of subparagraphs i to iii is a member.

History: 2015, c. 36, s. 33.

Corresponding Federal Provision: 94.2(1).

Deemed corporation.

597.8. If, because of section 597.7, this section applies at a particular time to a beneficiary under, or a particular person in respect of, a trust, for the purposes of sections 571 to 576.1, 578 and 579 to 583, paragraph *a* of section 597.1 and section 598, the following rules apply:

(a) the trust is deemed to be at that time a corporation not resident in Canada

i. controlled by each of the beneficiary and the particular person, and

ii. having, for each particular class of fixed interests in the trust, a separate class of capital stock of 100 issued shares that have the same attributes as the interests of the particular class; and

(b) each beneficiary under the trust is deemed to hold at that time a percentage of the number of shares of each separate class described in subparagraph ii of paragraph a equal to the percentage representing the proportion that the fair market value at that time of that beneficiary's fixed interests in the corresponding particular class of fixed interests in the trust is of the fair market value at that time of all fixed interests in the particular class.

History: 2015, c. 36, s. 33.

Corresponding Federal Provision: 94.2(2).

Fair market value of interests.

597.9. For the purposes of this chapter in respect of a taxpayer for a taxation year, the fair market value of interests in a trust for the purposes of sections 597.7 and 597.8 in respect of the taxpayer for the year is deemed to be equal to the fair market value determined for the year, in respect of those interests, in accordance with subsection 4 of section 94.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 2015, c. 36, s. 33.

Corresponding Federal Provision: 94.2(4).

CHAPTER VII SPECIAL RULES

Where rights or shares issued, acquired or disposed of to avoid tax.

598. For the purposes of this Title, except section 577,

(a) any person or partnership having a right under a contract or otherwise, either immediately or in the future and either absolutely or contingently, to shares of the capital stock of a corporation or interests in a partnership, is deemed to own those shares or interests, if it can reasonably be considered that the principal purpose for the existence of the right is to permit any person to avoid, reduce or defer the payment of tax or any other amount that would otherwise be payable under this Act; and

(b) where a person or partnership acquires or disposes of shares of the capital stock of a corporation or interests in a partnership, either directly or indirectly, and it can reasonably be considered that the principal purpose for the acquisition or disposition of the shares or interests is to permit a person to avoid, reduce or defer the payment of tax or any other amount that would otherwise be payable under this Act, those shares or interests are deemed not to have been acquired or disposed of, as the case may be, and not to have been issued if the corporation or partnership had not issued them immediately prior to the acquisition.

History: 1975, c. 22, s. 164; 1990, c. 59, s. 211; 1996, c. 39, s. 163 [amended by 2001, c. 7, s. 179]; 1997, c. 3, s. 71; 2004, c. 8, s. 124.

Corresponding Federal Provision: 95(6).

Shareholder of an S corporation.

598.1. For the purposes of this Part, an individual resident in Québec who is a shareholder of a corporation described in the second paragraph may agree, with the approval in writing of the Minister and subject to the terms and conditions set out in the approval, to apply the following rules for the period during which the agreement is effective:

(a) the corporation is deemed to be a controlled foreign affiliate of the individual;

(b) the income of the corporation is deemed to be foreign accrual property income of a controlled foreign affiliate of the individual;

(c) for the purposes of section 146, the portion of the income that is included in computing the individual's income for a taxation year is deemed not to be income from a property; and

(d) the individual shall not include any amount in computing the individual's income in respect of a dividend paid to the individual on a share of the capital stock of the corporation and shall deduct the amount of the dividend in computing the adjusted cost base to the individual of the share.

"S corporation".

The corporation to which the first paragraph refers is an S corporation within the meaning of the United States Internal Revenue Code of 1986, as amended from time to time.

History: 2000, c. 39, s. 36; 2009, c. 15, s. 92.

TITLE XI PARTNERSHIPS AND THEIR MEMBERS

CHAPTER I GENERALITIES

"Canadian partnership".

599. For the purposes of this Title, the expression "Canadian partnership" means a partnership all the members of which, at any time when the expression applies, are resident in Canada.

Member of particular partnership.

Moreover, a reference to a member of a particular partnership or a reference to a person or a taxpayer who is a member of a particular partnership shall include a reference to another partnership that is a member of the particular partnership.

History: 1972, c. 23, s. 454; 1988, c. 18, s. 49; 1997, c. 3, s. 71.

Corresponding Federal Provision: 102.

General rules for computing income, losses of partners.

600. Each member of a partnership shall compute, for a taxation year, his income, non-capital loss, net capital loss,

restricted farm loss, farm loss or taxable income earned in Canada, as the case may be, as if each of the following hypotheses governing the interpretation of the provisions of this Title applied:

- (a) the partnership is a separate person resident in Canada;
- (b) the taxation year of the partnership is its fiscal period;
- (c) the partnership carries on as a separate person each of its activities, including the ownership of property and for each of its taxation years, computes the amount of:
 - i. each taxable capital gain and allowable capital loss from the disposition of property, and
 - ii. each income and loss of the partnership from each other source in Canada or from sources in another place;
- (d) in computing each income or loss of the partnership for a taxation year, no account shall be taken of paragraph z.4 of section 87, sections 145 and 217.2 to 217.9.1, 217.18 to 217.34, paragraphs a, d, e and e.1 of section 330 and section 418.12, and no deduction is permitted under section 88.4 of the Act respecting the application of the Taxation Act (chapter I-4), section 217.13, the first paragraph of section 360 or sections 362 to 418.12;
- (e) each gain of the partnership from the disposition of land used in a farming business of the partnership is computed without reference to paragraph l of section 255;
- (e.1) the amount by which the aggregate of all amounts determined under sections 222 to 224 in respect of the partnership at the end of a taxation year exceeds the aggregate of all amounts determined under section 225 in respect of the partnership at the end of the year was deducted under the said sections in computing the income of the partnership for the year;
- (f) subject to section 600.0.1, the income of the partnership, for a taxation year, from any source in Canada or from sources in another place is, to the extent of the taxpayer's share thereof, his income for his taxation year during which the taxation year of the partnership ends, from such source in Canada or sources situated in such other place, as the case may be; and
- (g) subject to section 600.0.1, the amount by which the loss of the partnership for a taxation year from any source in Canada or from sources in another place exceeds, in the case of a taxpayer who would be a specified member of the partnership in the year if the definition of "specified member" in section 1 were read without reference to paragraph b thereof, the amount deducted by the partnership under sections 222 to 230 in computing its income for the taxation year from that source or those sources, as the case may be, and, in any other case, nil, is the loss of the taxpayer from such source in Canada or sources situated in such other

place, as the case may be, for the taxation year of the taxpayer in which the partnership's taxation year ends, to the extent of the taxpayer's share thereof.

History: 1972, c. 23, s. 455; 1975, c. 22, s. 165; 1978, c. 26, s. 106; 1980, c. 11, s. 54; 1982, c. 5, s. 129; 1985, c. 25, s. 104; 1986, c. 19, s. 130; 1989, c. 5, s. 73; 1989, c. 77, s. 67; 1994, c. 22, s. 211; 1997, c. 3, s. 71; 1997, c. 31, s. 55; 1998, c. 16, s. 175; 2000, c. 5, s. 293; 2004, c. 8, s. 125; 2013, c. 10, s. 36.

Corresponding Federal Provision: 96(1).

Exclusion of certain amounts.

600.0.1. Except for the purposes of Chapter II.1 of this Title, paragraph *i* of section 255 and paragraph *l* of section 257, where, in a particular taxation year, an individual is a member of a particular partnership and the particular partnership deducted, in computing its income for its taxation year ending in the particular taxation year, an amount under paragraph *a* of section 130 or the second paragraph of section 130.1 in respect of a certified Québec film, within the meaning of the regulations under the said section 130, or another partnership deducted, in the same respect, an amount under one of the said paragraphs which may reasonably be considered to have contributed to the creation or increase of the individual's share of the loss of the particular partnership which, but for this section, would be determined for the particular taxation year, or to the reduction or cancellation of the individual's share of the income of the particular partnership which, but for this section, would be determined for the particular taxation year, the following rules apply:

(a) where the individual would, but for this section, have a share of the income of the particular partnership for the particular taxation year, that share is deemed, notwithstanding paragraph *f* of section 600, to be equal to the aggregate of his share of the income of the particular partnership for the particular taxation year which, but for this section, would be determined in the said paragraph *f* of his share of the amount so deducted by the particular partnership in computing its income for the particular taxation year pursuant to the said paragraph *a* of section 130 or the said second paragraph of section 130.1 and, as the case may be, of the amount so deducted by the other partnership pursuant to the said paragraph *a* of section 130 or the said second paragraph of section 130.1 to the extent that it may reasonably be considered that the deduction of that amount by the other partnership contributed to the reduction of that share of the income of the particular partnership for the particular taxation year which, but for this section, would have been determined in the said paragraph *f*;

(b) where the individual would, but for this section, have a share of the loss of the particular partnership for the particular taxation year, that share is deemed, notwithstanding paragraph *g* of section 600, to be equal to the amount by which his share of the loss of the particular partnership for the particular taxation year which, but for this

section, would be determined in the said paragraph *g* exceeds the lesser of

i. the aggregate of his share of the amount so deducted by the particular partnership, in computing its income for that taxation year, pursuant to the said paragraph *a* of section 130 or the said second paragraph of section 130.1 and, as the case may be, of the amount so deducted by the other partnership pursuant to the said paragraph *a* of section 130 or the said second paragraph of section 130.1 to the extent that it may reasonably be considered that the deduction of that amount by the other partnership contributed to the creation or increase of that share of the loss of the particular partnership for the particular taxation year which, but for this section, would have been determined in the said paragraph *g*; and

ii. his share of the loss of the particular partnership for the particular taxation year which, but for this section, would be determined in paragraph *g* of section 600;

(*c*) where the amount determined in subparagraph i of paragraph *b* for the particular year exceeds the amount referred to in subparagraph ii of the said paragraph for the same year, the excess amount is deemed to constitute the individual's share of the income of the particular partnership for the particular taxation year;

(*d*) where, for the particular taxation year, the individual would, but for this section, have neither a share of the income of the particular partnership nor a share of the loss of the particular partnership, he is deemed to have a share of the income of the particular partnership for the particular taxation year in an amount equal to the aggregate of his share of the amount so deducted by the particular partnership, in computing its income for that taxation year, pursuant to the said paragraph *a* of section 130 or the said second paragraph of section 130.1 and, as the case may be, of the amount so deducted by the other partnership under the said paragraph *a* of section 130 or the said second paragraph of section 130.1 to the extent that it may reasonably be considered that the deduction of that amount by the other partnership contributed to the cancellation of the individual's share of the income of the particular partnership for the particular taxation year which, but for this section, would otherwise have been determined in paragraph *f* of section 600.

History: 1989, c. 5, s. 74; 1990, c. 7, s. 19; 1997, c. 3, s. 71.

Limited corrected loss.

600.0.2. An individual's share of the loss of a partnership, determined pursuant to section 600.0.1 for a fiscal period of the partnership at the end of which the individual was a member of the partnership, in this section referred to as "corrected loss", shall not however exceed the proportion of at-risk amount of the individual in respect of the partnership at that date, within the meaning of sections 613.2 to 613.5, that his share of the corrected loss of the partnership which, but for this section, would be so determined under section 600.0.1 is of his share of the

corrected loss of the partnership which, but for this section and section 600.0.1, would be determined under paragraph *g* of section 600.

History: 1989, c. 5, s. 74; 1997, c. 3, s. 71.

Capital gains and losses.

600.0.3. Despite sections 231, 231.2 and 600, where, in a particular taxation year of a taxpayer, the taxpayer is a member of a partnership with a fiscal period that ends in the particular year, the taxable capital gain, allowable capital loss or allowable business investment loss of the taxpayer for the particular year in respect of the partnership is determined by the formula

$$A \times B / C.$$

Interpretation.

In the formula provided for in the first paragraph,

(*a*) *A* is the taxpayer's taxable capital gain, allowable capital loss or allowable business investment loss, as the case may be, for the particular year in respect of the partnership that would, but for this section, be determined under section 600;

(*b*) *B* is the fraction that applies under section 231 or 231.2, as the case may be, for the particular year in respect of the taxpayer; and

(*c*) *C* is the fraction that is used under any of sections 231 and 231.2 for the fiscal period of the partnership.

History: 1990, c. 59, s. 212; 1997, c. 3, s. 71; 2003, c. 2, s. 137; 2004, c. 8, s. 126; 2019, c. 14, s. 159.

Corresponding Federal Provision: 96(1.7).

Deemed fraction.

600.0.4. For the purposes of section 600.0.3, where the fraction referred to in subparagraph *c* of the second paragraph of that section cannot be determined by a taxpayer in respect of a fiscal period of a partnership that ended before 28 February 2000, or includes 28 February 2000 or 17 October 2000, the fraction is deemed to be

(*a*) where the fiscal period ended before or began before 28 February 2000, 3/4;

(*b*) where the fiscal period began after 27 February 2000 but before 18 October 2000, 2/3; and

(*c*) in any other case, 1/2.

History: 2003, c. 2, s. 138.

Corresponding Federal Provision: 96(1.71).

Share of a member of a partnership.

600.1. Subject to section 600.2, the share of a member of a partnership of any amount that would be an amount

referred to in paragraph *e* of section 398, paragraph *b* or *e* of section 399, paragraph *d* of section 411, subparagraph *i* of paragraph *b* or paragraph *c* or *h* of section 412, paragraph *d* of section 418.5 or subparagraph *i* of paragraph *b* or paragraph *c* or *e* of section 418.6, in respect of the partnership for a taxation year of the partnership, but for paragraph *d* of section 600, is deemed to be an amount referred to in paragraph *e* of section 398, paragraph *b* or *e* of section 399, paragraph *d* of section 411, subparagraph of paragraph *b* or paragraph *c* or *h* of section 412, paragraph *d* of section 418.5 or subparagraph *i* of paragraph *b* or paragraph *c* or *e* of section 418.6, as the case may be, in respect of the member for the taxation year of the member in which the taxation year of the partnership ends.

History: 1978, c. 26, s. 107; 1982, c. 5, s. 130; 1993, c. 16, s. 237; 1997, c. 3, s. 71.

Corresponding Federal Provision: 66.1(7), 66.2(6) and 66.4(6).

Deemed disposition by a member of a partnership not resident in Canada.

600.2. However, where a person not resident in Canada is a member of a partnership that is deemed under section 1096.2 to have disposed of a property, the deemed amount in respect of the person under section 600.1 respecting section 411, 412, 418.5 or 418.6, as the case may be, is then so deemed for his taxation year that ended at the particular time referred to in section 1096.1.

History: 1982, c. 5, s. 130; 1986, c. 19, s. 131; 1993, c. 16, s. 237; 1997, c. 3, s. 71; 2009, c. 5, s. 188.

Corresponding Federal Provision: 66.2(7) and 66.4(7).

Fiscal period of a dissolved partnership.

601. If an individual who is a member of a partnership immediately before its dissolution, or who is a member of a partnership that, but for section 618, would have been dissolved at a particular time, makes a valid election under subsection 2 of section 99 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in relation to a fiscal period of the partnership that is referred to in the third or fourth paragraph of section 7, the partnership's fiscal period is deemed, for the purpose of computing the individual's income, to have ended immediately before the time it would normally have ended if the partnership had continued to exist.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 2 of section 99 of the Income Tax Act.

History: 1972, c. 23, s. 456; 1978, c. 26, s. 108; 1996, c. 39, s. 164; 1997, c. 3, s. 71; 1997, c. 31, s. 56; 2009, c. 5, s. 189.

Corresponding Federal Provision: 99(1).

602. (Repealed).

History: 1972, c. 23, s. 457; 1973, c. 17, s. 67; 1997, c. 3, s. 71; 2009, c. 5, s. 190.

Allocation of income to former member.

602.1. If, at any time in a fiscal period of a partnership, a taxpayer ceases to be a member of the partnership, the following rules apply:

(a) for the purposes of subparagraph *b* of the second paragraph of section 7, sections 217.2 to 217.9.1, 600, 607, 634 and 635 and despite section 643, the taxpayer is deemed to be a member of the partnership at the end of the fiscal period; and

(b) for the purpose of applying subparagraphs *i* and *viii* of paragraph *i* of section 255, subparagraph *i* of paragraph *l* of section 257, section 261.2 and the second paragraph of section 613.1 to the taxpayer, the fiscal period of the partnership is deemed to end

i. immediately before the time at which the taxpayer is deemed under section 436 to have disposed of the interest in the partnership, if the taxpayer ceased to be a member of the partnership because of the taxpayer's death, and

ii. immediately before the time that is immediately before the time that the taxpayer ceased to be a member of the partnership, in any other case.

History: 2009, c. 5, s. 191; 2015, c. 21, s. 207.

Corresponding Federal Provision: 96(1.01).

Validity of agreement, election, designation or specification.

603. Where a taxpayer who was a member of a partnership during a fiscal period has, for the purpose of computing the taxpayer's income from the partnership for the fiscal period, entered into an agreement or made an election, a designation or a specification under the regulations made under section 104, under any of sections 96, 119.15, 156, 180 to 182, 230, 279, 280.3, 299, 485.6, 485.9 to 485.11, 485.42 to 485.52, 614, 832.23 and 832.24 or, because of subparagraph *a* of the second paragraph of section 614, under the first paragraph of section 522 that, but for this section, would be a valid agreement, designation, specification or election, as the case may be, the following rules apply:

(a) the agreement, designation, specification or election is not valid unless it was entered into or made on behalf of the taxpayer and each other member of the partnership during the fiscal period and the taxpayer had authority to act for the partnership;

(b) if the agreement, designation, specification or election is valid under paragraph *a*, each other member of the partnership during the fiscal period is deemed to have entered into the agreement or made the designation, specification or election, as the case may be; and

(c) despite paragraph *a*, any agreement, designation, specification or election deemed to have been entered into or made, as the case may be, by a member under paragraph *b* is deemed to be a valid agreement, designation, specification or election entered into or made by that member.

History: 1973, c. 17, s. 68; 1975, c. 22, s. 166; 1982, c. 5, s. 131; 1986, c. 19, s. 132; 1993, c. 16, s. 238; 1994, c. 22, s. 212; 1995, c. 1, s. 47; 1996, c. 39, s. 165; 1997, c. 3, s. 71; 1997, c. 31, s. 57; 1997, c. 85, s. 96; 2001, c. 7, s. 61; 2001, c. 53, s. 86; 2003, c. 9, s. 39; 2009, c. 5, s. 192; 2009, c. 15, s. 93; 2019, c. 14, s. 160.

Corresponding Federal Provision: 96(3).

Deemed dividend of a SIFT partnership.

603.1. If a SIFT partnership becomes liable to pay the tax provided for in Part III.17 for a taxation year, the following rules apply:

(a) paragraph *f* of section 600 is to be read as if “the income of the partnership, for a taxation year, from any source in Canada or from sources in another place” was replaced by “the amount by which the partnership’s income for a taxation year from any source in Canada or from sources in another place exceeds, the portion, determined in respect of each such source, of the partnership’s taxable non-portfolio earnings for the year that is applicable to that source”; and

(b) the SIFT partnership is deemed to have received a dividend in the taxation year from a taxable Canadian corporation equal to the amount by which the amount of the SIFT partnership’s taxable non-portfolio earnings for the taxation year exceeds the amount determined by the formula

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

Interpretation.

In the formula in the first paragraph,

(a) *A* is the amount of the SIFT partnership’s taxable non-portfolio earnings for the taxation year;

(b) *B* is the basic rate determined in respect of the SIFT partnership for the taxation year under the third paragraph of section 1129.71 or, if the SIFT partnership has an establishment outside Québec in the year, the aggregate of the following rates:

i. that basic rate represented by the proportion that its business carried on in Québec is of the aggregate of its business carried on in Canada or in Québec and elsewhere, as that proportion would be determined under Chapters I and II of Title XXVII of the Regulation respecting the Taxation Act (chapter I-3, r. 1) if the SIFT partnership were a corporation, and

ii. the provincial SIFT tax rate, within the meaning assigned by subsection 1 of section 248 of the Income Tax Act

(Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and expressed as a percentage, that would be applicable to the SIFT partnership for the year if that definition applied in respect of the SIFT partnership for that year and if section 414 of the Income Tax Regulations made under that Act were read without reference to its subsection 4; and

(c) *C* is the net corporate income tax rate, within the meaning assigned by subsection 1 of section 248 of the Income Tax Act and expressed as a percentage, that is applicable to the SIFT partnership for the taxation year.

Definition.

For the purposes of this section, “taxable non-portfolio earnings” of a SIFT partnership has the meaning assigned by section 1129.70.

History: 2009, c. 5, s. 193; 2009, c. 15, s. 94.

Corresponding Federal Provision: 96(1.11).

604. (Repealed).

History: 1975, c. 22, s. 167; 1997, c. 85, s. 97.

605. (Repealed).

History: 1975, c. 22, s. 167; 1977, c. 26, s. 65; 1986, c. 15, s. 91; 1995, c. 63, s. 261; 1997, c. 3, s. 71; 1997, c. 14, s. 93; 1997, c. 85, s. 97.

Foreign partnerships.

605.1. For the purposes of this Part, where at a particular time a person resident in Canada becomes a member of a partnership, or a person who is a member of a partnership becomes resident in Canada, and immediately before the particular time no member of the partnership is resident in Canada, the following rules apply for the purpose of computing the partnership’s income for fiscal periods ending after the particular time:

(a) where, at or before the particular time, the partnership held depreciable property of a prescribed class, other than taxable Canadian property,

i. no amount shall be included in determining the amounts under subparagraphs i, ii.1 and ii.2 of subparagraph *e* of the first paragraph of section 93 and under subparagraphs *c* to *f* of the second paragraph of that section in respect of the acquisition or disposition before the particular time of the property, and

ii. where the property is the partnership’s property at the particular time, the property is deemed to have been acquired, immediately after the particular time, by the partnership at a capital cost equal to the lesser of its fair market value and its capital cost to the partnership otherwise determined;

(b) in the case of the partnership's property that is inventory, other than inventory of a business carried on in Canada, or non-depreciable capital property, other than taxable Canadian property, of the partnership at the particular time, its cost to the partnership is deemed to be, immediately after the particular time, equal to the lesser of its fair market value and its cost to the partnership otherwise determined; and

(c) any loss in respect of the disposition of a property, other than inventory of a business carried on in Canada or taxable Canadian property, by the partnership before the particular time is deemed to be nil;

(d) *(paragraph repealed)*.

History: 1995, c. 49, s. 149; 1997, c. 3, s. 71; 2001, c. 53, s. 87; 2005, c. 1, s. 121; 2019, c. 14, s. 161.

Corresponding Federal Provision: 96(8).

Application of foreign partnership rule.

605.2. For the purposes of section 605.1 and this section,

(a) where it can reasonably be considered that one of the main reasons that a member of a partnership is resident in Canada is to avoid the application of section 605.1, the member is deemed not to be resident in Canada; and

(b) where at any time a particular partnership is a member of another partnership, the following rules apply:

i. each person or partnership that is, at that time, a member of the particular partnership is deemed to be a member of the other partnership at that time,

ii. each person or partnership that becomes a member of the particular partnership at that time is deemed to become a member of the other partnership at that time, and

iii. each person or partnership that ceases to be a member of the particular partnership at that time is deemed to cease to be a member of the other partnership at that time.

History: 1995, c. 49, s. 149; 1997, c. 3, s. 71; 2015, c. 21, s. 208.

Corresponding Federal Provision: 96(9).

CHAPTER II SHARING AGREEMENTS

Agreements respecting sharing of income and losses of partnership.

606. Section 607 applies where there is an agreement among the members of a partnership to share, according to an agreed proportion, any income or loss of the partnership from or arising out of any source in Canada or from sources in another place or any amount in respect of any activity of the partnership that is relevant to the computation of the income or taxable income of such members.

History: 1972, c. 23, s. 458; 1975, c. 22, s. 168; 1997, c. 3, s. 71; 2009, c. 5, s. 194.

Corresponding Federal Provision: 103(1) (part).

Agreements to reduce or postpone tax otherwise payable.

607. (1) Where the principal purpose for an agreement contemplated in section 606 may reasonably be considered to be the reduction of the tax that might otherwise be or become payable under this Part of the postponement of such payment, the share of each member in the income, loss or amount that is the object of that agreement shall be the amount that is reasonable, having regard to all the circumstances including the proportions in which the members have agreed to share profits and losses from other sources in Canada or from sources in another place.

Share in the income of a member of a partnership.

(1.1) Where an agreement described in section 606 is entered into between members of a partnership not dealing with each other at arm's length, the share of each member in the income, loss or amount that is the object of that agreement is the amount that is reasonable, having regard to the work performed for the partnership by its members, the capital invested therein by them or any other relevant factor.

"losses".

(2) For the purposes of this chapter, the word "losses" when used in the expression "profits and losses" means losses determined without reference to the other provisions of this Part.

History: 1972, c. 23, s. 459; 1982, c. 5, s. 132; 1997, c. 3, s. 71.

Corresponding Federal Provision: 103(1) (part), (1.1) and (2).

Agreement related to the allocation of a share of the income or loss of a partnership.

608. For the purposes of sections 7 to 7.0.6, 217.2 to 217.34, 600, 607, 634 and 635, where the principal activity of a partnership is carrying on a business in Canada and its members have entered into an agreement to allocate a share of the income or loss of the partnership from any source in Canada or from sources in another place to any person described in section 609, that person is deemed to be a member of the partnership and the amount so allocated for a particular fiscal period of the partnership must be included in computing the person's income for the taxation year in which that fiscal period of the partnership ends.

History: 1975, c. 22, s. 169; 1997, c. 3, s. 71; 1997, c. 31, s. 58; 2000, c. 5, s. 293; 2013, c. 10, s. 37.

Corresponding Federal Provision: 96(1.1) except (a)(i) and (ii).

Person to whom s. 608 applies.

609. The person to whom section 608 applies is:

(a) a taxpayer who at any time ceased to be a member of the partnership described therein or of any other partnership that

has been dissolved at any time, or would, but for section 618, have been dissolved, where the members thereof or the members of a third partnership in which a member of such other partnership became a member immediately after the other partnership was dissolved, have entered into an agreement described in section 608 in favour of the taxpayer or of any person described in paragraph *b*; and

(*b*) the spouse, succession or legatee by particular title of the taxpayer referred to in paragraph *a* or a person referred to in section 611.

History: 1975, c. 22, s. 169; 1997, c. 3, s. 71; 1998, c. 16, s. 251; 2000, c. 5, s. 134.

Corresponding Federal Provision: 96(1.1)(a)(i) and (ii).

Disposition of a right to a share of the income or loss.

610. A taxpayer who, in a taxation year, disposes of a right to a share of the income or loss of a partnership under an agreement referred to in section 608 shall include in computing his income for the year the proceeds of the disposition and he is deemed to have acquired each property received as consideration for its fair market value at the time of such disposition.

History: 1975, c. 22, s. 169; 1997, c. 3, s. 71.

Corresponding Federal Provision: 96(1.2).

Amount to deduct.

611. A taxpayer who has included an amount in computing his income for the year by virtue of section 608 or 610 may deduct for the year the lesser of such amount and the amount by which the cost to him of the right to a share of the income or loss of a partnership under an agreement referred to in section 608 exceeds the aggregate of the amounts in respect of that right that were deductible by virtue of this section in computing his income for previous taxation years.

History: 1975, c. 22, s. 169; 1997, c. 3, s. 71.

Corresponding Federal Provision: 96(1.3).

Special provisions.

612. For the purposes of this Part, a right to a share of the income or loss of a partnership under an agreement referred to in section 608 is deemed not to be capital property and sections 429 and 430 apply with respect to such a right that a taxpayer had at his death.

History: 1975, c. 22, s. 169; 1997, c. 3, s. 71.

Corresponding Federal Provision: 96(1.4) and (1.5).

Members of a partnership deemed to carry on a business in Québec.

612.1. Where a partnership carries on a business in Québec at any time during a taxation year, each taxpayer who is deemed to be a member of the partnership under

section 608 is deemed, for the purposes of section 25, to carry on that business in Québec at any time during the year.

History: 1994, c. 22, s. 213; 1997, c. 3, s. 71.

Anti-avoidance.

613. Where a partnership carries on a business in Canada at any time, each taxpayer who is deemed under section 608 to be a member of the partnership at that time is deemed, for the purposes of sections 26 and 1000 to 1003 and of Divisions VIII.1 and VIII.3 of Chapter V of Title III, subject to section 217.34, to carry on that business in Canada at that time.

History: 1975, c. 22, s. 169; 1997, c. 3, s. 71; 1997, c. 31, s. 59; 2000, c. 5, s. 135; 2015, c. 24, s. 90.

Corresponding Federal Provision: 96(1.6).

CHAPTER II.1 TAXPAYER'S AT-RISK AMOUNT

Limited partnership loss.

613.1. Notwithstanding section 600, where a taxpayer is, at any time in a taxation year, a limited partner of a partnership, the amount, if any, by which the aggregate of all amounts each of which is his share of the amount of any loss of the partnership for a fiscal period of the partnership ending in the taxation year from a business, other than a farming business, or from property, computed pursuant to section 600, exceeds the amount determined under the second paragraph shall not be deducted in computing his income for the year, shall not be included in computing his non-capital loss for the year, and shall be deemed to be his limited partnership loss in respect of the partnership for the year.

Amount of the loss.

The amount referred to in the first paragraph is the amount, if any, by which the at-risk amount of the taxpayer in respect of the partnership at the end of its fiscal period exceeds the aggregate of

(*a*) the amount required by subsection 8 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the partnership to be added in the year in computing the investment tax credit of the taxpayer for the year within the meaning assigned to that expression by the said Act for the purposes of the said subsection;

(*b*) the taxpayer's share of any losses of the partnership for the fiscal period from a farming business; and

(*c*) the taxpayer's share of the foreign resource pool expenses, Canadian exploration expense, Canadian

development expense and Canadian oil and gas property expense incurred by the partnership in the fiscal period.

History: 1988, c. 4, s. 40; 1989, c. 5, s. 75; 1997, c. 3, s. 71; 2004, c. 8, s. 127.

Corresponding Federal Provision: 96(2.1).

At-risk amount.

613.2. For the purposes of sections 600, 603 to 605.2, 608 to 613.10 and 727 to 737, the at-risk amount of a taxpayer, in respect of a partnership of which the taxpayer is a limited partner, at any particular time is the amount by which the aggregate of the following amounts exceeds the amount determined under section 613.3:

(a) the adjusted cost base to the taxpayer of his partnership interest at that time, computed in accordance with section 613.5, where applicable;

(b) where the particular time is the end of the fiscal period of the partnership, the aggregate of

i. the taxpayer's share of the income of the partnership from a particular source for that fiscal period, computed under the method described in subparagraph i of paragraph i of section 255, and

ii. the amount referred to in subparagraph viii of paragraph i of section 255 in respect of the taxpayer for that fiscal period.

History: 1988, c. 4, s. 40; 1990, c. 59, s. 213; 1997, c. 3, s. 71; 2001, c. 7, s. 62.

Corresponding Federal Provision: 96(2.2)(a), (b) and (b.1).

Computation.

613.3. The amount referred to in section 613.2 is equal to the aggregate of the following amounts:

(a) the aggregate of all amounts each of which is an amount owing at the particular time to the partnership, or to a person or partnership not dealing at arm's length with the partnership, by the taxpayer or by a person or partnership not dealing at arm's length with the taxpayer, other than any amount deducted under subparagraph i.3 of paragraph i of section 257 in computing the adjusted cost base, or under Title VIII of Book VI in computing the cost, to the taxpayer of the taxpayer's partnership interest at that time; and

(b) any amount or benefit that the taxpayer or a person not dealing at arm's length with the taxpayer is entitled, either immediately or in the future and either absolutely or contingently, to receive or to obtain, whether by way of reimbursement, compensation, revenue guarantee, proceeds of disposition, loan or any other form of indebtedness, or in any other form or manner whatever, granted or to be granted for the purpose of reducing the impact, in whole or in part, of any loss that the taxpayer may sustain because the taxpayer is a member of the partnership or holds or disposes of an interest in the partnership, except to the extent that the

amount or benefit is referred to in paragraph e of section 399, paragraph h of section 412 or paragraph e of section 418.6 in respect of the taxpayer, or the entitlement arises

i. by virtue of a contract of insurance with an insurance corporation dealing at arm's length with each member of the partnership under which the taxpayer is insured against any claim arising as a result of a liability incurred in the ordinary course of carrying on the partnership business;

ii. *(subparagraph repealed)*;

iii. as a consequence of the death of the taxpayer;

iv. *(subparagraph repealed)*;

v. *(subparagraph repealed)*;

vi. in respect of an amount not included in the at-risk amount of the taxpayer in respect of the partnership determined without reference to this paragraph; or

vii. by reason of an excluded obligation, within the meaning of the regulations made under section 359.1, in relation to a share issued to the partnership by a corporation.

History: 1988, c. 4, s. 40; 1988, c. 18, s. 50; 1993, c. 16, s. 239; 1995, c. 63, s. 46; 1996, c. 39, s. 166; 1997, c. 3, s. 71; 1997, c. 31, s. 60; 2001, c. 7, s. 63.

Corresponding Federal Provision: 96(2.2)(c) and (d).

Agreement or arrangement.

613.4. For the purposes of sections 613.2 and 613.3,

(a) the amount or benefit to which the taxpayer referred to in section 613.2, or a person not dealing at arm's length with the taxpayer, is at any time entitled and that is provided by way of an agreement or other arrangement under which the taxpayer or the person has a right, either immediately or in the future and either absolutely or contingently, otherwise than as a consequence of the death of the taxpayer, to acquire other property in exchange for all or any part of the taxpayer's interest in the partnership referred to in that section shall not be considered to be less than the fair market value of the other property at that time; and

(b) the amount or benefit to which the taxpayer or the person is at any time entitled and that is provided by way of a guarantee, security or similar covenant in respect of any loan or other obligation of the taxpayer or the person shall not be considered to be less than the aggregate of the unpaid amount of the loan or obligation at that time and all other amounts outstanding in respect of the loan or obligation at that time.

History: 1988, c. 4, s. 40; 1997, c. 3, s. 71; 2001, c. 7, s. 64.

Corresponding Federal Provision: 96(2.2)(e) and (f).

Adjusted cost base.

613.5. For the purposes of sections 613.2 to 613.4, where a taxpayer has acquired his partnership interest at any time from a transferor other than the partnership, the adjusted cost base to the taxpayer of that interest shall be computed as if the cost to him of the interest were the lesser of

- (a) his cost otherwise determined, and
- (b) the greater of the adjusted cost base of that interest to the transferor immediately before that time, and nil.

Adjusted cost base.

Notwithstanding the foregoing, where the adjusted cost base to the transferor cannot be determined, it is deemed to be equal to the aggregate of the amounts determined in respect of the taxpayer under paragraphs *a* and *b* of section 613.3 immediately after that time.

History: 1988, c. 4, s. 40; 1997, c. 3, s. 71.

Corresponding Federal Provision: 96(2.3).

Limited partner.

613.6. For the purposes of sections 600, 603 to 605.2, 608 to 613.10 and 727 to 737, a taxpayer who is a member of a partnership at a particular time is a limited partner of the partnership at that time if the member's partnership interest is not an exempt interest, within the meaning assigned by section 613.7, at that time and if, at that time or within three years after that time,

(a) by operation of any law governing the partnership arrangement, the liability of the member as a member of the partnership is limited, except by operation of a provision of a statute of Canada or a province that limits the member's liability only for debts and other obligations of the partnership, or any member of the partnership, arising from the misconduct or faults or omissions or negligent acts that another member of the partnership or an employee, agent or mandatary, or representative of that member or of the partnership commits in the course of the partnership's business while the partnership is a limited liability partnership referred to in that provision;

(b) the member or a person not dealing at arm's length with the member is entitled, either immediately or in the future and either absolutely or contingently, to receive an amount or to obtain a benefit that would be described in paragraph *b* of section 613.3 if that paragraph were read without reference to subparagraphs ii, as it applies before being struck out, and vi thereof;

(c) where the member who owns the interest is a corporation, partnership or trust, one of the reasons for the existence of the member can reasonably be considered to be to limit the liability of any person with respect to that interest, and cannot reasonably be considered to be to permit

any person who has an interest in the corporation, partnership or trust, as the case may be, to carry on that person's business, other than an investment business, in the most effective manner; or

(d) one of the main reasons for the existence of an agreement or other arrangement for the disposition of an interest in the partnership can reasonably be considered to be to attempt to avoid the application of this section to the member.

History: 1988, c. 4, s. 40; 1997, c. 3, s. 71; 2001, c. 7, s. 65; 2003, c. 2, s. 139.

Interpretation Bulletins: IMP. 1-3/R1.

Corresponding Federal Provision: 96(2.4).

Exempt interest in partnership.

613.7. For the purposes of section 613.6, an exempt interest in a partnership at any time means a prescribed partnership interest or an interest in a partnership that was actively carrying on business on a regular and a continuous basis immediately before 26 February 1986 and continuously thereafter until that time or that was earning income from the rental or leasing of property immediately before 26 February 1986 and continuously thereafter until that time, where there has not after 25 February 1986 and before that time been a substantial contribution of capital to the partnership or a substantial increase in the indebtedness of the partnership and, for this purpose, an amount will not be considered to be substantial where

(a) the amount was used by the partnership to make an expenditure required to be made pursuant to the terms of a written agreement entered into by it before 26 February 1986, or to repay a loan, debt or contribution of capital that had been received or incurred in respect of any such expenditure;

(b) the amount was raised pursuant to the terms of a final prospectus, preliminary prospectus or registration statement filed before 26 February 1986 with a public authority in Canada pursuant to and in accordance with the securities legislation of Canada or of any province, and, where required by law, accepted for filing by such public authority; or

(c) the amount was used for the activity that was carried on by the partnership on 25 February 1986 but was not used for a significant expansion of the activity.

History: 1988, c. 4, s. 40; 1997, c. 3, s. 71; 2001, c. 53, s. 88.

Corresponding Federal Provision: 96(2.5)(a) to (c).

Rules applicable.

613.8. For the purposes of section 613.7, the following rules apply:

(a) a partnership in respect of which paragraph *b* of section 613.7 applies shall be considered to have been actively carrying on a business on a regular and a continuous

basis immediately before 26 February 1986 and continuously thereafter until the earlier of the closing date, if any, stipulated in the document referred to in paragraph *b* of section 613.7, and 1 January 1987; and

(*b*) an expenditure shall not be considered to have been required to be made pursuant to the terms of an agreement where the obligation to make the expenditure is conditional in any way on the consequences under this Part relating to the expenditure and the condition has not been satisfied or waived before 12 June 1986.

History: 1988, c. 4, s. 40; 1997, c. 3, s. 71.

Corresponding Federal Provision: 96(2.5) after (c).

Repayment.

613.9. For the purposes of paragraph *a* of section 613.3, where at any time an amount owing by a taxpayer or a person with whom the taxpayer does not deal at arm's length is repaid and it is established, by subsequent events or otherwise, that the repayment was made as part of a series of loans or other transactions and repayments, the amount owing is deemed not to have been repaid.

History: 1988, c. 4, s. 40.

Corresponding Federal Provision: 96(2.6).

Contribution of capital.

613.10. For the purposes of paragraph *a* of section 613.2, where at any time a taxpayer makes a contribution of capital to a partnership and the partnership or a person or partnership with whom the partnership does not deal at arm's length makes a loan to the taxpayer or to a person with whom the taxpayer does not deal at arm's length or repays the contribution of capital, and it is established, by subsequent events or otherwise, that the loan or repayment, as the case may be, was made as part of a series of loans or other transactions and repayments, the contribution of capital is deemed not to have been made to the extent of the loan or repayment, as the case may be.

History: 1988, c. 4, s. 40; 1997, c. 3, s. 71.

Corresponding Federal Provision: 96(2.7).

CHAPTER III CONTRIBUTION OF PROPERTY

Contribution of property to a partnership after 1971.

614. Where at a particular time after 1971 a partnership acquires property from a taxpayer who is, immediately after such acquisition, a member of the partnership, it is deemed to acquire it at its fair market value at that time and the member is deemed to dispose of it for proceeds equal to such value.

Rules if election by partner.

Despite any other provision of this Part, other than section 93.3.1 and the third paragraph, where a taxpayer disposes of any property (other than an eligible derivative,

within the meaning of section 85.8, of the taxpayer if subparagraph *b* of the first paragraph of section 85.7 applies to the taxpayer) that is a capital property, Canadian resource property, foreign resource property or inventory to a partnership that, immediately after the disposition, is a Canadian partnership of which the taxpayer is a member, and the taxpayer and all the other members of the partnership make a valid election for the purposes of subsection 2 of section 97 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the disposition or, where that election cannot be made because of subsection 21.2 of section 13 of that Act, make an election, in the prescribed form referred to in the first paragraph of section 520.1, the following rules apply:

(*a*) sections 520.1, 520.2, 521.2, 522 and 523 to 526 and paragraph *a* of section 528 apply in respect of the disposition as if the references therein to section 518 were references to this paragraph, and replacing therein

i. except in section 525.1, the words “and the corporation” and “and by the corporation” respectively by the words “and all the other members of the partnership” and “and by all the other members of the partnership”,

ii. the words “a share of the capital stock of the corporation” and “a right to receive any such share” respectively by the words “an interest in the partnership” and “a right to receive any such interest”,

iii. the words “shareholder of the corporation” by the words “member of the partnership”,

iv. except in the second paragraph of section 522 and in section 526, any other occurrence of the word “corporation” by the word “partnership”, and

v. in the portion of subparagraph *a* of the third paragraph of section 520.1 before subparagraph i, the words “the taxation year which, of the taxation years of those persons, ends the latest” by the words “that taxation year of the taxpayer or the fiscal period of the partnership in which the disposition was made, whichever year or period in the latter case ends later”;

(*a.1*) (*subparagraph repealed*);

(*b*) in computing, after the disposition, the adjusted cost base of the taxpayer's interest in the partnership immediately after the disposition, the taxpayer shall

i. add the amount by which the taxpayer's proceeds of disposition of the property exceed the fair market value at the time of the disposition, of the consideration other than an interest in the partnership, received by the taxpayer for the property, and

ii. deduct the amount by which the fair market value, at the time of the disposition, of the consideration other than an interest in the partnership, received by the taxpayer for the

property exceeds the fair market value of the property at that time; and

(c) where the taxpayer so disposes of any taxable Canadian property or any taxable Québec property as consideration for an interest in the partnership, the interest is deemed to be also, at any time that is within 60 months after the disposition, a taxable Canadian property or a taxable Québec property, as the case may be.

Election not available.

The second paragraph does not apply in respect of a disposition of a property by a taxpayer to a partnership if

(a) as part of a transaction or event or series of transactions or events that includes the disposition

i. control of a taxable Canadian corporation is acquired by another taxable Canadian corporation (in this paragraph referred to as the “subsidiary” and the “parent”, respectively),

ii. the subsidiary is amalgamated with one or more other corporations in the course of an amalgamation to which section 550.9 applies or is wound up in accordance with Chapter VII of Title IX, and

iii. the parent designates an amount in accordance with paragraph *d* of subsection 1 of section 88 of the Income Tax Act in respect of an interest in a partnership;

(b) the disposition of the property occurs after the acquisition of control of the subsidiary;

(c) the property is a capital property whose disposition may not be the subject of a valid election for the purposes of subsection 2 of section 97 of the Income Tax Act because of subsection 21.2 of section 13 of that Act but could, in the absence of this paragraph, be the subject of an election under the second paragraph given the inapplicability of section 93.3.1 in respect of the disposition; and

(d) the subsidiary is the taxpayer or has, before the disposition of the property, directly or indirectly in any manner whatever, an interest in the taxpayer.

History: 1972, c. 23, s. 460; 1975, c. 22, s. 170; 1984, c. 15, s. 132; 1986, c. 19, s. 133; 1997, c. 3, s. 71 [amended by 1997, c. 31, s. 153]; 1997, c. 85, s. 98; 2000, c. 5, s. 136; 2002, c. 40, s. 43; 2003, c. 9, s. 40; 2004, c. 8, s. 128; 2005, c. 1, s. 122; 2009, c. 5, s. 195; 2011, c. 6, s. 138; 2011, c. 34, s. 32; 2015, c. 21, s. 209; 2019, c. 14, s. 162; 2020, c. 16, s. 90.

Interpretation Bulletins: IMP. 521.2-1/R1.

Corresponding Federal Provision: 97(1) to (3).

Certain transfers made before 26 March 1997.

614.1. Except for the purposes of this section, where a property is disposed of to a partnership before 26 March

1997 by a taxpayer, the second paragraph of section 614 and Divisions I to III of Chapter IV of Title IX, as they read in respect of property disposed of on 26 March 1997 and not as they read in respect of the disposition, apply in respect of the disposition where

(a) the disposition is made after 18 December 1996, or is part of a series of transactions or events that began before 19 December 1996 and ended after 18 December 1996; and

(b) it may not reasonably be considered that all or substantially all of an excess amount is attributable to the difference between the cost amount of the property to the taxpayer, immediately before the disposition, for the purposes of this Part and the cost amount of the property to the taxpayer, at that time, for the purposes of Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), where that excess amount is

i. the amount by which the taxpayer’s income for the taxation year in which the disposition is made is reduced by reason of the application of the second paragraph of section 614 in respect of the disposition, exceeds the amount, if any, by which the taxpayer’s income for that year, established for the purposes of Part I of the Income Tax Act, is reduced by reason of the application of subsection 2 of section 97 of that Act in respect of the disposition, or

ii. the amount by which the cost amount of the property to the partnership, immediately after the disposition, for the purposes of this Part, exceeds the cost amount of the property to the partnership established at that time for the purposes of Part I of the Income Tax Act.

Exception.

However, the first paragraph does not apply where the disposition is of property in respect of which section 522, as it reads in respect of property disposed of on 26 March 1997, would apply if

(a) the disposition had been made on 26 March 1997;

(b) where the election referred to in the second paragraph of section 614, as that paragraph reads in respect of property disposed of on 26 March 1997, was not made in respect of the disposition, the election had been made for an amount agreed on equal to the fair market value of the property at the time of the disposition; and

(c) an amount had been agreed on in respect of the property in the prescribed form for the purposes of that section 522, and was equal to the amount agreed on in its respect in the election made under the second paragraph of section 614, as that paragraph reads in respect of the disposition, or to the fair market value of the property at the time of the disposition if no election were made.

History: 1997, c. 85, s. 99; 1997, c. 85, s. 781.

615. *(Repealed).*

History: 1972, c. 23, s. 461; 1984, c. 15, s. 133; 1996, c. 39, s. 167; 1997, c. 3, s. 71; 2000, c. 5, s. 137.

616. *(Repealed).*

History: 1972, c. 23, s. 462; 1982, c. 5, s. 133; 1984, c. 15, s. 133; 1989, c. 77, s. 68; 1990, c. 59, s. 214; 1997, c. 3, s. 71; 2000, c. 5, s. 137.

Where capital cost exceeds proceeds of disposition of depreciable property.

617. For the purposes of sections 93 to 104, 130 and 130.1 and of the regulations made under paragraph *a* of section 130, where the second paragraph of section 614 applies to depreciable property the capital cost of which, to the taxpayer who disposed of it to the partnership, exceeds the proceeds of its disposition:

(a) the capital cost of the property, to the partnership, is deemed to be equal to the capital cost of the property to the taxpayer; and

(b) the excess is deemed to have been allowed to the partnership as depreciation for the taxation years preceding the acquisition of that property by it.

History: 1972, c. 23, s. 463; 1974, c. 18, s. 24; 1979, c. 18, s. 50; 1997, c. 3, s. 71.

Corresponding Federal Provision: 97(4).

Tools of an apprentice mechanic.

617.1. Where the second paragraph of section 614 has applied in respect of the disposition of any property by an individual to a partnership, the cost of the property to the individual was included in computing an amount determined under section 75.2.1 or 75.3 in respect of the individual, the property is depreciable property of the partnership, and the amount, in this section referred to as the “individual’s original cost”, that would be the cost of the property to the individual immediately before its disposition if this Act were read without reference to section 75.5 exceeds the individual’s proceeds of disposition of the property, the following rules apply:

(a) the capital cost to the partnership of the property is deemed to be equal to the individual’s original cost; and

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

History: 2004, c. 8, s. 129; 2007, c. 12, s. 68.

Corresponding Federal Provision: 97(5).

**CHAPTER IV
DISPOSITION OF PROPERTY****DIVISION I
GENERALITIES****Where partnership is deemed to continue to exist.**

618. For the purposes of this Part, where, but for this section, at any time after 31 December 1971 a partnership would be dissolved, the following rules apply:

(a) until such time as all the partnership property and any property substituted therefor has been distributed to the persons entitled by law to receive it, the partnership is deemed to continue to exist, and each person who was a member of the partnership is deemed to still be a member of the partnership;

(b) the right of each such person to share in that property is deemed to be an interest in the partnership; and

(c) notwithstanding section 261, where at the end of a fiscal period of the partnership, in respect of an interest in the partnership, the aggregate of all amounts required by section 257, to be deducted in computing the adjusted cost base to a taxpayer of the interest at that time exceeds the aggregate of the cost to the taxpayer of the interest determined for the purpose of computing the adjusted cost base to the taxpayer of that interest at that time and all amounts required by section 255 to be added to the cost to the taxpayer of the interest in computing the adjusted cost base to the taxpayer of that interest at that time, the amount of the excess is deemed to be a gain of the taxpayer for the taxpayer’s taxation year that includes that time from a disposition at that time of that interest and, for the purposes of Title VI.5.1 of Book IV, that interest is deemed to have been disposed of by the taxpayer at that time.

History: 1972, c. 23, s. 464; 1977, c. 26, s. 66; 1996, c. 39, s. 168; 1997, c. 3, s. 71.

Corresponding Federal Provision: 98(1).

Proceeds of sale of property of partnership to one of its members.

619. Subject to sections 529 to 533 and 620 to 631, a partnership disposing, at a particular time after 1971, of property to a taxpayer who is, immediately before such time, one of its members, is deemed to have received therefrom proceeds equal to its fair market value at that time and the taxpayer is deemed to have acquired the property at that same value.

History: 1972, c. 23, s. 465; 1975, c. 22, s. 171; 1997, c. 3, s. 71.

Corresponding Federal Provision: 98(2).

Leasehold interests and option.

619.1. For the purposes of sections 622, 623, 628 and 629, a leasehold interest in a depreciable property and an option to

acquire a depreciable property are deemed to be depreciable properties.

History: 2020, c. 16, s. 91.

DIVISION II

DISSOLUTION OF THE PARTNERSHIP

Rules applicable upon dissolution of partnership.

620. The rules provided in this division apply where, at a particular time after 1971, a Canadian partnership is dissolved and its property is distributed to persons who were members thereof immediately before that time.

Applicability.

However, the rules referred to in the first paragraph apply only if each of those persons has in each such property, immediately after that time, an undivided right equal, when expressed as a percentage, to the person's undivided right, when so expressed, in each other property of the partnership, if all those persons make a valid election for the purposes of subsection 3 of section 98 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the property and if sections 530 to 533 and 626 to 631 do not apply.

Share.

The percentage of the undivided right of each member of the partnership shall be referred to, in this division, as his share.

History: 1972, c. 23, s. 466; 1975, c. 22, s. 172; 1984, c. 35, s. 16; 1997, c. 3, s. 71; 1997, c. 85, s. 100; 2020, c. 16, s. 92.

Corresponding Federal Provision: 98(3) (part).

Filing requirement.

620.1. Where the rules provided for in this division apply in respect of the dissolution of a partnership, the prescribed form must be sent to the Minister.

Penalty.

In addition, where the form is not sent to the Minister on or before the date that is the earliest of the filing-due dates for the persons referred to in section 620 in respect of the dissolution, for the taxation year in which the dissolution occurred, those persons incur a penalty equal to the lesser of

(a) 0.25%, for each month or part of a month during the period from the earliest date of those filing-due dates until the day on which the form is sent to the Minister, of the amount by which the aggregate of the amounts of money and the fair market value of partnership property received by those persons as consideration for the disposition of their interests in the partnership at the time the partnership is dissolved, exceeds the aggregate of the proceeds of disposition determined in respect of each of those persons under section 621; and

(b) the lesser of \$5,000 and the product obtained by multiplying \$100 by the number of months each of which is a month all or part of which is during the period referred to in subparagraph *a*.

Assessment by the Minister.

Notwithstanding sections 1010 to 1011, such assessments of tax, interest and penalties under this Part shall be made as are necessary by the Minister for any taxation year to give effect to the rules provided for in this division in respect of the dissolution of partnerships.

History: 1997, c. 85, s. 101; 2000, c. 39, s. 37.

Corresponding Federal Provision: 96(4), (6) and (7) and 98(3) (part).

Proceeds of disposition of interest in partnership upon dissolution.

621. Each person contemplated in section 620 is deemed to receive, as proceeds of disposition of his interest in the partnership, an amount equal to the greater of:

(a) the adjusted cost base of his interest in the partnership, immediately before the particular time; and

(b) the amount of any money received by him on the dissolution of the partnership and of his share of the cost amount, to the partnership, of each of its properties, immediately before their distribution.

History: 1972, c. 23, s. 467; 1997, c. 3, s. 71.

Corresponding Federal Provision: 98(3)(a).

Cost to each ex-partner.

622. The cost to each person to whom section 620 applies of an undivided right in each property of the partnership is deemed to be equal to that person's share of the cost amount to the partnership of the property immediately before its distribution, plus, where the property is a non-depreciable capital property and the amount determined under paragraph *a* of section 621 in respect of that person exceeds the aggregate determined under paragraph *b* of section 621 in respect of that person, the portion of such excess designated by that person.

History: 1972, c. 23, s. 468; 1988, c. 18, s. 51; 1994, c. 22, s. 214; 1997, c. 3, s. 71; 2003, c. 2, s. 140; 2005, c. 1, s. 123; 2019, c. 14, s. 163; 2020, c. 16, s. 93.

Corresponding Federal Provision: 98(3)(b)(i.1).

Maximum amount to be added.

623. The amount designated under section 622 by a person contemplated in section 620 shall not exceed the excess of his share of the fair market value of the property concerned, immediately after its distribution, over his share of the cost amount of that property, to the partnership, immediately before its distribution.

Non-depreciable capital property.

Likewise, the aggregate of such designated amounts shall not exceed, in the case of non-depreciable capital property, the excess contemplated in section 622.

History: 1972, c. 23, s. 469; 1988, c. 18, s. 52 [amended by 2004, c. 8, s. 217]; 1997, c. 3, s. 71; 2019, c. 14, s. 164.

Corresponding Federal Provision: 98(3)(c).

Rules applicable in the case of depreciable property.

624. For the purposes of sections 93 to 104, 130 and 130.1 and of the regulations made under paragraph *a* of section 130, where depreciable property of a prescribed class is distributed and the share of a person contemplated in section 620 in the capital cost of that property to the partnership exceeds the cost, to the person, of the person's undivided right in that property, as determined under section 622, the following rules apply:

(a) the capital cost, to the person, of the person's undivided right in the property is deemed to be equal to the person's former share of the capital cost of such property to the partnership; and

(b) the excess is deemed to have been allowed to the person as depreciation for the taxation years before the acquisition by the person of the undivided right.

History: 1972, c. 23, s. 470; 1979, c. 18, s. 51; 1997, c. 3, s. 71; 2020, c. 16, s. 94.

Corresponding Federal Provision: 98(3)(e).

624.1. (Repealed).

History: 1994, c. 22, s. 215; 1996, c. 39, s. 169; 1997, c. 3, s. 71; 2003, c. 2, s. 141; 2005, c. 1, s. 124; 2019, c. 14, s. 165.

Corresponding Federal Provision: 98(3)(g).

Deemed disposition.

625. The partnership contemplated in section 620 is deemed to dispose of each of its properties for proceeds equal to the cost amount of the property, to such partnership, immediately before its distribution.

History: 1972, c. 23, s. 471; 1997, c. 3, s. 71.

Corresponding Federal Provision: 98(3)(f).

DIVISION III BUSINESS CARRIED ON AS SOLE PROPRIETORSHIP

Where partnership business carried on by one member of the former partnership.

626. (1) The rules provided in this division apply where, at a particular time after 1971, a Canadian partnership is dissolved and, within three months after that time, one only of the persons who were members of the partnership immediately before such time carries on itself the business formerly carried on by the partnership.

Application.

(2) However, the rules contemplated in subsection 1 do not apply unless such person, whether an individual, a trust or a corporation, uses, in the business, any property that was partnership property immediately before that time and that was received by him as proceeds of disposition of his interest in the partnership.

History: 1972, c. 23, s. 472; 1975, c. 22, s. 173; 1997, c. 3, s. 71.

Corresponding Federal Provision: 98(5) before (a).

Amount deemed received as consideration for the disposition of interest in a partnership.

627. The person contemplated in section 626 is deemed to receive, as consideration for the disposition of his interest in the partnership, an amount equal to the greater of:

(a) the aggregate of the adjusted cost base of his interest in the partnership immediately before the particular time, and the adjusted cost base to him of each other interest in the partnership deemed under section 632 to have been acquired by him at the particular time; and

(b) the aggregate of the cost amount, to the partnership, immediately before the particular time, of each property so received by that person and of the amount of any other proceeds from the disposition of his interest in the partnership.

History: 1972, c. 23, s. 473; 1975, c. 22, s. 174; 1993, c. 16, s. 240; 1997, c. 3, s. 71.

Corresponding Federal Provision: 98(5)(a).

Cost of property received as consideration.

628. The cost to a person to whom section 626 applies of a property so received is deemed to be equal to the cost amount to a partnership of the property immediately before the particular time, plus, where the property is a non-depreciable capital property of that person and the aggregate determined under paragraph *a* of section 627 exceeds the aggregate determined under paragraph *b* of section 627, the portion of such excess designated by that person.

History: 1972, c. 23, s. 474; 1975, c. 22, s. 175; 1988, c. 18, s. 53; 1994, c. 22, s. 216; 1997, c. 3, s. 71; 2003, c. 2, s. 142; 2005, c. 1, s. 125; 2019, c. 14, s. 166.

Corresponding Federal Provision: 98(5)(b)(i.1).

Designated amount.

629. The amount designated under section 628 shall not exceed the excess of the fair market value of the property concerned, immediately after the particular time, over its cost amount to the partnership immediately before that time.

Non-depreciable capital property.

Likewise, the aggregate of such designated amounts shall not exceed, in the case of non-depreciable capital property, the excess contemplated in section 628.

History: 1972, c. 23, s. 475; 1973, c. 17, s. 69; 1988, c. 18, s. 54 [amended by 2004, c. 8, s. 218]; 1997, c. 3, s. 71; 2019, c. 14, s. 167.

Corresponding Federal Provision: 98(5)(b)(ii) and (c)(ii).

Rules applicable where property received is depreciable property.

630. For the purposes of sections 93 to 104, 130 and 130.1 and of the regulations made under paragraph *a* of section 130, where property received by a person contemplated in section 626 is depreciable property of a prescribed class and where its capital cost to the partnership exceeds its capital cost, to such person, as determined under section 628,

(a) the capital cost to him of the property is deemed to be the capital cost of the property to the partnership; and

(b) the excess is deemed to have been allowed to that person as depreciation for the taxation years before its acquisition by him.

History: 1972, c. 23, s. 476; 1979, c. 18, s. 52; 1997, c. 3, s. 71.

Corresponding Federal Provision: 98(5)(e).

630.1. (Repealed).

History: 1994, c. 22, s. 217; 1996, c. 39, s. 170; 1997, c. 3, s. 71; 2003, c. 2, s. 143; 2005, c. 1, s. 126; 2019, c. 14, s. 168.

Corresponding Federal Provision: 98(5)(h).

Deemed disposition.

631. The partnership contemplated in section 626 is deemed to have disposed of each of the properties referred to therein for proceeds equal to the cost amount of the property, to such partnership, immediately before the particular time.

History: 1972, c. 23, s. 477; 1982, c. 5, s. 134; 1997, c. 3, s. 71.

Corresponding Federal Provision: 98(5)(f).

Disposition of an interest in the partnership.

632. Where, at the particular time referred to in section 626, all other persons who were members of the partnership immediately before that time dispose of their interests in the partnership to the person referred to in the said section, such person is deemed to acquire at that time partnership interests from those other persons and not partnership property.

History: 1975, c. 22, s. 176; 1997, c. 3, s. 71.

Corresponding Federal Provision: 98(5)(g).

**DIVISION IV
BUSINESS CONTINUED BY A NEW
PARTNERSHIP****Continuation of dissolved partnership by another partnership.**

633. Where a Canadian partnership is dissolved at a particular time after 1971 and, at or before that time, all of its property has been transferred to another Canadian partnership all the members of which were members of the dissolved partnership, such new partnership is deemed to be a continuation of the dissolved partnership and any member's interest in the new partnership is deemed to be a continuation of his interest in the dissolved partnership.

History: 1972, c. 23, s. 478; 1997, c. 3, s. 71.

Corresponding Federal Provision: 98(6).

**DIVISION V
DISPOSITION OF FARMING LAND****Disposition of farming land of a partnership.**

634. Any taxpayer who was a member of a partnership at the end of a taxation year of the partnership in which it disposed of land used in a farming business may deduct, in computing his income for his taxation year in which the taxation year of the partnership ended, subject to section 635.1, 1/2 of the aggregate of amounts each of which is an amount equal to the taxpayer's loss from the farming business for such taxation year or any preceding taxation year ending after 31 December 1971.

History: 1972, c. 23, s. 479; 1990, c. 59, s. 215; 1997, c. 3, s. 71; 2003, c. 2, s. 144.

Corresponding Federal Provision: 101 before (a).

Restrictions on the deduction provided for in s. 634.

635. The taxpayer shall not make the deduction provided for in section 634 except to the extent that such loss:

(a) is not deductible in computing his income for the year under sections 205 to 207;

(b) was not deducted in computing his taxable income for his taxation year in which the partnership's taxation year in which the land was disposed of ended or for any previous taxation year;

(c) does not exceed his share of the aggregate of the following amounts, to the extent that those amounts are included in computing the loss of the partnership from the farming business for its taxation year ending in the year:

(1) taxes, other than income or profits taxes or taxes imposed by reference to the transfer of the property, paid by the partnership in its taxation year ending in the year or payable by it in respect of that taxation year to a province or a Canadian municipality in respect of the property, and

(2) interest paid by the partnership in its taxation year ending in the year or payable by it in respect of that taxation year, pursuant to a legal obligation to pay interest on borrowed money used to acquire the property or on any amount as consideration payable for the property; and

(d) does not exceed the amount obtained by subtracting from, subject to section 635.1, twice the taxpayer's taxable capital gain from the disposition of the land contemplated in section 634 the aggregate of his losses from the farming business for taxation years preceding the year which must be included in computing the amount deductible under this division in respect of the taxpayer.

History: 1972, c. 23, s. 480; 1985, c. 25, s. 105; 1990, c. 59, s. 216; 1995, c. 49, s. 150; 1997, c. 3, s. 71; 2003, c. 2, s. 145.

Corresponding Federal Provision: 101(a) to (d).

Transitional rules.

635.1. Where the taxation year of the taxpayer includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the following rules apply:

(a) the reference to the fraction "1/2" in section 634 shall be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the taxpayer for the year; and

(b) the reference to the word "twice" in paragraph *d* of section 635 shall be read, with the necessary modifications, as a reference to the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the taxpayer for the year.

History: 2003, c. 2, s. 146.

**CHAPTER V
DISPOSITION OF AN INTEREST IN A
PARTNERSHIP**

Transfer of interest on death.

636. The rules provided for in paragraphs *a* to *c* of section 645 apply where, by virtue of the death of an individual, a taxpayer acquires a property that was an interest in a partnership immediately before the individual's death, other than an interest to which section 639 to 644 applied, and the taxpayer is not a member of the partnership and does not become a member of such partnership by reason of such acquisition.

History: 1977, c. 26, s. 67; 1997, c. 3, s. 71.

Corresponding Federal Provision: 100(3).

Disposition of interest in a partnership.

637. If, as part of a transaction or event or series of transactions or events, a taxpayer disposes of an interest in a particular partnership and an interest in the partnership is acquired by a person or partnership described in any of paragraphs *a* to *d* of section 637.1, the taxpayer's taxable

capital gain from the disposition of the interest is deemed, despite section 231, to be equal to the total of

(a) subject to the second paragraph, 1/2 of the portion of the taxpayer's capital gain for the year from the disposition that can reasonably be attributed to the increase in the value of a property of the particular partnership that is capital property (other than depreciable property) held directly or indirectly by the particular partnership through one or more other partnerships; and

(b) the whole of the remaining portion of such capital gain.

Transitional rule.

However, where the taxation year of the taxpayer includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the reference to the fraction "1/2" in subparagraph *a* of the first paragraph, as it read in respect of that taxation year, is to be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the taxpayer for the year.

History: 1972, c. 23, s. 481; 1984, c. 15, s. 134; 1990, c. 59, s. 217; 1997, c. 3, s. 71; 2003, c. 2, s. 147; 2015, c. 21, s. 210; 2020, c. 16, s. 95.

Corresponding Federal Provision: 100(1).

Acquisition by certain persons or partnerships.

637.1. Subject to section 637.2, section 637 applies in respect of a disposition of a partnership interest by a taxpayer if the interest is acquired by

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

(b) a person not resident in Canada;

(c) another partnership to the extent that the interest can reasonably be considered to be held, at the time of its acquisition by the other partnership, indirectly through one or more partnerships, by a person that is

i. a person exempt from tax under sections 980 to 999.1,

ii. a person not resident in Canada, or

iii. a trust resident in Canada (other than a mutual fund trust) if

(1) an interest as a beneficiary under the trust is held, directly or indirectly through one or more other partnerships, by a person exempt from tax under sections 980 to 999.1 or by a trust (other than a mutual fund trust), and

(2) the fair market value of all the interests as beneficiaries under the trust held by persons referred to in subparagraph 1 exceeds 10% of the fair market value of all the interests as beneficiaries under the trust; or

(d) a trust resident in Canada (other than a mutual fund trust) to the extent that the trust can reasonably be considered to have a beneficiary that is

- i. a person exempt from tax under sections 980 to 999.1,
- ii. a partnership, if

(1) an interest in the partnership is held, whether directly or indirectly through one or more other partnerships, by one or more persons exempt from tax under sections 980 to 999.1 or by one or more trusts (other than mutual fund trusts), and

(2) the fair market value of all the interests in the partnership held by persons referred to in subparagraph 1 exceeds 10% of the fair market value of all the interests in the partnership, or

- iii. another trust (other than a mutual fund trust), if

(1) at least one beneficiary under the other trust is a person exempt from tax under sections 980 to 999.1, a partnership or a trust (other than a mutual fund trust), and

(2) the fair market value of all the interests as beneficiaries under the other trust held by the persons referred to in subparagraph 1 exceeds 10% of the fair market value of all the interests as beneficiaries under the other trust.

History: 2015, c. 21, s. 211.

Corresponding Federal Provision: 100(1.1).

Threshold.

637.2. Section 637 does not apply in respect of a taxpayer's disposition of a partnership interest to a partnership or trust described in paragraph *c* or *d* of section 637.1 if the extent to which section 637 would, but for this section, apply to the taxpayer's disposition of the interest because of that paragraph *c* or *d* does not exceed 10% of the taxpayer's interest.

Power to appoint.

The first paragraph does not apply in respect of a disposition to a trust under which the amount of the income or capital to be distributed at any time in respect of any interest as a beneficiary under the trust depends on the exercise by any person or partnership of, or the failure by any person or partnership to exercise, a power to appoint.

History: 2015, c. 21, s. 211.

Corresponding Federal Provision: 100(1.2).

Exception — persons not resident in Canada.

637.3. Section 637 does not apply in respect of a taxpayer's disposition of a partnership interest to a person not resident in Canada if

(a) property of the partnership is used, immediately before and immediately after the acquisition of the interest by that person, in carrying on a business in an establishment situated in Canada; and

(b) the fair market value of all the property referred to in paragraph *a* is not less than 90% of the fair market value of all property of the partnership.

History: 2015, c. 21, s. 211.

Corresponding Federal Provision: 100(1.3).

Anti-avoidance.

637.4. The rules of the second paragraph apply in respect of a taxpayer's particular interest in a partnership if

(a) it may be reasonable to conclude that one of the purposes of a dilution, reduction or alteration of the particular interest was to avoid the application of section 637 in respect of the particular interest; and

(b) as part of a transaction or event or series of transactions or events that includes the dilution, reduction or alteration of the particular interest, there is

i. an acquisition of an interest in the partnership by a person or partnership described in any of paragraphs *a* to *d* of section 637.1, or

ii. an increase in, or alteration of, an interest in the partnership held by a person or partnership described in any of paragraphs *a* to *d* of section 637.1.

Rules applicable.

For the purposes of section 637,

(a) the taxpayer is deemed to have disposed of an interest in the partnership at the time of the dilution, reduction or alteration;

(b) the taxpayer is deemed to have a capital gain from the disposition equal to the amount by which the fair market value of the particular interest immediately before the time of the dilution, reduction or alteration exceeds the fair market value of the particular interest immediately after that time; and

(c) the person or partnership referred to in subparagraph *b* of the first paragraph is deemed to have acquired an interest in the partnership as part of the transaction or event or series of transactions or events that includes the disposition referred to in subparagraph *a*.

History: 2015, c. 21, s. 211.

Corresponding Federal Provision: 100(1.4) and (1.5).

Other amounts to include in computation of gain.

638. A taxpayer shall include, in computing his gain from the disposition of an interest in a partnership, for a taxation year, in addition to the amount determined under section 234, the excess of the amounts to be deducted in computing the adjusted cost base of his interest in the partnership, immediately before the disposition, under section 257, over the aggregate of the cost of his interest in the partnership, determined for the purposes of computing the adjusted cost base of that interest at that time, and the amounts required by section 255 to be added to that cost in such computation at that time.

History: 1972, c. 23, s. 482; 1973, c. 17, s. 70; 1975, c. 22, s. 177; 1997, c. 3, s. 71.

Corresponding Federal Provision: 100(2).

Deemed disposition of interest in a partnership.

638.0.1. Where, as a result of an amalgamation or merger, an interest in a partnership owned by a predecessor corporation has become property of the new corporation formed as a result of the amalgamation or merger and the predecessor corporation was not related to the new corporation, the predecessor corporation is deemed to have disposed of the interest in the partnership to the new corporation immediately before the amalgamation or merger for proceeds of disposition equal to the adjusted cost base to the predecessor corporation of the interest in the partnership at the time of the disposition and the new corporation is deemed to have acquired the interest in the partnership from the predecessor corporation immediately after that time at a cost equal to the proceeds of disposition.

History: 1989, c. 77, s. 69; 1997, c. 3, s. 71.

Corresponding Federal Provision: 100(2.1).

Loss relating to an interest in a partnership.

638.1. Notwithstanding the second paragraph of section 231, the capital loss of a taxpayer from the disposition at any time of an interest in a partnership is deemed to be equal to the amount of the loss otherwise determined minus the aggregate of all amounts each of which is an amount by which the taxpayer's share of the partnership's loss, in respect of a share of the capital stock of a corporation that is property of a particular partnership at that time, would be reduced under section 741.2 if the fiscal period of every partnership that includes that time had ended immediately before that time and the particular partnership had disposed of the share immediately before the end of that fiscal period for proceeds equal to its fair market value at that time.

History: 1984, c. 15, s. 135; 1997, c. 3, s. 71; 2001, c. 7, s. 66.

Corresponding Federal Provision: 100(4).

Deemed capital loss.

638.2. A taxpayer who pays an amount at any time in a taxation year is deemed to have a capital loss from a disposition of property for the year if

(a) the taxpayer disposed of an interest in a partnership before that time or, because of section 636, acquired before that time a right to receive property of a partnership;

(b) that time is after the disposition or acquisition;

(c) the amount would have been described in subparagraph *i* of paragraph *i* of section 255 had the taxpayer been a member of the partnership at that time; and

(d) the amount is paid pursuant to a legal obligation of the taxpayer to pay the amount.

History: 2009, c. 5, s. 196.

Corresponding Federal Provision: 100(5).

CHAPTER VI**RESIDUAL INTEREST IN A PARTNERSHIP****Taxpayer who ceases to be a member of a partnership.**

639. This chapter applies to a taxpayer who would otherwise have ceased at any time after 1971 to be a member of a partnership.

History: 1975, c. 22, s. 178; 1997, c. 3, s. 71.

Corresponding Federal Provision: 98.1(1) before (a).

Residual interest in a partnership.

640. Subject to sections 428 to 451, Title VI.5 of Book IV and Chapter I of Title I.1 of Book VI, and notwithstanding any other provision of this Part, the taxpayer referred to in section 639 is deemed not to have disposed of and to continue to have an interest in the partnership, in this chapter referred to as a "residual interest", until such time as all his rights to receive any property as consideration for his interest in the partnership immediately before the time that he ceased to be a member of the partnership are satisfied in full.

Restriction.

For the purposes of this section, a right to receive any property does not include a right to a share of the income or loss of a partnership under an agreement referred to in section 608.

History: 1975, c. 22, s. 178; 1980, c. 13, s. 61; 1995, c. 49, s. 151; 1997, c. 3, s. 71; 2001, c. 7, s. 67; 2004, c. 8, s. 130.

Corresponding Federal Provision: 98.1(1)(a).

Residual interest in a partnership.

641. Despite section 640, a taxpayer is deemed not to have disposed of the taxpayer's residual interest before the end of the partnership's fiscal period in which the taxpayer ceased to be a member of the partnership even if all of the

taxpayer's rights described in that section have been satisfied in full before the end of that fiscal period.

History: 1975, c. 22, s. 178; 1997, c. 3, s. 71; 2019, c. 14, s. 169.

Corresponding Federal Provision: 98.1(1)(b).

Balance of the adjusted cost base.

642. Paragraph *c* of section 618 applies to the residual interest of a taxpayer at the end of a fiscal period of the partnership.

History: 1975, c. 22, s. 178; 1996, c. 39, s. 171; 1997, c. 3, s. 71.

Corresponding Federal Provision: 98.1(1)(c).

Residual interest in a partnership.

643. A taxpayer who holds a residual interest is deemed not to be a member of the partnership:

(a) except for the purposes of sections 714 and 752.0.10.11, if he holds such interest by virtue of section 641; or

(b) except for the purposes of sections 530 to 533, if he holds such interest otherwise than as provided in paragraph *a*.

History: 1975, c. 22, s. 178; 1993, c. 64, s. 39; 1997, c. 3, s. 71.

Corresponding Federal Provision: 98.1(1)(d).

Continuation of the original partnership.

644. Where a partnership has been dissolved, or would have been dissolved but for section 618, at a time when a taxpayer had rights referred to in section 640 in respect of that partnership and the members of another partnership agree to satisfy all or part of those rights, such other partnership is, for the purposes of section 640, deemed to be a continuation of the original partnership.

History: 1975, c. 22, s. 178; 1997, c. 3, s. 71.

Corresponding Federal Provision: 98.1(2).

Acquisition of an interest in a partnership on death.

645. Where by virtue of the death of an individual a taxpayer acquires a property that is an interest in a partnership to which, immediately before the individual's death, sections 639 to 644 applied:

(a) the taxpayer is deemed to acquire a right to receive partnership property and not to acquire an interest in the partnership;

(b) the taxpayer is deemed to acquire the right referred to in paragraph *a* at a cost equal to the amount deemed to be the proceeds of the disposition of the interest in the partnership to the deceased individual under section 436 or subparagraph *a* of the first paragraph of section 440; and

(c) section 254 does not apply to such right.

History: 1975, c. 22, s. 178; 1994, c. 22, s. 218; 1997, c. 3, s. 71.

Corresponding Federal Provision: 98.2.

TITLE XII TRUSTS AND THEIR BENEFICIARIES

CHAPTER I GENERALITIES

Extended meaning of “trust” and “succession”.

646. In this Part, unless the context indicates a different meaning and subject to the third paragraph, a trust, wherever it is created, or a succession, in this Title referred to as a “trust”, also includes the trustee or other legal representative having ownership or control of the trust property.

Beneficiary.

Likewise, a beneficiary shall include every person having a beneficial interest in a trust.

Exception.

However, except for the purposes of this section, subparagraph *v* of subparagraph *b* of the first paragraph of section 248, subparagraph *g* of the second paragraph of that section and section 646.1, an arrangement under which a trust can reasonably be considered to act as agent or mandatary for all of the beneficiaries under the trust in respect of all of the dealings with all of the trust's property, is deemed not to be a trust, unless the trust is described in any of paragraphs *a* to *d* of the third paragraph of section 647.

History: 1972, c. 23, s. 483; 1988, c. 18, s. 55; 1994, c. 22, s. 219; 1996, c. 39, s. 273; 1998, c. 16, s. 176; 2000, c. 5, s. 138; 2003, c. 2, s. 148.

Corresponding Federal Provision: 104(1) and 108(1) “beneficiary”.

Graduated rate estate.

646.0.1. For the purposes of this Title, a succession that is a graduated rate estate, of an individual at a particular time, is the succession that arose on and as a consequence of the individual's death and that meets the following conditions:

(a) the particular time is no more than 36 months after the death;

(b) the succession is at the particular time a testamentary trust;

(c) the individual's Social Insurance Number (or if the individual had not, before the death, been assigned a Social Insurance Number, such other information as is acceptable to the Minister) is provided in the succession's fiscal return under this Part for its taxation year that includes the particular time and for each of its earlier taxation years that ended after 31 December 2015;

(d) the succession designates itself as the succession that is the graduated rate estate of the individual in its fiscal return under this Part for its first taxation year that ends after 31 December 2015; and

(e) no other succession designates itself as the succession that is the graduated rate estate of the individual in a fiscal return under this Part for a taxation year that ends after 31 December 2015.

History: 2017, c. 1, s. 148.

Corresponding Federal Provision: 248(1) “graduated rate estate”.

Restricted meaning of “beneficiary”.

646.1. Notwithstanding section 7.11.1 and for the purposes of subparagraph ii of paragraph *b* of section 454.2, section 646, subparagraph *a.4* of the first paragraph of section 653 and paragraph *e* of section 692.5, a person or partnership is deemed not to be a beneficiary under a trust at a particular time where the person or partnership is beneficially interested in the trust at that time solely because of

(a) a right that may arise as a consequence of the terms of the will of an individual who, at that time, is a beneficiary under the trust;

(b) a right that may arise as a consequence of the law governing the intestacy of an individual who, at that time, is a beneficiary under the trust;

(c) a right as a shareholder under the terms of the shares of the capital stock of a corporation that, at that time, is a beneficiary under the trust;

(d) a right as a member of a partnership under the terms of the partnership agreement, where, at that time, the partnership is a beneficiary under the trust; or

(e) any combination of rights described in paragraphs *a* to *d*.

History: 2003, c. 2, s. 149; 2009, c. 5, s. 197.

Corresponding Federal Provision: 104(1.1).

Trust deemed individual.

647. A trust is, for the purposes of this Part and as regards its property, deemed to be an individual, without affecting the liability of the trustee or legal representative for their own income tax.

Trustees deemed to be one individual.

However, where there are several trusts most of the property of which has been received from one person and the income of which, according to the terms governing such trusts, will ultimately accrue to the same beneficiary or same group or class of beneficiaries, the trustees whom the Minister designates are deemed to be one individual.

Excluded trusts.

For the purposes of sections 653 to 656.2, 659 and 660 and paragraph *b* of section 657 at any time, a trust does not include a unit trust or a particular trust described in the fourth

paragraph and, for the purposes of sections 653 to 656.2, 659, 660, 661, 662, 663.1, 663.2, 665, 665.1, 684 to 688.2, 690.0.1 and 691 to 692.0.1 and paragraph *b* of section 657, a trust does not include any of the following trusts:

(a) an amateur athlete trust, an employee trust, an employee life and health trust, a trust described in paragraph *c.4* of section 998 or a trust governed by a foreign retirement arrangement, a registered pension plan, a pooled registered pension plan, a profit sharing plan, a registered supplementary unemployment benefit plan, a registered retirement savings plan, a deferred profit sharing plan, a registered education savings plan, a registered disability savings plan, an employee benefit plan, a registered retirement income fund or a tax-free savings account;

(a.1) a trust, other than a trust described in subparagraph *a* or *d*, a trust to which section 53 or 58 applies or a trust prescribed for the purposes of section 688, all or substantially all of the property of which is held for the purpose of providing benefits to individuals each of whom is provided with benefits in respect of, or because of, an office or employment or former office or employment of any individual;

(b) a segregated fund trust referred to in section 851.2, a trust referred to in section 851.25 or an RCA trust within the meaning of subparagraph *c* of the first paragraph of section 890.1;

(c) a trust each of the beneficiaries under which was at all times after it was created a trust referred to in subparagraph *a* or *b*, other than a trust referred to in section 851.25, or a person who is a beneficiary of the trust only because of being a beneficiary under a trust referred to in either of those subparagraphs, other than a trust referred to in section 851.25;

(d) a cemetery care trust or a trust governed by an eligible funeral arrangement.

Interpretation.

The particular trust referred to in the third paragraph is a trust all interests in which have vested indefeasibly at the time referred to in that paragraph, and that is not

(a) an *alter ego* trust, a joint spousal trust, a post-1971 spousal trust or a trust to which subparagraph *a.4* of the first paragraph of section 653 applies;

(b) (*subparagraph repealed*);

(c) a trust that, in its fiscal return under this Part for its first taxation year ending after 31 December 1992, has elected that this paragraph not apply;

(d) a trust that is at that time resident in Canada where the total fair market value at that time of all interests in the trust held at that time by beneficiaries under the trust who at that

time are not resident in Canada exceeds 20% of the total fair market value at that time of all interests in the trust held at that time by beneficiaries under the trust;

(e) a trust under the terms of which, at that time, all or part of a person's interest in the trust is to be terminated with reference to a period of time, including a period of time determined with reference to the person's death, otherwise than as a consequence of terms of the trust under which an interest in the trust is to be terminated as a consequence of a distribution to the person, or the person's succession, of trust property if the fair market value of the property to be distributed is required to be proportional to the fair market value of that interest immediately before the distribution; or

(f) a trust that, before that time and after 17 December 1999, has made a distribution to a beneficiary in respect of the beneficiary's capital interest in the trust, if the distribution can reasonably be considered to have been financed by a liability of the trust and one of the reasons for incurring the liability was to avoid taxes otherwise payable under this Part as a consequence of the death of an individual.

History: 1972, c. 23, s. 484; 1975, c. 22, s. 179; 1978, c. 26, s. 109; 1979, c. 18, s. 53; 1982, c. 5, s. 135; 1989, c. 77, s. 70; 1990, c. 59, s. 218; 1991, c. 25, s. 81; 1993, c. 16, s. 241; 1994, c. 22, s. 220; 1996, c. 39, s. 172; 1997, c. 14, s. 94; 2000, c. 5, s. 139; 2003, c. 2, s. 150; 2005, c. 23, s. 53; 2009, c. 5, s. 198; 2009, c. 15, s. 95; 2011, c. 6, s. 139; 2015, c. 21, s. 212.

Corresponding Federal Provision: 104(2) and 108(1) "trust".

648. (*Repealed*).

History: 1972, c. 23, s. 485; 1975, c. 22, s. 180; 1986, c. 15, s. 92; 1989, c. 5, s. 76.

Unit trust.

649. For the purposes of this Part, a trust is a unit trust if, at a particular time, it is an *inter vivos* trust in which the interest of each beneficiary is described by reference to units of the trust, and

(a) the issued units of the trust representing a value of not less than 95% of the fair market value of all the issued units, determined without regard to any voting rights which may be attached to such units, are

i. units which provide that the trust must accept, at the demand of the holder of such units and at prices determined and payable in accordance with the conditions attached to such units, the surrender, in whole or in part, of the fully paid units, and

ii. units qualified in accordance with prescribed conditions relating to their redemption by the trust;

(b) it meets the following conditions:

i. throughout the taxation year in which the particular time occurs, in this paragraph referred to as the "current year", the trust was resident in Canada,

ii. throughout the period or periods, in this paragraph referred to as the "relevant periods", that are in the current year and throughout which the conditions under paragraph *a* are not satisfied in respect of the trust, its only undertaking is

(1) the investing of its funds in property, other than immovable property or a right in immovable property,

(2) the acquiring, holding, maintaining, improving, leasing or managing of any immovable property, or a right in immovable property, that is capital property of the trust, or

(3) any combination of the activities described in subparagraphs 1 and 2,

iii. throughout the relevant periods at least 80% of its property consists of any combination of

(1) shares,

(2) any property that, under the terms or conditions of which or under an agreement, is convertible into, is exchangeable for or confers a right to acquire, shares,

(3) cash,

(4) bonds, hypothecary claims, mortgages, debentures, notes and other similar obligations,

(5) marketable securities,

(6) immovable property situated in Canada and rights in such property, and

(7) rights in or to any rental or royalty computed by reference to the volume or value of production from a natural accumulation of petroleum or natural gas in Canada, from an oil or gas well in Canada or from a mineral resource in Canada,

iv. one of the following conditions is met:

(1) not less than 95% of its income for the current year, determined without reference to sections 262 and 295.1 and paragraph *a* of section 657, is derived from, or from the disposition of, investments described in subparagraph iii, or

(2) not less than 95% of its income for each of the relevant periods, determined without reference to sections 262 and 295.1 and paragraph *a* of section 657 and as though each of those periods were a taxation year, is derived from, or from the disposition of, investments described in subparagraph iii,

v. throughout the relevant periods, not more than 10% of its property consists of bonds, securities or shares of capital

stock of any one corporation or debtor other than the Government of Québec, the Government of Canada, the government of another province or a Canadian municipality, and

v.1. where the trust would not be a unit trust at the particular time if this paragraph were read without reference to this subparagraph and subparagraph iii were read without reference to subparagraph 6, the units of the trust are listed at any time in the current year or in the following taxation year on a designated stock exchange located in Canada; or

vi. *(subparagraph repealed)*;

(c) *(paragraph repealed)*;

(d) the following conditions are met:

i. the fair market value of the property of the trust at the end of the year 1993 was primarily attributable to immovable property, or a right in immovable property,

ii. the trust was a unit trust throughout any calendar year before the year 1994, and

iii. the fair market value of the property of the trust at the particular time is primarily attributable to property described in paragraph *a* or *b* of the definition of “qualified investment” in section 204 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), immovable property, or a right in immovable property, or any combination of those properties.

History: 1972, c. 23, s. 486; 1973, c. 17, s. 71; 1987, c. 67, s. 128; 1993, c. 16, s. 242; 1996, c. 39, s. 173; 1997, c. 3, s. 71; 2000, c. 5, s. 140; 2001, c. 7, s. 68; 2003, c. 2, s. 151; 2005, c. 1, s. 127; 2010, c. 5, s. 53; 2015, c. 21, s. 213; 2020, c. 16, s. 96.

Corresponding Federal Provision: 108(2).

Personal trust.

649.1. “Personal trust” means a trust (other than a trust that is, or was at any time after 31 December 1999, a unit trust) that is

(a) a succession that is a graduated rate estate; or

(b) a trust in which no beneficial interest was acquired for consideration payable directly or indirectly to the trust or to any person or partnership that has made a contribution to the trust by way of transfer, assignment or other disposition of property.

History: 1990, c. 59, s. 219; 1994, c. 22, s. 221; 1996, c. 39, s. 273; 2003, c. 2, s. 152; 2010, c. 25, s. 49; 2017, c. 1, s. 149.

Corresponding Federal Provision: 248(1) “personal trust”.

Income of a trust.

650. For the purposes of the second paragraph of section 21.43, the definition of “exempt foreign trust” in the first paragraph of section 593 and the definition of “income interest” in section 683, the income of a trust is computed without reference to the provisions of this Part and, for the purposes of the second paragraph of sections 440 to 441.2, paragraph *c* of section 454.1, the definition of “pre-1972 spousal trust” in section 652.1 and subparagraph *a* of the first paragraph of section 653, the income of a trust is equal to its income computed without reference to the provisions of this Part minus any dividend included therein that is not included by reason of sections 501 to 503 in computing the income of the trust for the purposes of the other provisions of this Part, or that is referred to in section 1106 or 1116.

History: 1972, c. 23, s. 487; 1973, c. 17, s. 72; 1975, c. 22, s. 181; 1982, c. 5, s. 136; 1984, c. 15, s. 136; 1990, c. 59, s. 220; 1994, c. 22, s. 222; 2003, c. 2, s. 153; 2004, c. 21, s. 85; 2009, c. 15, s. 96; 2015, c. 36, s. 34.

Corresponding Federal Provision: 108(3).

Trust not disqualified by reason only of the payment of certain duties and taxes.

651. For the purposes of the second paragraph of sections 440 to 441.2, paragraph *c* of section 454.1, the definition of “pre-1972 spousal trust” in section 652.1 and subparagraph *a* of the first paragraph of section 653, where a trust has been created by an individual, no person is deemed to have received or otherwise obtained or to be entitled to receive or otherwise obtain enjoyment of any income or capital of the trust solely because of the payment, or provision for payment, by the trust of any duty by reason of the individual’s death or the death of the individual’s spouse who is a beneficiary under the trust, in respect of any property of, or interest in, the trust or any tax in respect of any income of the trust.

History: 1973, c. 17, s. 73; 1990, c. 59, s. 220; 1994, c. 22, s. 222; 2003, c. 2, s. 153; 2004, c. 21, s. 86.

Corresponding Federal Provision: 108(4).

Amount deemed income from interest in a trust

651.1. Except as otherwise provided in this Part and without restricting the application of sections 316.1, 456 to 458, 462.1 to 462.24, 467, 467.1, Division III of Chapter II.1 of Title I of Book V and section 1034.0.0.2, an amount included under any of sections 659 and 661 to 663 in computing the income for a taxation year of a beneficiary of a trust is deemed to be income of the beneficiary for the year from a property that is an interest in the trust and not from any other source, and an amount deductible in computing the amount that would, but for paragraphs *a* and *b* of section 657 and section 657.1, be the income of a trust for a taxation year is not to be deducted by a beneficiary of the trust in computing the beneficiary’s income for a taxation year.

History: 1984, c. 15, s. 137; 1987, c. 67, s. 129; 1990, c. 59, s. 220; 2001, c. 53, s. 89; 2012, c. 8, s. 57; 2015, c. 21, s. 214.

Corresponding Federal Provision: 108(5).

Variation of the terms governing a trust.

651.2. Where at a particular time the terms that govern a trust are varied, the following rules apply:

(a) subject to the second paragraph, for the purposes of sections 653 to 656.2, the trust is, at and after that time, deemed to be the same trust as, and a continuation of, the trust immediately before that time;

(b) for the purposes of the definition of “personal trust” in section 1, paragraph *n* of section 257, section 686 and the definition of “excluded right or interest” in section 785.0.1, no interest of a beneficiary under the trust before its terms were varied is considered to be consideration for the interest of the beneficiary in that trust whose terms were varied.

Interpretation.

Subparagraph *a* of the first paragraph does not affect the application of subparagraph *a.1* of the first paragraph of section 653.

History: 2003, c. 2, s. 154; 2004, c. 8, s. 131.

Corresponding Federal Provision: 108(6).

Interests acquired for no consideration.

651.3. For the purposes of the definition of “personal trust” in section 1, paragraph *n* of section 257, section 686 and the definition of “excluded right or interest” in section 785.0.1, the following rules apply:

(a) an interest in a trust is not deemed to be acquired for consideration solely because it was acquired in satisfaction of any right as a beneficiary under the trust to enforce payment of an amount by the trust; and

(b) where all the beneficial interests in a trust acquired by way of the transfer, assignment or other disposition of property to that trust were acquired by any of the persons described in the second paragraph, any beneficial interest in that trust acquired by such a person is deemed to be acquired for no consideration.

Person referred to.

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

(a) one person; or

(b) two or more persons who would be related to each other if

i. a trust and another person were related to each other, where the other person is a beneficiary under the trust or is related to a beneficiary under the trust, and

ii. a trust and another trust were related to each other, where a beneficiary under the trust is a beneficiary under the other trust or is related to a beneficiary under the other trust.

History: 2003, c. 2, s. 154; 2004, c. 8, s. 132; 2017, c. 1, s. 150.

Corresponding Federal Provision: 108(7).

Amount payable.

652. For the purposes of subparagraph i.1 of paragraph *n* of section 257, sections 597.0.2 and 597.0.5, paragraph *a* of section 657 and sections 657.1.2, 663, 663.4 and 667, an amount is deemed not to have become payable to a beneficiary in a taxation year unless it was paid in the year to the beneficiary or the beneficiary was entitled to enforce payment of it in that year.

History: 1972, c. 23, s. 488; 1975, c. 22, s. 182; 1990, c. 59, s. 220; 2009, c. 5, s. 199; 2015, c. 36, s. 35.

Corresponding Federal Provision: 104(24).

**CHAPTER II
DEEMED DISPOSITION AND PAYMENT**

Definitions:

652.1. In this Title,

“*alter ego trust*”;

“*alter ego trust*” means a trust to which subparagraph *a* of the first paragraph of section 653 would apply if that subparagraph were read without reference to subparagraph i and subparagraph 2 of subparagraph ii;

“*excluded property*”;

“*excluded property*” means a share of the capital stock of an investment corporation owned by persons not resident in Canada that is not taxable Canadian property;

“*exempt property*”;

“*exempt property*” of a taxpayer at any time means property any income or gain from the disposition of which by the taxpayer at that time would not cause an increase in the taxpayer’s tax payable under this Part because the taxpayer is not resident in Canada or because of a provision contained in a tax agreement;

“*joint spousal trust*”;

“*joint spousal trust*” means a trust to which subparagraph *a* of the first paragraph of section 653 would apply if that subparagraph were read without reference to subparagraph i and subparagraph 1 of subparagraph ii;

“*post-1971 spousal trust*”;

“*post-1971 spousal trust*” means a trust that would be described in subparagraph *a* of the first paragraph of section 653 if that subparagraph were read without reference to subparagraph ii;

“*pre-1972 spousal trust*”.

“*pre-1972 spousal trust*” at a particular time means a trust that was created by the will of an individual who died before 1 January 1972, or created before 18 June 1971 by an

individual during the individual's lifetime, that, throughout the period beginning at the time it was created and ending at the earliest of 1 January 1993, the day on which the individual's spouse died and the particular time, was a trust under which the individual's spouse was entitled to receive all of the income of the trust that arose before the spouse's death, but does not include a trust under which a person other than the individual's spouse received or otherwise obtained enjoyment of any of the income or capital of the trust before the end of that period.

History: 1994, c. 22, s. 224; 1997, c. 3, s. 71; 2000, c. 5, s. 141; 2003, c. 2, s. 155.

Corresponding Federal Provision: 108(1) and 248(1).

652.2. *(Repealed).*

History: 1994, c. 22, s. 224; 1997, c. 14, s. 95; 2003, c. 2, s. 156.

Deemed disposition by a trust.

653. A trust is, at the end of each of the following days, deemed to dispose of each property of the trust, other than exempt property, that is capital property, other than excluded property, and to reacquire the property immediately after that day or land included in the inventory of a business of the trust:

(a) the day on which

i. the spouse of the individual who created the trust died if the terms of the deed creating it entitled the spouse to receive all of the income of the trust that arose before the spouse's death and to receive or otherwise obtain, to the exclusion of any other person, enjoyment of the income or capital of the trust, or

ii. the individual died or, if it is later, the day on which the individual's spouse died, if the trust is a trust described in subparagraph ii of subparagraph *d* of the second paragraph and the terms of the deed creating it

(1) entitled the individual to receive all of the income of the trust that arose before the individual's death and to receive or otherwise obtain, to the exclusion of any other person, enjoyment of the income or capital of the trust, or

(2) entitled the individual and the individual's spouse to receive all of the income of the trust that arose before their deaths and to receive or otherwise obtain, to the exclusion of any other person, enjoyment of the income or capital of the trust;

(a.1) where the trust is a pre-1972 spousal trust on 1 January 1993 and the spouse referred to in the definition of "pre-1972 spousal trust" in section 652.1 in respect of the trust was, in the case of a trust created by the will of an individual, alive on 1 January 1976, and, in the case of a trust created by an individual during the individual's lifetime, alive on 26 May

1976, the day that is the later of 1 January 1993 and the day on which that spouse dies;

(a.2) where the trust distributes an amount in respect of a beneficiary as the beneficiary's capital interest in the trust, it can reasonably be considered that the distribution was financed by a liability of the trust and one of the reasons for incurring the liability was to avoid taxes otherwise payable under this Part as a consequence of the death of an individual, the day on which the distribution is made, determined as if a day ends for the trust immediately after the time at which each distribution is made by the trust to a beneficiary in respect of the beneficiary's capital interest in the trust;

(a.3) where property, other than property described in the fourth paragraph, has been transferred by an individual after 17 December 1999 to the trust in circumstances in which section 454 applied, it can reasonably be considered that the property was so transferred in anticipation that the individual would subsequently cease to be resident in Canada and the individual subsequently ceases to be resident in Canada, the first day after that transfer during which the individual ceases to be resident in Canada, determined as if a day ends for the trust immediately after each time at which the individual ceases to be resident in Canada;

(a.4) where the trust is a trust to which property was transferred by a taxpayer who is an individual, other than a trust, in circumstances in which sections 454 to 462.0.2 or section 692.8 applied, the transfer did not result in a change in beneficial ownership of that property and no person, other than the taxpayer, or partnership has any absolute or contingent right as a beneficiary under the trust, determined with reference to section 646.1, the day on which the taxpayer dies;

(b) the day of the twenty-first anniversary of the latest of 1 January 1972, the day on which the trust was created and, where applicable, the day determined under any of subparagraphs *a*, *a.1* and *a.4* as those subparagraphs applied from time to time after 31 December 1971;

(c) the day of the twenty-first anniversary of the day, other than a day determined under any of subparagraphs *a* to *a.4*, of any deemed disposition of such property under this section.

Restriction.

Subparagraph *a* of the first paragraph applies only where the trust contemplated therein is

(a) a trust that was created by the will of an individual who died after 31 December 1971 and that, at the time it was created, was a trust described in that subparagraph *a*;

(b) a trust that was created by the will of an individual who died after 31 December 1971 to which property was transferred in circumstances to which section 435 or

subparagraph *a* of the first paragraph of section 440 applied and that, immediately after the property was indefeasibly vested in the trust as a consequence of the individual's death, was a trust described in subparagraph *a* of the first paragraph;

(c) a trust that was created after 17 June 1971 by an individual during his lifetime and that, at any time after 31 December 1971, was a trust described in subparagraph *a* of the first paragraph; or

(d) a trust, other than a trust the terms of which are described in subparagraph i of subparagraph ii of subparagraph *a* of the first paragraph that elects in its fiscal return filed under this Part for its first taxation year that this subparagraph not apply, that was created after 31 December 1999 by an individual during the individual's lifetime and that, at any time after that date, was

i. a trust described in subparagraph *a* of the first paragraph, or

ii. a trust that was created by a taxpayer who had attained 65 years of age.

Exception.

However, subparagraph *a* of the first paragraph does not apply in respect of a trust described in subparagraph *b* of the second paragraph where the spouse who was the beneficiary of that trust died before 21 December 1991.

Excluded property.

The property to which subparagraph *a.3* of the first paragraph refers is

(a) an immovable situated in Canada;

(b) a Canadian resource property;

(c) a timber resource property;

(d) a capital property used in a business carried on through an establishment in Canada;

(e) a 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 carried on through an establishment in Canada;

(f) a property described in the inventory of a business carried on through an establishment in Canada; or

(g) a prescribed property.

History: 1972, c. 23, s. 489; 1977, c. 26, s. 68; 1984, c. 15, s. 138; 1986, c. 19, s. 134; 1994, c. 22, s. 225; 1997, c. 31, s. 61; 2003, c. 2, s. 157; 2004, c. 21, s. 87; 2005, c. 1, s. 128; 2009, c. 5, s. 200; 2019, c. 14, s. 170.

Corresponding Federal Provision: 104(4) and (5).

Deemed disposition by a trust.

654. The trust is deemed to have disposed of each property contemplated in section 653, at the time determined under that section, for proceeds equal to its fair market value at that time, determined with reference to section 450.2, and to have reacquired the property immediately thereafter at a cost or a capital cost, as the case may be, equal to the proceeds of disposition.

History: 1972, c. 23, s. 490; 1984, c. 15, s. 139; 1994, c. 22, s. 225; 2003, c. 2, s. 158.

Corresponding Federal Provision: 104(4) and (5).

655. (Repealed).

History: 1972, c. 23, s. 491; 1977, c. 26, s. 69; 1994, c. 22, s. 226.

Where the capital cost of depreciable property would otherwise be less than that before the deemed disposition.

656. Notwithstanding section 654, where the capital cost to the trust of depreciable property of a prescribed class immediately before the deemed disposition thereof under section 653 exceeds the cost thereof to the trust as determined under section 654, for the purposes of sections 93 to 104, 130 to 130.1 and of the regulations made under paragraph *a* of section 130 as those sections and regulations apply to such property after that time,

(a) the capital cost to the trust of the property on its deemed reacquisition under section 653 is deemed to be the same as before the deemed disposition thereof under that section; and

(b) the excess is deemed to have been allowed to the trust as depreciation in respect of the property in computing the trust's income for the taxation years that ended before the deemed reacquisition under section 653 of the property by the trust.

History: 1972, c. 23, s. 492; 1979, c. 18, s. 54; 1994, c. 22, s. 227; 1995, c. 49, s. 152.

Corresponding Federal Provision: 104(5)(a).

Rules applicable.

656.1. For the purposes of sections 653 to 656,

(a) the words "at the end of a taxation year" and "of a prescribed class of a taxpayer" in section 94 shall be read respectively "at the particular time a trust is deemed, under section 653, to have disposed of its depreciable property of a prescribed class" and "of that class", and

(b) for the purpose of computing the excess referred in section 94, at the end of the taxation year of the trust that included the day on which the trust is deemed, under section 653, to have disposed of its depreciable property of a prescribed class, any amount that was included on that day in computing the trust's income for the year under the said section 94, as it must be read pursuant to paragraph *a*, is deemed to be an amount included in computing the trust's

income under sections 93 to 104 for a preceding taxation year.

History: 1978, c. 26, s. 110; 1994, c. 22, s. 227.

Corresponding Federal Provision: 104(5)(b) and (c).

Resource property.

656.2. Where a trust owns a Canadian resource property or a foreign resource property, other than an exempt property, at the end of a day determined under section 653 in respect of the trust, the following rules apply:

(a) for the purpose of determining the amounts under paragraphs *a*, *e* and *e.1* of section 330 and sections 371, 374, 411, 412, 418.1.3 to 418.1.5, 418.5, 418.6 and 418.12, the trust is deemed

i. to have a taxation year that ends at the end of that day and a new taxation year that begins immediately after that day, and

ii. to have disposed, immediately before the end of the taxation year so deemed to end, of each of those Canadian resource properties and foreign resource properties for proceeds that became receivable at that time equal to its fair market value at that time and to have reacquired, at the beginning of the new taxation year, each such property for an amount equal to that fair market value; and

(b) for the particular taxation year of the trust that included that day, the trust shall

i. include in computing its income for the particular taxation year the amount, if any, determined under paragraph *e* of section 330 in respect of the taxation year deemed to end in accordance with subparagraph *i* of paragraph *a* and the amount so included is, for the purposes of paragraph *b* of section 411, deemed to have been included in computing its income for a preceding taxation year,

i.1. include in computing its income for the particular taxation year any amount determined under paragraph *e.1* of section 330 in respect of the taxation year deemed to end in accordance with subparagraph *i* of paragraph *a* and the amount so included is, for the purposes of paragraph *b* of section 418.1.3, deemed to have been included in computing its income for a preceding taxation year, and

ii. deduct in computing its income for the particular taxation year the amount, if any, determined under sections 371 and 374 in respect of the taxation year deemed to end in accordance with subparagraph *i* of paragraph *a* and the amount so deducted is, for the purposes of paragraph *a* of section 371, deemed to have been deducted for a preceding taxation year.

History: 1986, c. 19, s. 135; 2004, c. 8, s. 133.

Corresponding Federal Provision: 104(5.2).

NISA Fund No. 2.

656.3. Every trust that holds an interest in a NISA Fund No. 2 that was transferred to it in circumstances to which the second paragraph of section 441.1 applied is deemed, at the end of the day on which the spouse referred to in that paragraph dies, to have been paid an amount out of the fund equal to the balance at the end of that day in the fund so transferred.

History: 1994, c. 22, s. 228; 2017, c. 1, s. 151.

Corresponding Federal Provision: 104(5.1).

Farm income stabilization account.

656.3.1. Every trust that holds an interest in a farm income stabilization account that was transferred to it in circumstances to which the second paragraph of section 441.2 applied is deemed, at the end of the day on which the spouse referred to in that paragraph dies, to have been paid an amount out of the account equal to the balance at the end of that day in the account so transferred.

History: 2004, c. 21, s. 88; 2017, c. 1, s. 151.

656.4. *(Repealed).*

History: 1994, c. 22, s. 228; 1997, c. 31, s. 62; 2001, c. 7, s. 69; 2003, c. 2, s. 159; 2004, c. 21, s. 89; 2009, c. 5, s. 201; 2015, c. 21, s. 215.

Corresponding Federal Provision: 104(5.3).

656.4.1. *(Repealed).*

History: 1997, c. 31, s. 63; 2015, c. 21, s. 215.

Corresponding Federal Provision: 104(5.31).

656.5. *(Repealed).*

History: 1994, c. 22, s. 228; 2015, c. 21, s. 215.

Corresponding Federal Provision: 104(5.4).

656.6. *(Repealed).*

History: 1994, c. 22, s. 228; 1996, c. 39, s. 273; 2015, c. 21, s. 215.

Corresponding Federal Provision: 104(5.5).

656.7. *(Repealed).*

History: 1994, c. 22, s. 228; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 2015, c. 21, s. 215.

Corresponding Federal Provision: 104(5.6).

656.8. *(Repealed).*

History: 1994, c. 22, s. 228; 1997, c. 3, s. 71; 2015, c. 21, s. 215.

Corresponding Federal Provision: 104(5.7).

Trust transfers.

656.9. Where capital property, other than excluded property, land included in inventory, Canadian resource property or foreign resource property is transferred at a particular time by a trust, in this section referred to as the “transferor trust”, to another trust, in this section referred to

as the “transferee trust”, in circumstances in which subparagraph *b* of the second paragraph of section 248 or section 688 or 692.8 applies, the following rules apply:

(a) subject to paragraphs *b* to *b.3*, for the purposes of sections 653 to 656.3.1 after the particular time,

i. the first day, in this section referred to as the “disposition day”, that ends at or after the particular time that would, but for subparagraphs *a.2* and *a.3* of the first paragraph of section 653, be determined in respect of the transferee trust is deemed to be the earliest of

(1) the first day ending at or after the particular time that would be determined in respect of the transferor trust under section 653 without regard to the transfer and any transaction or event occurring after the particular time,

(2) the first day ending at or after the particular time that would otherwise be determined in respect of the transferee trust under section 653 without regard to any transaction or event occurring after the particular time,

(3) where the transferor trust is a joint spousal trust, a post-1971 spousal trust or a pre-1972 spousal trust and the spouse referred to in subparagraph *a* of the first paragraph of section 653 or in the definition of “pre-1972 spousal trust” in section 652.1, is alive at the particular time, the first day that ends at or after the particular time,

(3.1) where the transferor trust is an *alter ego* trust, a trust to which subparagraph *a.4* of the first paragraph of section 653 applies or a joint spousal trust, and the taxpayer referred to in subparagraph *a* or *a.4* of that first paragraph, as the case may be, is alive at the particular time, the first day that ends at or after the particular time, and

(4) where the disposition day would, but for the application of this section to the transfer, be determined in respect of the transferee trust under paragraph *a* of section 656.4, and the particular time is after the day that would, but for section 656.4, be determined in respect of the transferee trust under subparagraph *b* of the first paragraph of section 653, the first day ending at or after the particular time, and

ii. where the disposition day determined in respect of the transferee trust under subparagraph *i* is earlier than the day referred to in subparagraph 2 of subparagraph *i* in respect of the transferee trust, sections 653 to 656.3.1 do not apply to the transferee trust on the day referred to in the said subparagraph 2 in respect of the transferee trust;

(b) where the transferor trust is a trust, in this paragraph referred to as an “eligible trust”, that is a post-1971 spousal trust or a pre-1972 spousal trust, and the spouse referred to in subparagraph *a* of the first paragraph and the second paragraph of section 653 or in the definition of “pre-1972 spousal trust” in section 652.1 is alive at the particular time,

paragraph *a* does not apply in respect of the transfer where the transferee trust is also an eligible trust;

(b.1) paragraph *a* does not apply in respect of the transfer where

i. the transferor trust is an *alter ego* trust,
ii. the taxpayer referred to in subparagraph *a* of the first paragraph of section 653 is alive at the particular time, and
iii. the transferee trust is an alter ego trust;

(b.2) paragraph *a* does not apply in respect of the transfer where

i. the transferor trust is a joint spousal trust,
ii. either the taxpayer referred to in subparagraph *a* of the first paragraph of section 653, or the taxpayer’s spouse referred to in that subparagraph, is alive at the particular time, and

iii. the transferee trust is a joint spousal trust;

(b.3) paragraph *a* does not apply in respect of the transfer where

i. the transferor trust is a trust to which subparagraph *a.4* of the first paragraph of section 653 applies,
ii. the taxpayer referred to in subparagraph *a.4* of the first paragraph of section 653 is alive at the particular time, and
iii. the transferee trust is a trust to which subparagraph *a.4* of the first paragraph of section 653 applies; and

(c) for the purposes of section 656.4, unless a day ending before the particular time has been determined under subparagraph *a.1* or *b* of the first paragraph of section 653, or would, but for section 656.4, have been so determined, a day determined under subparagraph *i* of paragraph *a* is deemed to be a day determined under the said subparagraph *a.1* or *b*, as the case may be, in respect of the transferee trust.

History: 1994, c. 22, s. 228; 2003, c. 2, s. 160; 2004, c. 21, s. 90.

Corresponding Federal Provision: 104(5.8).

CHAPTER III DEDUCTIONS

Deduction in computing income of trust.

657. Subject to sections 657.1.1 to 657.2, a trust may deduct, in computing its income for a taxation year, the following amounts:

(a) an amount that the trust claims as a deduction not exceeding the amount by which the amount determined under subparagraph *i* exceeds the amount determined under subparagraph *ii* or *iv*, as the case may be:

i. the part of the amount that would be its income for the year, but for this paragraph and paragraph *b*, that became payable in the year to a beneficiary or was included because of section 662 in computing the income of a beneficiary,

ii. if the trust is a trust for which a day is to be determined in accordance with subparagraph *a* or *a.4* of the first paragraph of section 653 by reference to a particular death or later death, as the case may be, that has not occurred before the beginning of the year, the aggregate of

(1) the part of the amount that would be its income for the year, but for this paragraph and paragraph *b*, that became payable in the year to, or that was included under section 662 in computing the income of, a beneficiary (other than a beneficiary whose death is the particular death or later death), and

(2) the aggregate of all amounts each of which is an amount that is included, because of the application of any of sections 92.5.2 and 653 to 656.3, in computing the amount that, but for this paragraph and paragraph *b*, would be the trust's income for the year—if the year is the year in which the particular death or later death, as the case may be, occurs and section 663.0.1 does not apply in respect of the trust for the year—and that is not included in computing the amount determined in accordance with subparagraph 1 for the year, and

ii.1. *(subparagraph repealed)*,

iii. *(subparagraph repealed)*,

iv. if the trust is a SIFT trust for the year, the amount by which the particular amount determined under subparagraph *i* in relation to the trust for the year exceeds the amount by which the particular amount exceeds its non-portfolio earnings for the year, within the meaning assigned by the first paragraph of section 1129.70; and

(*b*) the aggregate of all amounts determined in relation to the trust for the year under section 659;

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

History: 1972, c. 23, s. 493; 1973, c. 17, s. 74; 1975, c. 22, s. 183; 1977, c. 26, s. 70; 1984, c. 15, s. 140; 1986, c. 15, s. 93; 1990, c. 59, s. 221; 1994, c. 22, s. 229; 1997, c. 3, s. 71; 1997, c. 31, s. 64; 2003, c. 2, s. 161; 2004, c. 21, s. 91; 2006, c. 13, s. 42; 2009, c. 5, s. 202; 2015, c. 21, s. 216; 2015, c. 36, s. 36; 2017, c. 1, s. 152; 2017, c. 29, s. 84.

Interpretation Bulletins: IMP. 317-1/R1.

Corresponding Federal Provision: 104(6)(b) and (12).

Deduction in computing income of a trust.

657.1. Notwithstanding paragraph *a* of section 657,

(*a*) where that section applies to an employee trust, the amount that may be deducted by the trust under that

paragraph *a* is equal to the amount by which the amount that would, but for this section and that paragraph *a*, be its income for the year exceeds the amount by which the aggregate of its income for the year from a business exceeds the aggregate of its losses for the year from a business;

(*b*) where that section applies to a trust governed by an employee benefit plan or a trust the taxable income of which for the year is subject to tax under this Part because of section 921.1 or 961.16.1, the amount that may be deducted by such a trust under that paragraph *a* is equal to the part of the amount that, but for this section and that paragraph *a*, would be the income of the trust for the year, to the extent that that part is paid in the year to a beneficiary;

(*c*) where that section applies to a trust deemed by section 851.25 to exist in respect of a congregation that is a part of a religious organization, the amount that may be deducted by such a trust under that paragraph *a* is equal to such part of its income as became payable in the year to a beneficiary; and

(*d*) where that section applies to an employee life and health trust, the amount that may be deducted by such a trust under that paragraph *a* is equal to the amount that became payable by the trust in the year as a designated employee benefit (as defined in section 869.1).

History: 1982, c. 5, s. 137; 1984, c. 15, s. 141; 2000, c. 5, s. 142; 2003, c. 2, s. 162; 2011, c. 6, s. 140; 2017, c. 1, s. 153.

Corresponding Federal Provision: 104(6)(a) to (a.4).

Deductible amount.

657.10.1. If a trust, in its fiscal return for a taxation year under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), designates an amount in respect of a beneficiary under the trust, in accordance with subsection 13.1 or 13.2 of section 104 of that Act, the amount that the trust may deduct under paragraph *a* of section 657 in computing its income for the year may in no case be greater than the total obtained by adding the amount determined under the second paragraph to

(*a*) if the trust deducts a particular amount for the year under subsection 6 of that section 104 in computing its income for the purposes of that Act, the amount by which that particular amount exceeds the amount by which the aggregate of all amounts each of which is an amount that, but for those subsections 13.1 and 13.2, would be included in computing the income of a beneficiary under the trust for the year for the purposes of that Act because of subsection 13 of that section 104 or subsection 2 of section 105 of that Act, exceeds the aggregate of all amounts each of which is an amount that, but for sections 663.1 and 663.2, would be included in computing the income of a beneficiary under the trust for the year because of section 662 or 663; and

(*b*) zero, if subparagraph *a* does not apply.

Computation.

The amount to which the first paragraph refers is the amount by which the aggregate of all amounts each of which is an amount that, but for sections 663.1 and 663.2, would be included in computing the income of a beneficiary under the trust for the year because of section 662 or 663, exceeds the aggregate of all amounts each of which is an amount that, but for subsections 13.1 and 13.2 of section 104 of the Income Tax Act, would be included in computing the income of a beneficiary under the trust for the year for the purposes of that Act because of subsection 13 of that section 104 or subsection 2 of section 105 of that Act.

History: 2006, c. 13, s. 43.

Designated beneficiary.

657.1.1. No deduction may be made under paragraph *a* of section 657 in computing the income for a taxation year of a trust in respect of such part of an amount that would otherwise be its income for the year as became payable in the year to a beneficiary who was, at any time in the year, a designated beneficiary of the trust as that expression applies for the purposes of section 210.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) unless, throughout the year, the trust was resident in Canada.

History: 1994, c. 22, s. 230.

Corresponding Federal Provision: 104(7).

Trusts deemed to be resident in Canada.

657.1.2. A trust that is deemed, because of section 595, to be resident in Canada for a taxation year for the purpose of computing the trust's income for the year may not deduct, under paragraph *a* of section 657, in computing its income for the year, an amount greater than the amount determined in respect of the trust for the year in accordance with subsection 7.01 of section 104 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 2015, c. 36, s. 37.

Corresponding Federal Provision: 104(7.01).

Amount claimed as a gift.

657.1.3. No deduction may be made under paragraph *a* of section 657, for a taxation year, in computing the income of a succession that arose on and as a consequence of an individual's death in respect of a payment to the extent that the payment is a gift in respect of which an amount is deducted by the individual in computing the individual's tax payable for a taxation year under any of sections 752.0.10.6, 752.0.10.6.1 and 752.0.10.6.2.

History: 2017, c. 29, s. 85.

Corresponding Federal Provision: 104(7.02).

Interest in a trust.

657.2. Where it is reasonable to consider that one of the main purposes for the existence of any term, condition, right or other attribute of an interest in a trust, other than a personal trust, is to give a beneficiary a percentage interest in the property of the trust that is greater than his percentage interest in the income of the trust, no amount may be deducted by the trust in computing its income under paragraph *a* of section 657, except by reason of section 657.1.

History: 1988, c. 18, s. 56; 1990, c. 59, s. 222.

Corresponding Federal Provision: 104(7.1).

Avoidance of s. 657.2.

657.3. Notwithstanding any other provision of this Act, where a taxpayer acquires a right to or to acquire an interest in a trust, or a right to or to acquire a property of a trust, and it is reasonable to consider that one of the main purposes of the acquisition is to avoid the application of section 657.2 in respect of the trust, there shall be included in computing the income of the taxpayer for the taxation year in which he disposes of the right, otherwise than pursuant to the exercise thereof, the interest or the property, the amount by which the proceeds of disposition of the right, interest or property, as the case may be, exceeds its cost amount to the taxpayer.

History: 1988, c. 18, s. 56.

Corresponding Federal Provision: 104(7.2).

Deduction in computing income of a trust.

657.4. A trust shall, in computing its income for a taxation year, deduct tax paid by it for the year under Part XII.2 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 1990, c. 59, s. 223.

Corresponding Federal Provision: 104(30).

CHAPTER IV PREFERRED BENEFICIARY

Definitions:

658. In this Title,

“accumulating income”;

“accumulating income” of a trust for a taxation year means the amount that would be the income of the trust for the year if that amount were computed

(a) without reference to subparagraphs *a* and *a.1* of the first paragraph of section 653, sections 656.2 to 656.3.1, paragraph *b* of section 657 and section 691;

(b) as if the trust were deducting, in computing its income for the year under paragraph *a* of section 657, the greatest amount it would, but for section 657.1.0.1, be entitled to deduct for the year under that paragraph;

(c) (*paragraph repealed*);

(d) (*paragraph repealed*);

(e) without reference to section 92.5.2, except where that section applies to an amount paid to a trust described in the second paragraph of section 441.1 and before the death of the spouse referred to in that paragraph;

(f) without reference to section 92.5.3.1, except where that section applies to an amount paid to a trust described in the second paragraph of section 441.2 and before the death of the spouse referred to in that paragraph;

“preferred beneficiary”;

“preferred beneficiary” under a trust for a taxation year of the trust means a beneficiary under the trust at the end of the year who is resident in Canada at that time if

(a) the beneficiary is

i. an individual in respect of whom subparagraphs *a* to *c* of the first paragraph of section 752.0.14 apply for the individual’s taxation year, in this definition referred to as the “beneficiary’s year”, that ends in the taxation year of the trust, or

ii. an individual

(1) who attained the age of 18 years before the end of the beneficiary’s year, was a dependant of another individual for the beneficiary’s year and was dependent on the other individual because of an impairment in mental or physical functions, and

(2) whose income, computed without reference to section 659, for the beneficiary’s year does not exceed the amount used for that year under clause B of subparagraph ii of paragraph *a* of the definition of “preferred beneficiary” in subsection 1 of section 108 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement); and

(b) the beneficiary is

i. the settlor of the trust,

ii. the spouse or former spouse of the settlor of the trust, or

iii. a child, grandchild or great grandchild of the settlor of the trust or the spouse of any such person;

“settlor”.

“settlor”

(a) in relation to a testamentary trust, means the individual referred to in section 677; and

(b) in relation to an *inter vivos* trust,

i. if the trust is created by the transfer, assignment or other disposition of property thereto by not more than one individual and the fair market value of that property and of the property subsequently disposed of to the trust by the same individual exceeds the fair market value, at the time of

disposition, of property subsequently disposed of to the trust by any other person, means that individual, and

ii. if the trust is created by the transfer, assignment or any other disposition of property made jointly by an individual and his spouse and by no other person and the rule provided for in subparagraph i applies to that disposition, means that individual and his spouse.

Dependant of an individual.

In the first paragraph, a dependant of an individual for a taxation year means a person who, during the year, is described in paragraph *f* of section 752.0.1.

History: 1972, c. 23, s. 496; 1984, c. 15, s. 142; 1985, c. 25, s. 106; 1990, c. 59, s. 224; 1994, c. 22, s. 231; 1997, c. 31, s. 65; 2000, c. 5, s. 143; 2003, c. 2, s. 163; 2004, c. 21, s. 92; 2005, c. 1, s. 129; 2005, c. 38, s. 81; 2006, c. 13, s. 44; 2006, c. 36, s. 44; 2019, c. 14, s. 171.

Corresponding Federal Provision: 108(1)(a)(ii)(A).

Election by a trust and a preferred beneficiary.

659. If a trust and a preferred beneficiary under the trust for a taxation year of the trust make, in respect of the year, a valid election for the purposes of subsection 14 of section 104 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the lesser of the amount determined for the purposes of that subsection in respect of the beneficiary in relation to the trust for the year, in this section referred to as the “designated amount”, and the proportion of the amount attributable to the preferred beneficiary in respect of the trust for the year that the designated amount is of the aggregate of all amounts determined for the purposes of that subsection in respect of the preferred beneficiaries under the trust in relation to the trust for the year, is to be included in computing the income of the beneficiary for the beneficiary’s taxation year in which the taxation year of the trust ends and is not to be included in computing the income of a beneficiary under the trust for a subsequent taxation year.

History: 1972, c. 23, s. 497; 1973, c. 17, s. 75; 1997, c. 31, s. 65; 1999, c. 83, s. 55; 2006, c. 13, s. 45.

Corresponding Federal Provision: 104(14).

Filing requirements.

659.1. Where section 659 applies in respect of a taxation year, the trust and the preferred beneficiary having made, in respect of the year, a valid election under that section shall send to the Minister, on or before the trust’s filing-due date for the year, a copy of every document sent to the Minister of Revenue of Canada in connection with that election.

Notice to the Minister and penalty.

Where, as a consequence of the operation of subsection 3.2 of section 220 of the Income Tax Act (Revised Statutes of

Canada, 1985, chapter 1, 5th Supplement), the time for making a valid election referred to in section 659 is extended or such an election that was made is amended or rescinded, the following rules apply:

(a) the trust and the preferred beneficiary having made the election shall notify the Minister in writing and attach to the notice a copy of every document to that effect sent by the trust and the preferred beneficiary to the Minister of Revenue of Canada; and

(b) the trust incurs, jointly with the preferred beneficiary, a penalty equal to \$100 for each complete month in the period beginning on the trust's filing-due date for the year and ending on the day on which the notice referred to in subparagraph *a* is sent to the Minister, up to \$5,000.

Assessment by the Minister.

Notwithstanding sections 1010 to 1011, such assessments of tax, interest and penalties under this Part shall be made as are necessary by the Minister for any taxation year to take into account the election or the amended or rescinded election referred to in the second paragraph.

History: 1999, c. 83, s. 56; 2000, c. 5, s. 293; 2009, c. 5, s. 203.

659.2. (Repealed).

History: 2000, c. 5, s. 144; 2017, c. 1, s. 154.

Corresponding Federal Provision: 104(14.01) and (14.02).

Allocable amount for preferred beneficiary.

660. For the purposes of section 659, the allocable amount for a preferred beneficiary under a trust in respect of the trust for a taxation year is

(a) where the trust is, at the end of the year, an *alter ego* trust, a joint spousal trust, a post-1971 spousal trust or a pre-1972 spousal trust and a beneficiary, referred to in subparagraph *a* of the first paragraph of section 653 or in the definition of "pre-1972 spousal trust" in section 652.1, is alive at the end of the year, an amount equal to the trust's accumulating income for the year, if the preferred beneficiary is a beneficiary so referred to, and, in any other case, nil;

(b) where paragraph *a* does not apply and the preferred beneficiary's interest in the trust is not solely contingent on the death of another beneficiary who has a capital interest in the trust and who does not have an income interest in the trust, the trust's accumulating income for the year; and

(c) in any other case, nil.

History: 1972, c. 23, s. 498; 1973, c. 17, s. 76; 1975, c. 22, s. 185; 1977, c. 26, s. 71; 1978, c. 26, s. 111; 1994, c. 22, s. 232; 1995, c. 49, s. 236; 1997, c. 31, s. 66; 2003, c. 2, s. 164.

Corresponding Federal Provision: 104(15).

660.1. (Repealed).

History: 1994, c. 22, s. 233; 2009, c. 5, s. 204; 2017, c. 1, s. 155.

Corresponding Federal Provision: 104(14.1).

660.2. (Repealed).

History: 2004, c. 21, s. 93; 2017, c. 1, s. 155.

Corresponding Federal Provision: 104(14.2).

CHAPTER V

RULES RESPECTING THE COMPUTATION OF INCOME OF A BENEFICIARY

Amounts to include in computing income of beneficiary.

661. A taxpayer shall include, in computing his income for a taxation year, the value of all benefits received by him in the year under a trust, irrespective of when it was created, except to the extent that the value of such benefits is otherwise required to be included in computing his income for a taxation year, or has been deducted under paragraph *n* of section 257 in computing the adjusted cost base of his interest in the trust or would be so deducted if that paragraph applied in respect of such interest and were read without reference to subparagraph 3 of subparagraph *i.1* of the said paragraph.

History: 1972, c. 23, s. 499; 1990, c. 59, s. 225.

Corresponding Federal Provision: 105(1).

Maintenance expenses, taxes, paid by trust.

662. A reasonable amount, according to the circumstances, paid in a taxation year by a trust out of its own income for outlays, maintenance and taxes respecting a property which, under the trust arrangement, must be maintained for the use of a usufructuary for life or a beneficiary, must be included in computing the income of the latter from the trust for that year.

History: 1972, c. 23, s. 500.

Corresponding Federal Provision: 105(2).

Income of trust to be included in computing income of beneficiary.

663. A beneficiary of a trust shall include, in computing his income for a particular taxation year,

(a) in the case of a trust, other than a trust referred to in subparagraph *a* of the third paragraph of section 647, such part of the amount that, but for paragraphs *a* and *b* of section 657, would be the trust's income for the trust's taxation year that ended in the particular year as became payable in the trust's taxation year to the beneficiary; and

(b) in the case of a trust governed by an employee benefit plan to which the beneficiary has contributed as an employer, such part of the amount that, but for paragraphs *a* and *b* of section 657, would be the trust's income for its taxation year that ended in the particular year as was paid to the beneficiary in that taxation year of the trust;

(c) (*paragraph repealed*).

History: 1972, c. 23, s. 501; 1978, c. 26, s. 112; 1982, c. 5, s. 138; 1984, c. 15, s. 143; 1990, c. 59, s. 226; 1991, c. 25, s. 176; 2003, c. 2, s. 165.

Corresponding Federal Provision: 104(13).

Death of beneficiary.

663.0.1. If an individual's death occurs on a day in a particular taxation year of a trust and the death is the death or later death referred to in any of subparagraphs *a*, *a.1* and *a.4* of the first paragraph of section 653 in respect of the trust, the following rules apply:

(a) the particular taxation year is deemed to end at the end of that day and a new taxation year of the trust is deemed to begin immediately after that day;

(b) subject to the second paragraph, the trust's income (determined without reference to section 657) for the particular taxation year is, despite section 652, deemed to have become payable in the year to the individual and not to have become payable to another beneficiary or to be included under section 662 in computing the individual's income; and

(c) in respect of the particular taxation year

i. subparagraph ii of paragraph *b* of the definition of "balance-due day" in section 1 is to be read as if "the taxation year" were replaced by "the calendar year in which the taxation year ends",

ii. paragraph *d* of subsection 2 of section 1000 is to be read as if "its taxation year" were replaced by "the calendar year in which its taxation year ends", and

iii. the second paragraph of section 1086R57 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) is to be read as if "end of the taxation year" were replaced by "end of the calendar year in which the taxation year ends".

Non-application of paragraph *b*.

Subparagraph *b* of the first paragraph does not apply in respect of the trust for the particular year, unless

(a) the individual is resident in Canada immediately before the death;

(b) the trust is, immediately before the death, a testamentary trust that is a post-1971 spousal trust created by the will of a taxpayer who died before 1 January 2017; and

(c) the trust and the legal representative administering the succession of the individual that is a graduated rate estate have made a valid election under subparagraph iii of paragraph *b.1* of subsection 13.4 of section 104 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) to have paragraph *b* of that

subsection 13.4 apply in respect of the trust for the particular year.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subparagraph iii of paragraph *b.1* of subsection 13.4 of section 104 of the Income Tax Act.

History: 2017, c. 1, s. 156; 2017, c. 29, s. 86.

Corresponding Federal Provision: 104(13.4).

Amount deemed not paid nor payable.

663.1. Subject to section 671.7, where a trust, in its fiscal return for a taxation year under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in accordance with subsection 13.1 of section 104 of that Act, designates an amount in respect of a beneficiary under the trust, the lesser of the amount so designated and the amount determined under the second paragraph in respect of the beneficiary for the year, is deemed, for the purposes of sections 662 and 663, not to have been paid or to have become payable in the year to or for the benefit of the beneficiary or out of income of the trust.

Determination of amount.

The amount referred to in the first paragraph is, in respect of a beneficiary under a trust for a taxation year of the trust, determined by the following formula:

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

Interpretation.

For the purposes of the formula contemplated in the second paragraph,

(a) *A* is the beneficiary's share of the income of the trust for the year, computed without reference to this Act;

(b) *B* is the aggregate of all amounts each of which is a beneficiary's share of the income of the trust for the year, computed without reference to this Act;

(c) *C* is the aggregate of all amounts each of which is an amount that, but for this section and section 663.2, would be included in computing the income of a beneficiary under the trust for the year by reason of section 662 or 663;

(d) *D* is the amount deducted under paragraph *a* of section 657 in computing the income of the trust for the year;

(e) *E* is the amount determined by the trust for the year and used as the value of *C* for the purposes of the formula contemplated in the second paragraph of section 663.2 or, if no amount is so determined, nil.

Filing requirements.

A trust that designates an amount in respect of a beneficiary, in accordance with the first paragraph, in respect of a taxation year shall notify the Minister in writing on or before its filing-due date for the year.

History: 1990, c. 59, s. 227; 1999, c. 83, s. 57; 2004, c. 21, s. 94.

Corresponding Federal Provision: 104(13.1).

Taxable capital gain deemed not paid nor payable.

663.2. Subject to section 671.7, where a trust, in its fiscal return for a taxation year under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in accordance with subsection 13.2 of section 104 of that Act, designates an amount in respect of a beneficiary under the trust, the lesser of the amount so designated and the amount determined under the second paragraph in respect of the beneficiary for the year, is deemed, for the purposes of sections 662 and 663, except where section 663 applies for the purposes of section 668, not to have been paid or to have become payable in the year to or for the benefit of the beneficiary or out of income of the trust, and, except for the purposes of section 668 as it applies for the purposes of sections 668.0.1 to 668.2, shall reduce the amount of the taxable capital gain of the beneficiary otherwise included in computing the beneficiary's income for the year by reason of section 668.

Determination of amount.

The amount referred to in the first paragraph is, in respect of a beneficiary under a trust for a taxation year of the trust, determined by the following formula:

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

Interpretation.

In the formula in the second paragraph,

(a) A is the amount designated by the trust for the year in respect of the beneficiary under section 668;

(b) B is the aggregate of all amounts each of which has been designated for the year under section 668 in respect of a beneficiary under the trust;

(c) C is the amount determined by the trust and used in computing each of the amounts determined for the year in respect of its beneficiaries under the second paragraph, not exceeding the amount by which the aggregate of all amounts each of which is an amount that, but for this section and section 663.1, would be included in computing the income of a beneficiary under the trust by reason of section 662 or 663 for the year exceeds the amount deducted under paragraph a of section 657 in computing the income of the trust for the year;

(d) where B is an amount equal to zero, the fraction of which it is the denominator is deemed to be equal to the fraction that would be established if A were the amount attributed by the trust for the year to the beneficiary under subsection 21 of section 104 of the Income Tax Act and if B were the aggregate of all amounts each of which is an amount attributed for the year to a beneficiary under the trust under that subsection 21.

Filing requirements.

A trust that designates an amount in respect of a beneficiary, in accordance with the first paragraph, in respect of a taxation year shall notify the Minister in writing on or before its filing-due date for the year.

History: 1990, c. 59, s. 227; 1999, c. 83, s. 58; 2004, c. 21, s. 95; 2006, c. 13, s. 46.

Corresponding Federal Provision: 104(13.2).

Invalid designation.

663.2.1. Where a designation referred to in section 663.1 or 663.2 and made by a trust in its fiscal return filed for a taxation year under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in accordance with subsection 13.1 or 13.2, as the case may be, of section 104 of that Act, is invalid for the purposes of that Act under subsection 13.3 of section 104 of that Act, section 663.1 or 663.2, as the case may be, does not apply in respect of the designation for the year.

History: 2017, c. 1, s. 157.

Corresponding Federal Provision: 104(13.3).

Amount deemed payable.

663.3. For the purposes of section 663, an amount referred to in subsection 31 of section 104 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) regarding a beneficiary under a trust in respect of a taxation year of the trust is deemed to be income of the trust for the year that has become payable by the trust to the beneficiary at the end of that year.

History: 1990, c. 59, s. 227.

Corresponding Federal Provision: 104(31).

Deemed dividend of beneficiary of SIFT trust.

663.4. If an amount (in this section referred to as the "SIFT trust's non-deductible distributions amount for the taxation year") is determined under subparagraph iv of paragraph a of section 657 for a taxation year, in relation to a SIFT trust, the following rules apply:

(a) each beneficiary under the SIFT trust to whom at any time in the year an amount became payable by the trust is deemed to have received at that time a taxable dividend that was paid at that time by a taxable Canadian corporation;

(b) the amount of a dividend that, in accordance with subparagraph *a*, is deemed to have been received by a particular beneficiary at any time in a taxation year is equal to the amount determined by the formula

$A / B \times C$; and

(c) the amount of a dividend described in subparagraph *a* in relation to a beneficiary under the SIFT trust is deemed for the purposes of section 663 not to have become payable to the beneficiary.

Interpretation.

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

(a) *A* is the amount that became payable at the time determined under that subparagraph *b* by the SIFT trust to the particular beneficiary;

(b) *B* is the aggregate of all amounts each of which is an amount that became payable at any time in the taxation year by the SIFT trust to a beneficiary; and

(c) *C* is the SIFT trust's non-deductible distributions amount for the taxation year.

History: 2009, c. 5, s. 205.

Corresponding Federal Provision: 104(16).

Beneficiary less than 21 years of age.

664. Notwithstanding section 652, any part of the amount that, but for paragraphs *a* and *b* of section 657, would be the income of a trust for a taxation year throughout which it was resident in Canada is, for the purposes of paragraph *a* of section 657 and section 663, deemed to have become payable to an individual in the year if

(a) that part of the amount has not become payable in the year;

(b) that part of the amount was held in trust for an individual who did not attain 21 years of age before the end of the year;

(c) the right to that part of the amount vested in the individual at or before the end of the year otherwise than because of the exercise by any person of, or the failure of any person to exercise, any discretionary power; and

(d) the right to that part of the amount is not subject to any future condition, other than a condition that the individual survive to an age not exceeding 40 years.

History: 1972, c. 23, s. 502; 1990, c. 59, s. 228; 1997, c. 31, s. 67; 2010, c. 25, s. 50.

Corresponding Federal Provision: 104(18).

Income interest in a trust.

665. A taxpayer who has included in computing his income for a taxation year, under section 663 or 684, an

amount in respect of his income interest in the trust may deduct, for the same year, except to the extent that an amount in respect thereof has been deducted in computing his taxable income pursuant to section 738 or 845, the lesser of such amount and the excess of the cost of his interest over the aggregate of the amounts deductible as such under this section in computing his income for previous taxation years.

History: 1972, c. 23, s. 503; 1984, c. 15, s. 144; 1988, c. 18, s. 57; 1989, c. 5, s. 77.

Corresponding Federal Provision: 106(1).

Cost of income interest in a trust.

665.1. The cost to a taxpayer of an income interest of the taxpayer in a trust is deemed to be nil unless any part of the interest was acquired by the taxpayer from a person who was the beneficiary in respect of the interest immediately before its acquisition by the taxpayer, or the cost of any part of the interest would be determined not to be nil under paragraph *c* of section 785.1 or subparagraph *c* of the first paragraph of section 785.2.

History: 1984, c. 15, s. 144; 2003, c. 2, s. 166; 2009, c. 5, s. 206.

Corresponding Federal Provision: 106(1.1).

Allocation of taxable dividends.

666. A portion of a taxable dividend received by a trust, in a particular taxation year of the trust, on a share of the capital stock of a taxable Canadian corporation, is deemed, for the purposes of the second paragraph of section 497, the third and fourth paragraphs of section 686 and sections 738 to 745, not to have been received by the trust and is deemed, for the purposes of this Part, to be a taxable dividend on the share received by a taxpayer in the taxpayer's taxation year in which the particular year ends if

(a) an amount equal to that portion is designated by the trust, in respect of the taxpayer, in the trust's fiscal return filed under this Part for the particular year and may reasonably be considered, having regard to all the circumstances including the terms and conditions of the trust arrangement, to be part of the amount that, because of any of sections 659, 661 and 662 or paragraph *a* of section 663, was included in computing the income for that taxation year of the taxpayer;

(b) the taxpayer is in the particular year a beneficiary under the trust;

(c) the trust is, throughout the particular year, resident in Canada; and

(d) the aggregate of all amounts each of which is an amount designated, under this section, by the trust in respect of a beneficiary under the trust in the trust's fiscal return filed under this Part for the particular year is not greater than the aggregate of all amounts each of which is the amount of a taxable dividend, received by the trust in the particular year,

on a share of the capital stock of a taxable Canadian corporation.

History: 1972, c. 23, s. 504; 1984, c. 15, s. 145; 1990, c. 59, s. 229; 1997, c. 3, s. 71; 2003, c. 2, s. 166; 2009, c. 5, s. 207.

Corresponding Federal Provision: 104(19).

Designation in respect of non-taxable dividends.

667. For the purposes of subparagraph 3 of subparagraph i.1 of paragraph *n* of section 257, the third and fourth paragraphs of section 686 and sections 741.2, 742, 742.2 and 744.2, the portion of the aggregate of all amounts each of which is the amount of a dividend, other than a taxable dividend, paid to a trust in a taxation year throughout which it was resident in Canada, in respect of a share of the capital stock of a corporation resident in Canada, that may reasonably be considered, having regard to the circumstances and the terms and conditions of the trust arrangement, to be part of an amount that became payable in the year to a beneficiary under the trust shall be designated by the trust, in its fiscal return for the year, in respect of the beneficiary.

History: 1972, c. 23, s. 505; 1990, c. 59, s. 230; 1997, c. 3, s. 71; 2000, c. 5, s. 145; 2001, c. 7, s. 70.

Corresponding Federal Provision: 104(20).

Allocation of taxable capital gains.

668. For the purposes of sections 28 and 727 to 737, except as they apply to Title VI.5 of Book IV, an amount of a trust's net taxable capital gains for a particular taxation year of the trust is deemed to be a taxable capital gain, for the taxation year of a taxpayer in which the particular year ends, from the disposition by the taxpayer of capital property if

(a) the amount is designated by the trust, in respect of the taxpayer, in the trust's fiscal return filed under this Part for the particular year and may reasonably be considered, having regard to all the circumstances including the terms and conditions of the trust arrangement, to be part of the amount that, because of any of sections 659, 661 and 662 or paragraph *a* of section 663, was included in computing the income for that taxation year of the taxpayer;

(b) the taxpayer is

- i. in the particular year, a beneficiary under the trust, and
 - ii. resident in Canada, unless the trust is, throughout the particular year, a mutual fund trust;
- (c) the trust is, throughout the particular year, resident in Canada; and

(d) the aggregate of all amounts each of which is an amount designated, under this section, by the trust in respect of a beneficiary under the trust in the trust's fiscal return filed

under this Part for the particular year is not greater than the trust's net taxable capital gains for the particular year.

History: 1972, c. 23, s. 506; 1975, c. 22, s. 186; 1977, c. 26, s. 72; 1985, c. 25, s. 107; 1987, c. 67, s. 130; 1990, c. 59, s. 231; 1996, c. 39, s. 273; 2009, c. 5, s. 208.

Corresponding Federal Provision: 104(21) before (a), (a) and (b).

668.0.1. (*Repealed*).

History: 1990, c. 59, s. 232; 2015, c. 21, s. 217.

Corresponding Federal Provision: 104(21.1).

Late, amended or revoked designation.

668.0.2. A trust that has filed its fiscal return for its taxation year that includes 22 February 1994 may subsequently designate an amount under section 668 for that year, or amend or revoke a designation made under that section for that year where the designation, amendment or revocation

(a) is made solely because of an increase or decrease in the net taxable capital gains of the trust for the year that results from an election or revocation to which section 726.9.8, 726.9.9 or 726.9.10 applies; and

(b) is filed with the Minister, with an amended fiscal return for the year, when the election or revocation referred to in subparagraph *a* is filed with the Minister.

Conditions.

A designation, amendment or revocation made in accordance with the first paragraph for the taxation year referred to in that paragraph that affects an amount determined in respect of a beneficiary under section 668.1 may be made only where the trust

(a) designates an amount, or amends or revokes a designation made, under section 668.1 for that year in respect of the beneficiary; and

(b) files the designation, amendment or revocation referred to in subparagraph *a* with the Minister when required by subparagraph *b* of the first paragraph.

Presumptions.

Where a trust designates an amount, or amends or revokes a designation, under section 668 or 668.1 in accordance with this section, the designation or amended designation, as the case may be, is deemed to have been made in the trust's fiscal return for the trust's taxation year that includes 22 February 1994, and the designation that was revoked is deemed, other than for the purposes of this section, never to have been made.

History: 2000, c. 5, s. 146.

Corresponding Federal Provision: 104(21.01), (21.02) and (21.03).

Beneficiaries' taxable capital gain.

668.1. Where, for the purposes of section 668, a personal trust or a trust referred to in section 53 designates an amount in respect of a beneficiary in respect of its net taxable capital gains for a taxation year (in this section and section 668.2 referred to as the “designation year”), the following rules apply:

(a) the trust shall in its fiscal return filed under this Part for the designation year designate an amount in respect of its eligible taxable capital gains for the designation year in respect of the beneficiary equal to the amount determined in respect of the beneficiary under each of subparagraphs i and ii of paragraph b;

(b) the beneficiary is deemed, for the purposes of sections 28, 462.8 to 462.10 and 727 to 737, as they apply for the purposes of Title VI.5 of Book IV, and Divisions III and IV of Chapter II.1 of Title I of Book V, to have disposed of a capital property referred to in subparagraph i or ii if a capital gain is determined under either of those subparagraphs in respect of the beneficiary for the beneficiary's taxation year in which the designation year ends and to have a taxable capital gain for that taxation year

i. from a disposition of capital property that is qualified farm or fishing property of the beneficiary equal to the amount determined by the formula

$$(A \times B \times C) / (D \times E);$$

ii. from a disposition of capital property that is a qualified small business corporation share of the beneficiary equal to the amount determined by the formula

$$(A \times B \times F) / (D \times E); \text{ and}$$

iii. *(subparagraph repealed)*;

(c) for the purposes of Title VI.5 of Book IV, the capital property referred to in paragraph b is deemed to have been disposed of by the beneficiary in the beneficiary's taxation year in which the designation year ends.

History: 1987, c. 67, s. 130; 1990, c. 59, s. 233; 1996, c. 39, s. 174; 1997, c. 3, s. 71; 2003, c. 2, s. 167; 2007, c. 12, s. 69; 2009, c. 15, s. 97; 2017, c. 29, s. 87; 2020, c. 16, s. 97.

Corresponding Federal Provision: 104(21.2) before (b)(ii) A.

Interpretation.

668.2. For the purposes of the formulas in subparagraphs i and ii of paragraph b of section 668.1,

(a) A is the lesser of

i. the amount by which the aggregate of amounts designated under section 668 for the designation year by the trust

exceeds the aggregate of the amounts determined in relation to the trust under section 663.2 for the designation year, and

ii. the trust's eligible taxable capital gains for the designation year;

(b) B is the amount by which the amount designated under section 668 for the designation year by the trust in respect of the beneficiary exceeds the amount determined in relation to the trust in respect of the beneficiary under section 663.2 for the taxation year;

(c) C is the amount that would be determined under paragraph b of section 28 for the designation year in respect of the trust's capital gains and capital losses if the only properties referred to in that paragraph were, at the time they were disposed of, qualified farm properties, qualified fishing properties or qualified farm or fishing properties of the trust;

(d) D is the aggregate of all amounts each of which is the amount determined under paragraph b for the designation year in respect of a beneficiary under the trust;

(e) E is the aggregate of the amounts determined under paragraphs c and f for the designation year in respect of the beneficiary; and

(f) F is the amount that would be determined under paragraph b of section 28 for the designation year in respect of the trust's capital gains and capital losses if the only properties referred to in that paragraph were, at the time they were disposed of, qualified small business corporation shares of the trust, other than qualified farm properties, qualified fishing properties or qualified farm or fishing properties;

(g) *(paragraph repealed)*.

History: 1987, c. 67, s. 130; 1990, c. 59, s. 233; 1993, c. 16, s. 243; 1994, c. 22, s. 234; 1996, c. 39, s. 174; 1997, c. 3, s. 71; 2006, c. 13, s. 47; 2007, c. 12, s. 70; 2017, c. 29, s. 88.

Corresponding Federal Provision: 104(21.2)(b)(ii) A to I.

668.2.1. *(Repealed)*.

History: 2009, c. 15, s. 98; 2017, c. 29, s. 89.

Corresponding Federal Provision: 104(21.21) to (21.24).

668.2.2. *(Repealed)*.

History: 2009, c. 15, s. 98; 2017, c. 29, s. 89.

Corresponding Federal Provision: 104(21.21) to (21.24).

668.2.3. *(Repealed)*.

History: 2009, c. 15, s. 98; 2017, c. 29, s. 89.

Corresponding Federal Provision: 104(21.21) to (21.24).

668.2.4. *(Repealed)*.

History: 2009, c. 15, s. 98; 2017, c. 29, s. 89.

Corresponding Federal Provision: 104(21.21) to (21.24).

Net taxable capital gains of a trust.

668.3. For the purposes of sections 668 to 668.2, the net taxable capital gains of a trust for a taxation year are the amount determined by the formula

$$A + B - C - D.$$

Interpretation.

In the formula in the first paragraph,

(a) A is the aggregate of all amounts each of which is the taxable capital gain of the trust for the year from the disposition of a capital property that was held by the trust immediately before the disposition;

(b) B is the aggregate of all amounts each of which is an amount deemed under section 668 to be a taxable capital gain of the trust for the year;

(c) C is the aggregate of all amounts each of which is the allowable capital loss (other than an allowable business investment loss) of the trust for the year from the disposition of a capital property; and

(d) D is the net capital losses deducted by the trust under section 729 in computing its taxable income for the year.

History: 1987, c. 67, s. 130; 1989, c. 5, s. 78; 1990, c. 59, s. 234; 2015, c. 21, s. 218.

Corresponding Federal Provision: 104(21.3).

Definitions:

668.4. For the purposes of sections 668.1 and 668.2,

“eligible taxable capital gains”;

“eligible taxable capital gains” of a trust for a taxation year means the lesser of

(a) its annual gains limit, within the meaning assigned by the first paragraph of section 726.6, for the year; and

(b) the amount by which its cumulative gains limit, within the meaning assigned by the first paragraph of section 726.6, at the end of the year, exceeds the aggregate of all amounts designated under sections 668.1 and 668.2 by the trust in respect of beneficiaries for taxation years before that year;

“qualified farm or fishing property”;

“qualified farm or fishing property” of an individual has the meaning assigned by subparagraph a.0.2 of the first paragraph of section 726.6;

“qualified farm property”;

“qualified farm property” of an individual has the meaning assigned by subparagraph a of the first paragraph of section 726.6, as it read before being struck out;

“qualified fishing property”;

“qualified fishing property” of an individual has the meaning assigned by subparagraph a.0.1 of the first paragraph of section 726.6, as it read before being struck out;

“qualified small business corporation share”.

“qualified small business corporation share” of an individual has the meaning assigned to it by section 726.6.1.

History: 1987, c. 67, s. 130; 1990, c. 59, s. 235; 1994, c. 22, s. 235; 1995, c. 49, s. 153; 1996, c. 39, s. 175; 1997, c. 3, s. 71; 2007, c. 12, s. 71; 2009, c. 15, s. 99; 2017, c. 29, s. 90; 2019, c. 14, s. 172.

Corresponding Federal Provision: 108(1).

668.5. (Repealed).

History: 2003, c. 2, s. 168; 2015, c. 21, s. 219.

Corresponding Federal Provision: 104(21.4).

668.6. (Repealed).

History: 2003, c. 2, s. 168; 2015, c. 21, s. 219.

Corresponding Federal Provision: 104(21.5).

668.7. (Repealed).

History: 2003, c. 2, s. 168; 2009, c. 5, s. 209; 2015, c. 21, s. 219.

Corresponding Federal Provision: 104(21.6).

668.8. (Repealed).

History: 2003, c. 2, s. 168; 2015, c. 21, s. 219.

Corresponding Federal Provision: 104(21.7).

669. (Repealed).

History: 1975, c. 21, s. 17; 1975, c. 22, s. 187; 1978, c. 26, s. 113; 1982, c. 56, s. 14; 1987, c. 21, s. 15; 1989, c. 5, s. 79.

Pension benefits.

669.1. Where a trust, in a taxation year in which it is resident in Canada and is a succession that is the graduated rate estate of an individual, receives a pension benefit or a benefit out of or under a foreign retirement arrangement and designates, in its fiscal return for the year under this Part, an amount in respect of a beneficiary under the trust equal to such portion (in this section referred to as the “beneficiary’s share”) of the benefit as was designated by the trust exclusively in respect of the beneficiary and as may reasonably be considered (having regard to all the circumstances including the terms and conditions of the trust arrangement) to be part of the amount that, by reason of section 663, was included in computing the income of the beneficiary for a particular taxation year, the beneficiary’s share of the benefit is deemed, for the purposes of section 752.0.8, to be a payment described in subparagraph i of paragraph a of that section that is included in computing the beneficiary’s income for the particular taxation year where

the benefit is an amount described in that subparagraph i and the beneficiary is the spouse of the individual.

History: 1984, c. 15, s. 146; 1988, c. 18, s. 58; 1989, c. 5, s. 80; 1991, c. 25, s. 82; 1993, c. 16, s. 244; 1994, c. 22, s. 236; 1997, c. 85, s. 102; 1999, c. 83, s. 59; 2017, c. 1, s. 158.

Corresponding Federal Provision: 104(27).

669.1.1. (*Repealed*).

History: 1991, c. 25, s. 83; 1999, c. 83, s. 60.

Death benefits.

669.2. The amount received by the succession that is a graduated rate estate of an individual on or after the individual's death in recognition of the individual's service in an office or employment is deemed to be an amount received by a particular beneficiary under the succession at a particular time on or after the individual's death in recognition of the individual's service in an office or employment and, except for the purposes of this section, not to have been received by the succession to the extent that the amount may reasonably be considered (having regard to all the circumstances including the terms and conditions of the trust arrangement) to be paid or payable at the particular time to the particular beneficiary.

History: 1984, c. 15, s. 146; 2017, c. 1, s. 159.

Corresponding Federal Provision: 104(28).

Amount deemed payable by the trust.

669.3. For the purposes of sections 657 and 663, the amount designated by a trust in its fiscal return filed under this Part for a taxation year beginning before 1 January 2007 throughout which it was resident in Canada which does not exceed the amount determined in accordance with section 669.4 is deemed to have become payable by the trust to its beneficiaries in the year according to the share designated in the fiscal return for each of the beneficiaries.

Conditions.

The first paragraph does not apply unless the designated shares referred to in that paragraph are reasonable having regard to the portions of the income of the trust for the year determined without reference to the provisions of this Act which are included in computing the income of the beneficiaries for the year.

History: 1986, c. 15, s. 94; 1989, c. 5, s. 81; 1990, c. 59, s. 236; 2005, c. 1, s. 130.

Corresponding Federal Provision: 104(29) before (a).

Computation.

669.4. For the purposes of the first paragraph of section 669.3, the amount that may be designated by a trust under that section in respect of a taxation year shall not exceed the amount determined by the formula

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

Interpretation.

In the formula provided for in the first paragraph,

(a) A is the aggregate of all amounts each of which is an amount that

i. is not deductible in computing the trust's income for the year, but that would be deductible were it not for section 144, or

ii. is required to be included in computing the trust's income for the year under section 89 or 425 or because of an amount designated under section 669.3 by another trust;

(b) B is the aggregate of all amounts each of which is an amount that

i. is deductible in computing the trust's income for the year under section 145, otherwise than because of the membership of the trust in a partnership, or

ii. is not included in computing the trust's income for the year, but that would be deductible were it not for section 486;

(c) C is the aggregate of all amounts each of which is a portion of the trust's income for the year, determined without reference to the provisions of this Act, that is payable in the year to a beneficiary of the trust or that is required to be included in computing the income of such a beneficiary for the year under section 662; and

(d) D is the trust's income for the year, determined without reference to the provisions of this Act.

History: 1986, c. 15, s. 94; 1987, c. 67, s. 131; 1994, c. 22, s. 237; 1997, c. 3, s. 71; 2005, c. 1, s. 130.

Corresponding Federal Provision: 104(29)(a) and (b).

Amount deemed received by a beneficiary.

669.5. If a testamentary trust receives, in a taxation year, an amount under an income-averaging annuity contract respecting income from artistic activities, that amount is deemed, for the purposes of paragraphs c and d.1 of section 312 and section 1129.68, to be an amount received at a particular time by a particular beneficiary under the trust, and not to have been received by the trust, to the extent that the amount may reasonably be considered, having regard to the circumstances and the terms and conditions of the trust arrangement, to be paid or payable at the particular time to the particular beneficiary.

History: 2005, c. 23, s. 54.

670. (*Repealed*).

History: 1972, c. 23, s. 507; 1978, c. 26, s. 114; 1990, c. 59, s. 237.

670.1. *(Repealed).*

History: 1984, c. 15, s. 147; 1988, c. 18, s. 59; 1990, c. 59, s. 237.

670.2. *(Repealed).*

History: 1988, c. 18, s. 60; 1990, c. 59, s. 237.

Designation of foreign source income.

671. For the purposes of this section and sections 146.1, 671.1 and 772.2 to 772.13, an amount in respect of a trust's income for a particular taxation year of the trust from a source situated in a foreign country, is deemed to be income of a taxpayer, for the taxation year of the taxpayer in which the particular year ends, from that source if

(a) the amount is designated by the trust, in respect of the taxpayer, in the trust's fiscal return filed under this Part for the particular year and may reasonably be considered, having regard to all the circumstances including the terms and conditions of the trust arrangement, to be part of the amount that, because of section 659 or paragraph *a* of section 663, was included in computing the income for that taxation year of the taxpayer;

(b) the taxpayer is in the particular year a beneficiary under the trust;

(c) the trust is, throughout the particular year, resident in Canada; and

(d) the aggregate of all amounts each of which is an amount designated, under this section in respect of that source, by the trust in respect of a beneficiary under the trust in the trust's fiscal return filed under this Part for the particular year is not greater than the trust's income for the particular year from that source.

History: 1972, c. 23, s. 508; 1972, c. 26, s. 52; 1973, c. 18, s. 23; 1982, c. 5, s. 139; 1984, c. 15, s. 148; 1990, c. 59, s. 238; 1995, c. 63, s. 47; 2009, c. 5, s. 210.

Corresponding Federal Provision: 104(22).

Foreign tax deemed paid by a beneficiary.

671.1. A taxpayer who is a beneficiary under a trust is deemed, for the purposes of this section and sections 146.1 and 772.2 to 772.13, to have paid to the government of a foreign country or political subdivision of a foreign country, as business-income tax or non-business-income tax, as the case may be, for a particular taxation year in respect of a particular source situated in that country, the amount determined by the formula

$$A \times B / C.$$

Interpretation.

For the purposes of the formula in the first paragraph,

(a) A is the amount that, but for section 671.3, would be the business-income tax or non-business-income tax, as the case may be, paid by the trust to the government of the foreign country or political subdivision of the foreign country in respect of the particular source for a taxation year, referred to in this paragraph as "that year", of the trust that ends in the particular year;

(b) B is the amount deemed, because of a designation made in accordance with section 671 for that year by the trust, to be the taxpayer's income from the particular source; and

(c) C is the trust's income for that year from the particular source.

History: 1995, c. 63, s. 48.

Corresponding Federal Provision: 104(22.1).

Recalculation of a trust's foreign source income.

671.2. For the purposes of sections 772.2 to 772.13, there shall be deducted in computing a trust's income from a particular source for a taxation year the aggregate of all amounts each of which is an amount deemed, because of a designation under section 671 by the trust for the year, to be income of beneficiaries under the trust from that source.

History: 1995, c. 63, s. 48.

Corresponding Federal Provision: 104(22.2).

Recalculation of a trust's foreign tax.

671.3. For the purposes of sections 146.1 and 772.2 to 772.13, there shall be deducted in computing the business-income tax or non-business-income tax, as the case may be, paid by a trust to the government of a foreign country or political subdivision of a foreign country in respect of a particular source situated in that country for a taxation year the aggregate of all amounts each of which is an amount deemed, because of a designation under section 671 by the trust for the year, to be paid by beneficiaries under the trust as business-income tax or non-business-income tax, as the case may be, in respect of that source.

History: 1995, c. 63, s. 48.

Corresponding Federal Provision: 104(22.3).

Definitions.

671.4. In sections 671 to 671.3, "business-income tax" and "non-business-income tax" have the meanings assigned by section 772.2.

History: 1995, c. 63, s. 48.

Corresponding Federal Provision: 104(22.4).

CHAPTER V.1**BENEFICIARY UNDER A DESIGNATED TRUST****Definitions:**

671.5. In this chapter,

“designated beneficiary”;

“designated beneficiary” under a designated trust for a taxation year of the designated trust means a tax-liable beneficiary under the designated trust for the year or, if a beneficiary under the designated trust is a partnership, a tax-liable member of the partnership for the partnership’s fiscal period in which the designated trust’s taxation year ends, who has for the year, with any person or partnership with whom the beneficiary or the member is not dealing at arm’s length, a share of the aggregate of the income interests in the designated trust that is an amount of \$5,000 or more, or a share of the aggregate of the income interests in the designated trust or of the aggregate of the capital interests in the designated trust that corresponds to at least 10% of the aggregate of the income interests or of the aggregate of the capital interests in the designated trust;

“designated trust”;

“designated trust” means a trust that is resident in Canada but outside Québec on the last day of a taxation year, but does not include a unit trust or a trust described in any of paragraphs *a* to *e.1* of the definition of “trust” in subsection 1 of section 108 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

“tax-liable beneficiary”;

“tax-liable beneficiary” under a designated trust for a particular taxation year of the designated trust means a beneficiary under the designated trust who is

(a) an individual who is resident in Québec on the last day of the individual’s taxation year in which the particular taxation year ends; or

(b) a corporation that has an establishment in Québec at any time in the corporation’s taxation year in which the particular taxation year ends;

“tax-liable member”.

“tax-liable member” of a partnership for a fiscal period of the partnership in which ends a taxation year of a designated trust of which the partnership is a beneficiary, means a member of the partnership who is

(a) an individual who is resident in Québec on the last day of the individual’s taxation year in which the fiscal period ends; or

(b) a corporation that has an establishment in Québec at any time in the corporation’s taxation year in which the fiscal period ends.

Special rules.

For the purposes of the definitions of “tax-liable beneficiary” and “tax-liable member” in the first paragraph, the following rules apply:

(a) if an individual dies or ceases to be resident in Canada in a taxation year, the last day of the individual’s taxation year is the day of the individual’s death or the last day on which the individual was resident in Canada; and

(b) if an individual to whom the first paragraph of section 25 applies is a beneficiary under a designated trust or a member of a partnership that is a beneficiary under a designated trust, the individual is not a tax-liable beneficiary under the designated trust or a tax-liable member of the partnership, as the case may be, even though the individual is deemed to be resident in Québec on the last day of a taxation year for the purposes of the second paragraph of section 25.

History: 2004, c. 21, s. 96; 2011, c. 6, s. 141.

Share in a designated trust reduced.

671.6. For the purposes of this chapter, the Minister may determine that a beneficiary under a designated trust for a taxation year of the designated trust, or a member of a partnership that is a beneficiary under a designated trust for a taxation year of the designated trust, is a designated beneficiary under the designated trust for the year, if the Minister is of the opinion that the share, for the year, of the aggregate of the income interests or of the aggregate of the capital interests in the designated trust of the beneficiary or member, or of the aggregate of the income interests or of the aggregate of the capital interests in the designated trust of any person or partnership with whom or with which the beneficiary or member is not dealing at arm’s length, has been reduced by reason of a transaction or event or a series of transactions or events.

History: 2004, c. 21, s. 96.

Amount designated by a designated trust in respect of a designated beneficiary.

671.7. Where a designated trust, in its fiscal return for a taxation year under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in accordance with subsection 13.1 or 13.2 of section 104 of that Act, designates an amount in respect of a beneficiary under the designated trust who is a designated beneficiary for the year or a partnership at least one member of which is a designated beneficiary for the year, the presumption in the first paragraph of section 663.1 or 663.2 does not apply in respect of the amount so designated in respect of that designated beneficiary or does not apply in respect of the amount that may reasonably be considered to relate to the share of the designated beneficiary who is a member of the partnership in the amount so designated in respect of that partnership.

History: 2004, c. 21, s. 96.

Tax-liable beneficiary under a designated trust.

671.8. Every tax-liable beneficiary under a designated trust for a particular taxation year of the designated trust and, if the beneficiary under the designated trust for the particular year is a partnership, every tax-liable member of the partnership for a fiscal period of the partnership in which the particular year ends shall enclose with the fiscal return the beneficiary or the member is required to file under section 1000 or would be required to file under that section if

tax were payable by the beneficiary or the member under this Part for the tax-liable beneficiary's taxation year in which the particular year ends or for the tax-liable member's taxation year in which the fiscal period ends, as the case may be, an information return, in the prescribed form, containing

- (a) the name of the designated trust;
- (b) the name and address of the trustee under the designated trust for the particular year; and
- (c) the date from which the beneficiary is such a beneficiary under the designated trust.

Additional information.

Where the beneficiary referred to in the first paragraph has, for the particular year, with any person or partnership with whom or with which the beneficiary is not dealing at arm's length, a share of the aggregate of the income interests in the designated trust that is an amount of \$5,000 or more, or a share of the aggregate of the income interests in the designated trust or of the aggregate of the capital interests in the designated trust that corresponds to at least 10% of the aggregate of the income interests in the designated trust or of the aggregate of the capital interests in the designated trust, the information return referred to in that paragraph shall also contain the following information, for the particular year and for the four taxation years preceding the particular year:

- (a) any former address of the trustee under the designated trust for the particular year; and
- (b) the name and address of any trustee preceding the trustee under the designated trust for the particular year.

History: 2004, c. 21, s. 96; 2011, c. 6, s. 142.

Designated beneficiaries under a designated trust.

671.9. Every designated beneficiary under a designated trust for a particular taxation year of the designated trust shall enclose with the fiscal return the designated beneficiary is required to file under section 1000 for the designated beneficiary's taxation year in which the particular year ends, or would be required to so file if tax were payable by the designated beneficiary under this Part for the designated beneficiary's taxation year in which the particular year ends, an information return, in prescribed form, in which the designated beneficiary indicates the amounts that are paid to the designated beneficiary or became payable in the particular year by the designated trust, or that are paid for the benefit of the designated beneficiary, and that were designated by the designated trust in its fiscal return filed for the particular year under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in accordance with subsection 13.1 or 13.2 of section 104 of that Act.

Designated beneficiaries under a designated trust.

Every designated beneficiary who is a member of a partnership that is a beneficiary under the designated trust for a particular taxation year of the designated trust, shall enclose with the fiscal return the designated beneficiary is required to file under section 1000 for the designated beneficiary's taxation year in which ends the fiscal period of the partnership in which the particular year ends, or would be required to so file if tax were payable by the designated beneficiary under this Part for the designated beneficiary's taxation year in which ends the partnership's fiscal period in which the particular year ends, an information return, in prescribed form, in which the designated beneficiary indicates the designated beneficiary's share of the amounts that are paid or became payable in the particular year by the designated trust to the partnership of which the designated beneficiary is a member, or that are paid for the benefit of the designated beneficiary, and that were designated by the designated trust in its fiscal return filed for the particular year under Part I of the Income Tax Act, in accordance with subsection 13.1 or 13.2 of section 104 of that Act.

History: 2004, c. 21, s. 96.

Penalty.

671.10. Every designated beneficiary under a designated trust for a taxation year of the designated trust who omits to include an amount, under section 662 or 663, in computing the designated beneficiary's income for a particular taxation year, in relation to an amount designated by the designated trust in its fiscal return filed for the year under Part I of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in accordance with subsection 13.1 or 13.2 of section 104 of that Act, incurs a penalty equal to the greater of \$100 and 25% of the amount by which

- (a) the tax that would have been payable by the designated beneficiary for the particular year under this Act if
 - i. the designated beneficiary's taxable income for the particular year, determined on the basis of the information provided in the fiscal return filed by the designated beneficiary for the purposes of this Act in respect of the particular year, were computed by adding that portion of the amount determined in the second paragraph that may reasonably be attributed to that omission, and
 - ii. the designated beneficiary's tax payable for the particular year were computed by subtracting from the aggregate of all deductions from the tax otherwise payable by the designated beneficiary for the particular year the portion of any such deduction as may reasonably be attributed to that omission, and by adding to that aggregate any amount not deducted from the tax otherwise payable by the designated beneficiary for the particular year and that is deductible under Book V, if the amount that entitles the designated beneficiary to that deduction is wholly applicable to an amount that was not

reported by the designated beneficiary in the fiscal return filed by the designated beneficiary for the purposes of this Act in respect of the particular year and that were required to be included in computing the designated beneficiary's income for the particular year, under section 662 or 663, in relation to an amount designated by a designated trust in accordance with subsection 13.1 or 13.2 of section 104 of the Income Tax Act; exceeds

(b) the tax that would have been payable by the designated beneficiary for the particular year under this Act had it been determined on the basis of the information provided in the designated beneficiary's fiscal return filed for the purposes of this Act in respect of the particular year.

Amount referred to.

The amount to which subparagraph i of subparagraph a of the first paragraph refers in respect of a designated beneficiary under a designated trust for a taxation year of the designated trust is the aggregate of

(a) the amount by which the aggregate of the amounts that were not indicated by the designated beneficiary in the fiscal return filed by the designated beneficiary for the purposes of this Act in respect of the particular year and that were required to be included in computing the designated beneficiary's income for the particular year, under section 662 or 663, in relation to an amount designated by the designated trust in accordance with subsection 13.1 or 13.2 of section 104 of the Income Tax Act, exceeds the aggregate of the amounts that were not deducted by the designated beneficiary in computing the designated beneficiary's taxable income for the particular year indicated by the designated beneficiary in the fiscal return, were deductible in computing the designated beneficiary's taxable income under this Act and were wholly applicable to the amounts that were required to be so included therein; and

(b) the amount by which the aggregate of amounts, other than those provided for in sections 727 to 737, deducted by the designated beneficiary in computing the designated beneficiary's taxable income for the particular year indicated by the designated beneficiary in the fiscal return for the purposes of this Act in respect of the particular year exceeds the aggregate of amounts, other than those provided for in sections 727 to 737, deductible in computing the designated beneficiary's taxable income for the particular year under this Act.

Taxable income not less than zero.

For the purposes of the first paragraph, the taxable income of a designated beneficiary under a designated trust for a taxation year of the designated trust, determined on the basis of information provided in the designated beneficiary's fiscal return for the purposes of this Act in respect of the particular year, is deemed not to be less than zero.

Application of section 1049.

However, the penalty provided for in the first paragraph does not apply where the designated beneficiary under a designated trust for a taxation year of the designated trust incurs in respect of the omission the penalty provided for in section 1049.

History: 2004, c. 21, s. 96; 2005, c. 1, s. 131.

CHAPTER VI

(Repealed).

672. *(Repealed).*

History: 1975, c. 22, s. 188; 1984, c. 15, s. 149; 1985, c. 25, s. 108; 1990, c. 59, s. 239.

673. *(Repealed).*

History: 1975, c. 22, s. 188; 1977, c. 26, s. 73; 1978, c. 26, s. 115; 1985, c. 25, s. 109; 1990, c. 59, s. 239.

674. *(Repealed).*

History: 1975, c. 22, s. 188; 1977, c. 26, s. 74; 1978, c. 26, s. 116; 1984, c. 15, s. 150; 1985, c. 25, s. 110; 1990, c. 59, s. 239.

675. *(Repealed).*

History: 1975, c. 22, s. 188; 1978, c. 26, s. 117; 1990, c. 59, s. 239.

676. *(Repealed).*

History: 1975, c. 22, s. 188; 1977, c. 26, s. 75; 1984, c. 15, s. 151; 1985, c. 25, s. 111; 1990, c. 59, s. 239.

676.1. *(Repealed).*

History: 1984, c. 15, s. 151; 1985, c. 25, s. 111; 1990, c. 59, s. 239.

CHAPTER VII

TESTAMENTARY TRUST

Testamentary trust.

677. Notwithstanding any inconsistent provision of this Part, the rules provided in this chapter apply to a testamentary trust.

Testamentary trust.

For the purposes of this chapter, "testamentary trust", in a taxation year, means a trust that arose upon and as a consequence of the death of an individual, including a trust referred to in section 7.4.1, but does not include

(a) a trust created by a person other than the individual;

(b) a trust created after 12 November 1981 if, before the end of the taxation year, property was contributed to the trust otherwise than by an individual on or after his death, and as a consequence thereof;

(c) a trust created before 13 November 1981 if after 28 June 1982 property has been contributed to the trust otherwise than by an individual on or after his death and as a consequence thereof, or if before the end of the taxation year, the fair market value of the property owned by the trust that was contributed to the trust otherwise than by an individual on or after his death and as a consequence thereof and the property owned by the trust that was substituted for such property exceeds the fair market value of the property owned by the trust that was contributed by an individual on or after his death and as a consequence thereof and the property owned by the trust that was substituted for such property, and for the purposes of this paragraph, the fair market value of any property shall be determined as at the time it was acquired by the trust; and

(d) a trust that, at any time after 20 December 2002 and before the end of the taxation year, incurs a debt or any other obligation owed to, or guaranteed by, a beneficiary or any other person or partnership, which beneficiary, person or partnership is referred to in this subparagraph as the “specified party”, with whom a beneficiary under the trust does not deal at arm’s length, other than a debt or other obligation

i. incurred by the trust in satisfaction of the specified party’s right as a beneficiary under the trust

(1) to enforce payment of an amount of the trust’s income or capital gains payable at or before that time by the trust to the specified party, or

(2) to otherwise receive any part of the capital of the trust,

ii. owed to the specified party, if the debt or other obligation arose because of a service, not including any transfer or loan of property, rendered by the specified party to, for or on behalf of the trust,

iii. owed to the specified party, if

(1) the debt or other obligation arose because of a payment made by the specified party for or on behalf of the trust,

(2) in exchange for the payment and in full settlement of the debt or other obligation, the trust transfers property, the fair market value of which is not less than the principal amount of the debt or other obligation, to the specified party within 12 months after the payment was made or, if written application has been made to the Minister by the trust within that 12-month period, within any longer period that the Minister considers reasonable in the circumstances, and

(3) it is reasonable to conclude that the specified party would have been willing to make the payment if the specified party dealt at arm’s length with the trust, unless the trust is the individual’s succession and that payment was made within the first 12 months after the individual’s death or, if written application has been made to the Minister by the

succession within that 12-month period, within any longer period that the Minister considers reasonable in the circumstances, or

iv. incurred by the trust before 24 October 2012 if, in full settlement of the debt or other obligation, the trust transfers property, the fair market value of which is not less than the principal amount of the debt or other obligation, to the person or partnership to whom the debt or other obligation is owed within 12 months after 26 June 2013 or, if written application has been made to the Minister by the trust within that 12-month period, within any longer period that the Minister considers reasonable in the circumstances.

History: 1972, c. 23, s. 509; 1984, c. 15, s. 152; 1986, c. 19, s. 136; 1995, c. 49, s. 154; 2009, c. 5, s. 211 [amended by 2015, c. 21, s. 797]; 2015, c. 21, s. 220.

Corresponding Federal Provision: 108(1).

Property contributed to a trust.

677.1. For the purposes of section 677, property is not considered to be contributed to a trust as a result of

(a) a qualifying expenditure (within the meaning of section 118.04 or 118.041 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement)) of a beneficiary under the trust; or

(b) an amount paid to, or on behalf of, the trust by another trust where

i. the trust is an individual’s succession that is a graduated rate estate (determined without regard to the amount paid and this section),

ii. subparagraph *b* of the first paragraph of section 663.0.1 applies to the other trust, for a taxation year that ends at a time determined by reference to the death of the individual referred to in subparagraph *i*, because of an election referred to in subparagraph *c* of the second paragraph of section 663.0.1 and made by the other trust and the legal representative administering the individual’s succession,

iii. the amount is paid on account of the tax payable by the individual referred to in subparagraph *i*, for the individual’s taxation year that includes the day on which the individual dies, under this Part, Part I of the Income Tax Act or the law of another province in which the individual was resident immediately before the individual’s death, that imposes a tax on the taxable income of individuals resident in that province, and

iv. the amount paid does not exceed the amount by which the tax payable referred to in subparagraph *iii* exceeds the amount that would have been payable on account of that tax if subparagraph *b* of the first paragraph of section 663.0.1 had not applied to the other trust in respect of the taxation year referred to in subparagraph *ii*.

History: 2010, c. 25, s. 51; 2017, c. 1, s. 160; 2019, c. 14, s. 173.

Corresponding Federal Provision: 108(1.1).

678. *(Repealed).*

History: 1972, c. 23, s. 510; 1997, c. 31, s. 68; 2009, c. 5, s. 212.

679. *(Repealed).*

History: 1972, c. 23, s. 511; 2009, c. 5, s. 212.

Deceased beneficiary of a graduated rate estate.

680. The income of a person for a taxation year from a succession that is a graduated rate estate is deemed to be the aggregate of the person's benefits from or under the succession for any taxation year of the succession that ended in the year, determined under the provisions of this Title except for sections 683 to 692.

History: 1972, c. 23, s. 512; 1973, c. 17, s. 77; 2017, c. 1, s. 161.

Corresponding Federal Provision: 104(23) before (c).

Death of beneficiary.

681. Where an individual with an income from a trust that is a succession that is a graduated rate estate died after the end of a taxation year of the trust and before the end of the calendar year during which that taxation year ended, his income from the trust for the period commencing immediately after the end of the taxation year of the trust and ending at the time of death shall be included in computing the individual's income for the year in which he died unless his legal representative has elected otherwise, in which case the legal representative shall file a separate fiscal return under this Part for the period comprised between the end of the taxation year of the trust and the date of the death and pay the tax for the period under this Part as if

(a) the individual were another person;

(b) the period were a taxation year;

(c) that other person's only income for the period were the individual's income from the trust for that period; and

(d) subject to sections 693.1, 752.0.26 and 776.1.5.0.19, that other person were entitled to the deductions to which the individual was entitled under sections 725 to 725.5, 752.0.0.1 to 752.0.13.3, 752.0.14 to 752.0.18.15, 776.1.5.0.17 and 776.1.5.0.18 for the period in computing the individual's taxable income or the individual's tax payable under this Part, as the case may be, for the period.

History: 1972, c. 23, s. 513; 1973, c. 17, s. 78; 1986, c. 19, s. 137; 1989, c. 5, s. 82; 1993, c. 64, s. 40; 1994, c. 22, s. 238; 1997, c. 14, s. 290; 1999, c. 83, s. 273; 2001, c. 53, s. 90; 2005, c. 1, s. 132; 2006, c. 36, s. 45; 2017, c. 1, s. 162; 2019, c. 14, s. 174.

Corresponding Federal Provision: 104(23) before (c) and (d) and 110(1j).

682. *(Repealed).*

History: 1972, c. 23, s. 514; 1995, c. 49, s. 155; 2017, c. 1, s. 163.

Corresponding Federal Provision: 104(23)(e).

CHAPTER VIII

DISPOSITION OF AN INTEREST

Definitions:

683. In this chapter,

“capital interest”;

“capital interest” of a taxpayer in a trust means all rights of the taxpayer as a beneficiary under the trust, and after 31 December 1999 includes a right, other than a right acquired before 1 January 2000 and disposed of before 1 March 2000, to enforce payment of an amount by the trust that arises as a consequence of any such right, but does not include an income interest in the trust;

“eligible offset”;

“eligible offset” at any time of a taxpayer in respect of all or part of the taxpayer's capital interest in a trust is the portion of any debt or obligation that is assumed by the taxpayer and that can reasonably be considered to be applicable to property distributed at that time as consideration for the interest or part of the interest, as the case may be, if the distribution is conditional upon the assumption by the taxpayer of the portion of the debt or obligation;

“income interest”.

“income interest” of a taxpayer in a trust means a right, whether immediate or future and whether absolute or contingent, of the taxpayer as a beneficiary under a personal trust to, or to receive, all or any part of the income of the trust and, after 31 December 1999, includes a right, other than a right acquired before 1 January 2000 and disposed of before 1 March 2000, to enforce payment of an amount by the trust that arises as a consequence of any such right.

History: 1972, c. 23, s. 515; 1989, c. 77, s. 71; 1990, c. 59, s. 240; 2003, c. 2, s. 169; 2009, c. 5, s. 213.

Corresponding Federal Provision: 108(1).

Disposition of income interest.

684. A taxpayer who disposes in a taxation year of an income interest of the taxpayer in a trust shall, if section 685 does not apply, include in computing the taxpayer's income for the year the amount by which the proceeds of disposition exceed, where that interest includes a right to enforce payment of an amount by the trust, the amount in respect of that right that has been included in computing the taxpayer's income for a taxation year because of section 663.

Capital gain and cost.

The disposition referred to in the first paragraph is deemed not to give rise to any capital gain or capital loss, to the taxpayer, and the cost of any property received by the

taxpayer as consideration is the fair market value of the property at the time of the disposition.

History: 1972, c. 23, s. 516; 2003, c. 2, s. 169.

Corresponding Federal Provision: 106(2).

Transfer of property to beneficiary as consideration for beneficiary's income interest in the trust.

685. Any trust distributing, at a particular time, any property owned by it to a beneficiary in satisfaction of all or any part of his income interest in the trust, is deemed to dispose of such property at its fair market value at that time.

History: 1972, c. 23, s. 517; 1973, c. 17, s. 79; 2001, c. 7, s. 71; 2009, c. 5, s. 214.

Corresponding Federal Provision: 106(3).

Disposition of capital interest.

686. In computing a taxpayer's taxable capital gain from the disposition of property that is all or any part of the taxpayer's capital interest in a personal trust or a prescribed trust, the adjusted cost base to the taxpayer of the property immediately before the disposition is deemed to be equal to the greater of

(a) the adjusted cost base, otherwise determined, to the taxpayer of the property immediately before that time; and

(b) the amount by which the cost amount to the taxpayer of the property immediately before that time exceeds the aggregate of all amounts deducted under paragraph *b.1* of section 257 in computing the adjusted cost base to the taxpayer of the property immediately before the disposition.

Exception.

The presumption referred to in the first paragraph does not apply where any part of such interest has ever been acquired for consideration and, at the time of disposition, the trust is not resident in Canada.

Loss.

Where a taxpayer other than a mutual fund trust disposes of all or any part of the capital interest in a trust, the taxpayer's loss from the disposition is deemed to be equal to the amount by which the amount of that loss otherwise determined exceeds the amount by which

(a) the aggregate of all amounts each of which is an amount that was received or would, but for section 666, have been received by the trust on a share of the capital stock of a corporation before the disposition, and, where the trust is a unit trust, after 31 December 1987, and

i. where the taxpayer is a corporation,

(1) was a taxable dividend that was designated under section 666 by the trust in respect of the taxpayer, to the extent that the amount of the dividend was deductible

because of sections 738 to 745 or section 845 in computing the taxpayer's taxable income for any taxation year, or

(2) was an amount designated under section 667 by the trust in respect of the taxpayer,

ii. where the taxpayer is another trust, was an amount designated under section 666 or 667 by the trust in respect of the taxpayer, and

iii. where the taxpayer is not a corporation, trust or partnership, was an amount designated under section 667 by the trust in respect of the taxpayer; exceeds

(b) the portion of the aggregate determined in accordance with subparagraph *a* that may reasonably be considered to have resulted in a reduction, under this paragraph, of the taxpayer's loss otherwise determined from a previous disposition of an interest in the trust.

Member of a partnership.

Where a partnership disposes of all or any part of the capital interest in a trust, the share of a person, other than another partnership or a mutual fund trust, of any loss of the partnership from the disposition is deemed to be equal to the amount by which the amount of that loss otherwise determined exceeds the amount by which

(a) the aggregate of all amounts each of which is an amount that was received or would, but for section 666, have been received by the trust on a share of the capital stock of a corporation before the disposition, and, where the trust is a unit trust, after 31 December 1987, and

i. where the person is a corporation,

(1) was a taxable dividend that was designated under section 666 by the trust in respect of the partnership, to the extent that the amount of the dividend was deductible because of sections 738 to 745 or section 845 in computing the person's taxable income for any taxation year, or

(2) was a dividend designated under section 667 by the trust in respect of the partnership and was an amount received by the person,

ii. where the person is an individual other than a trust, was a dividend designated under section 667 by the trust in respect of the partnership and was an amount received by the person, and

iii. where the person is another trust, was a dividend designated under section 666 or 667 by the trust in respect of the partnership and was an amount received by the person, or that would have been received by the person if this Part were read without reference to section 666; exceeds

(b) the portion of the aggregate determined in accordance with subparagraph *a* that may reasonably be considered to

have resulted in a reduction, under this paragraph, of the person's loss otherwise determined from a previous disposition of an interest in the trust.

Non-capital property.

Where all or part of a capital interest in a trust is disposed of by a taxpayer and the capital interest is not a capital property of the taxpayer, despite section 690, its cost amount is deemed to be the amount by which the amount that would, if this Part were read without reference to this paragraph and section 690, be its cost amount exceeds the aggregate of all amounts, each of which is an amount in respect of the capital interest that has become payable to the taxpayer before the disposition and that would be described in subparagraph i.1 of paragraph *n* of section 257 if its subparagraph 3 were read without reference to “, that is, subject to section 257.4, equal to the amount designated by the trust to be payable to the taxpayer under section 668”.

History: 1972, c. 23, s. 518; 1973, c. 17, s. 80; 1984, c. 15, s. 153; 1990, c. 59, s. 241; 1993, c. 16, s. 245; 1995, c. 49, s. 156; 1996, c. 39, s. 176; 1997, c. 3, s. 71; 2000, c. 5, s. 147; 2001, c. 7, s. 72; 2003, c. 2, s. 170; 2015, c. 24, s. 91.

Corresponding Federal Provision: 107(1) in fine, (a), (c), (d) and (e).

Cost of capital interest in a trust.

687. The cost to a taxpayer of a capital interest in a personal trust or a prescribed trust is deemed to be

(a) where the taxpayer elects under section 726.9.2 in respect of the interest and the trust does not elect under that section in respect of any property of the trust, equal to the taxpayer's cost of the interest determined under subparagraph *a* of the first paragraph of section 726.9.2; and

(b) in any other case, nil, unless

i. any part of the interest was acquired by the taxpayer from a person who was the beneficiary in respect of the interest immediately before its acquisition by the taxpayer, or

ii. the cost of any part of the interest would be determined not to be nil under sections 242 to 247.1, as they read before 1 January 1993, subparagraph *c* of the second paragraph of section 736 and the third paragraph of that section, paragraph *c* of section 785.1 or subparagraph *c* of the first paragraph of section 785.2.

History: 1975, c. 22, s. 189; 1984, c. 15, s. 154; 2000, c. 5, s. 147; 2003, c. 2, s. 171; 2009, c. 5, s. 215.

Corresponding Federal Provision: 107(1.1).

Deemed fair market value — non-capital property.

687.1. For the purposes of sections 83 to 85.6, the fair market value at any time of a capital interest in a trust is deemed to be equal to the aggregate of

(a) the amount that would, if this Part were read without reference to this section, be its fair market value at that time; and

(b) the aggregate of all amounts, each of which is an amount in respect of the capital interest that became payable to the taxpayer before that time and that would be described in subparagraph i.1 of paragraph *n* of section 257 if its subparagraph 3 were read without reference to “, that is, subject to section 257.4, equal to the amount designated by the trust to be payable to the taxpayer under section 668”.

History: 2015, c. 24, s. 92.

Corresponding Federal Provision: 107(1.2).

Distribution by a personal or prescribed trust.

688. Subject to sections 688.0.0.1, 688.0.0.2 and 691 to 692, if at a particular time a property of a personal trust or a prescribed trust is distributed (otherwise than as a SIFT trust wind-up event) by the trust to a taxpayer who was a beneficiary under the trust and there is a resulting disposition of all or any part of the taxpayer's capital interest in the trust, the following rules apply:

(a) the trust is deemed to dispose of the property for proceeds of disposition equal to its cost amount to the trust immediately before that time;

(b) the taxpayer is, subject to section 688.2, deemed to acquire the property at a cost equal to the total of its cost amount to the trust immediately before that time and the specified percentage of the amount by which the adjusted cost base to the taxpayer of the capital interest or part thereof immediately before that time, determined without reference to the first paragraph of section 686, exceeds the cost amount to the taxpayer of the capital interest or part thereof immediately before that time;

(c) the taxpayer's proceeds of disposition of all or part, as the case may be, of the capital interest in the trust disposed of by the taxpayer on the distribution are deemed to be equal to the amount by which the cost at which the taxpayer would be deemed under paragraph *b* to acquire the property if the specified percentage referred to in that paragraph were 100% exceeds the aggregate of all amounts each of which is an eligible offset at that time of the taxpayer in respect of the capital interest or part thereof;

(d) for the purposes of sections 93 to 104, Chapter III of Title III and any regulations made under paragraph *a* of section 130 or under section 130.1, where the property distributed was depreciable property of a prescribed class of the trust and the amount that was the capital cost to the trust of such property exceeds the cost at which, in accordance with sections 688, 689, 691 and 692, the taxpayer is deemed to acquire the property, the following rules apply:

i. the capital cost of the property to the taxpayer is deemed to be the capital cost of the property to the trust, and

ii. the excess is deemed to have been allowed to the taxpayer as depreciation in respect of the property for the taxation years preceding the acquisition by him of the property;

(d.1) *(subparagraph repealed)*;

(e) *(subparagraph repealed)*.

Specified percentage.

For the purposes of subparagraph *b* of the first paragraph, the specified percentage is

(a) where the property is capital property other than depreciable property, 100%;

(b) *(subparagraph repealed)*;

(c) in any other case, 50%.

History: 1972, c. 23, s. 519; 1973, c. 17, s. 81; 1975, c. 22, s. 190; 1977, c. 26, s. 76; 1979, c. 18, s. 55; 1990, c. 59, s. 242; 1993, c. 16, s. 246; 1994, c. 22, s. 239; 1996, c. 39, s. 177; 2000, c. 5, s. 148; 2001, c. 7, s. 73; 2003, c. 2, s. 172; 2005, c. 1, s. 133; 2009, c. 5, s. 216; 2010, c. 25, s. 52; 2011, c. 6, s. 143; 2015, c. 21, s. 221; 2019, c. 14, s. 175.

Corresponding Federal Provision: 107(2).

Election by trust.

688.0.0.1. If a trust makes a distribution of a property to a beneficiary under the trust in full or partial satisfaction of the beneficiary's capital interest in the trust and makes a valid election under subsection 2.001 of section 107 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in respect of the distribution of property, section 688 does not apply to the distribution if

(a) the trust is resident in Canada at the time of the distribution;

(b) the property is taxable Canadian property; or

(c) the property is capital property used in, or property included in the inventory of, a business carried on by the trust through an establishment in Canada immediately before the time of the distribution.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 2.001 of section 107 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 2003, c. 2, s. 173; 2005, c. 1, s. 134; 2009, c. 5, s. 217; 2019, c. 14, s. 176.

Corresponding Federal Provision: 107(2.001).

Election by beneficiary.

688.0.0.2. If a trust that is not resident in Canada makes a distribution of a property, other than a property described in subparagraph *b* or *c* of the first paragraph of section 688.0.0.1, to a beneficiary under the trust in full or partial satisfaction of the beneficiary's capital interest in the trust, and the beneficiary makes a valid election under subsection 2.002 of section 107 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in respect of the distribution of property, the following rules apply:

(a) section 688 does not apply to the distribution; and

(b) for the purposes of subparagraph *b* of the first paragraph of section 686, the cost amount of the interest to the beneficiary is deemed to be nil.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 2.002 of section 107 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 2003, c. 2, s. 173; 2009, c. 5, s. 218.

Corresponding Federal Provision: 107(2.002).

Distribution of principal residence.

688.0.1. If, at any time, a property is distributed by a personal trust to a taxpayer in circumstances in which section 688 applies, the property would, if the trust had so designated the property under section 274.0.1, be a principal residence, within the meaning of that section, of the trust for a taxation year, and the trust makes a valid election under subsection 2.01 of section 107 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in respect of the distribution of property, the following rules apply:

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

(b) the trust is deemed to have reacquired the property at the particular time-a-cost equal to that fair market value.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subsection 2.01 of section 107 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 1993, c. 16, s. 247; 1994, c. 22, s. 240; 2001, c. 7, s. 74; 2003, c. 2, s. 174; 2005, c. 23, s. 55; 2009, c. 5, s. 219.

Corresponding Federal Provision: 107(2.01).

Other distributions.

688.1. Where at a particular time a property of a trust is distributed by the trust to a beneficiary under the trust, there would, if this Part were read without reference to subparagraphs *d* and *e* of the second paragraph of section 248, be a resulting disposition of all or any part of the beneficiary's capital interest in the trust, in this section referred to as the "former interest", and the rules in Title I.2 of Book VI and in sections 569.0.2, 688 and 688.4 do not apply in respect of the distribution, the following rules apply:

(a) the trust is deemed to dispose of the property for proceeds of disposition equal to its fair market value at that time;

(b) the beneficiary is deemed to acquire the property at a cost equal to the proceeds referred to in subparagraph *a*;

(c) subject to subparagraph *e*, the beneficiary's proceeds of disposition of the portion of the former interest disposed of by the beneficiary on the distribution are deemed to be equal to the amount by which the proceeds referred to in subparagraph *a*, other than the portion of the proceeds that is a payment to which subparagraph *d* or *e* of the second paragraph of section 248 applies, exceed the amount determined under the second paragraph;

(d) notwithstanding subparagraphs *a* to *c*, where the trust is not resident in Canada at that time, the property is not described in subparagraph *b* or *c* of the first paragraph of section 688.0.0.1 and, but for this subparagraph, there would be no income, loss, taxable capital gain or allowable capital loss of a taxpayer in respect of the property by reason of the application of section 467 to the disposition at that time of the property, the following rules apply:

i. the trust is deemed to dispose of the property for proceeds of disposition equal to the cost amount of the property,

ii. the beneficiary is deemed to acquire the property at a cost equal to the fair market value of the property, and

iii. the beneficiary's proceeds of disposition of the portion of the former interest disposed of by the beneficiary on the distribution are deemed to be equal to the amount by which the fair market value of the property exceeds the aggregate of

(1) the portion of the amount of the distribution that is a payment to which subparagraph *d* or *e* of the second paragraph of section 248 applies, and

(2) the aggregate of all amounts each of which is an eligible offset at that time of the taxpayer in respect of the former interest; and

(e) where the trust is a mutual fund trust, the distribution occurs in a taxation year of the trust before its taxation year 2003, the trust has elected under section 688.1.1 for the year

and the trust so elects in respect of the distribution in prescribed form filed with the Minister with the trust's fiscal return for the year, the following rules apply:

i. this section shall be read without reference to subparagraph *c* and the second paragraph, and

ii. the beneficiary's proceeds of disposition of the portion of the former interest disposed of by the beneficiary on the distribution are deemed to be equal to the amount determined under subparagraph *a*.

Amount referred to.

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

(a) where the property referred to in the first paragraph is not a Canadian resource property or foreign resource property, an amount equal to the amount by which the fair market value of the property at the time referred to in that first paragraph exceeds the aggregate of

i. the cost amount to the trust of the property immediately before that time, and

ii. the portion, if any, of the excess that would be determined under this subparagraph *a* if it were read without reference to this subparagraph that is a payment to which subparagraph *d* or *e* of the second paragraph of section 248 applies; and

(b) the aggregate of all amounts each of which is an eligible offset at that time of the beneficiary in respect of the former interest.

History: 1990, c. 59, s. 243; 2000, c. 5, s. 149; 2001, c. 7, s. 75; 2003, c. 2, s. 175; 2009, c. 5, s. 220; 2010, c. 25, s. 53.

Corresponding Federal Provision: 107(2.1).

Gain not distributed to beneficiaries.

688.1.1. If a trust that is resident in Canada for a taxation year makes in the taxation year one or more distributions of property in circumstances in which section 688.1 applies, the following rules apply:

(a) the income of the trust for the year, determined without reference to paragraph *a* of section 657, is to be computed, for the purposes of that paragraph *a* and section 663, without regard to all of those distributions to persons not resident in Canada, including a partnership other than a Canadian partnership, except for distributions of cash denominated in Canadian currency, if the trust makes a valid election under subsection 2.11 of section 107 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 to have paragraph *a* of that subsection 2.11 apply in relation to all of those distributions; and

(b) the income of the trust for the year, determined without reference to paragraph *a* of section 657, is to be computed, for the purposes of that paragraph *a* and section 663, without regard to all of those distributions, except for distributions of cash denominated in Canadian currency, if the trust makes a valid election under subsection 2.11 of section 107 of the Income Tax Act after 19 December 2006 to have paragraph *b* of that subsection 2.11 apply in relation to all of those distributions.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under paragraph *a* or *b* of subsection 2.11 of section 107 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 2003, c. 2, s. 176; 2009, c. 5, s. 221; 2015, c. 21, s. 222.

Corresponding Federal Provision: 107(2.11).

Election deemed not made.

688.1.2. An election made under section 688.1.1 by a mutual fund trust is deemed, for the trust's 2003 and subsequent taxation years, not to have been made if

(a) the election is made after 20 December 2000 and applies to any taxation year that ends before 1 January 2003; and

(b) the proceeds of disposition of a beneficiary's interest in the trust have been determined under subparagraph *e* of the first paragraph of section 688.1.

History: 2003, c. 2, s. 176.

Corresponding Federal Provision: 107(2.12).

Flow-through entity.

688.2. Where at any time before 1 January 2005 a trust referred to in paragraph *c*, *d* or *e* of the definition of "flow-through entity" in the first paragraph of section 251.1 distributes property to a beneficiary under the trust as consideration for all or a portion of the beneficiary's interests in the trust and the beneficiary files with the Minister an election in respect of the property on or before the beneficiary's filing-due date for the taxation year that includes that time, the beneficiary shall include in the cost to the beneficiary of a particular property, other than money, received by the beneficiary as part of the distribution of property the least of

(a) the amount by which the beneficiary's exempt capital gains balance, within the meaning of section 251.1, in respect of the trust for the beneficiary's taxation year that includes that time exceeds the aggregate of all amounts each of which is

i. an amount by which a capital gain is reduced under Chapter II.1 of Title IV in the year because of the beneficiary's exempt capital gains balance in respect of the trust,

ii. subject to the second paragraph, twice an amount by which a taxable capital gain is reduced under Chapter II.1 of Title IV in the year because of the beneficiary's exempt capital gains balance in respect of the trust, or

iii. an amount included in the cost to the beneficiary of another property received by the beneficiary at or before that time in the year because of this section;

(b) the amount by which the fair market value of the particular property at that time exceeds the adjusted cost base to the trust of the particular property immediately before that time; and

(c) the amount designated in respect of the particular property in the election.

Transitional rule.

Where the beneficiary's taxation year includes 28 February 2000 or 17 October 2000 or begins after 28 February 2000 and ends before 17 October 2000, the reference to the word "twice" in subparagraph ii of subparagraph *a* of the first paragraph shall be read, with the necessary modifications, as a reference to the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the beneficiary for the year.

History: 2000, c. 5, s. 150; 2001, c. 7, s. 76; 2003, c. 2, s. 177; 2009, c. 5, s. 222; 2010, c. 25, s. 54.

Corresponding Federal Provision: 107(2.2).

SIFT trust wind-up event.

688.3. The rules in section 688.4 apply in respect of a trust's distribution of property to a taxpayer if

(a) the distribution is a SIFT trust wind-up event to which section 569.0.2 does not apply;

(b) the property is a share and all the shares distributed on any SIFT trust wind-up event of the trust are of a single class of shares of the capital stock of a taxable Canadian corporation; and

(c) where the trust is a SIFT wind-up entity, the distribution occurs no more than 60 days after the first SIFT trust wind-up event of the trust or, if it is earlier, the first distribution to the trust that is a SIFT trust wind-up event of another trust.

History: 2010, c. 25, s. 55.

Corresponding Federal Provision: 107(3).

SIFT trust wind-up rollover.

688.4. The rules to which section 688.3 refers, in relation to a trust's distribution of property, are as follows:

(a) the trust is deemed to have disposed of the property for proceeds of disposition equal to the adjusted cost base to the trust of the property immediately before the distribution;

(b) the taxpayer is deemed to have disposed of the taxpayer's interest as a beneficiary under the trust for proceeds of disposition equal to the cost amount to the taxpayer of the interest immediately before the distribution;

(c) the taxpayer is deemed to have acquired the property at a cost equal to

i. if, at all times at which the trust makes a distribution that is a SIFT trust wind-up event, the taxpayer is the only beneficiary under the trust and is a SIFT wind-up entity or a taxable Canadian corporation, the adjusted cost base to the trust of the property immediately before the distribution, and

ii. in any other case, the cost amount to the taxpayer of the taxpayer's interest as a beneficiary under the trust immediately before the distribution;

(d) if the taxpayer's interest as a beneficiary under the trust was immediately before the disposition taxable Québec property or taxable Canadian property of the taxpayer, the property is deemed to be, at any time that is within 60 months after the distribution, taxable Québec property or taxable Canadian property of the taxpayer, as the case may be; and

(e) if a liability of the trust becomes as a consequence of the distribution a liability of the corporation described in paragraph b of section 688.3 in respect of the distribution, and the amount payable by the corporation on the maturity of the liability is equal to the amount that would have been payable by the trust on its maturity,

i. the transfer of the liability by the trust to the corporation is deemed not to have occurred, and

ii. the liability is deemed to have been issued by the corporation at the time at which, and under the same agreement as that under which, it was issued by the trust, and not to have been issued by the trust.

History: 2010, c. 25, s. 55; 2011, c. 6, s. 144.

Corresponding Federal Provision: 107(3.1).

689. (Repealed).

History: 1972, c. 23, s. 520; 1975, c. 22, s. 191; 1985, c. 25, s. 112; 1987, c. 67, s. 132; 2003, c. 2, s. 178.

Cost amount of capital interest.

690. In this Title, notwithstanding the definition of "cost amount" in section 1, the cost amount to a taxpayer at a particular time of a capital interest or part of a capital interest in a trust, other than a trust that is a foreign affiliate of the taxpayer, means, except for the purposes of section 688.4 and of Chapter X,

(a) where the trust distributes to the taxpayer money or other property, in satisfaction of all or part of the taxpayer's capital interest, the aggregate of

i. the money so distributed,

ii. all amounts each of which is the cost amount to the trust, immediately before the distribution, of each such other property;

(a.1) where the particular time is immediately before the time that is immediately before the time of the taxpayer's death and sections 653 to 656.1 deem the trust to dispose of property at the end of the day that includes the particular time, the amount that would be determined under subparagraph b if the taxpayer had died on a day that ended immediately before the time that is immediately before the particular time; and

(b) in any other case, the amount determined by the formula

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

Interpretation.

For the purposes of the formula set forth in subparagraph b of the first paragraph,

(a) A is the aggregate of

i. all money of the trust on hand immediately before that time,

ii. all amounts each of which is the cost amount to the trust, immediately before that time, of each other property;

iii. (subparagraph repealed);

(b) B is the aggregate of all amounts each of which is the amount of any debt owing by the trust immediately before that time;

(c) C is the fair market value, at that time, of the capital interest or any part thereof in the trust;

(d) D is the fair market value, at that time, of all capital interests in the trust.

History: 1972, c. 23, s. 521; 1973, c. 17, s. 82; 1975, c. 22, s. 192; 1986, c. 15, s. 95; 1990, c. 59, s. 244; 1993, c. 16, s. 248; 1995, c. 49, s. 157; 2001, c. 7, s. 77; 2003, c. 2, s. 179; 2009, c. 5, s. 223; 2010, c. 25, s. 56; 2015, c. 21, s. 223.

Corresponding Federal Provision: 108(1) "cost amount".

Reduction of vendor's loss in respect of disposition.

690.0.1. Notwithstanding any other provision of this Part, where a person or partnership, in this section referred to as the "vendor", has disposed of property and would, but for this section, have had a loss from the disposition, the vendor's loss otherwise determined in respect of the

disposition shall be reduced by such portion thereof as may reasonably be considered to have accrued during a period in which the following conditions are met:

(a) the property or property for which it was substituted was held by a trust; and

(b) either

i. the trust was not resident in Canada and the property or property for which it was substituted was not taxable Canadian property of the trust, or

ii. neither the vendor nor a person that would, but for the definition of “controlled” in section 21.0.1, be affiliated with the vendor had a capital interest in the trust.

History: 1989, c. 77, s. 72; 1997, c. 3, s. 71; 2000, c. 5, s. 151; 2015, c. 21, s. 224.

Corresponding Federal Provision: 107(6).

Distribution by a trust governed by an employee benefit plan.

690.1. Where a trust governed by an employee benefit plan has distributed, at a particular time, property owned by it to a taxpayer who was a beneficiary under the trust in satisfaction of all or any part of the taxpayer’s interest in the trust, the following rules apply:

(a) the trust is deemed to have disposed of the property for proceeds of disposition equal to its cost amount to the trust immediately before that time;

(b) the taxpayer is deemed to have acquired the property at a cost equal to the greater of its fair market value at that time and the adjusted cost base of his interest in the trust or part thereof, as the case may be, immediately before that time;

(c) the taxpayer is deemed to have disposed of his interest in the trust or any part thereof, as the case may be, for proceeds of disposition equal to the adjusted cost base to him of that interest or part thereof, as the case may be, immediately before the particular time;

(d) for the purposes of sections 93 to 104, 130 and 130.1 and the regulations made under paragraph *a* of section 130, where the property distributed was depreciable property of a prescribed class of the trust and the amount that was the capital cost to the trust of that property exceeds the cost at which the taxpayer is deemed by paragraph *b* to have acquired the property,

i. the capital cost of the property to the taxpayer is deemed to be the capital cost of the property to the trust;

ii. the excess is deemed to have been allowed to the taxpayer as depreciation in respect of the property for taxation years preceding the acquisition by him of the property.

History: 1982, c. 5, s. 140; 1990, c. 59, s. 245; 2001, c. 7, s. 78; 2009, c. 5, s. 224.

Corresponding Federal Provision: 107.1(b), (c) and (d).

Distribution by certain employment-related trusts.

690.2. If at a particular time any property of an employee trust, an employee life and health trust or a trust described in subparagraph *a.1* of the third paragraph of section 647 is distributed by the trust to a taxpayer who is a beneficiary under the trust as consideration for all or any part of the taxpayer’s interest in the trust, the following rules apply:

(a) the trust is deemed to have disposed of the property for proceeds of disposition equal to its fair market value at the particular time;

(b) the taxpayer is deemed to have acquired the property at a cost equal to the proceeds determined in paragraph *a* in respect thereof;

(c) the taxpayer is deemed to have disposed of his interest in the trust or part thereof, as the case may be, for proceeds of disposition equal to the adjusted cost base to him of the interest or part thereof, as the case may be, immediately before the particular time;

(d) for the purposes of sections 93 to 104, 130 and 130.1 and the regulations made under paragraph *a* of section 130, where the property distributed was depreciable property of a prescribed class of the trust and the amount that was the capital cost of that property to the trust exceeds the cost at which, in accordance with paragraph *b*, the taxpayer is deemed to acquire the property, the following rules apply:

i. the capital cost of the property to the taxpayer is deemed to be the capital cost of the property to the trust;

ii. the excess is deemed to have been allowed to the taxpayer as depreciation in respect of the property for taxation years preceding the acquisition by him of the property.

History: 1982, c. 5, s. 140; 1990, c. 59, s. 245; 2001, c. 7, s. 79; 2003, c. 2, s. 180; 2009, c. 5, s. 225; 2011, c. 6, s. 145.

Corresponding Federal Provision: 107.1.

Distribution by a trust governed by a retirement compensation arrangement.

690.3. Where a trust governed by a retirement compensation arrangement has distributed, at a particular time, property owned by it to a taxpayer who was a beneficiary under the trust in satisfaction of all or any part of the taxpayer’s interest in the trust, the following rules apply:

(a) the trust is deemed to have disposed of the property for proceeds of disposition equal to its fair market value at the particular time;

(b) the trust is deemed to have paid to the taxpayer as a distribution an amount equal to the proceeds determined in respect of the property under paragraph *a*;

(c) the taxpayer is deemed to have acquired the property at a cost equal to the proceeds determined in respect of the property under paragraph *a*;

(d) the taxpayer is deemed to have disposed of his interest in the trust or part thereof, as the case may be, for proceeds of disposition equal to the adjusted cost base to him of that interest or part thereof, as the case may be, immediately before the particular time;

(e) for the purposes of sections 93 to 104, 130 and 130.1 and the regulations made under paragraph *a* of section 130, where the property distributed was depreciable property of a prescribed class of the trust and the amount that was the capital cost to the trust of that property exceeds the cost at which the taxpayer is deemed by paragraph *c* to have acquired the property

i. the capital cost of the property to the taxpayer is deemed to be the capital cost of the property to the trust;

ii. the excess is deemed to have been allowed to the taxpayer as depreciation in respect of the property for taxation years preceding the acquisition by him of the property.

History: 1989, c. 77, s. 73; 1990, c. 59, s. 246; 2001, c. 7, s. 80; 2009, c. 5, s. 226.

Corresponding Federal Provision: 107.2.

Application of s. 688.1.

691. Notwithstanding section 688, the rules set out in section 688.1 apply at any time to property distributed to a beneficiary by a trust described in subparagraph *a* of the first paragraph and the second paragraph of section 653 where

(a) the beneficiary is not

i. in the case of a post-1971 spousal trust, the spouse referred to in subparagraph *a* of the first paragraph of section 653,

ii. in the case of an *alter ego* trust, the taxpayer referred to in subparagraph *a* of the first paragraph of section 653, and

iii. in the case of a joint spousal trust, the taxpayer or spouse referred to in subparagraph *a* of the first paragraph of section 653; and

(b) the property is distributed on or before the earlier of

i. a reacquisition, in respect of any property of the trust, that occurs immediately after the day described in subparagraph *a* of the first paragraph of section 653, and

ii. the cessation of the trust's existence.

History: 1972, c. 23, s. 522; 1977, c. 26, s. 77; 1984, c. 15, s. 155; 1986, c. 19, s. 138; 1994, c. 22, s. 241; 2001, c. 7, s. 81; 2003, c. 2, s. 181; 2009, c. 5, s. 227; 2015, c. 21, s. 225.

Corresponding Federal Provision: 107(4).

Where s. 467 applicable to property of a trust.

691.1. Notwithstanding section 688, the rules set out in section 688.1 apply where any particular property of a particular personal trust or a particular prescribed trust is distributed by the particular trust to a taxpayer who is a beneficiary under the particular trust and where

(a) the distribution was made as consideration for all or any part of the taxpayer's capital interest in the particular trust;

(b) section 467 was applicable, or would have been applicable if it were read without reference to "while the transferor is resident in Canada" and if section 467.1, as it read in its application before 21 March 2013, were read without reference to its paragraph *c.2*, or section 597.0.6 was applicable, or would have been applicable if the first paragraph of that section were read without reference to its subparagraph *a*, at a particular time in respect of any property of

i. the particular trust, or

ii. a trust the property of which included a property that, through one or more dispositions to which section 692.8 applied, became a property of the particular trust, and the property was not, at any time after the particular time and before the distribution, the subject of a disposition for proceeds of disposition equal to the fair market value of the property at the time of the disposition;

(c) the taxpayer is neither

i. the person, other than a trust described in subparagraph ii of paragraph *b*, who directly or indirectly transferred the particular property, or a property for which the particular property was substituted, to the particular trust, nor

ii. an individual in respect of whom section 454 would be applicable on the transfer of capital property by the person described in subparagraph i; and

(d) the person described in subparagraph i of paragraph *c* was in existence at the time the particular property was distributed.

History: 1990, c. 59, s. 247; 2001, c. 7, s. 82; 2003, c. 2, s. 182 [amended by 2017, c. 1, s. 464]; 2009, c. 5, s. 228; 2015, c. 21, s. 226; 2015, c. 36, s. 38.

Corresponding Federal Provision: 107(4.1).

Distribution of property received on qualifying disposition.

691.2. Despite section 688, the rules set out in section 688.1 apply at any time to property distributed after 20 December 2002 to a beneficiary by a personal trust or a trust prescribed for the purposes of section 688, if

(a) at a particular time before 21 December 2002 there was a qualifying disposition, within the meaning assigned by

section 692.5, of the property, or of other property for which the property is substituted, by a particular partnership or a particular corporation to a trust; and

(b) the beneficiary is neither the particular partnership nor the particular corporation.

History: 2009, c. 5, s. 229.

Corresponding Federal Provision: 107(4.2).

Distribution to taxpayer not resident in Canada.

692. Despite section 688, the rules set out in section 688.1 apply if a property, other than a property referred to in the second paragraph, is distributed by a trust to a taxpayer not resident in Canada, including a partnership other than a Canadian partnership, as consideration for all or part of the taxpayer's capital interest in the trust.

Property referred to.

The property to which the first paragraph refers is

(a) a share of the capital stock of a non-resident-owned investment corporation; or

(b) a property referred to in any of subparagraphs i to iii of subparagraph *b* of the first paragraph of section 785.2;

(c) *(subparagraph repealed)*;

(d) *(subparagraph repealed)*;

(e) *(subparagraph repealed)*;

(f) *(subparagraph repealed)*;

(g) *(subparagraph repealed)*;

(h) *(subparagraph repealed)*.

History: 1972, c. 23, s. 523; 1977, c. 26, s. 78; 1990, c. 59, s. 248; 1994, c. 22, s. 242; 1997, c. 3, s. 71; 2001, c. 7, s. 83; 2003, c. 2, s. 183; 2004, c. 8, s. 134; 2009, c. 5, s. 230.

Corresponding Federal Provision: 107(5).

Instalment interest.

692.0.1. Where, solely by reason of the application of section 692, subparagraphs *a* to *c* of the first paragraph of section 688 do not apply to a distribution in a taxation year of taxable Canadian property by a trust, for the purposes of sections 1025, 1026 and 1026.0.2 to 1026.2, the first, second and third paragraphs of section 1038 and any regulations made under those provisions, the aggregate of the taxes payable by the trust under this Part for the year is deemed to be the lesser of

(a) the aggregate of the taxes payable by the trust under this Part for the year, determined without reference to the specified tax consequences for the year; and

(b) the amount that would be determined under paragraph *a* if section 692 did not apply to each distribution in the year of taxable Canadian property to which the rules set out in section 688 do not apply solely by reason of the application of section 692.

History: 2003, c. 2, s. 184; 2009, c. 5, s. 231; 2015, c. 21, s. 227.

Corresponding Federal Provision: 107(5.1).

CHAPTER IX ENVIRONMENTAL TRUSTS

Treatment of beneficiaries under qualifying environmental trusts.

692.1. Where a taxpayer is a beneficiary under an environmental trust in a taxation year of the trust, in this section referred to as the "trust's year", that ends in a particular taxation year of the taxpayer, the following rules apply:

(a) subject to paragraph *b*, the taxpayer's income, non-capital loss and net capital loss for the particular year shall be computed as if the amount of the income or loss of the trust for the trust's year from any source in Canada or from sources in another place were the income or loss of the taxpayer from that source in Canada or from sources in that other place for the particular year, to the extent of the portion thereof that can reasonably be considered to be the taxpayer's share of such income or loss; and

(b) if the taxpayer is not resident in Canada at any time in the particular year and an income or loss described in paragraph *a* or an amount to which paragraph *z* or *z.1* of section 87 applies would not otherwise be included in computing the taxpayer's taxable income or taxable income earned in Canada, as the case may be, notwithstanding any other provision of this Act, the income, the loss or the amount shall be attributed to the carrying on of business in Canada by the taxpayer through a fixed place of business located in the province in which the site to which the trust relates is situated.

History: 1996, c. 39, s. 178; 2000, c. 5, s. 152.

Corresponding Federal Provision: 107.3(1).

Transfers to beneficiaries.

692.2. Where property of an environmental trust is transferred at any time to a beneficiary under the trust in satisfaction of all or any part of the beneficiary's interest as a beneficiary under the trust,

(a) the trust is deemed to have disposed of the property at that time and to have received proceeds of disposition equal to its fair market value at that time; and

(b) the beneficiary is deemed to have acquired the property at that time at a cost equal to its fair market value at that time.

History: 1996, c. 39, s. 178; 2000, c. 5, s. 293; 2001, c. 7, s. 84.

Corresponding Federal Provision: 107.3(2).

Trust ceasing to be an environmental trust.

692.3. Where a trust ceases at a particular time to be an environmental trust,

(a) *(paragraph repealed)*;

(b) *(paragraph repealed)*;

(b.1) for the purposes of sections 736, 736.0.2, 736.0.3.1 and 999.1, the trust is deemed to cease at that time to be exempt from tax under this Part on its taxable income;

(c) each beneficiary under the trust immediately before the particular time is deemed to receive at that time from the trust, as a beneficiary under an environmental trust, an amount equal to the portion of the fair market value of the properties of the trust at the particular time that can reasonably be considered to be the beneficiary's interest in the trust; and

(d) each beneficiary under the trust is deemed to acquire at the particular time an interest in the trust at a cost equal to the amount deemed by paragraph c to be received by the beneficiary from the trust.

History: 1996, c. 39, s. 178; 2000, c. 5, s. 293; 2017, c. 1, s. 164.

Corresponding Federal Provision: 107.3(3).

Provisions not applicable.

692.4. Sections 661 to 663, 665, 665.1, 684 to 689, 690.0.1 and 691 to 692 do not apply to a trust with respect to a taxation year during which it is an environmental trust.

History: 1996, c. 39, s. 178; 2000, c. 5, s. 293.

Corresponding Federal Provision: 107.3(4).

CHAPTER X QUALIFYING DISPOSITION

Interpretation.

692.5. In this chapter, “qualifying disposition” means a disposition of property made by a person or partnership before 21 December 2002 and a disposition of property made by an individual after 20 December 2002, the person, partnership or individual being in this section referred to as the “contributor”, as a result of a transfer of the property to a particular trust if

(a) the disposition does not result in a change in the beneficial ownership of the property;

(b) the proceeds of disposition would, but for sections 422 to 424, 427.4, 454 to 462.0.2 and this chapter, not be determined under any provisions of this Part;

(c) the particular trust is resident in Canada at the time of the transfer;

(d) *(paragraph repealed)*;

(e) unless the contributor is a trust, there is immediately after the disposition no absolute or contingent right of a person or partnership, other than the contributor or, where the property is co-owned, each of the joint contributors, as a beneficiary, determined with reference to section 646.1, under the particular trust;

(f) the contributor is not an individual, other than a trust described in any of subparagraphs a to d of the third paragraph of section 647, if the particular trust is described in any of those subparagraphs;

(g) the disposition is not part of a series of transactions or events

i. that begins after 17 December 1999 and that includes the subsequent acquisition, for a particular consideration given to a personal trust, of a capital interest or an income interest in the trust,

ii. that begins after 17 December 1999 and that includes the disposition of all or part of a capital interest or an income interest in a personal trust, other than a disposition solely as a consequence of a distribution from a trust to a person or partnership as consideration for all or part of that interest, or

iii. that begins after 5 June 2000 and that includes the transfer to the particular trust of property as consideration for the acquisition of a capital interest in the particular trust, if the property can reasonably be considered to have been received by the particular trust in order to fund a distribution, other than a distribution that is proceeds of disposition of a capital interest in the particular trust;

(h) the disposition is not, and is not part of, a transaction that occurs after 17 December 1999 and that includes the giving to the contributor, for the disposition, of any consideration, other than consideration that is an interest of the contributor as a beneficiary under the particular trust or that is the assumption by the particular trust of debt for which the property can, at the time of the disposition, reasonably be considered to be security;

(i) section 454 does not apply to the disposition and would not apply to the disposition if no election had been made under that section and if sections 454 to 462.0.2 were read without reference to section 454.2; and

(j) if the contributor is an amateur athlete trust, a cemetery care trust, an employee trust, an employee life and health trust, a trust deemed by section 851.25 to exist in respect of a congregation that is a constituent part of a religious organization, a segregated fund trust within the meaning of section 851.2, a trust described in paragraph c.4 of section 998 or a trust governed by an eligible funeral arrangement, a profit sharing plan, a registered education savings plan, a registered disability savings plan, a registered

supplementary unemployment benefit plan or a tax-free savings account, the particular trust is the same type of trust.

History: 2003, c. 2, s. 185; 2004, c. 21, s. 97; 2009, c. 5, s. 232; 2009, c. 15, s. 100; 2011, c. 6, s. 146; 2017, c. 1, s. 165.

Corresponding Federal Provision: 107.4(1).

Rules applicable.

692.6. For the purposes of paragraph *a* of section 692.5, the following rules apply:

(*a*) except where paragraph *b* applies, where a trust, in this paragraph and in section 692.7 referred to as the “transferor trust”, in a period that does not exceed one day, disposes of one or more properties in the period to one or more other trusts, there is deemed to be no resulting change in the beneficial ownership of those properties if

i. the transferor trust receives no consideration for the disposition, and

ii. as a consequence of the disposition, the value of each beneficiary’s beneficial ownership at the beginning of the period under the transferor trust in each particular property of the transferor trust, or group of two or more properties of the transferor trust that are identical to each other, is the same as the value of the beneficiary’s beneficial ownership at the end of the period under the transferor trust and the other trust or trusts in each particular property, or in property that was immediately before the disposition included in the group of identical properties referred to above; and

(*b*) where a trust, in this paragraph referred to as the “transferor”, governed by a registered retirement savings plan or a registered retirement income fund transfers a property to a trust, in this paragraph referred to as the “transferee”, governed by a registered retirement savings plan or a registered retirement income fund, the transfer is deemed not to result in a change in the beneficial ownership of the property if the annuitant of the plan or fund that governs the transferor is also the annuitant of the plan or fund that governs the transferee.

History: 2003, c. 2, s. 185.

Corresponding Federal Provision: 107.4(2).

Fractional interest.

692.7. For the purpose of applying paragraph *a* of section 692.6 in respect of a transfer by a transferor trust of property that includes a share and money, the other trust or trusts referred to in that section may receive, in lieu of a transfer of a fractional interest in a share that would otherwise be required, a disproportionate amount of money or interest in the share, the value of which does not exceed the lesser of \$200 and the fair market value of the fractional interest.

History: 2003, c. 2, s. 185.

Corresponding Federal Provision: 107.4(2.1).

Disposition of property.

692.8. Where at a particular time there is a qualifying disposition of property by a person or partnership, in this section referred to as the “transferor”, to a trust, in this section referred to as the “transferee trust”, the following rules apply:

(*a*) the transferor’s proceeds of disposition of the property are deemed to be

i. where the transferor makes a valid election under subparagraph *i* of paragraph *a* of subsection 3 of section 107.4 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) after 19 December 2006 in relation to the disposition, the greater of the cost amount to the transferor of the property immediately before the particular time and the amount specified in respect of the property in the election in accordance with that subparagraph *i*, and

ii. in any other case, the cost amount to the transferor of the property immediately before the particular time;

(*b*) the transferee trust’s cost of the property is deemed to be the amount by which the amount determined under subparagraph *a* in respect of the qualifying disposition exceeds the amount by which the transferor’s loss otherwise determined from the qualifying disposition would be reduced by reason of section 638.1, the third and fourth paragraphs of section 686 or sections 741 to 744.2, if the amount determined under subparagraph *a* were equal to the fair market value of the property at the particular time;

(*c*) for the purposes of sections 93 to 104, Chapter III of Title III and any regulations made under paragraph *a* of section 130 or under section 130.1, if the property was depreciable property of a prescribed class of the transferor and its capital cost to the transferor exceeds the cost at which the transferee trust is deemed by this section to have acquired the property, the following rules apply:

i. the capital cost of the property to the transferee trust is deemed to be the amount that was the capital cost of the property to the transferor, and

ii. the excess is deemed to have been allowed as depreciation to the transferee trust in respect of the property for taxation years that ended before the particular time;

(*d*) (*subparagraph repealed*);

(*e*) if, as a result of a transaction or event, the property was deemed to be taxable Québec property or taxable Canadian property of the transferor under this subparagraph, subparagraph *c* of the first paragraph of section 280.6, 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, taxable Québec property or taxable Canadian property of the transferee trust;

(*f*) where the transferor is a segregated fund trust, within the meaning of section 851.2, the following rules apply:

i. section 851.14 does not apply in respect of a disposition of interest in the transferor that occurs in connection with the qualifying disposition, and

ii. for the purpose of computing the amount referred to in section 851.14 in respect of a subsequent disposition of an interest in the transferee trust where the interest is deemed to exist in connection with a life insurance policy, the acquisition fee, within the meaning of section 851.17, in respect of the policy shall be determined as if each amount referred to in sections 851.17 and 851.18 in respect of the policyholder's interest in the transferor had been determined in respect of the policyholder's interest in the transferee trust;

(*g*) if the transferor is a trust to which property was transferred by an individual, other than a trust, the following rules apply:

i. where section 454 applied in respect of the property so transferred and it is reasonable to consider that the property was so transferred in anticipation of the individual ceasing to be resident in Canada, for the application of subparagraph *a.3* of the first paragraph of section 653 and this subparagraph to a disposition by the transferee trust after the particular time, the transferee trust is deemed after the particular time to be a trust to which the individual had transferred property in anticipation of the individual ceasing to be resident in Canada and in circumstances to which section 454 applied, and

ii. for the purposes of paragraph *j* of the definition of "excluded right or interest" in section 785.0.1 and the application of this subparagraph to a disposition by the transferee trust after the particular time, where the property so transferred was transferred in circumstances to which this section would apply if section 692.5 were read without reference to paragraphs *h* and *i* thereof, the transferee trust is deemed after the particular time to be a trust an interest in which was acquired by the individual as a consequence of a qualifying disposition;

(*h*) if the transferor is a trust, other than a personal trust or a trust prescribed for the purposes of section 688, the transferee trust is deemed to be neither a personal trust nor a trust prescribed for the purposes of section 688;

(*i*) if the transferor is a trust and a taxpayer disposes of all or part of a capital interest in the transferor because of the qualifying disposition and, as a consequence, acquires a capital interest or part of it in the transferee trust, the following rules apply:

i. the taxpayer is deemed to dispose of the capital interest or part of it in the transferor for proceeds equal to the cost amount to the taxpayer of that interest or part of it immediately before the particular time, and

ii. the taxpayer is deemed to acquire the capital interest or part of it in the transferee trust at a cost equal to the amount by which the cost amount referred to in subparagraph *i* exceeds the amount by which the taxpayer's loss otherwise determined from the disposition referred to in subparagraph *i* would be reduced by reason of the third and fourth paragraphs of section 686, if the proceeds under that subparagraph were equal to the fair market value of the capital interest or part of it in the transferor immediately before the particular time;

(*j*) where the transferor is a trust, a taxpayer's beneficial ownership in the property ceases to be derived from the taxpayer's capital interest in the transferor because of the qualifying disposition and no part of the taxpayer's capital interest in the transferor was disposed of because of the qualifying disposition, there shall, immediately after the particular time, be added to the cost otherwise determined of the taxpayer's capital interest in the transferee trust, the amount determined by the formula

$$A \times [(B - C) / B] - D;$$

(*k*) where subparagraph *j* applies to the qualifying disposition in respect of a taxpayer, the amount that would be determined under that subparagraph in respect of the qualifying disposition if the amount determined under subparagraph *d* of the second paragraph were nil shall, immediately after the particular time, be deducted in computing the cost otherwise determined of the taxpayer's capital interest in the transferor;

(*l*) where subparagraphs *i* and *j* do not apply in respect of the qualifying disposition, the transferor is deemed to acquire the capital interest or part of it in the transferee trust that is acquired as a consequence of the qualifying disposition

i. where the transferee trust is a personal trust, at a cost equal to nil, and

ii. in any other case, at a cost equal to the excess referred to in subparagraph *b* in respect of the qualifying disposition; and

(*m*) for the purposes of section 684, where the transferor is a trust and a taxpayer disposes of all or part of an income interest in the transferor because of the qualifying disposition and, as a consequence, acquires an income interest or a part of an income interest in the transferee trust, the taxpayer is deemed not to dispose of any part of the income interest in the transferor at the particular time.

Interpretation.

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

(a) A is the cost amount to the taxpayer of the taxpayer's capital interest in the transferor immediately before the particular time;

(b) B is the fair market value immediately before the particular time of the taxpayer's capital interest in the transferor;

(c) C is the fair market value at the particular time of the taxpayer's capital interest in the transferor, determined as if the only property disposed of at the particular time were the particular property; and

(d) D is the lesser of

i. the amount by which the cost amount to the taxpayer of the taxpayer's capital interest in the transferor immediately before the particular time exceeds the fair market value of the taxpayer's capital interest in the transferor immediately before the particular time, and

ii. the maximum amount by which the taxpayer's loss from a disposition of a capital interest otherwise determined would be reduced by reason of the third and fourth paragraphs of section 686 if the taxpayer's capital interest in the transferor had been disposed of immediately before the particular time.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to an election made under subparagraph i of paragraph *a* of subsection 3 of section 107.4 of the Income Tax Act or in relation to an election made under this section before 20 December 2006.

History: 2003, c. 2, s. 185; 2004, c. 8, s. 135; 2005, c. 1, s. 135; 2009, c. 5, s. 233; 2009, c. 15, s. 101; 2010, c. 25, s. 57; 2011, c. 6, s. 147; 2019, c. 14, s. 177.

Corresponding Federal Provision: 107.4(3).

Fair market value of capital interest.

692.9. Where a capital interest in a trust is held by a beneficiary at any time, the interest is vested indefeasibly at that time, the trust is not described in any of subparagraphs *a* to *d* of the third paragraph of section 647 and interests under the trust are not ordinarily disposed of for consideration that reflects the fair market value of the net assets of the trust, the fair market value of the interest at that time is deemed to be not less than the amount determined by the formula

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

Interpretation.

In the formula provided for in the first paragraph,

(a) A is the total fair market value of all properties of the trust at the time referred to in the first paragraph;

(b) B is the aggregate of all amounts each of which is the amount of a debt owing by the trust at the time referred to in the first paragraph or the amount of any other obligation of the trust to pay any amount that is outstanding at that time;

(c) C is the fair market value at the time referred to in the first paragraph of the interest referred to in the first paragraph, determined without reference to this section; and

(d) D is the total fair market value at the time referred to in the first paragraph of all interests as beneficiaries under the trust, determined without reference to this section.

History: 2003, c. 2, s. 185.

Corresponding Federal Provision: 107.4(4).

BOOK IV**COMPUTATION OF TAXABLE INCOME****TITLE I****RULE OF APPLICATION****Deductions.**

693. A taxpayer may, for purposes of computing his taxable income for a taxation year, deduct the amounts provided for by this Book.

Provisions applicable.

However, the taxpayer shall apply the provisions of this Book in the following order: Title I.0.0.1, sections 694.0.1, 694.0.2, 737.17, 737.18.12, 726.29, 726.35 and 726.43, Titles V, VI.8, V.1, VI.2, VI.3, VI.3.1, VI.3.2, VI.3.2.1, VI.3.2.2, VI.3.2.3, VII, VII.0.1, VI.5 and VI.5.1 and sections 725.1.2, 737.14 to 737.16.1, 737.18.10, 737.18.11, 737.18.17.5, 737.18.26, 737.18.34, 737.18.40, 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, 737.22.0.10, 737.22.0.13, 737.25, 737.28, 726.28, 726.33, 726.34 and 726.42.

History: 1972, c. 23, s. 524; 1975, c. 22, s. 193; 1976, c. 18, s. 7; 1979, c. 14, s. 2; 1985, c. 25, s. 113; 1986, c. 15, s. 96; 1987, c. 67, s. 133; 1988, c. 4, s. 41; 1989, c. 5, s. 83; 1990, c. 7, s. 20; 1993, c. 16, s. 249; 1993, c. 19, s. 23; 1993, c. 64, s. 41; 1995, c. 1, s. 48; 1995, c. 63, s. 49; 1997, c. 14, s. 96; 1997, c. 85, s. 103; 1999, c. 83, s. 61; 2000, c. 39, s. 38; 2002, c. 9, s. 10; 2002, c. 40, s. 44; 2003, c. 9, s. 41; 2004, c. 21, s. 98; 2005, c. 23, s. 56; 2005, c. 38, s. 82; 2006, c. 36, s. 46; 2010, c. 25, s. 58; 2012, c. 8, s. 58; 2013, c. 10, s. 38; 2015, c. 21, s. 228; 2017, c. 29, s. 91; 2019, c. 14, s. 178.

Corresponding Federal Provision: 111.1.

Deductions in separate returns.

693.1. Where a separate fiscal return with respect to an individual is filed under any of sections 429, 681 and 1003 for a particular period and another fiscal return under this

Part with respect to the same individual is filed for a period ending in the calendar year in which the particular period ends, for the purpose of computing the taxable income under this Part of the individual in such fiscal returns, the aggregate of all deductions claimed in all such returns under sections 725 to 725.5 shall not exceed the aggregate of the deductions that could be claimed thereunder for the year with respect to the individual if no separate fiscal returns were filed under sections 429, 681 and 1003.

History: 1986, c. 19, s. 139; 1987, c. 67, s. 134; 1989, c. 5, s. 84; 1993, c. 64, s. 42; 2019, c. 14, s. 179.

Corresponding Federal Provision: 114.2.

Interposed partnership.

693.2. In this Book, except Titles VI.10 and VI.11, the following rules apply in respect of a taxpayer if one or more partnerships (each of which is in this section referred to as an “interposed partnership”) are interposed between the taxpayer and a given partnership, for a given fiscal period of the given partnership:

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

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

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

(b) the taxpayer’s share in an amount in respect of the given partnership for the given fiscal period is deemed to be equal to the proportion of that amount represented by the proportion obtained by multiplying the agreed proportion in respect of the taxpayer for the interposed fiscal period of the interposed partnership of which the taxpayer is directly a member, by

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

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

Special rule.

If the first paragraph applies for the purpose of determining an amount that a corporation may deduct under Title V because of section 714, subparagraph *b* of that paragraph is to be read as follows:

“(b) the proportion of the taxpayer’s share in the given partnership for the given fiscal period is deemed to be equal to the product obtained by multiplying the proportion of the taxpayer’s share in the interposed partnership of which the taxpayer is directly a member for the interposed partnership’s interposed fiscal period, by

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

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

History: 2009, c. 15, s. 102; 2017, c. 29, s. 92.

Section 693.2 not applicable.

693.3. Section 693.2 does not apply in respect of a taxpayer, in relation to a given partnership, if the Minister is of the opinion that the interposition, between the taxpayer and the given partnership, of one or more other partnerships is part of an operation or transaction or of a series of operations or transactions, one of the purposes of which is to cause the taxpayer to be able to deduct, in computing the taxpayer’s taxable income for a taxation year under a provision of this Book, an amount greater than the amount that the taxpayer could have so deducted for that taxation year, but for that interposition.

History: 2009, c. 15, s. 102.

Replacement or revocation of a document.

693.4. In this Book, except Titles V, VI.3 and VI.9, where a Minister other than the Minister of Revenue or a body replaces or revokes a certificate, qualification certificate or other similar document that has been issued to a person or a partnership, the following rules apply in respect of the document, unless a more specific similar rule applies to it:

(a) the replaced document is null as of the date of its coming into force or of its deemed coming into force and the new document is deemed, unless it provides otherwise, to come into force as of that date and to have been issued at the time the replaced document was issued or is deemed to have been issued; and

(b) the revoked document is null as of the effective date of the revocation and is deemed not to have been issued, obtained or held as of that date.

Document deemed replaced.

Where a document is, without being replaced, amended by the revocation or replacement of any of its parts or in any other manner, the document before the amendment and the document as amended are deemed, for the purposes of this section, to be separate documents the first of which (referred to as the “replaced document”) has been replaced by the second (referred to as the “new document”).

Amendment for part of a period.

Where, in the circumstances described in the second paragraph, a document is amended only for a part of its period of validity, the new document is deemed to describe both the situation prevailing before the amendment, as proven by the content of the replaced document, and the new situation, as proven by the content of the new document.

History: 2012, c. 8, s. 59.

Annual adjustment.

693.5. Where the amount of \$400,000 referred to in subparagraph *a* of the first paragraph of section 726.7.1 is to be used for a taxation year subsequent to the taxation year 2014, it must be adjusted annually in such a manner that the amount used for that taxation year is equal to the total of the amount that, but for the fifth paragraph, would have been used for the preceding taxation year and the product that is 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 Consumer Price Index 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 Consumer Price Index for the 12-month period preceding the period described in subparagraph *a*.

Consumer Price Index.

For the purposes of the second paragraph, the Consumer Price Index for a 12-month period is equal to the quotient obtained by dividing the aggregate of each monthly Consumer Price Index for that period for Canada established by Statistics Canada under the Statistics Act (Revised Statutes of Canada, 1985, chapter S-19) by 12.

Index or adjustment factor.

If an index established in accordance with the third paragraph or the factor determined by the formula in the first paragraph has more than three decimal places, only the first three decimal digits are retained and the third is increased by one unit if the fourth is greater than 4.

Rounding.

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 of the two.

History: 2015, c. 24, s. 93; 2020, c. 16, s. 98; 2020, c. 16, s. 98.

Taxable income of a taxpayer.

694. For the purpose of computing the taxable income of a taxpayer for a taxation year, any deduction granted 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 taxable income for a preceding taxation year in respect of which the taxpayer was not subject to tax under this Part, is deemed to have been also granted to the taxpayer under the corresponding provision of this Part in computing the taxpayer’s taxable income for that preceding year.

History: 1977, c. 26, s. 79; 1984, c. 15, s. 156; 2001, c. 53, s. 91; 2010, c. 25, s. 59.

TITLE I.0.0.1 INCLUSION OF CERTAIN AMOUNTS

Amounts to be included.

694.0.0.1. An individual shall include, in computing the individual’s taxable income for a taxation year, the aggregate of all amounts each of which is

(a) an amount received in the year by the individual as a benefit under section 4 of the Universal Child Care Benefit Act, enacted by section 168 of the Budget Implementation Act, 2006 (Statutes of Canada, 2006, chapter 4), if the individual does not have a spouse at the end of 31 December of the year or if the income for the year of the individual’s spouse at the end of 31 December of the year is equal to or greater than the individual’s income for the year; or

(b) an amount received in the year by the individual’s spouse at the end of 31 December of the year as a benefit under section 4 of the Universal Child Care Benefit Act, if the spouse’s income for the year is greater than the individual’s income for the year.

Election.

Despite the first paragraph, the individual is not required to include, in computing taxable income for the year, if the individual so elects, the portion of the amount referred to in

the first paragraph that relates to one or more preceding taxation years that are eligible taxation years of the individual (in this paragraph referred to as the “particular portion”), if the total of the particular portion and of the particular portion described in the first paragraph of section 725.1.2 that the individual elects to deduct in computing taxable income for the year, if applicable, is not less than \$300.

Eligible taxation year.

For the purposes of the second paragraph, “eligible taxation year” of an individual means a taxation year throughout which the individual was resident in Canada, other than a taxation year that ends in a calendar year in which the individual became a bankrupt.

History: 2006, c. 36, s. 47; 2009, c. 5, s. 234; 2010, c. 25, s. 60.

Corresponding Federal Provision: 56(6).

Individual or spouse who became bankrupt.

694.0.0.2. For the purposes of the first paragraph of section 694.0.0.1, if an individual has a spouse at the end of 31 December of a taxation year and the individual or the spouse became a bankrupt in the year, section 779 does not apply for the purpose of determining the individual’s or the spouse’s income for the year.

History: 2009, c. 5, s. 235.

Amounts under registered disability savings plan.

694.0.0.3. An individual shall, in computing the individual’s taxable income for a taxation year, include an amount received by the individual in the year as a payment under a registered disability savings plan, to the extent provided for in section 905.0.14.

History: 2009, c. 15, s. 104.

Corresponding Federal Provision: 56(1)(q.1).

TITLE I.0.1

DEDUCTED AMOUNTS TO BE INCLUDED IN COMPUTING INCOME

Addition in relation to arrears of support.

694.0.1. An individual shall, in computing the individual’s taxable income for a taxation year, include the portion, relating to one or more preceding taxation years that are eligible taxation years of the individual, of the aggregate of all amounts deducted by the individual in computing the individual’s income for the year under section 336.0.3 or 336.0.4, if the total of that portion is at least \$300.

Eligible taxation year.

For the purposes of the first paragraph, “eligible taxation year” of an individual means a taxation year throughout which the individual was resident in Canada, other than a taxation year that ends in a calendar year in which the individual became a bankrupt or a taxation year included, in

whole or in part, in an averaging period determined in respect of the individual for the purposes of Division II of Chapter II of Title I of Book V, as it read before being repealed.

History: 1997, c. 85, s. 104; 1998, c. 16, s. 177; 2005, c. 38, s. 83.

Inclusion to prevent a double reduction of taxable income.

694.0.2. Despite section 7.19, a taxpayer shall, in computing the taxpayer’s taxable income for a taxation year, include any amount deducted in computing the taxpayer’s income for the year as a repayment of a particular amount the taxpayer included in computing the taxpayer’s income for a preceding taxation year, to the extent that the particular amount has been deducted in computing the taxpayer’s taxable income for that preceding taxation year.

History: 1997, c. 85, s. 104; 1998, c. 16, s. 251; 2001, c. 51, s. 39; 2001, c. 53, s. 92; 2005, c. 38, s. 84.

694.0.3. (Repealed).

History: 2002, c. 40, s. 45; 2005, c. 38, s. 85.

TITLE I.1

(Repealed).

694.1. (Repealed).

History: 1979, c. 38, s. 21; 1984, c. 15, s. 157; 1986, c. 15, s. 97; 1989, c. 5, s. 85.

694.2. (Repealed).

History: 1979, c. 38, s. 21; 1986, c. 15, s. 98.

694.3. (Repealed).

History: 1979, c. 38, s. 21; 1986, c. 15, s. 99; 1989, c. 5, s. 85.

TITLE II

(Repealed).

695. (Repealed).

History: 1972, c. 23, s. 525; 1972, c. 26, s. 53; 1973, c. 17, s. 83; 1974, c. 18, s. 25; 1975, c. 22, s. 194; 1976, c. 18, s. 8; 1978, c. 26, s. 118; 1984, c. 15, s. 158; 1986, c. 15, s. 100; 1987, c. 21, s. 16; 1987, c. 67, s. 135; 1988, c. 4, s. 42; 1988, c. 18, s. 61; 1989, c. 5, s. 85.

695.1. (Repealed).

History: 1986, c. 15, s. 100; 1989, c. 5, s. 85.

695.2. (Repealed).

History: 1986, c. 15, s. 100; 1989, c. 5, s. 85.

696. (Repealed).

History: 1972, c. 23, s. 526; 1986, c. 15, s. 100; 1987, c. 21, s. 17; 1989, c. 5, s. 85.

697. *(Repealed).*

History: 1972, c. 23, s. 527; 1986, c. 15, s. 100; 1988, c. 18, s. 62; 1989, c. 5, s. 85.

698. *(Repealed).*

History: 1972, c. 23, s. 528; 1986, c. 15, s. 100; 1989, c. 5, s. 85.

699. *(Repealed).*

History: 1972, c. 23, s. 529; 1982, c. 17, s. 53; 1986, c. 15, s. 100; 1989, c. 5, s. 85.

700. *(Repealed).*

History: 1972, c. 23, s. 530; 1986, c. 15, s. 100; 1987, c. 21, s. 18; 1989, c. 5, s. 85.

701. *(Repealed).*

History: 1972, c. 23, s. 531; 1986, c. 15, s. 100; 1989, c. 5, s. 85.

TITLE III
*(Repealed).***702.** *(Repealed).*

History: 1975, c. 21, s. 18; 1975, c. 22, s. 195; 1977, c. 26, s. 80; 1979, c. 38, s. 22; 1987, c. 21, s. 19; 1988, c. 4, s. 43; 1989, c. 5, s. 85.

702.1. *(Repealed).*

History: 1987, c. 21, s. 19; 1988, c. 4, s. 44.

703. *(Repealed).*

History: 1975, c. 21, s. 18; 1975, c. 22, s. 196; 1977, c. 26, s. 81; 1978, c. 26, s. 119; 1979, c. 18, s. 56; 1980, c. 13, s. 62; 1984, c. 15, s. 159; 1986, c. 15, s. 101; 1989, c. 5, s. 85.

704. *(Repealed).*

History: 1975, c. 21, s. 18; 1978, c. 26, s. 120; 1980, c. 13, s. 63; 1984, c. 15, s. 160; 1989, c. 5, s. 85.

705. *(Repealed).*

History: 1975, c. 22, s. 197; 1980, c. 13, s. 64; 1984, c. 15, s. 161; 1985, c. 25, s. 114; 1986, c. 15, s. 102; 1987, c. 67, s. 136; 1989, c. 5, s. 85.

706. *(Repealed).*

History: 1975, c. 22, s. 197; 1987, c. 67, s. 136; 1989, c. 5, s. 85.

TITLE IV
*(Repealed).***707.** *(Repealed).*

History: 1975, c. 22, s. 198; 1978, c. 26, s. 121; 1979, c. 18, s. 57; 1984, c. 15, s. 162; 1987, c. 21, s. 20; 1988, c. 4, s. 45; 1989, c. 5, s. 85.

707.1. *(Repealed).*

History: 1987, c. 21, s. 21; 1988, c. 4, s. 46.

708. *(Repealed).*

History: 1975, c. 22, s. 198; 1984, c. 15, s. 162; 1987, c. 21, s. 22; 1988, c. 4, s. 47; 1989, c. 5, s. 85.

708.1. *(Repealed).*

History: 1987, c. 21, s. 23; 1988, c. 4, s. 48.

709. *(Repealed).*

History: 1975, c. 22, s. 198; 1982, c. 5, s. 141; 1986, c. 15, s. 103; 1988, c. 18, s. 63; 1989, c. 5, s. 85.

TITLE IV.1
*(Repealed).***709.1.** *(Repealed).*

History: 1988, c. 4, s. 49; 1989, c. 5, s. 85.

709.2. *(Repealed).*

History: 1988, c. 4, s. 49; 1989, c. 5, s. 85.

TITLE V**CHARITABLE GIFTS AND OTHER DEDUCTIONS****Deduction for gifts.**

710. Subject to section 711.1, a corporation may deduct in computing its taxable income for a taxation year such of the following amounts as the corporation claims:

(a) subject to section 711, the aggregate of all amounts each of which is the eligible amount of a gift, other than a gift the eligible amount of which is included in the aggregate described in any of paragraphs *c* to *e*, made by the corporation in the year, in any of the five preceding taxation years, if the gift was made in a taxation year that ended before 24 March 2006, or in any of the 20 preceding taxation years, if the gift is made in a taxation year that ends after 23 March 2006, to a qualified donee;

(a.1) *(paragraph repealed);*

(b) *(paragraph repealed);*

(c) the aggregate of all amounts each of which is the eligible amount of a gift the fair market value of which is certified by the Minister of Sustainable Development, Environment and Parks and the object of which is any of the properties described in section 710.0.1, other than a gift the eligible amount of which is included in the aggregate described in paragraph *d* or *e*, made by the corporation in the year, in any of the five preceding taxation years, if the gift was made in a taxation year that ended before 24 March 2006, or in any of the 20 preceding taxation years, if the gift is made in a taxation year that ends after 23 March 2006,

- i. in the case of a property described in paragraph *a* or *b* of section 710.0.1, to a qualified donee that is
- (1) a registered charity (other than a private foundation) whose mission in Québec, at the time of the gift, consists mainly, in the opinion of the Minister of Sustainable Development, Environment and Parks, in the conservation of the ecological heritage and that is, in the opinion of that Minister, an appropriate donee in the circumstances,
 - (2) a municipality in Québec that is, in the opinion of the Minister of Sustainable Development, Environment and Parks, an appropriate donee in the circumstances,
 - (2.1) a municipal or public body performing a function of government in Québec and that is, in the opinion of the Minister of Sustainable Development, Environment and Parks, an appropriate donee in the circumstances, or
 - (3) the State or Her Majesty in right of Canada, and
- ii. in the case of a property described in paragraph *c* or *d* of section 710.0.1, to any of the following entities that, except in the case provided for in subparagraph 3, is a qualified donee:
- (1) a registered charity (other than a private foundation) one of the main missions of which, at the time of the gift, consists, in the opinion of the Minister of the Environment of Canada, in the conservation and protection of Canada's environmental heritage and that is, in the opinion of the Minister of Sustainable Development, Environment and Parks, an appropriate donee in the circumstances,
 - (2) the State or Her Majesty in right of Canada or a province, other than Québec,
 - (2.1) a municipality in Canada or a municipal or public body performing a function of government in Canada that is, in the opinion of the Minister of Sustainable Development, Environment and Parks, an appropriate donee in the circumstances,
 - (3) the United States or any state of that country, or
 - (4) a municipality in the United States or a municipal or public body performing a function of government in the United States that is, in the opinion of the Minister of Sustainable Development, Environment and Parks, an appropriate donee in the circumstances;
 - (*d*) the aggregate of all amounts each of which is the eligible amount of a gift, other than a gift the eligible amount of which is included in the aggregate described in paragraph *e*, made by the corporation in the year, in any of the five preceding taxation years, if the gift was made in a taxation year that ended before 24 March 2006, or in any of the 20 preceding taxation years, if the gift is made in a taxation year that ends after 23 March 2006, to
 - i. an institution or a public authority referred to in subparagraph *a* of the third paragraph of section 232, where the object of the gift is a cultural property described in that paragraph, or
 - ii. a museum established under the Act respecting the Montréal Museum of Fine Arts (chapter M-42) or the National Museums Act (chapter M-44), a certified archival centre or a recognized museum, if the object of the gift is a cultural property described in subparagraph *c* of the third paragraph of section 232, unless it is also described in subparagraph *a* of that third paragraph; and
 - (*e*) the aggregate of all amounts each of which is the eligible amount of a gift the object of which is a musical instrument, made by the corporation in the year or in any of the 20 preceding taxation years to any of the following entities, if it is situated in Québec:
 - i. an elementary or secondary educational institution to which the Education Act (chapter I-13.3) or the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14) applies,
 - ii. a college governed by the General and Vocational Colleges Act (chapter C-29),
 - iii. a private educational institution accredited for purposes of subsidies under the Act respecting private education (chapter E-9.1),
 - iv. an educational institution at the university level within the meaning of the Act respecting educational institutions at the university level (chapter E-14.1), and
 - v. an institution providing instruction in music and forming part of the network of the Conservatoire de musique et d'art dramatique du Québec.
- History: 1972, c. 23, s. 532; 1972, c. 26, s. 54; 1975, c. 22, s. 199; 1978, c. 26, s. 122; 1984, c. 15, s. 163; 1986, c. 19, s. 140; 1988, c. 4, s. 50; 1992, c. 65, s. 43; 1993, c. 16, s. 251; 1993, c. 19, s. 24; 1993, c. 64, s. 43; 1994, c. 14, s. 34; 1994, c. 22, s. 243; 1995, c. 1, s. 49; 1995, c. 49, s. 236; 1997, c. 3, s. 71; 1997, c. 14, s. 97; 1998, c. 16, s. 251; 1999, c. 36, s. 160(1); O.C. 1312-99; 1999, c. 83, s. 62; 2001, c. 7, s. 169; 2003, c. 2, s. 186; 2003, c. 9, s. 42; 2004, c. 21, s. 99; 2005, c. 23, s. 57; 2006, c. 3, s. 35; 2006, c. 36, s. 48; 2009, c. 5, s. 236; 2009, c. 15, s. 105; 2012, c. 8, s. 60; 2017, c. 1, s. 166; 2019, c. 14, s. 180.
- Interpretation Bulletins:** IMP. 232-2/R1.
Corresponding Federal Provision: 110.1(1).
- 710.0.0.1. (Repealed).**
 History: 2009, c. 15, s. 106; 2019, c. 14, s. 181.
Corresponding Federal Provision: 110.1(8).
- 710.0.0.2. (Repealed).**
 History: 2009, c. 15, s. 106; 2019, c. 14, s. 181.

Corresponding Federal Provision: 110.1(1)(a.1).

Property having undeniable ecological value.

710.0.1. The property to which paragraph *c* of section 710 refers is

(a) land situated in Québec which, in the opinion of the Minister of Sustainable Development, Environment and Parks, has undeniable ecological value;

(b) a personal servitude which has a term of not less than 100 years or a real servitude granted for the benefit of land belonging to an entity referred to in any of subparagraphs 1 to 3 of subparagraph *i* of paragraph *c* of section 710 and encumbering the whole or part of land situated in Québec which, in the opinion of the Minister of Sustainable Development, Environment and Parks, has undeniable ecological value;

(c) land situated in a region bordering on Québec which, in the opinion of the Minister of Sustainable Development, Environment and Parks, has undeniable ecological value, the preservation and conservation of which is important to the protection and development of Québec's ecological heritage; and

(d) a personal servitude which has a term of not less than 100 years or a real servitude granted for the benefit of land belonging to an entity referred to in any of subparagraphs 1 to 2.1 of subparagraph *ii* of paragraph *c* of section 710 and encumbering the whole or part of land situated in a region bordering on Québec which, in the opinion of the Minister of Sustainable Development, Environment and Parks, has undeniable ecological value, the preservation and conservation of which is important to the protection and development of Québec's ecological heritage.

History: 1995, c. 1, s. 50; 1999, c. 36, s. 158(11); O.C. 1312-99; 1999, c. 83, s. 63; 2003, c. 9, s. 43; 2006, c. 3, s. 35; 2019, c. 14, s. 182.

Corresponding Federal Provision: 110.1(1)(d).

Region bordering on Québec.

710.0.1.1. For the purposes of paragraphs *c* and *d* of section 710.0.1, a region bordering on Québec is a province or a state of the United States sharing a common border with Québec.

History: 2003, c. 9, s. 44.

Fair market value of a servitude.

710.0.2. For the purpose of applying subparagraph *ii* of paragraph *c* of section 422 and sections 710 to 716.0.11 in respect of a gift made by a taxpayer and referred to in paragraph *c* of section 710, the fair market value of the gift at the time the gift was made or, for the purposes of section 716, the fair market value otherwise determined of the gift at that time and, subject to section 716, the taxpayer's

proceeds of disposition of the property that is the subject of the gift, are deemed to be the amount determined by the Minister of Sustainable Development, Environment and Parks to be

(a) where the subject of the gift is land, the fair market value of the gift; or

(b) where the subject of the gift is a servitude referred to in paragraph *b* or *d* of section 710.0.1, the greater of its fair market value otherwise determined and the amount by which the fair market value of the land encumbered by the servitude has been reduced as a result of the making of the gift of the servitude.

History: 1999, c. 83, s. 64; 2003, c. 2, s. 187; 2003, c. 9, s. 45; 2006, c. 3, s. 35; 2012, c. 8, s. 61.

Corresponding Federal Provision: 110.1(5).

Fair market value of cultural property.

710.1. For the purposes of subparagraph *i* of paragraph *d* of section 710, the fair market value of a cultural property described in subparagraph *a* of the third paragraph of section 232 is deemed to be the fair market value determined by the Canadian Cultural Property Export Review Board or, where an appeal has been instituted under subsection 1 of section 33.1 of the Cultural Property Export and Import Act (Revised Statutes of Canada, 1985, chapter C-51), the fair market value deemed to have been determined by the Board, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), under subsection 2 of that section 33.1.

History: 1993, c. 16, s. 252; 1997, c. 85, s. 105; 1999, c. 83, s. 65; 2003, c. 9, s. 46.

Interpretation Bulletins: IMP. 232-2/R1.

Corresponding Federal Provision: 118.1(10).

Fair market value of cultural property.

710.2. For the purposes of subparagraph *ii* of paragraph *d* of section 710, the fair market value of a cultural property referred to therein is deemed to be the fair market value determined by the Conseil du patrimoine culturel du Québec.

History: 1993, c. 19, s. 25; 1997, c. 85, s. 105; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2011, c. 21, s. 232.

Interpretation Bulletins: IMP. 232-2/R1.

Fair market value.

710.2.1. For the purposes of subparagraph *ii* of paragraph *c* of section 422 and sections 710 to 716.0.11, where at any time the Canadian Cultural Export Review Board or the Minister of Sustainable Development, Environment and Parks, as the case may be, determines or redetermines an amount to be the fair market value of a property that is the subject of a gift described in paragraph *a* of section 710 made by a taxpayer within the two-year period that begins at that time, the last amount so determined or redetermined within the period is deemed to be the fair

market value of the property at the time the gift was made and, subject to section 716, to be the taxpayer's proceeds of disposition of the property.

History: 2001, c. 53, s. 93; 2003, c. 2, s. 188; 2006, c. 3, s. 35; 2011, c. 21, s. 232; 2012, c. 8, s. 62; 2015, c. 21, s. 230.

Corresponding Federal Provision: 118.1(10.1).

Fair market value.

710.2.1.1. Despite section 710.2.1, for the purposes of paragraph *a* of section 422, subparagraph ii of paragraph *c* of that section and sections 710 to 716.0.11, where the Minister of Culture and Communications determines an amount to be the fair market value of a property that is the subject of a gift made by a taxpayer on or before the day that is two years after the time that amount is determined and referred to in paragraph *a* of section 710, the following rules apply:

(a) the amount so determined is deemed to be the fair market value of the property at the time of the gift or, for the purposes of section 716, its fair market value otherwise determined at that time; and

(b) subject to section 716, the amount so determined is deemed to be the taxpayer's proceeds of disposition of the property.

History: 2015, c. 21, s. 231.

Notice in writing.

710.2.2. A corporation may request, by notice in writing to the Minister of Sustainable Development, Environment and Parks, a determination of the fair market value of a property it disposes of or proposes to dispose of and that would, if the disposition were made and the certificates described in section 712.0.2 were issued by the Minister of Sustainable Development, Environment and Parks in respect of the property, be a gift described in paragraph *c* of section 710.

History: 2003, c. 2, s. 189; 2006, c. 3, s. 35.

Corresponding Federal Provision: 118.1(10.2).

Determination in writing.

710.2.3. The Minister of Sustainable Development, Environment and Parks shall with all due dispatch make a determination in accordance with section 710.0.2 of the fair market value of the property that is the subject of the request referred to in section 710.2.2 and give notice of the determination in writing to the corporation that has disposed of, or that proposes to dispose of, the property.

Time for request.

However, no such determination shall be made if the request is received by the Minister of Sustainable Development,

Environment and Parks after three years after the end of the corporation's taxation year in which the disposition occurred.

History: 2003, c. 2, s. 189; 2006, c. 3, s. 35.

Corresponding Federal Provision: 118.1(10.3).

Rules applicable.

710.2.4. Where the Minister of Sustainable Development, Environment and Parks has, in accordance with section 710.2.3, notified a corporation of the amount determined to be the fair market value of a property it has disposed of or proposes to dispose of, the following rules apply:

(a) on receipt of a written request made by the corporation on or before the day that is 90 days after the day that the corporation was so notified, the Minister of Sustainable Development, Environment and Parks shall with all due dispatch confirm or redetermine the fair market value;

(b) the Minister of Sustainable Development, Environment and Parks may, on that Minister's own initiative, at any time redetermine the fair market value;

(c) in the cases referred to in paragraphs *a* and *b*, the Minister of Sustainable Development, Environment and Parks shall notify the corporation in writing of that Minister's confirmation or redetermination; and

(d) any such redetermination is deemed to replace all preceding determinations and redeterminations of the fair market value of the property from the time at which the first such determination was made.

History: 2003, c. 2, s. 189; 2006, c. 3, s. 35.

Corresponding Federal Provision: 118.1(10.4).

Certificate.

710.2.5. Where the Minister of Sustainable Development, Environment and Parks determines in accordance with section 710.2.3 the fair market value of a property, or redetermines that fair market value in accordance with section 710.2.4, and the property has been disposed of to a qualified donee described in paragraph *c* of section 710, the Minister shall issue to the person who made the disposition a certificate that states the fair market value of the property so determined or redetermined.

Last certificate issued.

Where the Minister of Sustainable Development, Environment and Parks has issued more than one certificate in respect of the same property, the last certificate is deemed to replace all preceding certificates from the time at which the first certificate was issued.

History: 2003, c. 2, s. 189; 2006, c. 3, s. 35.

Corresponding Federal Provision: 118.1(10.5).

Request for determination by the Minister of Culture and Communications.

710.2.6. A corporation may request, by notice in writing to the Minister of Culture and Communications, a determination of the fair market value of a property (other than a cultural property described in the third paragraph of section 232) it disposes of or proposes to dispose of and that would, if the disposition were made and the documents referred to in section 716.0.1.3 were issued by the Minister of Culture and Communications in respect of the property, be a gift described in subparagraph *b* of the second paragraph of section 716.0.1.1 or in section 716.0.1.2.

History: 2015, c. 21, s. 232.

Duty of the Minister of Culture and Communications.

710.2.7. The Minister of Culture and Communications shall with all due dispatch make a determination of the fair market value of a property that is the subject of a request referred to in section 710.2.6 and give notice of the determination in writing to the corporation that has disposed of, or that proposes to dispose of, the property.

Time frame.

However, no such determination is made if the request is received by the Minister of Culture and Communications more than three years after the end of the corporation's taxation year in which the disposition occurred.

History: 2015, c. 21, s. 232.

Redetermination.

710.2.8. Where the Minister of Culture and Communications has, in accordance with section 710.2.7, notified a corporation of the amount determined to be the fair market value of a property it has disposed of or proposes to dispose of, the following rules apply:

(a) on receipt of a written request made by the corporation on or before the day that is 90 days after the day that the corporation was so notified, the Minister of Culture and Communications shall with all due dispatch confirm or redetermine the fair market value;

(b) the Minister of Culture and Communications may, on that Minister's own initiative, at any time redetermine the fair market value;

(c) in the cases referred to in paragraphs *a* and *b*, the Minister of Culture and Communications shall notify the corporation in writing of the confirmation or redetermination; and

(d) any such redetermination is deemed to replace all preceding determinations and redeterminations of the fair

market value of the property from the time at which the first such determination was made.

History: 2015, c. 21, s. 232.

Certificate of fair market value.

710.2.9. Where the Minister of Culture and Communications determines the fair market value of a property in accordance with section 710.2.7, or redetermines that fair market value in accordance with section 710.2.8, and the property has been the subject of a gift described in subparagraph *b* of the second paragraph of section 716.0.1.1 or in section 716.0.1.2, that Minister shall issue to the corporation who made the disposition a certificate that states the fair market value of the property so determined or redetermined and send a copy of that certificate to the donee and the Minister.

Certificate of fair market value.

Where the Minister of Culture and Communications has issued more than one certificate in respect of the same property, the last certificate is deemed to replace all preceding certificates from the time at which the first certificate was issued.

History: 2015, c. 21, s. 232.

Assessments.

710.3. Notwithstanding sections 1010 to 1011, the Minister shall make such assessments, reassessments or additional assessments of tax, interest or penalties payable under this Part for any taxation year as are necessary to give effect

(a) to a certificate issued under section 105 of the Cultural Heritage Act (chapter P-9.002) or to a decision of a court resulting from a contestation under section 107 of that Act;

(b) to a certificate issued under subsection 1 of section 33 of the Cultural Property Export and Import Act (Revised Statutes of Canada, 1985, chapter C-51) or to a decision of a court resulting from an appeal under subsection 1 of section 33.1 of that Act; or

(c) to a certificate issued under section 710.2.5 or 710.2.9 or to a decision of a court resulting from a contestation under section 93.1.15.2 or 93.1.15.3 of the Tax Administration Act (chapter A-6.002).

History: 1997, c. 85, s. 106; 2003, c. 2, s. 190; 2010, c. 31, s. 175; 2011, c. 21, s. 233; 2015, c. 21, s. 233; 2020, c. 12, s. 144.

Corresponding Federal Provision: 118.1(11).

Recognized gift with reserve of usufruct or use.

710.4. For the purposes of this Title, the following rules apply:

(a) the gift of the bare ownership of a work of art or a cultural property described in the third paragraph of section 232 and made in the course of a recognized gift with reserve of usufruct or use is deemed to be, subject to section 714.1, the gift of a work of art or of such a cultural property; and

(b) the fair market value of a recognized gift with reserve of usufruct or use, in relation to a work of art or a cultural property described in the third paragraph of section 232, is deemed to be equal to the product obtained by multiplying the amount of the fair market value of the work of art or of the cultural property, as the case may be, otherwise determined with reference to sections 710.1, 710.2, 710.2.1, 710.2.1.1, 714.2 and 716 by the appropriate percentage determined in section 710.5.

History: 2003, c. 9, s. 47; 2015, c. 21, s. 234.

Interpretation Bulletins: IMP. 232-2/R1.

Appropriate percentage.

710.5. The percentage to which section 710.4 refers in respect of a recognized gift with reserve of usufruct or use is

(a) 87% where the duration of the usufruct or right of use provided for in the deed of gift granting it is 10 years or less;

(b) 74% where the duration of the usufruct or right of use provided for in the deed of gift granting it is more than 10 years and 20 years or less; and

(c) 61% in any other case.

History: 2003, c. 9, s. 47.

Interpretation Bulletins: IMP. 232-2/R1.

Maximum allowable amount.

711. The deduction allowed by paragraph *a* of section 710 shall not exceed the lesser of the corporation's income for the year and the amount determined by the formula

$$0.75 \times A + 0.25 \times (B + C + D).$$

Interpretation.

In the formula provided for in the first paragraph,

(a) A is the corporation's income for the year computed before any deduction under section 800;

(b) B is the aggregate of all amounts each of which is equal to that proportion of the corporation's taxable capital gain for the year in respect of a gift made by the corporation in the year and in respect of which gift an eligible amount is described in paragraph *a* of section 710 for the year, that the eligible amount of the gift is of the corporation's proceeds of disposition in respect of the gift;

(c) C is the aggregate of all amounts each of which is a taxable capital gain of the corporation for the year, by reason of the application of section 234.0.1, from a disposition of a property in a preceding taxation year; and

(d) D is the aggregate of all amounts each of which is determined in respect of the corporation's depreciable property of a prescribed class and equal to the lesser of

i. the amount included under section 94 in respect of the class in computing the corporation's income for the year, and

ii. the aggregate of the amounts determined in respect of a disposition that is the making of a gift of a property of the class by the corporation in the year and in respect of which gift an eligible amount is described in paragraph *a* of section 710 for the year, each of which is equal to the lesser of

(1) that proportion of the amount by which the proceeds of disposition of the property exceed any outlays made or expenses incurred by the corporation for the purpose of making the disposition, that the eligible amount of the gift is of the corporation's proceeds of disposition in respect of the gift, and

(2) that proportion of the capital cost to the corporation of the property that the eligible amount of the gift is of the corporation's proceeds of disposition in respect of the gift.

History: 1972, c. 23, s. 533; 1975, c. 22, s. 200; 1982, c. 5, s. 142; 1986, c. 19, s. 141; 1993, c. 16, s. 253; 1993, c. 19, s. 26; 1993, c. 64, s. 44; 1995, c. 1, s. 51; 1997, c. 3, s. 71; 1999, c. 83, s. 66; 2005, c. 23, s. 58; 2009, c. 5, s. 237.

Interpretation Bulletins: IMP. 232-2/R1.

Corresponding Federal Provision: 110.1(1)(a) after (viii).

Limitation on deductibility.

711.1. For the purpose of determining the amount deductible under section 710 in computing the taxable income of a corporation for a taxation year, the following rules apply:

(a) an amount relating to a gift is deductible only to the extent that it exceeds amounts in respect of the gift deducted in computing the corporation's taxable income for preceding taxation years; and

(b) no amount in respect of a gift made in a particular taxation year is deductible under any of paragraphs *a* to *e* of section 710 until amounts deductible under that paragraph in respect of gifts made in taxation years preceding the particular year have been deducted.

History: 1999, c. 83, s. 67; 2006, c. 36, s. 49.

Corresponding Federal Provision: 110.1(1.1).

Acquisition of control.

711.2. Despite section 563, if control of a particular corporation is acquired at any time by a person or group of persons, the following rules apply:

(a) no amount is deductible under any of paragraphs *a* to *e* of section 710 in computing any corporation's taxable income for a taxation year that ends at or after that time in respect of a gift made by the particular corporation before that time; and

(b) no amount is deductible under any of paragraphs *a* to *e* of section 710 in computing any corporation's taxable income for a taxation year that ends at or after that time if the property that is the subject of the gift was acquired by the particular corporation under an arrangement under which it was expected that control of the particular corporation would be so acquired by a person or group of persons, other than a qualified donee that received the gift, and that the gift would be so made.

History: 2005, c. 38, s. 86; 2006, c. 36, s. 50.

Corresponding Federal Provision: 110.1(1.2).

Proof of gift.

712. No corporation may deduct, for a taxation year, an amount under section 710, unless the making of the gift is proven by

(a) a receipt for the gift filed with the Minister that meets the prescribed requirement and contains in a clear and unalterable manner the prescribed statement and the prescribed information; and

(b) in the case of a gift described in subparagraph *i* of paragraph *d* of section 710, the certificate issued under subsection 1 of section 33 of the Cultural Property Export and Import Act (Revised Statutes of Canada, 1985, chapter C-51).

History: 1972, c. 23, s. 534; 1978, c. 26, s. 123; 1982, c. 5, s. 142; 1994, c. 22, s. 244; 2003, c. 2, s. 191.

Interpretation Bulletins: IMP. 232-2/R1.

Corresponding Federal Provision: 110.1(2).

Spoiled receipt form.

712.0.0.1. An organization or a donee shall meet the prescribed requirements in respect of a spoiled receipt form.

Interpretation.

For the purposes of the first paragraph, "donee", "receipt form" and "organization" have the meaning assigned by the regulations made under section 712.

History: 1994, c. 22, s. 245.

Interpretation Bulletins: IMP. 232-2/R1.

Filing of a certificate.

712.0.1. No corporation may deduct, for a taxation year, an amount under section 710 in respect of a gift of a property described in subparagraph *ii* of paragraph *d* of that section unless it files with the Minister, together with the fiscal return it is required to file under section 1000 for the year, a certificate issued by the Conseil du patrimoine culturel du Québec stating that the property was acquired by a museum established under the Act respecting the Montréal Museum of Fine Arts (chapter M-42) or the National Museums Act (chapter M-44), a certified archival centre or a recognized museum, in accordance with its acquisition and conservation policy and with the directives of the Ministère de la Culture et des Communications, and specifying the fair market value of the property determined in accordance with section 710.2 and, if applicable, section 710.4.

History: 1993, c. 19, s. 27; 1993, c. 64, s. 45; 1995, c. 1, s. 199; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1999, c. 83, s. 273 [amended by 2001, c. 7, s. 181]; 2003, c. 9, s. 48; 2004, c. 25, s. 70; O.C. 1295-2005; 2006, c. 36, s. 51; O.C. 1159-2008; 2011, c. 1, s. 33; 2011, c. 21, s. 232.

Interpretation Bulletins: IMP. 232-2/R1.

Filing of certificates.

712.0.2. No corporation may deduct, for a taxation year, an amount under paragraph *c* of section 710 in respect of a gift unless it files with the Minister, along with the fiscal return it is required to file under section 1000 for the year, the following certificates issued by the Minister of Sustainable Development, Environment and Parks:

(a) the certificate certifying that

i. in the case of a gift whose object is a property described in paragraph *a* or *b* of section 710.0.1, the land referred to in that paragraph *a* or the land encumbered with a servitude referred to in that paragraph *b*, as the case may be, has undeniable ecological value and, where such is the case, that the mission in Québec of a charity referred to in subparagraph 1 of subparagraph *i* of paragraph *c* of section 710 consists mainly, at the time of the gift, in the conservation of the ecological heritage, and

ii. in the case of a gift whose object is a property described in paragraph *c* or *d* of section 710.0.1, the land referred to in that paragraph *c* or the land encumbered with a servitude referred to in that paragraph *d*, as the case may be, has undeniable ecological value, the preservation and conservation of which is important to the protection and development of Québec's ecological heritage and, where such is the case, that a charity referred to in subparagraph 1 of subparagraph *ii* of paragraph *c* of section 710 is an appropriate donee in the circumstances; and

(b) the certificate relating to the fair market value of the gift referred to in that paragraph *c*.

History: 1995, c. 1, s. 52; 1997, c. 3, s. 71; 1999, c. 36, s. 160(1); O.C. 1312-99; 1999, c. 83, s. 68; 2003, c. 2, s. 192; 2003, c. 9, s. 49; 2006, c. 3, s. 35; 2010, c. 25, s. 61.

Corresponding Federal Provision: 110.1(2) (part).

712.1. *(Repealed).*

History: 1984, c. 15, s. 164; 1986, c. 19, s. 142; 1993, c. 64, s. 46.

713. *(Repealed).*

History: 1972, c. 23, s. 535; 1984, c. 15, s. 164; 1993, c. 64, s. 46.

Restriction.

713.1. Notwithstanding section 710, no amount may be deducted by a corporation in respect of a gift of property that is a certified Québec film or a Québec film production, within the meaning assigned to those terms by the regulations under section 130, if the gift is made by the corporation within a period of three years commencing on the day on which the property is acquired by it.

History: 1992, c. 1, s. 34; 1993, c. 64, s. 47; 1997, c. 3, s. 71.

Gifts made by a partnership.

714. For the purposes of this Title, where a corporation is a member of a partnership at the end of the fiscal period of such partnership, the eligible amount of a gift made in the name of the partnership is deemed to be the eligible amount of a gift made by the corporation during its taxation year in which the fiscal period of the partnership ends, up to the proportion of its share in such partnership.

History: 1972, c. 23, s. 536; 1993, c. 64, s. 48; 1997, c. 3, s. 71; 2009, c. 5, s. 238; 2019, c. 14, s. 183.

Corresponding Federal Provision: 110.1(4).

Gift of a work of art to certain donees.

714.1. For the purposes of this Title, where at any time a corporation makes a gift of a work of art referred to in the second paragraph to a donee referred to in any of paragraphs *b* to *e* and *g* to *j* of the definition of “qualified donee” in section 999.2 or in any of subparagraphs *i*, *iv* and *v* of paragraph *a* of the definition of “qualified donee” in subsection 1 of section 149.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) and whose registration as a qualified donee has not been revoked by the Minister of National Revenue, other than such a donee who acquires the work of art in connection with its primary mission, the corporation is deemed, in respect of that work of art, not to have made a gift unless the donee disposes of the work of art on or before 31 December of the fifth calendar year following the year that includes that time.

Work of art.

The work of art to which the first paragraph refers is a print, an etching, a drawing, a painting, a sculpture or any work of a similar nature, a tapestry or hand-woven carpet or hand-made appliqué, a lithograph, a rare folio, a rare manuscript or a rare book, a stamp or a coin.

Exception.

This section does not apply where a corporation makes a gift of a work of art referred to in section 716.0.1.2 to a donee described in subparagraph *c* of the second paragraph of that section.

History: 1995, c. 63, s. 50; 1997, c. 3, s. 71; 1999, c. 83, s. 69; 2004, c. 21, s. 100; 2005, c. 23, s. 59; 2006, c. 36, s. 52; 2012, c. 8, s. 63; 2013, c. 10, s. 39; 2015, c. 21, s. 235.

Gift of works of art to certain donees.

714.2. If, at any given time, a corporation makes a gift of a work of art referred to in section 714.1 to a donee referred to in that section, the lesser of the amount that may reasonably be considered as the consideration for the disposition by the donee of the work of art and its fair market value at the time of the disposition, is deemed, for the purposes of section 710, to be the fair market value for the purpose of computing the eligible amount of the gift at the given time and, for the purposes of section 716, to be the fair market value of the capital property at the given time.

History: 1995, c. 63, s. 50; 1997, c. 3, s. 71; 2009, c. 5, s. 239.

715. *(Repealed).*

History: 1973, c. 17, s. 84; 1993, c. 64, s. 49.

Gift of capital property or of immovable property.

716. The rule set out in the second paragraph applies if, at any time, a corporation makes a gift of a capital property to a qualified donee or, if the corporation is not resident in Canada, a gift of an immovable property situated in Canada to a prescribed donee who provides an undertaking, in a form satisfactory to the Minister, to the effect that the property will be held for use in the public interest, the corporation designates, after 19 December 2006 and in accordance with subsection 3 of section 110.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), an amount in respect of the gift, and, at that time, the fair market value of the capital property or immovable property exceeds

(a) in the case of a depreciable property of a prescribed class, the lesser of the undepreciated capital cost of that class at the end of the taxation year of the corporation that includes that time, determined without reference to the proceeds of disposition determined in respect of the property under the second paragraph, and the adjusted cost base to the corporation of the property immediately before that time; and

(b) in any other case, the adjusted cost base to the corporation of the capital property or immovable property immediately before that time.

Rule applicable.

The lesser of the fair market value of the capital property or immovable property otherwise determined and the greatest of the following amounts, is deemed to be both the corporation's proceeds of disposition of the capital property or immovable property and, for the purposes of section 7.21, the fair market value of the gift:

(a) in the case of a gift made after 20 December 2002, the amount of the advantage in respect of the gift;

(b) the amount determined under subparagraph *a* or *b* of the first paragraph in respect of the capital property or immovable property; and

(c) the amount designated in respect of the gift in accordance with subsection 3 of section 110.1 of the Income Tax Act.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to a designation made under subsection 3 of section 110.1 of the Income Tax Act or in relation to a designation made under this section before 20 December 2006.

History: 1973, c. 17, s. 84; 1986, c. 15, s. 104; 1987, c. 67, s. 137; 1993, c. 64, s. 50; 1994, c. 22, s. 246; 1995, c. 1, s. 53; 1997, c. 3, s. 71; 1999, c. 83, s. 70; 2003, c. 2, s. 193; 2009, c. 5, s. 240; 2012, c. 8, s. 64.

Corresponding Federal Provision: 110.1(2.1) and (3).

Amended fiscal return.

716.0.1. Where a corporation makes a gift of a work of art referred to in section 714.1 in a taxation year, referred to in this section as the "gift year", to a donee referred to in section 714.1, the corporation may, on or before its filing-due date for a subsequent taxation year, referred to in this section as the "year of disposition", that includes 31 December of the calendar year in which the donee disposed of the work of art, file with the Minister for a taxation year referred to in the second paragraph an amended fiscal return in which the corporation shall take into account the tax consequences of that disposition in respect of an amount relating to that taxation year.

Taxation year.

The taxation year to which the first paragraph refers is a taxation year of the corporation for which it filed a fiscal return pursuant to section 1000 and that is previous to the year of disposition but after the fourth taxation year of the corporation that precedes the gift year.

Assessment.

Notwithstanding sections 1010 to 1011, the Minister shall, where the corporation has filed an amended fiscal return in accordance with the first paragraph, make such assessment, reassessment or additional assessment of the tax, interest and penalties payable by the corporation under this Part as is necessary for any taxation year to give effect to the disposition referred to in the first paragraph.

History: 1995, c. 63, s. 51; 1997, c. 3, s. 71; 1997, c. 31, s. 69.

Increase in the eligible amount of a gift of a work of art or of an immovable for cultural purposes.

716.0.1.1. For the purpose of determining the amount that is deductible under paragraphs *a* and *d* of section 710 in computing the taxable income of a corporation for a taxation year, the eligible amount of a gift described in the second paragraph is to be increased by 1/4 of that amount.

Gift referred to.

The gift to which the first paragraph refers is

(a) a gift of a work of art to a Québec museum; or

(b) any of the following gifts if the fair market value of the property that is the subject of the gift is determined under any of sections 710.1, 710.2, 710.2.1 and 710.2.1.1:

i. unless it is described in subparagraph *a*, a gift of a work of public art that meets the following conditions:

(1) it is made to the State, except an educational institution that is a mandatary of the State, or

(2) a certificate has been issued by the Minister of Culture and Communications in respect of the work for the purposes of this section,

ii. a gift of an eligible immovable if a qualification certificate has been issued by the Minister of Culture and Communications in respect of the building for the purposes of this section, or

iii. a gift of an eligible immovable to any of the following entities that acquires the building with a view to carrying on all or part of its activities in it:

(1) a registered charity operating in Québec in the field of arts or culture,

(2) a registered cultural or communications organization, or

(3) a registered museum.

Eligible immovable.

For the purposes of subparagraphs ii and iii of subparagraph *b* of the second paragraph, an eligible

immovable means a building situated in Québec, including the land adjacent to it and such portion of any contiguous land as can reasonably be regarded as contributing to the use and enjoyment of the building.

History: 2001, c. 51, s. 40; 2009, c. 5, s. 241; 2015, c. 21, s. 236.

Increase in the eligible amount of a gift of a work of public art.

716.0.1.2. For the purpose of determining the amount that is deductible under paragraphs *a* and *d* of section 710 in computing the taxable income of a corporation for a taxation year, the eligible amount of a gift of a work of public art described in the second paragraph is to be increased by 1/2 of that amount if the fair market value of the work is determined under any of sections 710.1, 710.2, 710.2.1 and 710.2.1.1.

Gift referred to.

The gift to which the first paragraph refers is the gift of a work of public art in respect of which a certificate has been issued by the Minister of Culture and Communications for the purposes of this section and that is made to

(a) an educational institution that is a mandatary of the State;

(b) a school service centre governed by the Education Act (chapter I-13.3) or a school board governed by the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14); or

(c) a registered charity whose mission is teaching and that is

i. an educational institution established under an Act of the Parliament of Québec, other than an institution described in subparagraph *a*,

ii. a college governed by the General and Vocational Colleges Act (chapter C-29),

iii. a private educational institution accredited for subsidies purposes under the Act respecting private education (chapter E-9.1), or

iv. a university-level educational institution referred to in any of paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1).

History: 2015, c. 21, s. 237; 2020, c. 1, s. 282.

Filing of certificates and qualification certificates.

716.0.1.3. No corporation is entitled to an increase of the eligible amount of a gift for a taxation year, in relation to a gift described in subparagraph *b* of the second paragraph of section 716.0.1.1 or in section 716.0.1.2, unless it files with the Minister, together with the fiscal return it is required to

file under section 1000 for the year, the following documents issued by the Minister of Culture and Communications:

(a) in relation to a gift of a work of public art,

i. in respect of which subparagraph 1 of subparagraph *i* of subparagraph *b* of the second paragraph of section 716.0.1.1 applies, a copy of any certificate relating to the fair market value of the work, or

ii. in respect of which subparagraph 2 of subparagraph *i* of subparagraph *b* of the second paragraph of section 716.0.1.1 or section 716.0.1.2 applies, a copy of the certificate relating to the work and of any certificate relating to the fair market value of the work; or

(b) in relation to the gift of an eligible immovable,

i. in respect of which subparagraph *ii* of subparagraph *b* of the second paragraph of section 716.0.1.1 applies, a copy of the qualification certificate relating to the building and of any certificate relating to the fair market value of the immovable, or

ii. in respect of which subparagraph *iii* of subparagraph *b* of the second paragraph of section 716.0.1.1 applies, a copy of any certificate relating to the fair market value of the immovable.

History: 2015, c. 21, s. 237.

Eligible amount of a gift of agricultural or food products.

716.0.1.4. For the purpose of determining the amount deductible under paragraph *a* of section 710 in computing the taxable income of a corporation for a taxation year, the eligible amount of the following gifts made to a registered charity that is a prescribed charity is to be increased by 1/2 of that amount:

(a) a gift made by a recognized farm producer of an eligible agricultural product produced by such a producer; or

(b) a gift of an eligible food product made by a corporation carrying on a food processing business or by a corporation that is a member of a partnership carrying on such a business.

Interpretation.

In this section, “recognized farm producer” has the meaning that would be assigned by the definition of that expression in the first paragraph of section 752.0.10.1 if that definition were read as if “an individual” were replaced, wherever it appears, by “a corporation”, and “eligible agricultural product” and “eligible food product” have the meaning assigned by that section.

History: 2015, c. 36, s. 39; 2017, c. 1, s. 167.

Non-qualifying securities.

716.0.2. The definitions of “excepted gift” and “non-qualifying security” in the first paragraph of section 752.0.10.1, the third paragraph of that section and sections 752.0.10.16 to 752.0.10.18 apply in respect of a corporation as if the references therein to “an individual” were read as references to “a corporation”, as if the reference therein to “752.0.10.12” were read as a reference to “716” and as if a non-qualifying security of a corporation included a share, other than a share listed on a designated stock exchange, of the capital stock of the corporation.

History: 1999, c. 83, s. 71; 2001, c. 7, s. 169; 2010, c. 5, s. 54; 2012, c. 8, s. 65.

Corresponding Federal Provision: 110.1(6).

Corporation ceasing to exist.

716.0.3. If, but for this section, a corporation, other than a corporation that was a predecessor corporation in an amalgamation to which section 544 applied or a corporation that was wound up in a winding-up to which Chapter VII of Title IX of Book III applied, would be deemed under section 752.0.10.16 to have made a gift after the corporation ceased to exist, for the purposes of this Title, the corporation is deemed to have made the gift in its last taxation year.

Interest payable.

Any amount of interest payable under this Part must be determined as if the presumption provided in the first paragraph did not apply.

History: 1999, c. 83, s. 71.

Corresponding Federal Provision: 110.1(7).

Gift of options.

716.0.4. Subject to sections 716.0.6 and 716.0.7, if a corporation has granted an option to a qualified donee in a taxation year, no amount in respect of the option is to be included in computing an amount under any of paragraphs *a* to *e* of section 710 in respect of the corporation for any year.

History: 2012, c. 8, s. 66.

Corresponding Federal Provision: 110.1(10).

Application of section 716.0.6.

716.0.5. Section 716.0.6 applies if

(a) an option to acquire a property of a corporation is granted to a qualified donee;

(b) the option is exercised so that the property is disposed of by the corporation and acquired by the qualified donee at a particular time; and

(c) either

i. the amount that is 80% of the fair market value of the property at the particular time is greater than or equal to the aggregate of

(1) the consideration received by the corporation from the qualified donee for the property, and

(2) the consideration received by the corporation from the qualified donee for the option, or

ii. the corporation establishes to the satisfaction of the Minister that the granting of the option or the disposition of the property was made by the corporation with the intention to make a gift to the qualified donee.

History: 2012, c. 8, s. 66.

Corresponding Federal Provision: 110.1(11).

Granting of an option.

716.0.6. If this section applies because of section 716.0.5, the following rules apply despite paragraph *a* of section 296:

(a) the corporation is deemed to have received proceeds of disposition of the property equal to the property’s fair market value at the particular time referred to in paragraph *b* of section 716.0.5; and

(b) there shall be included in the aggregate referred to in paragraph *a* of section 710, for the corporation’s taxation year that includes the particular time, the amount by which the property’s fair market value exceeds the aggregate of the amounts described in subparagraphs 1 and 2 of subparagraph *i* of paragraph *c* of section 716.0.5.

History: 2012, c. 8, s. 66.

Corresponding Federal Provision: 110.1(12).

Disposition of an option.

716.0.7. If an option to acquire a particular property of a corporation is granted to a qualified donee and the option is disposed of by the qualified donee (otherwise than by the exercise of the option) at a particular time, the following rules apply:

(a) the corporation is deemed to dispose of a property at the particular time

i. the adjusted cost base of which to the corporation immediately before the particular time is equal to the consideration paid by the qualified donee for the option, and

ii. the proceeds of disposition of which are equal to the lesser of the fair market value of the particular property at the particular time and the fair market value of any consideration (other than a non-qualifying security of a person) received by the qualified donee for the option; and

(b) there shall be included in the aggregate referred to in paragraph *a* of section 710 for the corporation’s taxation year

that includes the particular time the amount by which the proceeds of disposition as determined by subparagraph ii of paragraph a exceed the consideration paid by the qualified donee for the option.

History: 2012, c. 8, s. 66.

Corresponding Federal Provision: 110.1(13).

Application of section 716.0.9.

716.0.8. Section 716.0.9 applies if a qualified donee has issued to a corporation a receipt referred to in section 712 in respect of a transfer of a property (in this section and section 716.0.9 referred to as the “original property”) and a property (in this section and sections 716.0.9 to 716.0.11 referred to as the “particular property”) that is

(a) the original property is later transferred to the corporation (unless that later transfer is reasonable consideration or remuneration for property acquired by or services rendered to a person); or

(b) any other property that may reasonably be considered compensation for or a substitute for, in whole or in part, the original property, is later transferred to the corporation.

History: 2012, c. 8, s. 66.

Corresponding Federal Provision: 110.1(14).

Returned property.

716.0.9. If this section applies because of section 716.0.8, the following rules apply:

(a) irrespective of whether the transfer of the original property by the corporation is a gift, the corporation is deemed not to have disposed of the original property at the time of that transfer nor to have made a gift;

(b) if the particular property is identical to the original property, the particular property is deemed to be the original property; and

(c) if the particular property is not the original property,

i. the corporation is deemed to have disposed of the original property at the time that the particular property is transferred to the corporation for proceeds of disposition equal to the greater of the fair market value of the particular property at that time and the fair market value of the original property at the time that it was transferred by the corporation to the qualified donee, and

ii. if, but for paragraph a, the transfer of the original property by the corporation would be a gift, the corporation is deemed to have, at the time of that transfer, transferred to the qualified donee a property that is the subject of a gift having a fair market value equal to the amount by which the fair market value of the original property at the time of that

transfer exceeds the fair market value of the particular property at the time that it is transferred to the corporation.

History: 2012, c. 8, s. 66.

Corresponding Federal Provision: 110.1(15).

Information return.

716.0.10. If section 716.0.9 applies in respect of a transfer of a particular property to a corporation and that particular property has a fair market value greater than \$50, the transferor must, in respect of that transfer, file a return containing prescribed information with the Minister not later than 90 days after the day on which the particular property was transferred and provide a copy of the return to the corporation.

History: 2012, c. 8, s. 66.

Corresponding Federal Provision: 110.1(16).

Reassessment.

716.0.11. If section 716.0.9 applies in respect of a transfer of a particular property to a corporation, the Minister may, despite sections 1010 to 1011, make any assessment, reassessment or additional assessment of tax, interest or penalties payable under this Part by a person for any taxation year to the extent that the assessment, reassessment or additional assessment can reasonably be regarded as relating to the transfer of the particular property.

History: 2012, c. 8, s. 66.

Corresponding Federal Provision: 110.1(17).

716.1. (Repealed).

History: 1987, c. 67, s. 137; 1993, c. 16, s. 254; 1993, c. 64, s. 51.

716.2. (Repealed).

History: 1993, c. 16, s. 255; 1993, c. 64, s. 52.

717. (Repealed).

History: 1972, c. 23, s. 537; 1986, c. 19, s. 143; 1989, c. 5, s. 85.

718. (Repealed).

History: 1972, c. 23, s. 538; 1973, c. 17, s. 85; 1986, c. 15, s. 105; 1989, c. 5, s. 85.

719. (Repealed).

History: 1972, c. 23, s. 539; 1986, c. 19, s. 144; 1989, c. 5, s. 85.

720. (Repealed).

History: 1972, c. 23, s. 540; 1986, c. 19, s. 145.

721. (Repealed).

History: 1972, c. 23, s. 541; 1985, c. 25, s. 115; 1986, c. 19, s. 146; 1989, c. 5, s. 85.

722. *(Repealed).*

History: 1972, c. 23, s. 542; 1986, c. 15, s. 106.

723. *(Repealed).*

History: 1972, c. 23, s. 543; 1974, c. 18, s. 26; 1978, c. 26, s. 124; 1986, c. 15, s. 107; 1987, c. 67, s. 138; 1989, c. 5, s. 85.

724. *(Repealed).*

History: 1976, c. 18, s. 12; 1978, c. 26, s. 125; 1986, c. 15, s. 108; 1986, c. 19, s. 147; 1987, s. 67, s. 138; 1989, c. 5, s. 85.

724.1. *(Repealed).*

History: 1986, c. 19, s. 148; 1989, c. 5, s. 85.

724.2. *(Repealed).*

History: 1987, c. 67, s. 139; 1989, c. 5, s. 85.

Deductions for payments.

725. An individual may deduct any amount he includes in computing his income for the year that is

(a) an amount exempt from income tax in Québec or Canada because of a provision contained in a tax agreement with a country other than Canada;

(a.0.1) 35% of the total of all benefits (in this paragraph referred to as “U.S. social security benefits”) to which paragraph 5 of Article XVIII of the Convention between Canada and the United States of America with respect to Taxes on Income and on Capital as set out in Schedule I to the Canada-United States Tax Convention Act, 1984 (Statutes of Canada, 1984, chapter 20) applies, if

i. the individual has, continuously during a period that begins before 1996 and ends in the year, been resident in Canada, and has received U.S. social security benefits in each taxation year that ends in that period, or

ii. in the case where the benefits are payable to the individual in respect of a deceased person,

(1) the individual was, immediately before the person’s death, the person’s spouse,

(2) the individual has, continuously during a period that begins at the time of the person’s death and ends in the year, been resident in Canada,

(3) the person was, in respect of the taxation year in which the person died, an individual described in subparagraph i, and

(4) in each taxation year that ends in the period described in subparagraph i, the individual, the deceased person, or both of them, received U.S. social security benefits;

(a.1) an amount received as an income replacement indemnity or as compensation for the loss of financial support under a public compensation plan;

(b) *(paragraph repealed);*

(b.1) *(paragraph repealed);*

(c) a social assistance payment made on the basis of a means, needs or income test, that is a payment other than a payment received as financial assistance under the Individual and Family Assistance Act (chapter A-13.1.1) or as similar government assistance and that is included in computing the individual’s income because of section 311.1 or because of section 317 as a supplement or allowance received under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9) or in respect of any similar payment made under a law of a province;

(c.0.1) an amount received as a scholarship, fellowship or bursary, or a prize for achievement in a field of endeavour ordinarily carried on by the individual, that is included under paragraph g of section 312;

(c.1) an amount received by the individual from the Minister of Higher Education, Research, Science and Technology as a postdoctoral research fellowship under the Fellowship for Excellence and included as such under paragraph h of section 312;

(c.2) an amount received by the individual under a program referred to in paragraph e.3 or e.4 of section 311, a program established under the Department of Employment and Social Development Act (Statutes of Canada, 2005, chapter 34) or a prescribed program, if the amount

i. is financial assistance for the payment of tuition fees of the individual, that are not included in computing an amount deductible under section 752.0.18.10 in computing the individual’s tax payable under this Part for any taxation year, and

ii. is not otherwise deductible in computing the individual’s taxable income for the year;

(d) income from employment with an international organization, namely the United Nations or any specialized agency that is brought into relationship with the United Nations in accordance with Article 63 of the Charter of the United Nations, except, where the following conditions are met, the portion of such income that is attributable to employment duties performed in Québec by the individual:

i. the international organization, or any other international governmental organization in the service of which the individual was employed, was established in Québec at any time in the year, and

ii. the income is not covered for the year by an agreement between the international organization, or other international governmental organization, and the Government of Québec concerning the exemption from tax under this Part on such income;

(d.1) the lesser of

i. the employment income earned by the individual as a member of the Canadian Forces, or as a police officer, while serving on a mission recognized for the purposes of clause A of subparagraph v of paragraph f of subsection 1 of section 110 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), and

ii. the employment income that would have been earned by the individual while serving on the mission referred to in subparagraph i if the individual had been paid at the maximum rate of pay that applied, during the mission, to a Lieutenant-Colonel (General Service Officers) of the Canadian Forces; or

(e) income situated on a reserve or on premises, if the individual is an Indian.

History: 1972, c. 23, s. 544; 1975, c. 22, s. 201; 1984, c. 15, s. 165; 1987, c. 67, s. 140; 1990, c. 59, s. 249; 1993, c. 16, s. 256; 1993, c. 64, s. 53; 1995, c. 49, s. 158; 1997, c. 14, s. 98; 1997, c. 85, s. 107; 1999, c. 83, s. 72; 2000, c. 39, s. 39; 2001, c. 53, s. 94; 2002, c. 40, s. 46; 2004, c. 8, s. 136; 2004, c. 21, s. 101; 2005, c. 1, s. 136; 2005, c. 28, s. 195; 2005, c. 38, s. 87; 2006, c. 13, s. 48; 2006, c. 36, s. 53; 2007, c. 12, s. 72; 2011, c. 6, s. 148; 2013, c. 28, s. 140; 2015, c. 21, s. 238; 2020, c. 16, s. 99.

Interpretation Bulletins: IMP. 1102.1-2.

Corresponding Federal Provision: 110(1)(f) before (i), (i), (ii) and (v), h) and g).

Definitions:

725.0.1. For the purposes of this section, paragraph e of section 725 and section 725.0.2,

“band”;

“band” means

(a) a band within the meaning of subsection 1 of section 2 of the Indian Act (Revised Statutes of Canada, 1985, chapter I-5);

(b) a band within the meaning of subsection 1 of section 2 of the Cree-Naskapi (of Quebec) Act (Statutes of Canada, 1984, chapter 18);

(c) a designated corporation within the meaning of section 2 of the Indians and Bands on certain Indian Settlements Remission Order made by Order in Council P.C. 1992-1052 dated 14 May 1992, as amended by Order in Council P.C. 1994-2096 dated 14 December 1994, under the Financial Administration Act (Revised Statutes of Canada, 1985, chapter F-11); or

(d) a Band within the meaning of subsection 1 of section 2 of the Sechelt Indian Band Self-Government Act (Statutes of Canada, 1986, chapter 27);

“council of the band”;

“council of the band” means

(a) in the case of a band referred to in paragraph a of the definition of “band”, a council of the band within the meaning of subsection 1 of section 2 of the Indian Act;

(b) in the case of a band referred to in paragraph b of the definition of “band”, a council within the meaning of subsection 1 of section 2 of the Cree-Naskapi (of Quebec) Act; or

(c) in the case of a Band referred to in paragraph d of the definition of “band”, a Council within the meaning of subsection 1 of section 2 of the Sechelt Indian Band Self-Government Act;

“Indian”;

“Indian” means an Indian within the meaning of the Indian Act (Revised Statutes of Canada, 1985, chapter I-5);

“premises”;

“premises” means a place in Québec used exclusively for purposes of negotiation between the Government and an agency representing Indians of Québec and so designated by the Government;

“reserve”.

“reserve” means

(a) a reserve within the meaning of subsection 1 of section 2 of the Indian Act;

(b) Category IA land or Category IA-N land within the meaning of subsection 1 of section 2 of the Cree-Naskapi (of Québec) Act (Statutes of Canada, 1984, chapter 18);

(c) the Hunter’s Point, Kitcisakik and Pakuashipi Indian settlements and an Indian settlement within the meaning of section 2 of the Indians and Bands on certain Indian Settlements Remission Order made by Order in Council P.C. 1992-1052 dated 14 May 1992, as amended by Order in Council P.C. 1994-2096 dated 14 December 1994, under the Financial Administration Act, or within the meaning of section 1 of the Indians and Bands on Certain Indian Settlements Remission Order (1997) made by Order in Council P.C. 1997-1529 dated 23 October 1997 under that Act; and

(d) Sechelt lands within the meaning of subsection 1 of section 2 of the Sechelt Indian Band Self-Government Act (Statutes of Canada, 1986, chapter 27).

History: 1997, c. 85, s. 108; 1999, c. 83, s. 73; 2006, c. 13, s. 49; 2006, c. 36, s. 54.

Income deemed to be situated on a reserve.

725.0.2. For the purposes of paragraph e of section 725, the income of an Indian from an office or employment that the Indian performs for an employer who both resides on a

reserve and is described in the second paragraph is deemed to be an income situated on a reserve if the duties of that Indian related to that office or employment form part of the non-commercial activities of the employer that are intended solely for the greater welfare of the Indians living on the reserve.

Employer.

The employer to which the first paragraph refers is

- (a) a band that owns a reserve;
- (b) a council of the band representing one or more bands referred to in subparagraph *a*; or
- (c) an Indian organization that falls within the jurisdiction of one or more bands described in subparagraph *a* or of one or more councils of the band described in subparagraph *b* and that is exclusively devoted to the social, cultural, educational or economic development of Indians the majority of whom live on a reserve.

Deemed income.

If the income of an Indian from an office or employment is deemed, under the first paragraph, to be income situated on a reserve, any other amount received by that Indian and related to that office or employment is also, for the purposes of paragraph *e* of section 725, deemed to be situated on a reserve.

History: 1997, c. 85, s. 108; 1999, c. 83, s. 74; 2006, c. 36, s. 55.

Prize received by corporation.

725.0.3. A corporation may deduct an amount that it includes in computing its income for the year under paragraph *g* of section 312 and that is an amount received as a prize for achievement in a field of endeavour ordinarily carried on by the corporation.

History: 2009, c. 15, s. 107.

725.1. (*Repealed*).

History: 1980, c. 13, s. 65; 1993, c. 16, s. 257.

TITLE V.0.1

DEDUCTION IN RESPECT OF TAX

Deduction in computing taxable income.

725.1.1. A taxpayer may deduct, in computing his taxable income for a taxation year, an amount equal to the amount deductible by him for the year in computing his taxable income for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) under paragraph *k* of subsection 1 of section 110 of the said Act.

History: 1990, c. 59, s. 250; 1991, c. 25, s. 84.

Corresponding Federal Provision: 110(1)(k).

TITLE V.0.2

DEDUCTION IN RESPECT OF A RETROACTIVE PAYMENT

Deduction in respect of a retroactive payment.

725.1.2. An individual, other than a trust, may deduct, in computing the individual's taxable income for a taxation year, if the individual so elects, the portion, relating to one or more preceding taxation years that are eligible taxation years of the individual, of the aggregate of all amounts each of which is an amount described in the second paragraph that the individual includes in computing the individual's income for the year (in this paragraph referred to as the "particular portion"), if the total of the particular portion and of the particular portion described in the second paragraph of section 694.0.0.1 that the individual elects not to include in computing taxable income for the year, if applicable, is at least \$300.

Amount.

The amount to which the first paragraph refers is an amount received in the year as, or in lieu of, full or partial payment of

(a) income from an office or employment, under the terms of a court judgment, arbitration award or a contract by which the parties put an end to a lawsuit;

(a.1) an amount received because of the loss of all or part of the income from an office or employment, in accordance with an insurance plan, that is referred to in section 43;

(b) a benefit under the Labour Adjustment Benefits Act (Revised Statutes of Canada, 1985, chapter L-1), the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1), the Employment Insurance Act (Statutes of Canada, 1996, chapter 23), the Act respecting parental insurance (chapter A-29.011) or under the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of that Act;

(c) an amount that is a support amount as defined in the first paragraph of section 312.3 or an amount referred to in the first paragraph of section 312.5 in respect of an amount deducted for a taxation year preceding the taxation year 1998 or a taxation year subsequent to the taxation year 2002;

(c.1) an earnings loss benefit, a supplementary retirement benefit or a career impact allowance payable under Part 2 of the Veterans Well-being Act (Statutes of Canada, 2005, chapter 21);

(d) an amount paid in accordance with a distribution plan, approved on 4 December 1995 by a judgment of the Superior Court of Québec, in respect of the pension fund surplus of the Consolidated Retirement Plan for Employees of Singer Company of Canada Limited (Sewing Division), if the amount is paid to the individual as a member, within the

meaning of section 965.0.1, of the pension fund or by reason of the death of the individual's spouse who was a member of the pension fund;

(d.1) an amount of adjustment in compensation paid in accordance with sections 176.27 to 176.29 of the Act respecting municipal territorial organization (chapter O-9); or

(e) any other amount, other than income from an office or employment, that would be, in the opinion of the Minister, an additional undue tax burden on the individual were the individual to include it in computing income for the year in which it is received by the individual.

“eligible taxation year”.

For the purposes of the first paragraph, “eligible taxation year” of an individual means a taxation year throughout which the individual was resident in Canada, other than a taxation year that ends in a calendar year in which the individual became a bankrupt or a taxation year included in an averaging period determined in respect of the individual for the purposes of Division II of Chapter II of Title I of Book V, as it read before being repealed.

Presumption.

For the purposes of the first paragraph in respect of an amount described in subparagraph *d* of the second paragraph that an individual receives in a particular taxation year, the proportion of the amount that the number of preceding taxation years that are subsequent to the taxation year 1985 is of that number of taxation years, plus one, is deemed to relate to one or more taxation years preceding the particular year.

History: 1997, c. 85, s. 109; 1998, c. 16, s. 178; 2000, c. 5, s. 153; 2002, c. 40, s. 47; 2003, c. 9, s. 50; 2004, c. 21, s. 102; 2005, c. 38, s. 88; 2010, c. 25, s. 62; 2015, c. 21, s. 239; 2017, c. 1, s. 168; 2019, c. 14, s. 184.

Corresponding Federal Provision: 56(8) and 110.2(1) “qualifying amount”.

**TITLE V.1
SECURITIES OPTIONS, DEFERRED PROFIT
SHARING PLANS AND OTHER PARTICULARS**

Definitions:

725.1.3. In this Title,

“qualified corporation”;

“qualified corporation” for a particular calendar year means a corporation that meets the following conditions:

(a) in the particular calendar year, the corporation operates a business in Québec and has an establishment in Québec;

(b) the assets shown in its financial statements submitted to the shareholders or, if such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, that would be

shown had such financial statements been prepared in accordance with generally accepted accounting principles, for its taxation year that ended in the calendar year that precedes the particular calendar year or, if the corporation is in its first fiscal period, at the beginning of its first fiscal period, were less than \$50,000,000; and

(c) an amount is deemed, under any of Divisions II, II.1, II.2.1, II.3 and II.3.0.1 of Chapter III.1 of Title III of Book IX, to have been paid to the Minister by the qualified corporation for its taxation year that ended in the particular calendar year or for any of its three preceding taxation years;

“qualifying person”;

“qualifying person” has the meaning assigned by section 47.18;

“security”;

“security” has the meaning assigned by section 47.18;

“specified corporation”.

“specified corporation” for a particular calendar year means a corporation in respect of which the aggregate of all amounts each of which is wages paid or deemed to be paid by the corporation in the year, for the purpose of determining the amount payable by the corporation for the year as the contribution provided for in section 34 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5), is at least \$10,000,000.

History: 2009, c. 15, s. 108; 2019, c. 14, s. 186.

Rules for computing qualified corporation's assets.

725.1.4. For the purposes of paragraph *b* of the definition of “qualified corporation” in section 725.1.3, the following rules apply in computing the assets of such a corporation at the time referred to in that paragraph:

(a) the amount of the surplus reassessment of its property and the amount of its incorporeal assets are to be subtracted, to the extent that the amount shown in their respect exceeds the expenditure made in their respect; and

(b) if all or part of an expenditure made in respect of incorporeal assets consists of shares of the corporation's capital stock, all or part of the expenditure, as the case may be, is deemed to be nil.

History: 2009, c. 15, s. 108.

Associated corporation.

725.1.5. For the purposes of the definition of “qualified corporation” in section 725.1.3, the assets of a corporation that is associated in a taxation year with one or more other corporations are equal to the amount by which the aggregate of the assets of the corporation and those of each corporation associated with it, determined in accordance with that definition and section 725.1.4, exceeds the aggregate of the

amount of investments the corporations own in each other and the balance of accounts between the corporations.

History: 2009, c. 15, s. 108.

Reduction of assets.

725.1.6. For the purposes of paragraph *b* of the definition of “qualified corporation” in section 725.1.3 and sections 725.1.4 and 725.1.5, if a corporation or another corporation with which it is associated reduces its assets by any transaction in a taxation year and, but for that reduction, the corporation would not be a qualified corporation, the assets are deemed not to have been so reduced unless the Minister decides otherwise.

History: 2009, c. 15, s. 108.

Deduction in respect of a benefit derived from a securities option.

725.2. An individual may deduct an amount equal to 25% of the amount of the benefit the individual is deemed to have received in a taxation year under section 49 or any of sections 50 to 52.1, in respect of a security that a particular qualifying person has agreed to sell or issue under an agreement referred to in section 48, or in respect of the transfer or any other disposition of rights under the agreement, if

(a) where rights under the agreement were not acquired by the individual as a result of the disposition of rights to which section 49.4 applied,

i. the amount payable by the individual to acquire the security under the agreement is not less than the amount by which the fair market value of the security at the time the agreement was made exceeds the amount paid by the individual to acquire the right to acquire the security, and

ii. immediately after the agreement was made, the individual was dealing at arm’s length with the following persons:

(1) the particular qualifying person,

(2) each other qualifying person that, immediately after the agreement was made, was an employer of the individual and was not dealing at arm’s length with the particular qualifying person, and

(3) the qualifying person of which the individual had, under the agreement, a right to acquire a security;

(b) where rights under the agreement were acquired by the individual as a result of one or more dispositions to which section 49.4 applied,

i. the amount payable by the individual to acquire the security under the agreement is not less than the amount that was included, in respect of the security, in the amount

determined under the second paragraph of section 49.4 in respect of the most recent of those dispositions,

ii. immediately after the agreement the rights under which were the subject of the first of those dispositions, in this subparagraph referred to as the “original agreement”, was made the individual was dealing at arm’s length with

(1) the qualifying person that made the original agreement,

(2) each other qualifying person that, immediately after the agreement was made, was an employer of the individual and was not dealing at arm’s length with the qualifying person that made the original agreement, and

(3) the qualifying person of which the individual had, under the original agreement, a right to acquire a security,

iii. the amount that was included, in respect of each particular security that the individual had a right to acquire under the original agreement, in the amount determined under the third paragraph of section 49.4 in respect of the first of those dispositions was not less than the amount by which the fair market value of the particular security at the time the original agreement was made exceeded the amount paid by the individual to acquire the right to acquire the security, and

iv. for the purpose of determining if the condition in subparagraph *b* of the first paragraph of section 49.4 was satisfied in respect of each of the particular dispositions following the first of those dispositions, the amount that was included, in respect of each particular security that could be acquired under the agreement the rights under which were the subject of the particular disposition, in the amount determined under the third paragraph of section 49.4 in respect of the particular disposition, was not less than the amount that was included, in respect of the particular security, in the amount determined under the second paragraph of that section in respect of the last of those dispositions preceding the particular disposition;

(b.1) the security was acquired under the agreement by the individual or a person not dealing at arm’s length with the individual in circumstances described in section 51; and

(c) the security

i. is described in clause A or B of subparagraph i.1 of paragraph *d* of subsection 1 of section 110 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement),

ii. would have been a unit of a mutual fund trust at the time of its sale or issue if those units issued by the trust that were not identical to the security had not been issued, or

iii. would have been a unit of a mutual fund trust if it were issued or sold to the individual at the time the individual

disposed of rights under the agreement, and those units issued by the trust that were not identical to the security had not been issued.

History: 1987, c. 67, s. 141; 1988, c. 4, s. 51; 1990, c. 59, s. 251; 1992, c. 1, s. 35; 1993, c. 16, s. 258; 1995, c. 49, s. 159; 1997, c. 3, s. 71; 2001, c. 53, s. 95; 2003, c. 2, s. 194; 2004, c. 21, s. 103; 2005, c. 23, s. 61; 2011, c. 34, s. 33.

Corresponding Federal Provision: 110(1)(d).

Increased rate.

725.2.0.1. Where section 725.2 applies in respect of a security that a qualifying person has agreed to sell or issue under an agreement referred to in section 48 and the qualifying person was a qualified corporation for the calendar year that includes the time at which the individual to whom that section 725.2 applies acquired rights under the agreement in relation to the acquisition of the security, it is to be read as if “25%” in the portion before paragraph *a* were replaced by “50%” and without reference to subparagraphs ii and iii of paragraph *c*.

History: 2009, c. 15, s. 109; 2017, c. 1, s. 169.

Increased rate.

725.2.0.1.1. Where section 725.2 applies in respect of a security that is a share of the capital stock of a corporation, it is to be read as if “25%” in the portion before paragraph *a* were replaced by “50%” and without reference to subparagraphs ii and iii of paragraph *c* if

(a) the share belongs to a class of shares listed on a recognized stock exchange; and

(b) the right to acquire the share under an agreement referred to in section 48 is granted to an employee of a corporation that is a specified corporation for a particular calendar year that includes

i. the time at which the agreement is entered into, or

ii. the time at which the share is acquired.

History: 2019, c. 14, s. 187.

Election by a particular qualifying person.

725.2.0.2. Where section 725.2 applies to an individual for a particular taxation year in respect of the transfer or disposition of rights under an agreement referred to in section 48 as regards a security of a particular qualifying person, it is to be read without reference to its paragraph *b.1* if

(a) the particular qualifying person made a valid election under subsection 1.1 of section 110 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in relation to the transfer or disposition; and

(b) the individual encloses a prescribed form containing prescribed information with the fiscal return the individual is required to file for the particular year under section 1000, or would be required to so file if tax were payable under this Part by the taxpayer.

History: 2011, c. 34, s. 34.

Corresponding Federal Provision: 110(1.1).

Determination of amounts.

725.2.1. For the purposes of section 725.2, the following rules apply:

(a) the amount payable by an individual to acquire a security under an agreement referred to in section 48 shall be determined without reference to any change in the value of a currency of a country other than Canada, relative to Canadian currency, occurring after the agreement was made;

(b) the fair market value of a security at the time an agreement in respect of the security was made shall be determined on the assumption that all specified events associated with the security referred to in the second paragraph that occurred after the agreement was made and before the sale or issue of the security or the disposition of the taxpayer’s rights under the agreement in respect of the security, as the case may be, occurred immediately before the agreement was made; and

(c) for the purpose of determining the amount that was included, in respect of a security that a qualifying person has agreed to sell or issue to an individual, in the amount determined under the second paragraph of section 49.4 for the purpose of determining if the condition in subparagraph *b* of the first paragraph of that section was satisfied in respect of a particular disposition, all specified events associated with the security referred to in the second paragraph that occurred after the particular disposition and before the sale or issue of the security or the individual’s subsequent disposition of rights under the agreement in respect of the security, as the case may be, are deemed to have occurred immediately before the particular disposition.

Specified events.

For the purposes of the first paragraph, the following events are specified events associated with a security:

(a) where the security is a share of the capital stock of a corporation, any subdivision or consolidation of shares of the capital stock of the corporation, any reorganization of share capital of the corporation and any stock dividend of the corporation; and

(b) where the security is a unit of a mutual fund trust, any subdivision or consolidation of the units of the trust, and an issuance of units of the trust as payment, or in satisfaction of a person’s right to enforce payment, out of the trust’s income, determined before the application of paragraph *a* of

section 657 and section 657.1, or out of the trust's capital gains.

History: 1993, c. 16, s. 259; 1997, c. 3, s. 71; 2001, c. 53, s. 95; 2003, c. 2, s. 195.

Corresponding Federal Provision: 110(1.5) and (1.6).

Gift of a security.

725.2.2. Subject to section 725.2.3, an individual may deduct, in computing the individual's taxable income for a taxation year, where the individual disposes of a security acquired in the year by the individual under an agreement referred to in section 48 by making a gift of the security to a qualified donee, an amount in respect of the disposition of the security equal to 1/2 of the lesser of the benefit deemed by section 49 to have been received by the individual in the year in respect of the acquisition of the security and the amount that would have been that benefit had the value of the security at the time of its acquisition by the individual been equal to the value of the security at the time of the disposition if

(a) the security is a security described in any of subparagraphs i to v of paragraph *a* of section 231.2;

(b) (*paragraph repealed*);

(c) the gift is made in the year and on or before the day that is 30 days after the day on which the individual acquired the security; and

(d) the individual is entitled to a deduction under section 725.2 in respect of the acquisition of the security.

History: 2003, c. 2, s. 196; 2004, c. 8, s. 137; 2006, c. 36, s. 56; 2009, c. 15, s. 110; 2017, c. 1, s. 170; 2017, c. 29, s. 93.

Corresponding Federal Provision: 110(1)(d.01).

Gift of proceeds of disposition.

725.2.3. Where an individual, in exercising a right to acquire a security that a qualifying person has agreed to sell or issue to the individual under an agreement referred to in section 48, directs a broker or dealer appointed by the qualifying person, or by another qualifying person that does not deal at arm's length with the qualifying person, to immediately dispose of the security and pay all or a portion of the proceeds of disposition of the security to a qualified donee, the following rules apply:

(a) if the payment is a gift, the individual is deemed, for the purposes of section 725.2.2, to have disposed of the security to the qualified donee at the time the payment is made; and

(b) the amount deductible under section 725.2.2 by the individual in respect of the disposition of the security is the amount determined by the formula

$A \times B / C$.

Interpretation.

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

(a) *A* is the amount that would be deductible under section 725.2.2 in respect of the disposition of the security if this section were read without reference to subparagraph *b* of the first paragraph;

(b) *B* is the amount of the payment; and

(c) *C* is the amount of the proceeds of disposition of the security.

History: 2003, c. 2, s. 196.

Corresponding Federal Provision: 110(2.1).

Reduction of amount payable to acquire security.

725.2.4. If the amount payable by an individual to acquire a security from a qualifying person under an agreement referred to in section 48 is reduced at a particular time and the conditions set out in the second paragraph are satisfied, the following rules apply:

(a) rights (in this section referred to as the "old rights") under the agreement immediately before the particular time are deemed to have been disposed of by the individual immediately before the particular time;

(b) rights (in this section referred to as the "new rights") under the agreement at the particular time are deemed to be acquired by the individual at the particular time; and

(c) the individual is deemed to receive the new rights as consideration for the disposition of the old rights.

Conditions.

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

(a) the individual could not, but for this section, deduct an amount under section 725.2 if the individual acquired the security under the agreement immediately after the particular time; and

(b) the individual could deduct an amount under section 725.2 if the individual

i. disposed of the old rights immediately before the particular time,

ii. acquired the new rights at the particular time as consideration for the disposition of the old rights, and

iii. acquired the security under the agreement immediately after the particular time.

History: 2009, c. 15, s. 111.

Corresponding Federal Provision: 110(1.7) and (1.8).

Deduction in respect of a share acquired under a stock option.

725.3. An individual may deduct an amount equal to 25% of the amount of the benefit he is deemed to have received in the year under section 49, by virtue of section 49.2, in respect of a share acquired by him after 22 May 1985, if

(a) the individual has not disposed of the share otherwise than as a consequence of his death or exchanged the share within two years after the date he acquired it; and

(b) the individual has not deducted an amount under section 725.2 in respect of the benefit deemed received in computing his taxable income for the year.

History: 1987, c. 67, s. 141; 1988, c. 18, s. 123; 1990, c. 59, s. 252; 2003, c. 2, s. 197; 2004, c. 21, s. 104; 2005, c. 23, s. 62.

Corresponding Federal Provision: 110(1)(d.1).

Increased rate.

725.3.1. Where section 725.3 applies in respect of a share that an individual has acquired under an agreement referred to in section 48 and entered into with a corporation that was a qualified corporation for the calendar year that includes the time at which the individual acquired rights under the agreement in relation to the acquisition of the share, it is to be read as if “25%” in the portion before paragraph *a* were replaced by “50%”.

History: 2009, c. 15, s. 112; 2017, c. 1, s. 171.

Deduction in respect of a prospector’s share.

725.4. A taxpayer may deduct an amount equal to 1/2 of the amount the taxpayer has included under paragraph *b* of section 218 in computing the taxpayer’s income for the year in respect of a share received after 22 May 1985, unless the amount is exempt from income tax in Québec or Canada because of a provision contained in a tax agreement with a country other than Canada.

History: 1987, c. 67, s. 141; 1988, c. 18, s. 123; 1990, c. 59, s. 253; 2001, c. 53, s. 96; 2003, c. 2, s. 198.

Corresponding Federal Provision: 110(1)(d.2).

Deduction in respect of a share.

725.5. An individual may deduct an amount equal to 1/2 of the amount he has included under section 888.1 in computing his income for the year.

History: 1987, c. 67, s. 141; 1988, c. 18, s. 123; 1990, c. 59, s. 254; 2003, c. 2, s. 199.

Corresponding Federal Provision: 110(1)(d.3).

725.6. *(Repealed).*

History: 1987, c. 67, s. 141; 1988, c. 4, s. 52; 1988, c. 18, s. 123; 1989, c. 77, s. 74; 1999, c. 83, s. 75; 2000, c. 39, s. 40; 2002, c. 40, s. 48; 2003, c. 9, s. 51; 2004, c. 21, s. 105; 2013, c. 10, s. 40; 2019, c. 14, s. 188.

Corresponding Federal Provision: 110(1)(j).

725.7. *(Repealed).*

History: 1987, c. 67, s. 141; 1988, c. 18, s. 123; 2019, c. 14, s. 188.

Corresponding Federal Provision: 110(1.4).

Reimbursement of the Universal Child Care Benefit.

725.7.1. An individual may deduct, in computing taxable income for a taxation year, the aggregate of all amounts each of which is an amount paid in the year as a reimbursement, under the Universal Child Care Benefit Act, enacted by section 168 of the Budget Implementation Act, 2006 (Statutes of Canada, 2006, chapter 4), of an amount that was included in computing taxable income for the year or a preceding taxation year under the first paragraph of section 694.0.0.1 or that would have been so included for the year or a preceding taxation year had the individual not made an election under the second paragraph of that section.

History: 2006, c. 36, s. 57; 2009, c. 5, s. 242.

Corresponding Federal Provision: 60(y).

Repayment of disability savings grant.

725.7.2. An individual may deduct, in computing the individual’s taxable income for a taxation year, the aggregate of all amounts each of which is an amount paid in the year as a repayment, under the Canada Disability Savings Act (Statutes of Canada, 2007, chapter 35) or a designated provincial program as defined in the first paragraph of section 905.0.3, of an amount that was included because of section 905.0.14 in computing the individual’s taxable income for the year or for a preceding taxation year.

History: 2009, c. 15, s. 113; 2011, c. 6, s. 149; 2015, c. 21, s. 240.

Corresponding Federal Provision: 60(z).

TITLE V.1.1

(Repealed).

725.8. *(Repealed).*

History: 1993, c. 19, s. 28; 1997, c. 3, s. 71; 2004, c. 21, s. 106.

725.9. *(Repealed).*

History: 1993, c. 19, s. 28; 1994, c. 16, s. 51; 1995, c. 63, s. 261; 1997, c. 3, s. 71; 1999, c. 8, s. 20; 2003, c. 29, s. 170; O.C. 222-2004; 2004, c. 21, s. 106.

TITLE VI
(Repealed).

726. (Repealed).

History: 1976, c. 18, s. 13; 1978, c. 26, s. 126; 1984, c. 15, s. 166; 1985, c. 25, s. 116; 1986, c. 15, s. 109; 1988, c. 4, s. 53; 1989, c. 5, s. 85.

TITLE VI.0.1
(Repealed).

726.0.1. (Repealed).

History: 1990, c. 7, s. 21; 2005, c. 23, s. 63.

TITLE VI.1
(Repealed).

726.1. (Repealed).

History: 1979, c. 14, s. 3; 1983, c. 44, s. 27; 1985, c. 25, s. 117; 2017, c. 29, s. 94.

726.2. (Repealed).

History: 1982, c. 15, s. 122; 2011, c. 6, s. 150.

TITLE VI.2
QUÉBEC BUSINESS INVESTMENT COMPANIES

Qualified investment.

726.3. An individual may deduct for the year the amount contemplated in section 965.32.

History: 1986, c. 15, s. 110.

TITLE VI.3
COOPERATIVE INVESTMENT PLANS

Deduction in respect of a qualifying security.

726.4. An individual may deduct for the year the amounts provided for in sections 965.37 and 965.39.4.

History: 1986, c. 15, s. 110; 2006, c. 37, s. 34.

TITLE VI.3.0.1
STOCK SAVINGS PLANS II

Deduction.

726.4.0.1. An individual may deduct, for the year, the amount provided for in section 965.126.

History: 2006, c. 13, s. 50.

TITLE VI.3.0.2
TAX-FREE RESERVE OF A QUALIFIED
SHIPOWNER

Deduction in respect of a tax-free reserve.

726.4.0.2. A corporation may deduct for the year the amount provided for in section 979.38.

History: 2015, c. 21, s. 241.

TITLE VI.3.1
CERTIFIED QUÉBEC FILMS

Deductions in respect of a certified Québec film.

726.4.1. An individual may deduct, in computing his taxable income for a taxation year subsequent to his taxation year 1987, the part or amount, deductible pursuant to the regulations under paragraph *a* of section 130, of the capital cost of a certified Québec film which he could have deducted, but for section 130.0.1, in computing his income for the year pursuant to paragraph *a* of the said section.

"certified Québec film".

In this Title, the expression "certified Québec film" has the meaning assigned by the regulations under section 130.

History: 1989, c. 5, s. 86; 1991, c. 8, s. 12.

Amount deemed to have been deducted.

726.4.2. An amount deducted by an individual under section 726.4.1 in computing his taxable income for a taxation year is, for the purposes of sections 93 to 104, section 130.1 and the regulations under paragraph *a* of section 130, deemed to have been deducted for that year in computing his income from a business or property pursuant to paragraph *a* of section 130.

History: 1989, c. 5, s. 86.

Depreciation claimed by a partnership.

726.4.3. An individual who is a member of a partnership at the end of a fiscal period of the partnership may deduct, in computing his taxable income for a taxation year in which the fiscal period ends, an amount not exceeding the aggregate

(*a*) of his portion of the aggregate of amounts deducted by a partnership under paragraph *a* of section 130 or the second paragraph of section 130.1 in computing its income for a fiscal period in respect of a certified Québec film, to the extent that such portion would, but for section 600.0.1, have reduced his portion of the income of the partnership for that fiscal period as determined under paragraph *f* of section 600 or would, but for the said section 600.0.1, have caused such portion of income so determined to be nil; and

(*b*) of his portion of the aggregate of amounts deducted by a partnership under paragraph *a* of section 130 or the second paragraph of section 130.1 in computing its loss for a fiscal

period in respect of a certified Québec film, to the extent that such portion of such amounts has either created or increased such portion of the loss, without exceeding the proportion of the at-risk amount of the individual in respect of the partnership at the end of the fiscal period of the partnership, within the meaning of sections 613.2 to 613.5, that such amounts which have either created or increased such portion of the loss are of the aggregate of all amounts which, but for section 600.0.1, would be his portion of the loss of the partnership for that fiscal period as determined under paragraph g of section 600.

History: 1989, c. 5, s. 86; 1991, c. 8, s. 13; 1997, c. 3, s. 71.

Terminal loss.

726.4.4. An individual shall deduct, in computing his taxable income for a taxation year subsequent to his taxation year 1987, the excess amount referred to in the first paragraph of section 130.1, which concerns a prescribed class including a certified Québec film, which he would have been bound to deduct in computing his income for the year pursuant to the second paragraph of section 130.1 but for the fourth paragraph of that section.

Excess deemed to have been deducted.

For the purposes of sections 93 to 104, the excess amount is deemed to have been deducted by the individual under paragraph a of section 130 in computing his income for the year from a business or property.

History: 1989, c. 5, s. 86; 1991, c. 8, s. 14.

Deduction of excess amount relating to acquisition.

726.4.5. An individual may deduct, in computing his taxable income for a taxation year subsequent to his taxation year 1987, the amount by which the amounts he could have deducted for the year, but for section 157.4.3, in computing his income, pursuant to sections 157.4 to 157.4.2, exceed any amount deducted under this section in computing his taxable income for a previous taxation year.

History: 1989, c. 5, s. 86.

Deduction of excess amount where individual is first purchaser.

726.4.6. Subject to section 726.4.8, an individual who has acquired as first purchaser a certified Québec film may deduct, in computing his taxable income for a taxation year at the end of which he is the owner of the film and which film he has owned without interruption from the acquisition, an amount not exceeding the amount by which the amount obtained by applying the stated percentage, in respect of the film, to the aggregate of all amounts deducted by him in computing his taxable income for that year or a previous taxation year, in respect of the film, pursuant to section 726.4.1 or 726.4.4, exceeds any amount deducted under this section, in respect of the film, in computing his taxable income for a previous taxation year.

History: 1989, c. 5, s. 86; 1991, c. 8, s. 15.

Deduction of excess amount where partnership is first purchaser.

726.4.7. Subject to section 726.4.8, where an individual is a member of a partnership at the end of a particular fiscal period of the partnership in which it acquired, as first purchaser, a certified Québec film, he may deduct, in computing his taxable income for a taxation year in which a fiscal period of the partnership ends and at the end of which period he is a member of the partnership and has been such a member, without interruption, from the end of the particular fiscal period, an amount not exceeding the amount by which his portion of the amount obtained by applying the stated percentage, in respect of the film, to the aggregate of the amounts deducted by the partnership in computing its income for that fiscal period or a previous fiscal period, in respect of the film, pursuant to paragraph a of section 130 or the second paragraph of section 130.1, exceeds any amount deducted by the individual under this section, in respect of the film, in computing his taxable income for a previous taxation year.

Portion of individual.

For the purposes of this section, the portion of an individual is deemed to be equal to the lesser of

- (a) his portion of the profits of the partnership determined without taking account of this paragraph; and
- (b) his portion of the profits of the partnership determined in respect of the fiscal period of the partnership in which it acquired the film.

History: 1989, c. 5, s. 86; 1991, c. 8, s. 16; 1997, c. 3, s. 71.

Stated percentage in respect of a certified Québec film.

726.4.7.1. For the purposes of sections 726.4.6 and 726.4.7, the stated percentage applicable to an individual referred to therein, in respect of a certified Québec film, is

- (a) 66 2/3% in the case of any such film
 - i. described in section 726.4.7.2, or
 - ii. described in section 726.4.7.3 where the financial commitment of the individual or of the partnership of which he is a member, as the case may be, to the film is more than 55% of the capital cost of the film to the individual or partnership, as the case may be;
- (b) 33 1/3% in the case of any such film described in section 726.4.7.3 where the financial commitment of the individual or of the partnership of which he is a member, as the case may be, to the film is more than 45%, but not over 55%, of the capital cost of the film to the individual or partnership, as the case may be;

(c) 0% in the case of any other film described in section 726.4.7.3.

History: 1991, c. 8, s. 17; 1997, c. 3, s. 71.

Certified Québec films not subject to the rule on the level of financial commitment.

726.4.7.2. A certified Québec film is contemplated in subparagraph i of paragraph a of section 726.4.7.1 where the film is a motion picture film or video tape

(a) that was acquired before 1 January 1990 and the principal taping or photography thereof was commenced before that date or was completed not later than 1 March 1990;

(b) that was acquired after 31 December 1989 pursuant to an agreement in writing entered into by an individual or a partnership, as the case may be, not later than 18 December 1989 or in accordance with a final prospectus, preliminary prospectus or offering memorandum filed with the Commission des valeurs mobilières du Québec not later than 18 December 1989, to the extent that the total amount of funds so collected for the production of the film or tape does not exceed the amount stipulated in this regard in the agreement at the time it was entered into or in the final prospectus, preliminary prospectus or offering memorandum, as the case may be, at the time it was filed with the Commission des valeurs mobilières du Québec;

(c) that was acquired after 31 December 1989 but not later than 31 December 1990, where the following conditions are met:

i. the individual or partnership having acquired the film or tape has paid for it in full not later than 31 December 1990 and, as the case may be, all members of the partnership have done so with their acquired partnership interest or their additional contribution of capital to the partnership in respect of the film or tape;

ii. a favourable ruling, prior to the financing necessary for the production of the film or tape, has been obtained from the Société de développement des entreprises culturelles to the effect that

(1) the film or tape is not a sponsored film, a sports, quiz, variety or public affairs programme, or an advertising, industrial or educational film,

(2) the film or tape is part of a series that includes other certified Québec films that have been acquired before 1 January 1990, and

(3) the film or tape is produced at a fixed cost or at a cost determined on the basis of a formula stipulated in a production option agreement entered into before 1 April 1990 by a licensed radio broadcaster or a genuine distributor of films or video tapes;

(d) the principal taping or photography of which was completed not later than 1 March 1991, which film or tape would be described in paragraph c if subparagraph ii thereof were read as follows:

“ii. the Société de développement des entreprises culturelles has received, not later than 1 March 1990, an application for a ruling and the documents necessary to give such ruling and has given a favourable ruling to the effect that

(1) the film or tape is not a sponsored film, a sports, quiz, variety or public affairs programme, or an advertising, industrial or educational film, and

(2) the film or tape was at a substantially advanced stage on 18 December 1989;”.

History: 1991, c. 8, s. 17; 1994, c. 21, s. 50; 1994, c. 21, s. 66; O.C. 216-95; 1997, c. 3, s. 71.

Certified Québec films subject to the rule on the level of financial commitment.

726.4.7.3. A certified Québec film referred to in subparagraph ii of paragraph a of section 726.4.7.1 or in paragraph b or c of the said section is a certified Québec film that is not described in section 726.4.7.2.

History: 1991, c. 8, s. 17.

Financial commitment.

726.4.7.4. For the purposes of section 726.4.7.1, the financial commitment of an individual or partnership, in this section referred to as an "investor", to a certified Québec film means, subject to the second paragraph, the capital cost of the film to the investor.

Benefit or advantage reducing the financial commitment.

Where, in respect of the film, a person or partnership has obtained, is entitled to obtain or can reasonably expect to obtain a benefit or advantage, whether by way of reimbursement, compensation, revenue guarantee or proceeds of disposition of a property exceeding the fair market value of the property, or in any other form or manner whatever, and it may reasonably be considered that the direct or indirect effect of such benefit or advantage is to compensate or indemnify the investor or, as the case may be, one of its members, or to otherwise benefit, in any manner whatever, the investor or, as the case may be, one of its members, the investor's financial commitment to the film means the amount by which the capital cost of the film to the investor exceeds the amount of the benefit or advantage obtained by the person or partnership, or established or stated,

(a) where the investor is an individual, not later than on the closing date of the investment in respect of the financing necessary for the production of the film or, failing that, on

the date on which the investor irrevocably acquired the film, or

(b) where the investor is a partnership, not later than the later of the date that would be determined in respect of the film under paragraph *a* if the investor were an individual and the dates on which, in respect of the film, an individual referred to in section 726.4.7 irrevocably acquired his partnership interest or made an additional contribution of capital to the partnership.

History: 1991, c. 8, s. 17; 1997, c. 3, s. 71.

Exceptions.

726.4.8. Notwithstanding sections 726.4.6 and 726.4.7, no amount may be deducted, in either of the following cases, in computing the taxable income of an individual, for a taxation year, in accordance with those sections in respect of a certified Québec film:

(a) where the individual was allowed a deduction, for the year or a preceding taxation year, in respect of the film under section 726.4.5;

(b) where the part or the amount of the capital cost of the film that was deductible for the year or a preceding taxation year, in accordance with the regulations under paragraph *a* of subsection 1 of section 20 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), exceeded 30% of that cost, computed without reference to any additional deduction based on the income from a film and granted in accordance with the latter regulations.

History: 1989, c. 5, s. 86; 1991, c. 8, s. 18.

TITLE VI.3.1.1

(Repealed).

CHAPTER I

(Repealed).

726.4.8.1. *(Repealed).*

History: 1992, c. 1, s. 36; 1993, c. 64, s. 54; 1997, c. 3, s. 29; 1997, c. 14, s. 99.

726.4.8.2. *(Repealed).*

History: 1992, c. 1, s. 36; 1997, c. 3, s. 71; 1997, c. 14, s. 99.

726.4.8.3. *(Repealed).*

History: 1992, c. 1, s. 36; 1997, c. 3, s. 71; 1997, c. 14, s. 99.

CHAPTER II

(Repealed).

726.4.8.4. *(Repealed).*

History: 1992, c. 1, s. 36; 1997, c. 14, s. 99.

726.4.8.5. *(Repealed).*

History: 1992, c. 1, s. 36; 1997, c. 3, s. 71; 1997, c. 14, s. 99.

726.4.8.6. *(Repealed).*

History: 1992, c. 1, s. 36; 1993, c. 19, s. 29; 1997, c. 3, s. 71; 1997, c. 14, s. 99.

726.4.8.7. *(Repealed).*

History: 1992, c. 1, s. 36; 1997, c. 3, s. 71; 1997, c. 14, s. 99.

726.4.8.7.1. *(Repealed).*

History: 1993, c. 19, s. 30; 1997, c. 3, s. 71; 1997, c. 14, s. 99.

726.4.8.8. *(Repealed).*

History: 1992, c. 1, s. 36; 1997, c. 14, s. 99.

726.4.8.9. *(Repealed).*

History: 1992, c. 1, s. 36; 1997, c. 3, s. 71; 1997, c. 14, s. 99.

726.4.8.10. *(Repealed).*

History: 1992, c. 1, s. 36; 1997, c. 14, s. 99.

CHAPTER III

(Repealed).

726.4.8.11. *(Repealed).*

History: 1992, c. 1, s. 36; 1997, c. 14, s. 99.

726.4.8.12. *(Repealed).*

History: 1992, c. 1, s. 36; 1997, c. 3, s. 71; 1997, c. 14, s. 99.

726.4.8.13. *(Repealed).*

History: 1992, c. 1, s. 36; 1997, c. 3, s. 71; 1997, c. 14, s. 99.

CHAPTER IV

(Repealed).

726.4.8.14. *(Repealed).*

History: 1992, c. 1, s. 36; 1997, c. 14, s. 99.

CHAPTER V

(Repealed).

726.4.8.15. *(Repealed).*

History: 1992, c. 1, s. 36; 1997, c. 3, s. 30; 1997, c. 14, s. 99.

726.4.8.16. *(Repealed).*

History: 1992, c. 1, s. 36; 1993, c. 16, s. 260; 1995, c. 63, s. 261; 1997, c. 3, s. 71; 1997, c. 14, s. 99.

726.4.8.17. *(Repealed).*

History: 1992, c. 1, s. 36; 1997, c. 3, s. 71; 1997, c. 14, s. 99.

TITLE VI.3.2
ADDITIONAL DEDUCTION IN RESPECT OF
CERTAIN EXPLORATION EXPENSES INCURRED
IN QUÉBEC

Deduction.

726.4.9. An individual may deduct, in computing his taxable income for a taxation year, an amount not exceeding his exploration base relating to certain Québec exploration expenses at the end of the year, computed before any deduction for the year under this section.

History: 1989, c. 5, s. 86.

Exploration base relating to certain Québec exploration expenses.

726.4.10. For the purposes of this Title, the exploration base relating to certain Québec exploration expenses of an individual, at any time after 31 December 1987, means an amount equal to the amount by which the aggregate of the following amounts exceeds the amount computed under section 726.4.11:

(a) 33 1/3% of the amount by which

i. the aggregate of the expenses, except those described in section 726.4.12, incurred in Québec by the individual after 30 June 1988 and before that time, and that are

(1) Canadian exploration expenses that would be described in paragraph *a*, *b.1* or *c* of section 395 if the reference in those paragraphs to “Canada”, wherever it appears except in subparagraph *iv* of that paragraph *b.1*, were a reference to “Québec”, described in paragraph *d* of the said section 395 if the reference therein to “expenses described in paragraphs *a* to *b.1* and *c* to *c.2*” were replaced by a reference to “expenses that would be described in paragraph *a*, *b.1* or *c*, if the reference in those paragraphs to “Canada”, wherever it appears except in subparagraph *iv* of paragraph *b.1*, were a reference to “Québec”, or described in paragraph *e* of the said section 395 if the reference therein to “an expense described in paragraphs *a* to *c.1*” were replaced by a reference to “any expense that would be described in paragraph *a*, *b.1* or *c*, if the reference in those paragraphs to “Canada”, wherever it appears except in subparagraph *iv* of paragraph *b.1*, were a reference to “Québec”, other than expenses described in paragraph *b.1* of section 395 that are incurred before 10 May 1996 or incurred after 9 May 1996 pursuant to an agreement in writing referred to in section 359.1 that was entered into before 10 May 1996 in respect of the issue of a flow-through share, or incurred, directly or indirectly, out of the proceeds of a public issue of shares or interests in a partnership in respect of which the receipt for the final prospectus or the exemption from filing a prospectus was granted before 10 May 1996, or

(2) Canadian development expenses that would be described in paragraph *a* or *a.1* of section 408 if the reference in those paragraphs to “Canada”, wherever it appears, were a

reference to “Québec”, described in paragraph *d* of the said section 408 if the reference therein to “expense described in paragraphs *a* to *c*” were replaced by a reference to “expense that would be described in paragraph *a* or *a.1*, if the reference in those paragraphs to “Canada”, wherever it appears, were a reference to “Québec”, which are deemed, under paragraph *a* of section 359.3, to be Canadian exploration expenses of the individual by reason of a renunciation to the individual under section 359.2.1, exceeds

ii. the aggregate of all amounts of assistance, within the meaning of paragraph *c.0.1* of section 359, which a person, including a partnership, has received, is entitled to receive or becomes, at any time, entitled to receive in respect of an expense referred to in subparagraph *i*, to the extent that the assistance has not reduced the Canadian exploration expenses of the individual by reason of subparagraph *a* of the first paragraph of section 359.2, or, by reason of paragraph *a* of section 359.2.1, the Canadian development expenses deemed to be Canadian exploration expenses of the individual and is not an amount received, receivable or that became, at any time, entitled to be received under subsection 5 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of a flow-through mining expenditure, within the meaning of subsection 9 of that section; and

(b) his “Québec exploration base”, within the meaning assigned to that expression by regulation, at that time.

History: 1989, c. 5, s. 86; 1990, c. 7, s. 22; 1990, c. 59, s. 255; 1991, c. 8, s. 19; 1992, c. 1, s. 37; 1993, c. 64, s. 55; 1995, c. 1, s. 54; 1995, c. 49, s. 160; 1997, c. 3, s. 71; 1997, c. 14, s. 100; 1997, c. 85, s. 330; 1998, c. 16, s. 179; 2002, c. 40, s. 49; 2004, c. 8, s. 138; 2004, c. 21, s. 107; 2005, c. 23, s. 64.

Expenses incurred after 14 May 1992.

726.4.10.1. Where an expense referred to in subparagraph *i* of paragraph *a* of section 726.4.10 was incurred after 14 May 1992, the reference in the said paragraph *a* to “33 1/3%” shall, in respect of the expense, read as a reference to “25%”.

Exceptions.

The first paragraph does not apply in respect of an expense

(a) incurred pursuant to an agreement in writing referred to in section 359.1 that was entered into before 15 May 1992 in respect of the issue of a flow-through share, or

(b) incurred, directly or indirectly, out of the proceeds of a public issue of shares or interests in a partnership in respect of which the receipt for the final prospectus or the exemption from filing a prospectus was granted before 15 May 1992.

History: 1993, c. 19, s. 31; 1997, c. 3, s. 71.

Expenses incurred after 12 June 2003.

726.4.10.2. Notwithstanding section 726.4.10.1, where an expense referred to in subparagraph i of paragraph *a* of section 726.4.10 was incurred after 12 June 2003, the percentage of 33 1/3% mentioned in that paragraph *a* shall, in respect of the expense, be replaced by a percentage of 10.42%.

Exceptions.

The first paragraph does not apply in respect of an expense incurred as a result of

(a) an investment made on or before 12 June 2003, in relation to a flow-through share issued after that date; or

(b) an application for a receipt for the preliminary prospectus or an application for an exemption from filing a prospectus, as the case may be, made on or before 12 June 2003, in relation to a flow-through share issued after that date.

History: 2004, c. 21, s. 108.

Expenses incurred after 30 March 2004.

726.4.10.3. Despite sections 726.4.10.1 and 726.4.10.2, if an expense referred to in subparagraph i of paragraph *a* of section 726.4.10 was incurred after 30 March 2004, the percentage of 33 1/3% mentioned in that paragraph *a* is to be replaced, in respect of the expense, by a percentage of 25%.

Exception.

The first paragraph does not apply in respect of an expense if it was incurred as a consequence of the acquisition of a flow-through share before 31 March 2004.

History: 2005, c. 23, s. 65.

Expenses incurred after 4 June 2014.

726.4.10.4. Despite sections 726.4.10.1 to 726.4.10.3, if an expense referred to in subparagraph i of paragraph *a* of section 726.4.10 was incurred after 4 June 2014, the percentage of 33 1/3% mentioned in that paragraph *a* is to be replaced, in respect of the expense, by a percentage of 10%.

Exception.

The first paragraph does not apply in respect of an expense incurred as a result of

(a) an investment made on or before 4 June 2014, in relation to a flow-through share issued after that date; or

(b) an application for a receipt for the preliminary prospectus or an application for an exemption from filing a prospectus, as the case may be, made on or before

4 June 2014, in relation to a flow-through share issued after that date.

History: 2015, c. 21, s. 242.

Computation.

726.4.11. The amount that must be deducted from the aggregate determined under section 726.4.10 at any time referred to therein is equal to the aggregate of

(a) each amount deducted by the individual under section 726.4.9 in computing his taxable income for a taxation year ending before that time and

(b) 33 1/3% of each amount that became receivable by the individual before that time but after 30 June 1988 and in respect of which the consideration given by him was a property other than a property disposed of by the individual to any person with whom he was not dealing at arm's length, a share, depreciable property of a prescribed class or a Canadian resource property, or services, the cost of which may reasonably be regarded as having been an expenditure in respect of which an amount was included, under section 726.4.10, in computing the exploration base relating to certain Québec exploration expenses of the individual or of a person with whom he was not dealing at arm's length.

History: 1989, c. 5, s. 86.

Expenses incurred after 14 May 1992.

726.4.11.1. Where an amount referred to in paragraph *b* of section 726.4.11 in respect of an individual is an amount in respect of which the consideration given by the individual is a property or services the cost of which may reasonably be regarded as having been an expenditure in respect of which section 726.4.10.1 applied, the reference in paragraph *b* of the said section 726.4.11 to "33 1/3%" shall, in respect of the amount, read as a reference to "25%".

History: 1993, c. 19, s. 32.

Expenses incurred after 12 June 2003.

726.4.11.2. Notwithstanding section 726.4.11.1, where an amount referred to in paragraph *b* of section 726.4.11 in respect of an individual is an amount in respect of which the consideration given by the individual is a property or services the cost of which may reasonably be regarded as an expenditure in respect of which section 726.4.10.2 applied, the percentage of 33 1/3% mentioned in paragraph *b* of section 726.4.11 shall, in respect of the amount, be replaced by a percentage of 10.42%.

History: 2004, c. 21, s. 109.

Expenses incurred after 30 March 2004.

726.4.11.3. Despite sections 726.4.11.1 and 726.4.11.2, if an amount referred to in paragraph *b* of section 726.4.11 in respect of an individual is an amount in respect of which the consideration given by the individual is a property or

services the cost of which may reasonably be considered to be an expenditure in respect of which section 726.4.10.3 applied, the percentage of 33 1/3% mentioned in paragraph *b* of section 726.4.11 is to be replaced, in respect of the amount, by a percentage of 25%.

History: 2005, c. 23, s. 66.

Refund of expenses incurred after 4 June 2014.

726.4.11.4. Despite sections 726.4.11.1 to 726.4.11.3, if an amount referred to in paragraph *b* of section 726.4.11 in respect of an individual is an amount in respect of which the consideration given by the individual was property or services the cost of which may reasonably be regarded as an expense in respect of which section 726.4.10.4 applied, the percentage of 33 1/3% mentioned in paragraph *b* of section 726.4.11 is to be replaced, in respect of that amount, by a percentage of 10%.

History: 2015, c. 21, s. 243.

Exclusion of certain expenses.

726.4.12. Expenses referred to in subparagraph *i* of paragraph *a* of section 726.4.10 do not include

(*a*) any amount included in the Canadian exploration and development overhead expenses of the individual, within the meaning of the regulations;

(*b*) any amount relating to Canadian exploration expenses or Canadian development expenses that is renounced by a corporation that is not a qualified corporation, effective after 30 June 1988, pursuant to section 359.2 or 359.2.1, as the case may be, in respect of a share;

(*c*) any amount relating to financing, including expenses incurred before the beginning of the carrying on of a business;

(*d*) expenses that are Canadian exploration expenses of the individual under paragraph *d* or *e* of section 395, to the extent that they refer

i. to expenses incurred after 30 June 1988 and before the time referred to in section 726.4.10, by a partnership that is not a qualified partnership or by a qualified partnership in accordance with an agreement described in that paragraph *e* entered into with a corporation that is not a qualified corporation, or

ii. to expenses incurred in the period described in subparagraph *i* by the individual in accordance with an agreement described in that paragraph *e* with a corporation that is not a qualified corporation; or

(*e*) any prescribed expense.

History: 1989, c. 5, s. 86; 1990, c. 7, s. 23; 1991, c. 8, s. 20; 1992, c. 1, s. 38; 1993, c. 64, s. 56; 1995, c. 1, s. 55; 1995, c. 49, s. 161; 1997, c. 3, s. 71; 1997, c. 14, s. 290; 1997, c. 85, s. 330; 2002, c. 40, s. 50; 2004, c. 21, s. 110; 2005, c. 23, s. 67.

Assistance in respect of included expenses.

726.4.13. Where an expense incurred before any time is included in the aggregate determined under subparagraph *i* of paragraph *a* of section 726.4.10 in respect of an individual and, after that time, a person, including a partnership, becomes entitled to receive assistance, within the meaning of paragraph *c.0.1* of section 359, in respect of that expense, the assistance must be included in the aggregate referred to in subparagraph *ii* of that paragraph *a* in respect of the individual at the time the expense was incurred, to the extent that it has not reduced the amount of the expense by reason of subparagraph *a* of the first paragraph of section 359.2 or paragraph *a* of section 359.2.1.

History: 1989, c. 5, s. 86; 1995, c. 49, s. 162; 1997, c. 3, s. 71; 1999, c. 83, s. 76.

Qualified partnership.

726.4.14. In this Title, a qualified partnership is a partnership all the activities of which consist mainly in exploring for minerals, petroleum or gas or developing a mineral resource or an oil or gas well and which, at the time the expenses referred to in paragraph *d* of section 395 are incurred and throughout the twelve-month period preceding that time, fulfils the following conditions:

(*a*) neither the partnership nor any of its members operates a mineral resource or an oil or gas well;

(*b*) none of its members is a member of an associated group, within the meaning of section 726.4.17.18.1, a member of which operates a mineral resource or an oil or gas well.

History: 1989, c. 5, s. 86; 1990, c. 7, s. 24; 1997, c. 3, s. 71; 1997, c. 31, s. 143; 2015, c. 21, s. 244.

Qualified corporation.

726.4.15. In this Title, a qualified corporation is a corporation all of the activities of which consist mainly in exploring for minerals, petroleum or gas or developing a mineral resource or an oil or gas well and which, at the time the expenses in respect of which an amount is renounced under section 359.2 or 359.2.1 or at the time the expenses referred to in paragraph *e* of section 395, as the case may be, are incurred, and throughout the 12-month period preceding that time, fulfils the following conditions:

(*a*) the corporation does not operate any mineral resource or oil or gas well;

(b) the corporation is not a member of an associated group, within the meaning of section 726.4.17.18.1, a member of which operates a mineral resource or an oil or gas well.

History: 1989, c. 5, s. 86; 1990, c. 7, s. 25; 1995, c. 49, s. 163; 1997, c. 3, s. 71; 1997, c. 31, s. 143; 2015, c. 21, s. 245.

Reasonable commercial quantities.

726.4.16. For the purposes of this Title and for greater certainty, the operation of a mineral resource or an oil or gas well shall be interpreted as such an operation carried out in reasonable commercial quantities.

History: 1989, c. 5, s. 86.

Member of a partnership.

726.4.17. For the purposes of this Title, where a member of a partnership is deemed to have incurred Canadian exploration expenses under paragraph *d* of section 395, the expenses are deemed to have been incurred by the member at the time they were incurred by the partnership.

History: 1989, c. 5, s. 86; 1997, c. 3, s. 71.

TITLE VI.3.2.1

ADDITIONAL DEDUCTION IN RESPECT OF CERTAIN SURFACE MINING EXPLORATION EXPENSES OR OIL AND GAS EXPLORATION EXPENSES INCURRED IN QUÉBEC

Deduction.

726.4.17.1. An individual may deduct, in computing his taxable income for a taxation year, an amount not exceeding his exploration base relating to certain Québec surface mining or oil and gas exploration expenses at the end of the year, computed before any deduction for the year under this section.

History: 1990, c. 7, s. 26; 1997, c. 14, s. 290.

Exploration base relating to certain Québec surface mining exploration expenses or oil and gas exploration expenses.

726.4.17.2. In this Title, the exploration base relating to certain Québec surface mining exploration expenses or oil and gas exploration expenses of an individual, at any time, means an amount equal to the amount by which the amount computed under section 726.4.17.3 is exceeded by 33 1/3% of the amount by which

(a) the aggregate of the expenses, except those described in section 726.4.17.4, incurred in Québec by the individual before that time, and that are

i. Canadian exploration expenses incurred by the individual after 31 December 1988 and that would be described in paragraph *c* of section 395 if the reference therein to “Canada”, wherever it appears, were a reference to “Québec”, described in paragraph *d* of the said section 395 if the reference therein to “expenses described in paragraphs *a*

to *b.1* and *c* to *c.2*” were replaced by a reference to “expenses that would be described in paragraph *c*, if the reference therein to “Canada”, wherever it appears, were a reference to “Québec”, or described in paragraph *e* of the said section 395 if the reference therein to “an expense described in paragraphs *a* to *c.1*” were replaced by a reference to “any expense that would be described in paragraph *c*, if the reference therein to “Canada”, wherever it appears, were a reference to “Québec”, except any of those expenses that are related to removing overburden and stripping, where such work is more than is needed to obtain indicators of mineralization or for the preliminary sampling thereof, or related to drilling and trenching or digging test pits, where such work constitutes underground exploration work, or

ii. expenses referred to in subparagraph 1 or 2 of subparagraph *i* of paragraph *a* of section 726.4.10, incurred by the individual after 9 May 1996, other than expenses that would be referred to in subparagraph *i* if that subparagraph were read without reference to “, except any of those expenses that are related to removing overburden and stripping, where such work is more than is needed to obtain indicators of mineralization or for the preliminary sampling thereof, or related to drilling and trenching or digging test pits, where such work constitutes underground exploration work”; exceeds

(b) the aggregate of all amounts of assistance, within the meaning of paragraph *c.0.1* of section 359, which a person, including a partnership, has received, is entitled to receive or becomes, at any time, entitled to receive in respect of an expense referred to in paragraph *a*, to the extent that the assistance has not reduced the Canadian exploration expenses of the individual by reason of subparagraph *a* of the first paragraph of section 359.2 and is not an amount received, receivable or that became, at any time, entitled to be received under subsection 5 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of a flow-through mining expenditure, within the meaning of subsection 9 of that section.

History: 1990, c. 7, s. 26; 1990, c. 59, s. 256; 1991, c. 8, s. 21; 1992, c. 1, s. 39; 1993, c. 64, s. 57; 1995, c. 1, s. 56; 1997, c. 3, s. 71; 1997, c. 14, s. 102; 1997, c. 85, s. 330; 1998, c. 16, s. 180; 2002, c. 40, s. 51; 2004, c. 8, s. 139; 2004, c. 21, s. 111; 2005, c. 23, s. 68.

Expenses incurred after 14 May 1992.

726.4.17.2.1. Where an expense referred to in paragraph *a* of section 726.4.17.2 was incurred after 14 May 1992, the reference in the said section to “33 1/3%” shall read, in respect of the expense, as a reference to “50%”.

Exceptions.

The first paragraph does not apply in respect of an expense

(a) incurred pursuant to an agreement in writing referred to in section 359.1 that was entered into before 15 May 1992 in respect of the issue of a flow-through share, or

(b) incurred, directly or indirectly, out of the proceeds of a public issue of shares or interests in a partnership in respect of which the receipt for the final prospectus or the exemption from filing a prospectus was granted before 15 May 1992.

History: 1993, c. 19, s. 33; 1997, c. 3, s. 71.

Expenses incurred after 12 June 2003.

726.4.17.2.2. Notwithstanding section 726.4.17.2.1, where an expense referred to in paragraph *a* of section 726.4.17.2 was incurred after 12 June 2003, the percentage of 33 1/3% mentioned in that section shall, in respect of the expense, be replaced by a percentage of 20.83%.

Exceptions.

The first paragraph does not apply in respect of an expense incurred as a result of

(a) an investment made on or before 12 June 2003, in relation to a flow-through share issued after that date; or

(b) an application for a receipt for the preliminary prospectus or an application for an exemption from filing a prospectus, as the case may be, made on or before 12 June 2003 in relation to a flow-through share issued after that date.

History: 2004, c. 21, s. 112.

Expenses incurred after 30 March 2004.

726.4.17.2.3. Despite sections 726.4.17.2.1 and 726.4.17.2.2, if an expense referred to in paragraph *a* of section 726.4.17.2 was incurred after 30 March 2004, the percentage of 33 1/3% mentioned in that section is to be replaced, in respect of the expense, by a percentage of 25%.

Exception.

The first paragraph does not apply in respect of an expense if it was incurred as a consequence of the acquisition of a flow-through share before 31 March 2004.

History: 2005, c. 23, s. 69.

Expenses incurred after 4 June 2014.

726.4.17.2.4. Despite sections 726.4.17.2.1 to 726.4.17.2.3, if an expense referred to in paragraph *a* of section 726.4.17.2 was incurred after 4 June 2014, the percentage of 33 1/3% mentioned in that section is to be replaced, in respect of the expense, by a percentage of 10%.

Exception.

The first paragraph does not apply in respect of an expense incurred as a result of

(a) an investment made on or before 4 June 2014, in relation to a flow-through share issued after that date; or

(b) an application for a receipt for the preliminary prospectus or an application for an exemption from filing a prospectus, as the case may be, made on or before 4 June 2014, in relation to a flow-through share issued after that date.

History: 2015, c. 21, s. 246.

Computation.

726.4.17.3. The amount that must be deducted from the amount determined under section 726.4.17.2 at any time referred to therein is equal to the aggregate of

(a) each amount deducted by the individual under section 726.4.17.1 in computing his taxable income for a taxation year ending before that time, and

(b) 33 1/3% of each amount that became receivable by the individual before that time but after 31 December 1988 and in respect of which the consideration given by him was a property other than a property disposed of by the individual to any person with whom he was not dealing at arm's length, a share, depreciable property of a prescribed class or a Canadian resource property, or services, the cost of which may reasonably be regarded as having been an expenditure in respect of which an amount was included, under section 726.4.17.2, in computing the exploration base relating to certain Québec surface mining or oil and gas exploration expenses of the individual or of a person with whom he was not dealing at arm's length.

History: 1990, c. 7, s. 26; 1997, c. 14, s. 290.

Expenses incurred after 14 May 1992.

726.4.17.3.1. Where an amount referred to in paragraph *b* of section 726.4.17.3 in respect of an individual is an amount in respect of which the consideration given by the individual is a property or services the cost of which may reasonably be regarded as having been an expenditure in respect of which section 726.4.17.2.1 applied, the reference in paragraph *b* of the said section 726.4.17.3 to "33 1/3%" shall, in respect of the amount, read as a reference to "50%".

History: 1993, c. 19, s. 34.

Expenses incurred after 12 June 2003.

726.4.17.3.2. Notwithstanding section 726.4.17.3.1, where an amount referred to in paragraph *b* of section 726.4.17.3 in respect of an individual is an amount in respect of which the consideration given by the individual is a property or services the cost of which may reasonably be

regarded as an expenditure in respect of which section 726.4.17.2.2 applied, the percentage of 33 1/3% mentioned in paragraph *b* of section 726.4.17.3 shall, in respect of the amount, be replaced by a percentage of 20.83%.

History: 2004, c. 21, s. 113.

Expenses incurred after 30 March 2004.

726.4.17.3.3. Despite sections 726.4.17.3.1 and 726.4.17.3.2, if an amount referred to in paragraph *b* of section 726.4.17.3 in respect of an individual is an amount in respect of which the consideration given by the individual is a property or services the cost of which may reasonably be considered to be an expenditure in respect of which section 726.4.17.2.3 applied, the percentage of 33 1/3% mentioned in paragraph *b* of section 726.4.17.3 is to be replaced, in respect of the amount, by a percentage of 25%.

History: 2005, c. 23, s. 70.

Refund of expenses incurred after 4 June 2014.

726.4.17.3.4. Despite sections 726.4.17.3.1 to 726.4.17.3.3, if an amount referred to in paragraph *b* of section 726.4.17.3 in respect of an individual is an amount in respect of which the consideration given by the individual was property or services the cost of which may reasonably be regarded as an expense in respect of which section 726.4.17.2.4 applied, the percentage of 33 1/3% mentioned in paragraph *b* of section 726.4.17.3 is to be replaced, in respect of that amount, by a percentage of 10%.

History: 2015, c. 21, s. 247.

Exclusion of certain expenses.

726.4.17.4. Expenses referred to in paragraph *a* of section 726.4.17.2 do not include

(a) any amount included in the Canadian exploration and development overhead expenses of the individual, within the meaning of the regulations;

(b) any amount relating to Canadian exploration expenses that is renounced by a corporation that is not a qualified corporation, effective after 31 December 1988, pursuant to section 359.2 in respect of a share;

(c) any amount relating to financing, including expenses incurred before the beginning of the carrying on of a business;

(d) expenses that are Canadian exploration expenses of the individual under paragraph *d* or *e* of section 395, to the extent that they refer

i. to expenses incurred after 31 December 1988 and before the time referred to in section 726.4.17.2, by a partnership that is not a qualified partnership or by a qualified partnership in accordance with an agreement described in

that paragraph *e* entered into with a corporation that is not a qualified corporation, or

ii. to expenses incurred in the period described in subparagraph *i* by the individual in accordance with an agreement described in that paragraph *e* entered into with a corporation that is not a qualified corporation.

History: 1990, c. 7, s. 26; 1991, c. 8, s. 22; 1992, c. 1, s. 40; 1993, c. 64, s. 58; 1995, c. 1, s. 57; 1997, c. 3, s. 71; 1997, c. 14, s. 290; 1997, c. 85, s. 330; 2002, c. 40, s. 52; 2004, c. 21, s. 114; 2005, c. 23, s. 71.

Assistance in respect of included expenses.

726.4.17.5. Where an expense incurred before a particular time is included in the aggregate determined under paragraph *a* of section 726.4.17.2 in respect of an individual and, after that time, a person, including a partnership, becomes entitled to receive assistance, within the meaning of paragraph *c.0.1* of section 359, in respect of that expense, the assistance must be included in the aggregate referred to in paragraph *b* of that section 726.4.17.2 in respect of the individual at the time the expense was incurred, to the extent that he has not reduced the expense by virtue of subparagraph *a* of the first paragraph of section 359.2.

History: 1990, c. 7, s. 26; 1997, c. 3, s. 71.

Qualified partnership.

726.4.17.6. In this Title, a qualified partnership is a partnership all the activities of which consist mainly in exploring for minerals, petroleum or gas or developing a mineral resource or an oil or gas well and which, at the time the expenses referred to in paragraph *d* of section 395 are incurred and throughout the twelve-month period preceding that time, fulfils the following conditions:

(a) neither the partnership nor any of its members operates a mineral resource or an oil or gas well;

(b) none of its members is a member of an associated group, within the meaning of section 726.4.17.18.1, a member of which operates a mineral resource or an oil or gas well.

History: 1990, c. 7, s. 26; 1997, c. 3, s. 71; 1997, c. 31, s. 143; 2015, c. 21, s. 248.

Qualified corporation.

726.4.17.7. In this Title, a qualified corporation is a corporation all of the activities of which consist mainly in exploring for minerals, petroleum or gas or developing a mineral resource or an oil or gas well and which, at the time the expenses referred to in paragraph *e* of section 395 or at the time the expenses in respect of which an amount is renounced under section 359.2, as the case may be, are incurred, and throughout the twelve-month period preceding that time, fulfils the following conditions:

(a) the corporation does not operate any mineral resource or oil or gas well;

(b) the corporation is not a member of an associated group, within the meaning of section 726.4.17.18.1, a member of which operates a mineral resource or an oil or gas well.

History: 1990, c. 7, s. 26; 1997, c. 3, s. 71; 1997, c. 31, s. 143; 2015, c. 21, s. 249.

Reasonable commercial quantities.

726.4.17.8. For the purposes of this Title and for greater certainty, the operation of a mineral resource or an oil or gas well shall be interpreted as such an operation carried out in reasonable commercial quantities.

History: 1990, c. 7, s. 26.

Member of a partnership.

726.4.17.9. For the purposes of this Title, where a member of a partnership is deemed to have incurred Canadian exploration expenses under paragraph *d* of section 395, the expenses are deemed to have been incurred by the member at the time they were incurred by the partnership.

History: 1990, c. 7, s. 26; 1997, c. 3, s. 71.

TITLE VI.3.2.2 ADDITIONAL DEDUCTION IN RESPECT OF CERTAIN ISSUE EXPENSES

Deduction.

726.4.17.10. An individual may deduct, in computing his taxable income for a taxation year, an amount not exceeding his issue base relating to certain issue expenses at the end of the year, computed before any deduction for the year under this section.

History: 1992, c. 1, s. 41.

Issue base relating to certain issue expenses.

726.4.17.11. For the purposes of this Title, the issue base relating to certain issue expenses of an individual, at any time, means an amount equal to the amount by which the aggregate of the following amounts exceeds the aggregate of the amounts deducted by the individual under section 726.4.17.10 in computing his taxable income for a taxation year ending before that time:

(a) the aggregate of all amounts each of which is equal to such proportion of the amount that is renounced under section 726.4.17.12 by a corporation in respect of a share issue as is represented by the ratio between, on the one hand, the aggregate determined under subparagraph *i* of paragraph *a* of section 726.4.10 in respect of the individual, for a taxation year ending at or before that time, relating to Canadian exploration expenses incurred out of the proceeds of the share issue and, on the other hand, the aggregate

described in subparagraph *b* of the second paragraph of section 726.4.17.12 in respect of the share issue; and

(b) the aggregate of all amounts each of which is equal to such proportion of the amount that is renounced under section 726.4.17.13 by a partnership in respect of a security issue the proceeds of which have been used to acquire flow-through shares issued by a corporation as is represented by the ratio between, on the one hand, the aggregate determined under subparagraph *i* of paragraph *a* of section 726.4.10 in respect of the individual, for a taxation year ending at or before that time, relating to Canadian exploration expenses incurred out of the portion, subscribed by the partnership, of the proceeds of the issue of the flow-through shares and, on the other hand, the aggregate described in subparagraph *b* of the second paragraph of section 726.4.17.13 in respect of the security issue.

Maximum allowable.

However, subject to the third paragraph, the amount that an individual may include for a taxation year, under subparagraph *a* of the first paragraph, in his issue base relating to certain issue expenses in relation to a share issue, shall in no case be greater than the amount by which

(a) the aggregate of

i. the amount of the consideration paid by the individual to acquire shares at the time of the share issue; and

ii. where the amount, or part of the amount, is an amount included in the issue base by reason of the individual's being a member of a particular partnership, the amount that may reasonably be considered to be the individual's share in the consideration that the particular partnership, or, as the case may be, another partnership, paid to acquire shares at the time of the share issue; exceeds

(b) the aggregate of

i. the amounts renounced by a corporation at or before the end of the year to the individual in respect of the shares contemplated in subparagraph *i* of subparagraph *a* under section 359.2 or 359.4, or that may reasonably be expected to be renounced by the corporation after the end of the year to the individual in respect of the said shares under the said sections;

ii. the individual's share and, where applicable, the share of any other person having possessed or able to acquire the individual's interest in the particular partnership contemplated in subparagraph *ii* of subparagraph *a*, in the aggregate of the amounts renounced by a corporation at or before the end of the year to a partnership in respect of the shares contemplated in subparagraph *ii* of subparagraph *a* under section 359.2 or 359.4, or that may reasonably be expected to be renounced by the corporation after the end of the year to a partnership in respect of the said shares under the said sections; and

iii. the amounts previously included under this section in the individual's issue base in relation to the said share issue.

Limited partner of a partnership.

Notwithstanding the foregoing, where at any time in a taxation year an individual is a limited partner, within the meaning of section 613.6, of a partnership, the following rules apply:

(a) the aggregate of all amounts each of which is an amount determined under subparagraph *a* or *b* of the first paragraph by reference to the portion, which is referred to in subparagraph *i* of paragraph *a* of section 726.4.10 for the year in respect of the individual, of his share of the Canadian exploration expenses incurred by the partnership in a fiscal period thereof ending in the year shall in no case be greater than the amount by which the amount determined for the individual under the second paragraph of section 613.1, in respect of the partnership at the end of that fiscal period, exceeds the aggregate of

i. any amount that may reasonably be expected to be an amount referred to in subparagraph *c* of the second paragraph of the said section 613.1 for the individual, or for another person having acquired the individual's partnership interest, in respect of the partnership at the end of a subsequent fiscal period thereof; and

ii. all amounts each of which is the individual's share of any loss of the partnership for the fiscal period from a business, other than a farming business, or from property, that may be deducted by the individual in computing his income for the year or included in computing his non-capital loss for the year;

(b) the amount of the reduction, by reason of subparagraph *a*, of the aggregate described firstly in that subparagraph in respect of the individual for the year is deemed to be a loss of the individual as a limited partner in respect of the partnership for the year.

History: 1992, c. 1, s. 41; 1993, c. 64, s. 59; 1995, c. 1, s. 58; 1997, c. 3, s. 71; 1997, c. 14, s. 103; 1998, c. 16, s. 181; 2000, c. 5, s. 293; 2001, c. 7, s. 85.

Renunciation by a corporation.

726.4.17.12. A corporation which makes a public issue of shares, including flow-through shares, the receipt for the final prospectus or the exemption from filing a prospectus of which was granted after 2 May 1991 may renounce, in respect of the share issue, an amount not exceeding the amount determined, in respect of that share issue, by the formula

$(A \times B) / C.$

Interpretation.

For the purposes of the formula set forth in the first paragraph,

(a) A is the lesser of

i. the aggregate of the expenses incurred by the corporation, in the course of the share issue and out of the proceeds thereof, at or before the time the renunciation is made and, where such is the case, the reasonable additional expenses the corporation expects to incur after that time, in the course of the share issue and out of the proceeds thereof, and

ii. 15% of the aggregate of the proceeds of the share issue at or before the time the renunciation is made and, where such is the case, the additional proceeds the corporation expects to receive for the additional shares it intends to issue after that time as part of the share issue;

(b) B is the aggregate of all amounts each of which is either an expense referred to in subparagraph *i* of paragraph *a* of section 726.4.10 in respect of an individual and incurred, at or before the time the renunciation is made, out of the proceeds of the share issue, or any amount that may reasonably be expected to be such an expense in respect of an individual incurred after that time out of the proceeds of the share issue;

(c) C is the amount by which the aggregate of the proceeds of the share issue at or before the time the renunciation is made and, where such is the case, the additional proceeds the corporation expects to receive for the additional shares it intends to issue after that time as part of the share issue, exceeds the amount used for A.

Validity of the renunciation.

Any renunciation made by a corporation under the first paragraph in respect of a share issue is valid only if it is made, in prescribed form, on 31 December in the calendar year in which the share issue commenced or within 60 days thereafter.

Exception.

The first paragraph does not apply in respect of a public issue of shares in respect of which the application for a receipt for the preliminary prospectus or the application for an exemption from filing a prospectus, as the case may be, is made after 12 June 2003, in relation to a flow-through share acquired before 31 March 2004.

History: 1992, c. 1, s. 41; 1993, c. 19, s. 35; 1995, c. 1, s. 59; 1997, c. 3, s. 71; 2000, c. 5, s. 154; 2004, c. 21, s. 115; 2005, c. 23, s. 72.

Public issue of shares after 4 June 2014.

726.4.17.12.1. Where, after 4 June 2014, a corporation makes a public issue of shares referred to in the first

paragraph of section 726.4.17.12, the percentage of 15% mentioned in subparagraph ii of subparagraph *a* of the second paragraph of that section is, in respect of the share issue, to be replaced by a percentage of 12%.

Exception.

The first paragraph does not apply in respect of a public issue of shares following

- (a) an investment made on or before 5 June 2014; or
- (b) an application for a receipt for the preliminary prospectus or an application for an exemption from filing a prospectus, as the case may be, made on or before 4 June 2014.

History: 2015, c. 21, s. 250.

Renunciation by a partnership.

726.4.17.13. Where a partnership makes a public issue of securities that are interests in the partnership, where the receipt for the final prospectus or the exemption from filing a prospectus of the security issue was granted after 2 May 1991, and where the partnership uses the proceeds of the security issue to acquire flow-through shares issued by a corporation, it may renounce, in respect of the security issue, an amount not exceeding the amount determined, in respect of the security issue, by the formula

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

Interpretation.

For the purposes of the formula set forth in the first paragraph,

- (a) A is the lesser of
 - i. the aggregate of the expenses incurred by the partnership, in the course of the issue of securities and out of the proceeds thereof, at or before the time the renunciation is made and, where such is the case, the reasonable additional expenses the partnership expects to incur after that time, in the course of that security issue and out of the proceeds thereof, and
 - ii. 15% of the aggregate of the proceeds of the security issue at or before the time the renunciation is made and, where such is the case, the additional proceeds the partnership expects to receive for the additional partnership interests it intends to issue after that time as part of the security issue;

(b) B is the aggregate of all amounts each of which is

- i. an expense referred to in subparagraph i of paragraph *a* of section 726.4.10 in respect of an individual and incurred, at or before the time the renunciation is made, out of such portion of the proceeds of the flow-through share issue as is subscribed by the partnership at or before that time out of the proceeds of the security issue, or

- ii. any amount that may reasonably be expected to be an expense referred to in subparagraph i of paragraph *a* of section 726.4.10 in respect of an individual and incurred, after the time the renunciation is made, out of that portion of the proceeds of the flow-through share issue that the partnership subscribed at or before that time, or intends to subscribe after that time, out of the proceeds of the security issue;

(c) C is the amount by which the aggregate of the proceeds of the security issue at or before the time the renunciation is made and, where such is the case, the additional proceeds the partnership expects to receive for the additional partnership interests it intends to issue after that time as part of the security issue, exceeds the amount used for A.

Validity of the renunciation.

Any renunciation made by a partnership under the first paragraph in respect of a security issue is valid only if it is made, in prescribed form, on 31 December in the calendar year in which the security issue commenced or within 60 days thereafter.

Exception.

The first paragraph does not apply in respect of a public issue of securities in respect of which the application for a receipt for the preliminary prospectus or the application for an exemption from filing a prospectus, as the case may be, is made after 12 June 2003 and the proceeds of which were used by the partnership to acquire flow-through shares before 31 March 2004.

History: 1992, c. 1, s. 41; 1993, c. 19, s. 36; 1997, c. 3, s. 71; 2000, c. 5, s. 293; 2004, c. 21, s. 116; 2005, c. 23, s. 73.

Public issue of securities after 4 June 2014.

726.4.17.13.1. Where, after 4 June 2014, a partnership makes a public issue of securities referred to in the first paragraph of section 726.4.17.13, the percentage of 15% mentioned in subparagraph ii of subparagraph *a* of the second paragraph of that section is, in respect of the security issue, to be replaced by a percentage of 12%.

Exception.

The first paragraph does not apply in respect of a public issue of securities following

- (a) an investment made on or before 4 June 2014; or
- (b) an application for a receipt for the preliminary prospectus or an application for an exemption from filing a prospectus, as the case may be, made on or before 4 June 2014.

History: 2015, c. 21, s. 251.

Restrictions.

726.4.17.14. A corporation or partnership may renounce an amount under section 726.4.17.12 or 726.4.17.13, as the case may be, in respect of an expense,

(a) on the one hand, only if the expense is an expense that would be deductible under section 147, but for the second paragraph thereof and sections 147.1 and 147.2, in computing the income of the corporation or partnership, as the case may be, for any taxation year; and

(b) on the other hand, only to the extent that the corporation or partnership, as the case may be, has not deducted the expense in computing its income for any taxation year preceding the year in which the renunciation is made, has not been or cannot reasonably expect to be reimbursed for the expense, has not received or cannot reasonably expect to receive government assistance or non-government assistance, within the meanings assigned by the first paragraph of section 1029.6.0.0.1, in respect of the expense, and has not transferred to another person its right to such a reimbursement or such assistance.

History: 1992, c. 1, s. 41; 1993, c. 64, s. 60; 1997, c. 3, s. 71; 2004, c. 21, s. 117.

Filing of prescribed form.

726.4.17.15. Where a corporation renounces an amount under section 726.4.17.12 in respect of a share issue, or where a partnership renounces an amount under section 726.4.17.13 in respect of a security issue, the corporation or partnership, as the case may be, shall file with the Minister, on or before the last day of the month following that in which the renunciation is made, a prescribed form in respect of the renunciation it has so made.

History: 1992, c. 1, s. 41; 1997, c. 3, s. 71.

726.4.17.16. (*Repealed*).

History: 1992, c. 1, s. 41; 1993, c. 16, s. 261; 1995, c. 63, s. 261; 1997, c. 3, s. 71; 2004, c. 21, s. 118; 2010, c. 31, s. 175; 2012, c. 8, s. 67.

Renunciation differing from the amount permitted.

726.4.17.17. Where the amount that a corporation or partnership purported to renounce, in respect of a share issue or a security issue, under section 726.4.17.12 or 726.4.17.13, as the case may be, in respect of expenses incurred by it in the course of the issue either exceeds the amount it may renounce under that section in respect of the issue or, where upon making the renunciation, it took into account expenses not yet incurred at that time or any other amount not yet received or subscribed at that time, differs from the particular amount it would have been entitled to renounce under the said section in respect of that issue if, at that time, it could have taken into account the expenses actually incurred after that time and other amounts actually received or subscribed after that time, the following rules apply:

(a) the corporation or partnership shall, as the case may be, either reduce the amount so renounced in respect of the issue by the amount of the excess, or alter it to make it equal to the particular amount;

(b) the corporation or partnership, as the case may be, shall file a statement with the Minister indicating the adjustments made in the amount so renounced.

Adjustment by the Minister.

For the purposes of this Title, where the corporation or the partnership fails to comply with subparagraphs *a* and *b* of the first paragraph within 30 days after notice in writing by the Minister has been forwarded to it that the adjustment as provided in the said subparagraph *a* is or will be required for the purposes of any assessment of tax under this Part, the Minister may, as the case may be, either reduce the amount purported to be renounced by it in respect of the issue contemplated in the first paragraph by the amount of the excess referred to in that paragraph, or alter it to make it equal to the particular amount referred to in that paragraph.

Deemed amount of the renunciation.

In either such case, the amount renounced by the corporation or partnership in respect of the issue is deemed, notwithstanding section 726.4.17.12 or 726.4.17.13, as the case may be, to be the amount as reduced or altered, as the case may be, by the corporation or partnership or by the Minister, as the case may be.

History: 1992, c. 1, s. 41; 1997, c. 3, s. 71; 2010, c. 25, s. 63.

TITLE VI.3.2.3**ADDITIONAL DEDUCTION IN RESPECT OF CERTAIN EXPLORATION EXPENSES INCURRED IN THE NEAR NORTH AND FAR NORTH OF QUÉBEC****Definitions:**

726.4.17.18. In this Title,

“*associated group*”;

“associated group” at any time has the meaning assigned by section 726.4.17.18.1;

“*northern exploration zone*”;

“northern exploration zone” means a territory situated in Québec, which comprises

(a) the territory situated north of the 49th degree of north latitude and north of the St. Lawrence River and the Gulf of St. Lawrence, and south of the 55th degree of north latitude; and

(b) (*paragraph repealed*);

(c) the territory situated north of the 55th degree of north latitude;

“qualified corporation”;

“qualified corporation” means a corporation all of the activities of which consist mainly in exploring for minerals, petroleum or gas or developing a mineral resource or an oil or gas well and which, at the time the expenses in respect of which an amount is renounced under section 359.2 or 359.2.1 are incurred, and throughout the 12-month period preceding that time, fulfills the following conditions:

- (a) the corporation does not operate any mineral resource or oil or gas well;
- (b) the corporation is not a member of an associated group a member of which operates a mineral resource or an oil or gas well;

“qualified partnership”.

“qualified partnership” means a partnership all the activities of which consist mainly in exploring for minerals, petroleum or gas or developing a mineral resource or an oil or gas well and which, at the time the expenses referred to in paragraph *d* of section 395 are incurred and, throughout the 12-month period preceding that time, fulfills the following conditions:

- (a) neither the partnership nor any of its members operates a mineral resource or an oil or gas well;
- (b) none of its members is a member of an associated group a member of which operates a mineral resource or an oil or gas well.

History: 1999, c. 83, s. 77; 2002, c. 40, s. 53; 2011, c. 34, s. 35; 2015, c. 21, s. 252; 2017, c. 29, s. 95.

Associated group.

726.4.17.18.1. An associated group at any given time means all the corporations that are associated with each other at that time.

Rules.

For the purposes of the first paragraph, the following rules apply:

- (a) a business carried on by an individual, other than a trust, is deemed to be carried on by a corporation all the voting shares in the capital stock of which are owned at the given time by the individual;
- (b) a partnership is deemed to be a corporation whose taxation year corresponds to the partnership’s fiscal period and all the voting shares in the capital stock of which are owned at the given 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; and
- (c) a trust is deemed to be a corporation all the voting shares in the capital stock of which

i. in the case of a testamentary trust under which one or more beneficiaries are entitled to receive all of the income of

the trust that arose before the date of death of one or the last surviving of those beneficiaries (in this subparagraph *c* referred to as the “distribution date”) and under which no other person can, before the distribution date, receive or otherwise obtain the enjoyment of any of the income or capital of the trust,

(1) if such 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, and if the given time occurs before the distribution date, are owned at that time by the beneficiary, or

(2) if subparagraph 1 does not apply and the given time occurs before the distribution date, are owned at that time by such a beneficiary in a proportion equal to the proportion that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of the beneficial interests in the trust of all the beneficiaries,

ii. if a beneficiary’s share of the accumulating income or of the capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a power to appoint, are owned at the given time by the beneficiary, unless subparagraph i applies and that time occurs before the distribution date,

iii. in any case where subparagraph ii does not apply, are owned at the given time by the beneficiary in a proportion equal to the proportion 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, unless subparagraph i applies and that time occurs before the distribution date, and

iv. in the case of a trust referred to in section 467, are owned at the given time by the person referred to in that section from whom property of the trust or property for which property of the trust was substituted was directly or indirectly received.

History: 2015, c. 21, s. 253.

Deduction.

726.4.17.19. A corporation may deduct, in computing its taxable income for a taxation year, an amount not exceeding its exploration base relating to certain exploration expenses incurred in a northern exploration zone at the end of the year, computed before any deduction for the year under this section.

History: 1999, c. 83, s. 77.

Exploration base relating to certain exploration expenses incurred in a northern exploration zone.

726.4.17.20. In this Title, the exploration base relating to certain exploration expenses incurred in a northern exploration zone of a corporation, at any time, means an amount equal to the amount by which the amount computed

under section 726.4.17.21 is exceeded by 25% of the amount by which

(a) the aggregate of the expenses, except those described in section 726.4.17.22, incurred by the corporation in a northern exploration zone after 31 March 1998 and before that time, and that are

i. Canadian exploration expenses that would be described in paragraph *a*, *b.1* or *c* of section 395 if the reference in those paragraphs to “Canada”, wherever it appears except in subparagraph iv of that paragraph *b.1*, were a reference to “the northern exploration zone”, or described in paragraph *d* of that section 395 if the reference therein to “expenses described in paragraphs *a* to *b.1* and *c* to *c.2*” were replaced by a reference to “expenses that would be described in paragraph *a*, *b.1* or *c*, if the reference in those paragraphs to “Canada”, wherever it appears except in subparagraph iv of paragraph *b.1*, were a reference to “the northern exploration zone””, or

ii. Canadian development expenses that would be described in paragraph *a* or *a.1* of section 408 if the reference in those paragraphs to “Canada”, wherever it appears, were a reference to “the northern exploration zone”, or described in paragraph *d* of that section 408 if the reference therein to “expense described in paragraphs *a* to *c*” were replaced by a reference to “expense that would be described in paragraph *a* or *a.1*, if the reference in those paragraphs to “Canada”, wherever it appears, were a reference to “the northern exploration zone””, and that are deemed, under paragraph *a* of section 359.3, to be Canadian exploration expenses of the corporation by reason of a renunciation to the corporation under section 359.2.1; exceeds

(b) the aggregate of all amounts of assistance, within the meaning of paragraph *c.0.1* of section 359, that a person, including a partnership, has received, is entitled to receive or becomes, at any time, entitled to receive in respect of an expense referred to in paragraph *a*, to the extent that the assistance has not reduced, by reason of subparagraph *a* of the first paragraph of section 359.2, the Canadian exploration expenses of the corporation or, by reason of paragraph *a* of section 359.2.1, the Canadian development expenses deemed to be Canadian exploration expenses of the corporation.

History: 1999, c. 83, s. 77; 2002, c. 40, s. 54; 2004, c. 21, s. 119; 2005, c. 23, s. 74.

Reduction.

726.4.17.21. The amount to which section 726.4.17.20 refers is equal, at any time referred to therein, to the aggregate of

(a) any amount deducted by the corporation under section 726.4.17.19 in computing its taxable income for a taxation year ending before that time, and

(b) 25% of each amount that became receivable by the corporation before that time but after 31 March 1998 and in respect of which the consideration given by the corporation was a property, other than a property disposed of by the corporation to any person with whom the corporation was not dealing at arm’s length, a share, depreciable property of a prescribed class or a Canadian resource property, or services, the cost of which may reasonably be regarded as having been an expenditure in respect of which an amount was included, under section 726.4.17.20, in computing the exploration base relating to certain exploration expenses of the corporation or of a person with whom the corporation was not dealing at arm’s length, incurred in a northern exploration zone.

History: 1999, c. 83, s. 77.

Exclusion of certain expenses.

726.4.17.22. The expenses to which paragraph *a* of section 726.4.17.20 refers are

(a) any amount included in the Canadian exploration and development overhead expenses of the corporation, within the meaning of the regulations;

(b) any amount relating to Canadian exploration expenses or Canadian development expenses that is renounced by a corporation that is not a qualified corporation, effective after 31 March 1998, under section 359.2 or 359.2.1, as the case may be, in respect of a share;

(c) any amount relating to financing, including expenses incurred before the beginning of the carrying on of a business;

(d) expenses that are Canadian exploration expenses of the corporation under paragraph *d* of section 395, to the extent that they refer to expenses incurred, after 31 March 1998 and before the time referred to in section 726.4.17.20, by a partnership that is not a qualified partnership;

(e) any prescribed expense; and

(f) expenses that are eligible expenses, within the meaning of section 1029.8.36.167, taken into account in computing an amount that the corporation is deemed to have paid to the Minister for a taxation year under Division II.6.15 of Chapter III.1 of Title III of Book IX.

History: 1999, c. 83, s. 77; 2005, c. 1, s. 137.

Time when assistance in respect of an exploration expense is to be included.

726.4.17.23. Where an expense incurred before any time is included in the aggregate determined under paragraph *a* of section 726.4.17.20 in respect of a corporation and, after that time, a person, including a partnership, becomes entitled to receive assistance, within the meaning of paragraph *c.0.1* of section 359, in respect of that expense, the assistance shall be included in the aggregate referred to in paragraph *b* of that

section 726.4.17.20 in respect of the corporation at the time the expense was incurred, to the extent that it has not reduced the amount of the expense by reason of subparagraph *a* of the first paragraph of section 359.2 or paragraph *a* of section 359.2.1.

History: 1999, c. 83, s. 77.

Operation carried out in reasonable commercial quantities.

726.4.17.24. For the purposes of this Title, the operation of a mineral resource or an oil or gas well shall be interpreted as such an operation carried out in reasonable commercial quantities.

History: 1999, c. 83, s. 77.

Member of a partnership.

726.4.17.25. For the purposes of this Title, where a member of a partnership is deemed to have incurred Canadian exploration expenses under paragraph *d* of section 395, the expenses are deemed to have been incurred by the member at the time they were incurred by the partnership.

History: 1999, c. 83, s. 77.

TITLE VI.3.3

(Repealed).

CHAPTER I

(Repealed).

726.4.18. *(Repealed).*

History: 1989, c. 5, s. 86; 1989, c. 77, s. 75; 1990, c. 7, s. 27; 1991, c. 8, s. 23; 1992, c. 1, s. 42; 1993, c. 16, s. 262; 1993, c. 19, s. 37; 1993, c. 64, s. 61.

726.4.18.1. *(Repealed).*

History: 1990, c. 7, s. 28; 1993, c. 64, s. 61.

726.4.19. *(Repealed).*

History: 1989, c. 5, s. 86; 1990, c. 7, s. 29; 1993, c. 64, s. 61.

726.4.19.1. *(Repealed).*

History: 1990, c. 7, s. 30; 1993, c. 64, s. 61.

726.4.20. *(Repealed).*

History: 1989, c. 5, s. 86; 1990, c. 7, s. 31; 1993, c. 64, s. 61.

726.4.20.1. *(Repealed).*

History: 1990, c. 7, s. 32; 1993, c. 64, s. 61.

726.4.20.2. *(Repealed).*

History: 1990, c. 7, s. 32; 1993, c. 64, s. 61.

726.4.20.2.1. *(Repealed).*

History: 1992, c. 1, s. 43; 1993, c. 64, s. 61.

726.4.20.3. *(Repealed).*

History: 1990, c. 7, s. 32; 1993, c. 64, s. 61.

726.4.20.4. *(Repealed).*

History: 1990, c. 7, s. 32; 1993, c. 64, s. 61.

726.4.20.5. *(Repealed).*

History: 1990, c. 7, s. 32; 1991, c. 8, s. 24; 1993, c. 64, s. 61.

CHAPTER I.1

(Repealed).

726.4.20.6. *(Repealed).*

History: 1990, c. 7, s. 32; 1993, c. 64, s. 61.

726.4.20.7. *(Repealed).*

History: 1990, c. 7, s. 32; 1993, c. 64, s. 61.

CHAPTER II

(Repealed).

726.4.21. *(Repealed).*

History: 1989, c. 5, s. 86; 1990, c. 7, s. 33; 1991, c. 8, s. 25; 1993, c. 64, s. 61.

726.4.22. *(Repealed).*

History: 1989, c. 5, s. 86; 1989, c. 77, s. 76; 1990, c. 7, s. 34; 1991, c. 8, s. 26; 1993, c. 64, s. 61.

726.4.22.1. *(Repealed).*

History: 1990, c. 7, s. 35; 1991, c. 8, s. 27; 1992, c. 1, s. 44; 1993, c. 19, s. 38; 1993, c. 64, s. 61.

726.4.22.2. *(Repealed).*

History: 1990, c. 7, s. 35; 1991, c. 8, s. 28; 1993, c. 64, s. 61.

726.4.23. *(Repealed).*

History: 1989, c. 5, s. 86; 1990, c. 7, s. 36; 1991, c. 8, s. 29; 1993, c. 64, s. 61.

726.4.24. *(Repealed).*

History: 1989, c. 5, s. 86; 1989, c. 77, s. 77; 1990, c. 7, s. 37; 1991, c. 8, s. 30; 1993, c. 64, s. 61.

726.4.24.1. *(Repealed).*

History: 1990, c. 7, s. 38; 1991, c. 8, s. 31; 1992, c. 1, s. 45; 1993, c. 19, s. 39; 1993, c. 64, s. 61.

726.4.24.2. *(Repealed).*

History: 1990, c. 7, s. 38; 1991, c. 8, s. 32; 1993, c. 64, s. 61.

726.4.25. *(Repealed).*

History: 1989, c. 5, s. 86; 1990, c. 7, s. 39; 1991, c. 8, s. 33; 1993, c. 64, s. 61.

726.4.26. *(Repealed).*

History: 1989, c. 5, s. 86; 1989, c. 77, s. 78; 1990, c. 7, s. 40; 1991, c. 8, s. 34; 1993, c. 64, s. 61.

726.4.26.1. *(Repealed).*

History: 1990, c. 7, s. 41; 1991, c. 8, s. 35; 1992, c. 1, s. 46; 1993, c. 19, s. 40; 1993, c. 64, s. 61.

726.4.26.2. *(Repealed).*

History: 1990, c. 7, s. 41; 1991, c. 8, s. 36; 1993, c. 64, s. 61.

726.4.27. *(Repealed).*

History: 1989, c. 5, s. 86; 1990, c. 7, s. 42; 1993, c. 64, s. 61.

726.4.28. *(Repealed).*

History: 1989, c. 5, s. 86; 1993, c. 64, s. 61.

726.4.29. *(Repealed).*

History: 1989, c. 5, s. 86; 1990, c. 7, s. 43; 1991, c. 8, s. 37; 1993, c. 64, s. 61.

726.4.30. *(Repealed).*

History: 1989, c. 5, s. 86; 1990, c. 7, s. 44; 1993, c. 64, s. 61.

CHAPTER III

(Repealed).

DIVISION I

(Repealed).

726.4.30.1. *(Repealed).*

History: 1990, c. 7, s. 46; 1993, c. 64, s. 61.

726.4.30.2. *(Repealed).*

History: 1990, c. 7, s. 46; 1993, c. 64, s. 61.

DIVISION II

(Repealed).

726.4.31. *(Repealed).*

History: 1989, c. 5, s. 86; 1993, c. 64, s. 61.

726.4.32. *(Repealed).*

History: 1989, c. 5, s. 86; 1990, c. 7, s. 47; 1993, c. 64, s. 61.

726.4.32.1. *(Repealed).*

History: 1991, c. 8, s. 38; 1993, c. 64, s. 61.

DIVISION III

(Repealed).

726.4.33. *(Repealed).*

History: 1989, c. 5, s. 86; 1990, c. 7, s. 49; 1992, c. 1, s. 47; 1993, c. 64, s. 61.

CHAPTER IV

(Repealed).

726.4.34. *(Repealed).*

History: 1989, c. 5, s. 86; 1990, c. 7, s. 50; 1990, c. 59, s. 257; 1993, c. 64, s. 61.

726.4.34.1. *(Repealed).*

History: 1990, c. 7, s. 51; 1993, c. 64, s. 61.

726.4.35. *(Repealed).*

History: 1989, c. 5, s. 86; 1991, c. 8, s. 39.

726.4.36. *(Repealed).*

History: 1989, c. 5, s. 86; 1990, c. 7, s. 52; 1993, c. 16, s. 263; 1993, c. 64, s. 61.

726.4.37. *(Repealed).*

History: 1989, c. 5, s. 86; 1990, c. 7, s. 53; 1993, c. 64, s. 61.

TITLE VI.3.4

(Repealed).

CHAPTER I

(Repealed).

726.4.38. *(Repealed).*

History: 1989, c. 5, s. 86; 1995, c. 63, s. 52.

726.4.39. *(Repealed).*

History: 1989, c. 5, s. 86; 1993, c. 64, s. 62; 1995, c. 63, s. 52.

726.4.40. *(Repealed).*

History: 1989, c. 5, s. 86; 1995, c. 63, s. 52.

726.4.41. *(Repealed).*

History: 1989, c. 5, s. 86; 1995, c. 49, s. 236; 1995, c. 63, s. 52.

726.4.42. *(Repealed).*

History: 1989, c. 5, s. 86; 1995, c. 63, s. 52.

CHAPTER II*(Repealed).***DIVISION I***(Repealed).***726.4.43.** *(Repealed).*

History: 1989, c. 5, s. 86; 1990, c. 7, s. 54; 1993, c. 19, s. 41; 1993, c. 64, s. 63; 1995, c. 1, s. 60; 1995, c. 63, s. 52.

DIVISION II*(Repealed).***726.4.44.** *(Repealed).*

History: 1989, c. 5, s. 86; 1995, c. 63, s. 52.

726.4.45. *(Repealed).*

History: 1989, c. 5, s. 86; 1990, c. 7, s. 55; 1993, c. 64, s. 64; 1995, c. 1, s. 61; 1995, c. 63, s. 52.

726.4.46. *(Repealed).*

History: 1989, c. 5, s. 86; 1995, c. 49, s. 236; 1995, c. 63, s. 52.

726.4.47. *(Repealed).*

History: 1989, c. 5, s. 86; 1995, c. 63, s. 52.

DIVISION III*(Repealed).***726.4.48.** *(Repealed).*

History: 1989, c. 5, s. 86; 1995, c. 49, s. 236; 1995, c. 63, s. 52.

726.4.49. *(Repealed).*

History: 1989, c. 5, s. 86; 1995, c. 49, s. 236; 1995, c. 63, s. 52.

726.4.50. *(Repealed).*

History: 1989, c. 5, s. 86; 1995, c. 49, s. 236; 1995, c. 63, s. 52.

726.4.51. *(Repealed).*

History: 1989, c. 5, s. 86; 1995, c. 63, s. 52.

726.4.52. *(Repealed).*

History: 1989, c. 5, s. 86; 1990, c. 7, s. 56; 1995, c. 63, s. 52.

TITLE VI.4*(Repealed).***726.5.** *(Repealed).*

History: 1986, c. 19, s. 149; 1993, c. 19, s. 42 [amended by 1999, c. 83, s. 328].

TITLE VI.5**CAPITAL GAINS EXEMPTION****CHAPTER I****INTERPRETATION****Definitions:**

726.6. In this Title, the expression

(a) *(subparagraph repealed)*;

(a.0.1) *(subparagraph repealed)*;

“qualified farm or fishing property”;

(a.0.2) “qualified farm or fishing property”, of an individual (other than a trust that is not a personal trust) at any time, means a property that is owned at that time by the individual, the spouse of the individual or a partnership, an interest in which is an interest in a family farm or fishing partnership of the individual or the individual’s spouse and that is

i. an immovable or a fishing boat that was used in the course of carrying on a farming or fishing business in Canada by

(1) the individual,

(2) where the individual is a personal trust, a beneficiary under the trust that is entitled to receive directly from the trust all or part of the income or capital of the trust,

(3) the spouse, a child or the father or mother of an individual referred to in subparagraph 1 or 2,

(4) a corporation, a share of the capital stock of which is a share of the capital stock of a family farm or fishing corporation of an individual referred to in any of subparagraphs 1 to 3, or

(5) a partnership, an interest in which is an interest in a family farm or fishing partnership of an individual referred to in any of subparagraphs 1 to 3,

ii. a share of the capital stock of a family farm or fishing corporation of the individual or the individual’s spouse,

iii. an interest in a family farm or fishing partnership of the individual or the individual’s spouse, or

iv. a property included in Class 14.1 of Schedule B to the Regulation respecting the Taxation Act (chapter I-3, r. 1), used in the course of carrying on a farming or fishing business in Canada by a person or partnership referred to in any of subparagraphs 1 to 5 of subparagraph i or by a personal trust from which the individual acquired the property;

“child”;

(a.1) “child” means a child within the meaning of subparagraph *d* of the first paragraph of section 451;

“investment expense”;

(a.2) “investment expense” of an individual for a taxation year means an amount equal to the amount by which the aggregate of the amount included in computing the individual’s income for the year under section 313.10 and the amount included in computing the individual’s taxable income for the year under section 737.0.1 is exceeded by the aggregate of

i. the aggregate of all amounts each of which is an amount deducted in computing his income for the year from property, except to the extent that the amount was otherwise taken into account in computing his investment expense or his investment income for the year, other than any such amount deducted under

(1) section 147, 160, 163, 176, 176.4 or 178, in respect of borrowed money that was used by the individual, or that was used to acquire property that was used by the individual, to make a payment as consideration for an income-averaging annuity contract, to pay a premium under a registered retirement savings plan or to make a contribution to a registered pension plan, a pooled registered pension plan or a deferred profit sharing plan, or

(2) section 177, the first paragraph of section 360 or section 371, 401, 413, 414, 418.1.10 or 418.7,

ii. the aggregate of

(1) all amounts each of which is an amount deducted under section 147, paragraph *d* of section 157 or section 160, 163, 176, 176.4, 178 or 179 in computing his income for the year from a partnership of which he was a specified member in the fiscal period thereof ending in the year, and

(2) all amounts each of which is an amount deducted under section 147.2 or 176.3 in computing his income for the year in respect of an expense incurred by a partnership of which he was a specified member in the fiscal period thereof ending immediately before the partnership ceased to exist,

iii. the aggregate of

(1) all amounts, other than allowable capital losses, each of which is an amount deducted in computing his income for the year in respect of his share of any loss of a partnership of which he was a specified member in the fiscal period thereof ending in the year, and

(2) all amounts each of which is an amount deducted under section 733.0.0.1 in computing his taxable income for the year,

iv. 50% of the aggregate of all amounts each of which is an amount deducted under section 371, 401, 413, 414, 418.1.10 or 418.7 in computing his income for the year in respect of expenses incurred and renounced under section 359.2, 359.2.1, 359.4 or 359.6 by a corporation or in respect of expenses incurred by a partnership of which he was a specified member in the fiscal period of the partnership in

which the expense was incurred, other than any such expense that would be referred to in subparagraph *i* of paragraph *a* of section 726.4.10 if the reference therein to “30 June 1988” were a reference to “31 December 1988”,

v. the aggregate of all amounts each of which is the amount of his loss for the year from property or from renting or leasing a rental property within the meaning of section 130R88 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) or a property described in Class 31 or 32 of Schedule B to the said regulation, if the property was owned by the individual or by a partnership of which he was a member other than a partnership of which he was a specified member in the fiscal period thereof ending in the year, and

vi. the amount by which the aggregate of his net capital losses for other taxation years deducted under section 729 in computing his taxable income for the year exceeds the amount determined in respect of the individual for the year under subparagraph 1 of subparagraph *ii* of subparagraph *b*;

vii. the amount deducted in computing the individual’s income for the year under section 336.6;

(a.3) *(subparagraph repealed)*;

(a.4) *(subparagraph repealed)*;

“interest in a family farm or fishing partnership”;

(a.5) “interest in a family farm or fishing partnership”, of an individual (other than a trust that is not a personal trust) at any time, means a partnership interest owned by the individual at that time if

i. throughout any 24-month period ending before that time, more than 50% of the fair market value of the property of the partnership was attributable to

(1) property that was used by the partnership or any of the persons or partnerships described in the second paragraph, principally in the course of carrying on a farming or fishing business in Canada in which the individual, a beneficiary referred to in subparagraph *b* of the second paragraph or the spouse, a child or the father or mother of the individual or of such a beneficiary was actively engaged on a regular and continuous basis,

(2) shares of the capital stock or indebtedness of one or more corporations of which all or substantially all of the fair market value of the property was attributable to property described in subparagraph 4,

(3) a partnership interest in or indebtedness of one or more partnerships of which all or substantially all of the fair market value of the property was attributable to property described in subparagraph 4, or

(4) property described in any of subparagraphs 1 to 3, and

ii. at that time, all or substantially all of the fair market value of the property of the partnership was attributable to property described in subparagraph 4 of subparagraph i;

“annual gains limit”;

(b) “annual gains limit” of an individual for a taxation year means the amount, if any, by which

i. the lesser of

(1) the amount determined in respect of the individual for the year under paragraph *b* of section 28 in respect of capital gains and capital losses, and

(2) the amount that would be determined in respect of the individual for the year under paragraph *b* of section 28 in respect of capital gains and capital losses if the only properties referred to in that paragraph were properties that, at the time they were disposed of, were qualified farm properties or qualified fishing properties, within the meaning of subparagraphs *a* and *a.0.1*, as they read before being struck out, qualified farm or fishing properties and qualified small business corporation shares, exceeds

ii. the aggregate of

(1) the amount by which the individual’s net capital losses for other taxation years deducted under section 729 in computing the individual’s taxable income for the year exceeds the amount by which the amount determined in respect of the individual for the year under paragraph *b* of section 28 in respect of capital gains and capital losses exceeds the amount determined under subparagraph *i* in respect of the individual for the year, and

(2) the individual’s allowable business investment losses for the year;

“cumulative gains limit”;

(c) “cumulative gains limit” of an individual at the end of a taxation year means the amount, if any, by which

i. the aggregate of all amounts determined under subparagraph *i* of subparagraph *b* in respect of the individual for the year or preceding taxation years that end after 31 December 1984, exceeds

ii. the aggregate of

(1) all amounts determined under subparagraph *ii* of subparagraph *b* in respect of the individual for the year or preceding taxation years that end after 31 December 1984,

(2) the amount deducted by the individual under subparagraph *iii* of subparagraph *c* of the first paragraph of section 28 in computing his income for the taxation year 1985,

(3) all amounts deducted by the individual under this Title in computing his taxable income for preceding taxation years, and

(4) the individual’s cumulative net investment loss at the end of the year;

“cumulative net investment loss”;

(d) “cumulative net investment loss” of an individual at the end of a taxation year means the amount by which

i. the aggregate of all amounts each of which is the investment expense of the individual for the year or a preceding taxation year ending after 31 December 1987, exceeds

ii. the aggregate of all amounts each of which is the investment income of the individual for the year or a preceding taxation year ending after 31 December 1987;

“investment income”.

(e) “investment income” of an individual for a taxation year means the aggregate of the following amounts:

i. the aggregate of all amounts each of which is an amount included in computing his income for the year from property, other than an amount included under section 113, paragraph *c* of section 312 or paragraph *c.1* of section 312, as that paragraph read for that year before being struck out, including any amount so included under section 94 in respect of a property the income from which would be income from property, except to the extent that the amount was otherwise taken into account in computing his investment income or investment expense for the year,

ii. the aggregate of all amounts, other than taxable capital gains, each of which is an amount included in computing his income for the year in respect of his share of the income of a partnership of which he was a specified member in the fiscal period thereof ending in the year, including his share of all amounts included in computing the income of the partnership under section 94,

iii. 50% of all amounts included in computing his income for the year under paragraphs *c* to *e.1* of section 330,

iv. the aggregate of all amounts each of which is the amount of his income for the year from property or from renting or leasing a rental property within the meaning of section 130R88 of the Regulation respecting the Taxation Act or a property described in Class 31 or 32 of Schedule B to the said regulation, if the property was owned by the individual or by a partnership of which he was a member, other than a partnership of which he was a specified member in the fiscal period thereof ending in the year, including any amount included in computing his income for the year under section 94 in respect of a rental property of the individual or the partnership or in respect of a property any income from which would be income from property,

v. the amount by which the aggregate of all amounts, other than amounts in respect of an income-averaging annuity contract, an income-averaging annuity contract respecting income from artistic activities or an annuity contract purchased pursuant to a deferred profit sharing plan or a revoked plan, referred to in section 879, included in

computing the individual's income for the year under paragraph *c* of section 312 or paragraph *c.1* of section 312, as that paragraph read for the year before being struck out, exceeds the aggregate of all amounts deducted under paragraph *f* of section 336 in computing the individual's income for the year; and

vi. the amount by which the aggregate of all amounts included under paragraph *b* of section 28 in respect of capital gains and capital losses in computing his income for the year exceeds the amount determined in respect of the individual for the year under subparagraph *i* of subparagraph *b*.

Interpretation.

The persons and partnerships referred to in subparagraph 1 of subparagraph *i* of subparagraph *a.5* of the first paragraph are

(a) the individual;

(b) where the individual is a personal trust, a beneficiary of the trust;

(c) a spouse, a child or the father or mother of the individual or of a beneficiary referred to in subparagraph *b*;

(d) a corporation, a share of the capital stock of which was a share of the capital stock of a family farm or fishing corporation of the individual, of a beneficiary referred to in subparagraph *b* or of the spouse, a child or the father or mother of the individual or of such a beneficiary; or

(e) a partnership, an interest in which was an interest in a family farm or fishing partnership of the individual, of a beneficiary referred to in subparagraph *b* or of the spouse, a child or the father or mother of the individual or of such a beneficiary.

History: 1987, c. 67, s. 142; 1990, c. 59, s. 258; 1993, c. 16, s. 264; 1994, c. 22, s. 247; 1995, c. 49, s. 164; 1996, c. 39, s. 179; 1997, c. 3, s. 71; 1997, c. 14, s. 104; 1998, c. 16, s. 251; 2004, c. 8, s. 140; 2004, c. 21, s. 120; 2005, c. 1, s. 138; 2005, c. 23, s. 75; 2005, c. 38, s. 89; 2006, c. 13, s. 51; 2007, c. 12, s. 73; 2009, c. 15, s. 114; 2015, c. 21, s. 254; 2017, c. 29, s. 96; 2019, c. 14, s. 189; 2019, c. 14, s. 189.

Corresponding Federal Provision: 110.6(1).

Definitions:

726.6.1. In this Title,

“qualified small business corporation share”;

“qualified small business corporation share” of an individual, other than a trust that is not a personal trust, at any time, in this definition and the second paragraph referred to as the “determination time”, means a share of the capital stock of a corporation that,

(a) at the determination time, is a share of the capital stock of a small business corporation owned by the individual, his spouse or a partnership related to the individual;

(b) throughout the 24 months immediately preceding the determination time, was not owned by anyone other than the individual or a person or partnership related to the individual; and

(c) throughout that part of the 24 months immediately preceding the determination time while it was owned by the individual or a person or partnership related to the individual, was a share of the capital stock of a Canadian-controlled private corporation more than 50% of the fair market value of the assets of which was attributable to

i. assets used principally in a qualified business carried on primarily in Canada by the corporation or by a corporation related to it,

ii. shares of the capital stock or indebtedness of one or more other corporations that are connected, within the meaning of the regulations, with the corporation, if the following conditions are met:

(1) throughout that part of the 24 months immediately preceding the determination time that ends at the time the corporation acquired such a share or indebtedness, the share or indebtedness was not owned by anyone other than the corporation, a person or partnership related to the corporation or a person or partnership related to such a person or partnership, and

(2) throughout that part of the 24 months immediately preceding the determination time while such a share or indebtedness was owned by the corporation, a person or partnership related to it or a person or partnership related to such a person or partnership, it was a share or indebtedness of a Canadian-controlled private corporation more than 50% of the fair market value of the assets of which was attributable to assets described in subparagraph *iii*, or

iii. assets described in either of subparagraphs *i* and *ii*;

“share of the capital stock of a family farm or fishing corporation”.

“share of the capital stock of a family farm or fishing corporation”, of an individual (other than a trust that is not a personal trust) at any time, means a share of the capital stock of a corporation owned by the individual at that time if

(a) throughout any 24-month period ending before that time, more than 50% of the fair market value of the property owned by the corporation was attributable to

i. property that was used principally in the course of carrying on a farming or fishing business in Canada in which an individual referred to in any of subparagraphs 2 to 4 was actively engaged on a regular and continuous basis, by

(1) the corporation,

(2) the individual,

(3) if the individual is a personal trust, a beneficiary under the trust,

(4) the spouse, a child or the father or mother of an individual referred to in subparagraph 2 or 3,

(5) another corporation that is related to the corporation and of which a share of the capital stock was a share of the capital stock of a family farm or fishing corporation of an individual referred to in any of subparagraphs 2 to 4, or

(6) a partnership, an interest in which was an interest in a family farm or fishing partnership of an individual referred to in any of subparagraphs 2 to 4,

ii. shares of the capital stock or indebtedness of one or more corporations of which all or substantially all of the fair market value of the property was attributable to property described in subparagraph iv,

iii. a partnership interest in or indebtedness of one or more partnerships of which all or substantially all of the fair market value of the property was attributable to property described in subparagraph iv, or

iv. property described in any of subparagraphs i to iii; and

(b) at that time, all or substantially all of the fair market value of the property owned by the corporation was attributable to property described in subparagraph iv of paragraph a.

Rules in respect of a qualified small business corporation share.

For the purposes of the definition of “qualified small business corporation share” in the first paragraph,

(a) where, for any period of time in the 24-month period ending at the determination time, all or substantially all of the fair market value of the assets of a particular corporation that is the corporation or another corporation that was connected with the corporation cannot be attributed to assets described in subparagraph i of subparagraph c of the said definition, shares or indebtedness of corporations described in subparagraph 2 of subparagraph ii of subparagraph c of the said definition, or any combination thereof, the reference in the said subparagraph 2 to “more than 50%” shall, for the particular period of time, be read as a reference to “all or substantially all” in respect of each other corporation that was connected with the particular corporation and, for the purposes of this subparagraph, a corporation is connected with another corporation only where

i. the corporation is connected, within the meaning of the regulations, with the other corporation, and

ii. the other corporation owns shares of the capital stock of the corporation and, for the purposes of this subparagraph, the other corporation is deemed to own the shares of the capital stock of any corporation that are owned by a

corporation any shares of the capital stock of which are owned or are deemed by this subparagraph to be owned by the other corporation;

(b) where, at any time in the 24-month period ending at the determination time, the share was substituted for another share, the share shall be considered to have met the requirements of the said definition only where the other share

i. was not owned by any person or partnership other than a person or partnership described in subparagraph b of the said definition throughout the period commencing 24 months before the determination time and ending at the time of substitution, and

ii. was a share of the capital stock of a corporation described in subparagraph c of the said definition throughout that part of the period referred to in subparagraph i during which such share was owned by a person or partnership described in subparagraph b of the said definition;

(c) where, at any time in the 24-month period ending at the determination time, a share referred to in subparagraph ii of subparagraph c of the said definition was substituted for another share, that share shall be considered to have met the requirements of that subparagraph ii only where the other share

i. was not owned by any person or partnership other than a person or partnership described in subparagraph 1 of subparagraph ii of subparagraph c of the said definition throughout the period commencing 24 months before the determination time and ending at the time of substitution, and

ii. was a share of the capital stock of a corporation described in subparagraph c of the said definition throughout that part of the period referred to in subparagraph i during which such share was owned by a person or partnership described in subparagraph 1 of subparagraph ii of that subparagraph c;

(d) a taxpayer is deemed to have disposed of shares that are identical properties in the order in which he acquired them;

(e) in determining whether a corporation is a small business corporation or a Canadian-controlled private corporation at any time, a right referred to in paragraph b of section 20 shall not include a right under a purchase and sale agreement relating to a share of the capital stock of a corporation;

(f) a personal trust is deemed

i. to be related to a person or partnership for any period throughout which the person or partnership was a beneficiary of the trust, and

ii. in respect of a share of the capital stock of a corporation, to be related to the person from whom it acquired the share where, at the time the trust disposed of the share, all of the beneficiaries, other than registered charities, of the trust were

related to that person or would have been so related if that person were living at that time;

(g) a partnership is deemed to be related to a person for any period throughout which the person was a member of the partnership;

(g.1) a person who is a member of a partnership that is a member of another partnership is deemed to be a member of the other partnership;

(h) a corporation that acquires shares of a class of the capital stock of another corporation from any person is deemed in respect of those shares to be related to the person where all or substantially all of the consideration received by that person from the corporation in respect of those shares was common shares of the capital stock of the corporation;

(i) shares issued after 13 June 1988 by a corporation to a particular person or partnership are deemed to have been owned immediately before their issue by a person who was not related to the particular person or partnership unless the shares were issued

i. as consideration for other shares,

ii. as part of a transaction or series of transactions in which the particular person or partnership disposed of property to the corporation that consisted of

(1) all or substantially all of the assets used in a qualified business carried on by the particular person or the members of that partnership, or

(2) an interest in a partnership all or substantially all of the assets of which were used in a qualified business carried on by the members of the partnership, or

iii. as payment of a stock dividend; and

(j) where, immediately before the death of an individual, a share would, but for subparagraph *a* of the said definition, be a qualified small business corporation share of an individual, the share is deemed to be a qualified small business corporation share of the individual if it was a qualified small business corporation share of the individual at any time in the 12-month period immediately preceding the death of the individual.

Personal trust.

For the purposes of the definition of “qualified small business corporation share” in the first paragraph and of subparagraph *f* of the second paragraph, a personal trust is deemed to include a trust a trustee of which holds a share for an employee in accordance with section 53.

Value of income stabilization account.

For the purposes of the definitions of “qualified small business corporation share” and “share of the capital stock of a family farm or fishing corporation” in the first paragraph, the fair market value of a net income stabilization account or of a farm income stabilization account is deemed to be nil.

History: 1990, c. 59, s. 259; 1993, c. 16, s. 265; 1994, c. 22, s. 248; 1995, c. 49, s. 165; 1996, c. 39, s. 180; 1997, c. 3, s. 31; 2000, c. 5, s. 155; 2004, c. 21, s. 121; 2007, c. 12, s. 74; 2009, c. 5, s. 243; 2017, c. 29, s. 97.

Corresponding Federal Provision: 110.6(1), (1.1), (14)(a) to (g) and (16).

Value of assets of corporations.

726.6.2. For the purposes of the definition of “small business corporation” in section 1, of subparagraph *a.2* of the first paragraph of section 451, of the definitions of “qualified small business corporation share” and “share of the capital stock of a family farm or fishing corporation” in the first paragraph of section 726.6.1, and of the second paragraph of section 726.6.1, the following rules apply:

(a) where a person, in this section referred to as the “insured”, whose life was insured under an insurance policy owned by a particular corporation, owned particular shares of the capital stock of the particular corporation, any corporation connected with the particular corporation or with which the particular corporation is connected or any other corporation connected with any such corporation or with which any such corporation is connected, within the meaning of the regulations,

i. the fair market value of the life insurance policy is deemed, at any time before the death of the insured, to be its cash surrender value, within the meaning of paragraph *d* of section 966, at that time, and

ii. the total fair market value of assets described in the second paragraph—other than assets described in subparagraphs i to iii of paragraph *c* of the definition of “qualified small business corporation share” in the first paragraph of section 726.6.1, subparagraphs i to iii of paragraph *a* of the definition of “share of the capital stock of a family farm or fishing corporation” in that first paragraph, or paragraphs *a* to *c* of the definition of “small business corporation” in section 1, as the case may be—of any of those corporations not in excess of the fair market value of the assets immediately after the death of the insured is deemed, until the later of the redemption, acquisition or cancellation referred to in subparagraph *b* of the second paragraph and the day that is 60 days after the payment of the proceeds under the policy, not to exceed the cash surrender value, within the meaning of paragraph *d* of section 966, of the life insurance policy immediately before the death of the insured; and

(b) the fair market value of an asset of a particular corporation that is a share of the capital stock or indebtedness of another corporation with which the particular corporation is connected is deemed to be nil.

Interpretation.

The assets referred to in subparagraph ii of subparagraph *a* of the first paragraph are

(a) the proceeds, the right to receive the proceeds or attributable to the proceeds of the life insurance policy of which the particular corporation was a beneficiary, and

(b) used, directly or indirectly, within the 24-month period commencing at the time of the death of the insured or, where written application therefor is made by the particular corporation within that period, within such longer period as the Minister considers reasonable in the circumstances, to redeem, acquire or cancel the particular shares owned by the insured immediately before the death of the insured.

Connected corporation.

For the purposes of subparagraph *b* of the first paragraph, a particular corporation is connected with another corporation only where

(a) the particular corporation is connected, within the meaning of subparagraph *a* of the second paragraph of section 726.6.1, with the other corporation; and

(b) the other corporation is not connected, within the meaning of the regulations if the latter were read without reference to subparagraph *b* of the first paragraph of section 739, with the particular corporation.

Application.

Subparagraph *b* of the first paragraph applies only in determining whether a share of the capital stock of another corporation with which the particular corporation referred to in that subparagraph *b* is connected is a qualified small business corporation share or a share of the capital stock of a family farm or fishing corporation and in determining whether the other corporation is a small business corporation.

History: 1993, c. 16, s. 266; 1995, c. 49, s. 166; 1997, c. 3, s. 71; 2012, c. 8, s. 68; 2017, c. 29, s. 98.

Corresponding Federal Provision: 110.6(15).

Property used in a farming or fishing business.

726.6.3. For the purposes of subparagraph *a.0.2* of the first paragraph of section 726.6, at any time, a property owned at that time by an individual, the individual's spouse or a partnership, an interest in which is an interest in a family farm or fishing partnership of the individual or of the individual's spouse will not be considered to have been used in the course of carrying on a farming or fishing business in Canada, unless

(a) the property or a property for which the property was substituted meets the following conditions:

i. throughout the period of at least 24 months preceding that time, the property was owned by any one or more of

(1) the individual or the spouse, a child or the father or mother of the individual,

(2) a partnership, an interest in which is an interest in a family farm or fishing partnership of the individual or of the individual's spouse,

(3) if the individual is a personal trust, the individual from whom the trust acquired the property or the spouse, a child or the father or mother of the individual, or

(4) a personal trust from which the individual or a child or the father or mother of the individual acquired the property, and

ii. either

(1) in at least two years while the property was owned by one or more persons or partnerships referred to in subparagraph i, the property was used principally in a farming or fishing business carried on in Canada in which an individual referred to in subparagraph i, or where the individual is a personal trust, a beneficiary under the trust, was actively engaged on a regular and continuous basis, and the gross revenue of a person referred to in subparagraph i (in this subparagraph 1 referred to as the "operator") from such a business for the period during which the property was owned by a person or partnership referred to in subparagraph i exceeded the income of the operator from all other sources for that period, or

(2) throughout a period of at least 24 months while the property was owned by one or more persons or partnerships referred to in subparagraph i, the property was used by a corporation described in subparagraph 4 of subparagraph i of subparagraph *a.0.2* of the first paragraph of section 726.6 or by a partnership described in subparagraph 5 of that subparagraph i in a farming or fishing business in which an individual referred to in any of subparagraphs 1 to 3 of that subparagraph i was actively engaged on a regular and continuous basis; and

(b) (*subparagraph repealed*);

(c) if the property or a property for which the property was substituted was last acquired by the individual or a partnership before 18 June 1987 or after 17 June 1987 under an agreement in writing entered into before that date,

i. in the year the property was disposed of by the individual, the property was used principally in the course of carrying on a farming business in Canada by

- (1) the individual or the spouse, a child or the father or mother of the individual,
 - (2) a beneficiary described in subparagraph 2 of subparagraph i of subparagraph *a.0.2* of the first paragraph of section 726.6, or the spouse, a child or the father or mother of that beneficiary,
 - (3) a corporation described in subparagraph 4 of subparagraph i of subparagraph *a.0.2* of the first paragraph of section 726.6,
 - (4) a partnership described in subparagraph 5 of subparagraph i of subparagraph *a.0.2* of the first paragraph of section 726.6, or
 - (5) a personal trust from which the individual acquired the property, or
- ii. in at least five years during which the property was owned by any of the persons or partnerships described in subparagraph i, the property was used principally in the course of carrying on a farming business in Canada by any of those persons or partnerships.

Property encumbered with a real servitude.

Where, at any time, a qualified farm or fishing property is encumbered with a real servitude, the property that results from the establishment of that servitude is considered, at that time, to have been used in the course of carrying on a farming or fishing business in Canada only if the qualified farm or fishing property so encumbered satisfies the conditions set out in subparagraphs *a* and *c* of the first paragraph.

History: 2007, c. 12, s. 75; 2015, c. 21, s. 255; 2017, c. 29, s. 99; 2019, c. 14, s. 190.

Corresponding Federal Provision: 110.6(1.3).

726.6.4. (Repealed).

History: 2007, c. 12, s. 75; 2017, c. 29, s. 100.

Corresponding Federal Provision: 110.6(1.2).

**CHAPTER II
DEDUCTIONS**

Capital gain deduction — qualified farm or fishing property.

726.7. In computing the taxable income for a taxation year of an individual other than a trust, there shall be deducted, if the individual was resident in Canada throughout the year and disposed of qualified farm or fishing property in the year or a preceding taxation year or disposed of qualified farm property or qualified fishing property before 1 January 2014, an amount equal to the least of

(a) the amount determined by the formula

$$[\$500,000 - (A + B + C + D)] \times E;$$

- (b) his cumulative gains limit at the end of the year;
- (c) his annual gains limit for the year;
- (d) the amount that would be determined in respect of the individual for the year under paragraph *b* of section 28 in respect of capital gains and capital losses if the only properties referred to in that paragraph were properties that, at the time they were disposed of, were qualified farm properties, qualified fishing properties or qualified farm or fishing properties; and
- (e) the amount that is allowed as a deduction in computing the individual's taxable income for the year for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) under section 110.6 of that Act, in respect of properties referred to in this paragraph or, if the amount that is so allowed as a deduction is equal to the maximum amount that the individual may claim as a deduction in that computation under that section in respect of such properties, the amount that the individual specifies and that is not less than that maximum amount.

Interpretation.

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

(a) A is the aggregate of all amounts each of which is an amount deducted under this Title in computing the individual's taxable income for a preceding taxation year that ended before 1 January 1988 or began after 17 October 2000;

(b) B is the aggregate of all amounts each of which is

i. 3/4 of an amount deducted under this Title in computing the individual's taxable income for a preceding taxation year that ended after 31 December 1987 but before 1 January 1990, other than amounts deducted under this Title for a taxation year in respect of an amount that was included in computing an individual's income for that year by reason of subparagraph ii of paragraph *a* of section 105, as that subparagraph applied for a taxation year that ended before 28 February 2000, or

ii. 3/4 of an amount deducted under this Title in computing the individual's taxable income for a preceding taxation year that began after 28 February 2000 and ended before 17 October 2000;

(c) C is 2/3 of the aggregate of all amounts each of which is an amount deducted under this Title in computing the individual's taxable income

i. for a preceding taxation year that ended after 31 December 1989 but before 28 February 2000, or

ii. in respect of an amount that was included in computing the individual's income for a preceding taxation year that began after 31 December 1987 and ended before 1 January

1990, by reason of subparagraph ii of paragraph *a* of section 105, as that subparagraph applied for a taxation year that ended before 28 February 2000;

(*d*) *D* is the aggregate of all amounts each of which is, in relation to an amount deducted under this Title in computing the individual's taxable income for a preceding taxation year that includes 28 February 2000 or 17 October 2000, the product obtained when that amount is multiplied by the reciprocal of the fraction determined in respect of the individual under subparagraph i of subparagraph *e* for that preceding taxation year; and

(*e*) *E* is

i. in the case of a taxation year that includes 28 February 2000 or 17 October 2000 or that begins after 28 February 2000 and ends before 17 October 2000, the fraction determined by the formula

$[2 \times (F + G)] / H$, and

ii. in any other case, 1.

Interpretation.

In the formula provided for in subparagraph i of subparagraph *e* of the second paragraph,

(*a*) *F* is the amount deemed by section 105.3 to be a taxable capital gain of the individual for the year;

(*b*) *G* is the amount by which the amount determined in respect of the individual for the year under paragraph *b* of section 28 exceeds the amount deemed by section 105.3 to be a taxable capital gain of the individual for the year; and

(*c*) *H* is the aggregate of

i. the amount deemed by section 105.3 to be a taxable capital gain of the individual for the year multiplied by

(1) where that amount is the amount referred to in subparagraph *a* of the first paragraph of section 105.3, the reciprocal of the fraction obtained by multiplying $\frac{3}{4}$ by the fraction in section 105.2 that applies to the individual for the year,

(2) where that amount is the amount referred to in subparagraph *b* of the first paragraph of section 105.3 and the year does not end after 27 February 2000 and before 18 October 2000, 2, and

(3) where that amount is the amount referred to in subparagraph *b* of the first paragraph of section 105.3 and the year ends after 27 February 2000 and before 18 October 2000, $\frac{3}{2}$, and

ii. the excess referred to in subparagraph *b* multiplied by the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for the year.

Meaning of certain expressions.

For the purposes of the first paragraph, “qualified farm property” and “qualified fishing property” have the meaning assigned by section 726.6, as it read before subparagraphs *a* and *a.0.1* of the first paragraph of that section were struck out.

Presumption.

For the purposes of subparagraph *e* of the first paragraph, where section 517.5.5 applies in respect of the disposition in a taxation year of eligible shares of an individual that are described in paragraph *a* of the definition of that expression in the first paragraph of section 517.5.3, the amount that would be determined in respect of the individual for the year under paragraph *b* of section 28 if those shares were the only properties referred to in that paragraph *b* is deemed to have been allowed as a deduction in computing the individual's taxable income for the year for the purposes of the Income Tax Act under section 110.6 of that Act in respect of qualified farm or fishing properties.

Additional rules.

Sections 21.4.6 and 21.4.7 apply, with the necessary modifications, in relation to a claim for a deduction made under section 110.6 of the Income Tax Act in respect of properties referred to in the first paragraph.

History: 1987, c. 67, s. 142; 1990, c. 59, s. 260; 1994, c. 22, s. 249; 1996, c. 39, s. 181; 2003, c. 2, s. 200; 2007, c. 12, s. 76; 2009, c. 5, s. 244; 2009, c. 15, s. 115; 2015, c. 24, s. 94; 2017, c. 1, s. 172; 2017, c. 29, s. 101.

Special rules.

726.7.0.1. Where the second amount in dollars referred to in subparagraph *a* of the first paragraph of section 726.7.1 is, with reference to section 693.5, greater than \$500,000 for a taxation year, the following rules apply:

(*a*) the amount of \$500,000 in the formula in subparagraph *a* of the first paragraph of section 726.7 is to be replaced for the year by that greater amount; and

(*b*) section 726.19.1 is to be read for the year without reference to its third paragraph.

History: 2015, c. 24, s. 95.

Capital gains deduction in respect of a qualified small business corporation share.

726.7.1. An individual other than a trust, in computing his taxable income for a taxation year, shall deduct, if he was resident in Canada throughout the year and disposed in the year or a preceding taxation year and after 17 June 1987 of a

share of a corporation that, at the time of disposition, was a qualified small business corporation share of the individual, an amount equal to the least of

(a) the amount that would be determined by the formula in subparagraph *a* of the first paragraph of section 726.7 in respect of the individual for the year, if that formula were read as if “\$500,000” were replaced by “\$400,000”;

(b) the amount by which his cumulative gains limit at the end of the year exceeds the amount deducted under section 726.7 in computing his taxable income for the year;

(c) the amount by which his annual gains limit for the year exceeds the amount deducted under section 726.7 in computing his taxable income for the year;

(d) the amount that would be determined in respect of the individual for the year under paragraph *b* of section 28, to the extent that that amount is not included in computing the amount determined in respect of the individual under subparagraph *d* of the first paragraph of section 726.7, in respect of capital gains and capital losses if the only properties referred to in paragraph *b* of section 28 were qualified small business corporation shares of the individual; and

(e) the amount that is allowed as a deduction in computing the individual’s taxable income for the year for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) under section 110.6 of that Act, in respect of qualified small business corporation shares or, if the amount that is so allowed as a deduction is equal to the maximum amount that the individual may claim as a deduction in that computation under that section in respect of such shares, the amount that the individual specifies and that is not less than that maximum amount.

Presumption.

For the purposes of subparagraph *e* of the first paragraph, where section 517.5.5 applies in respect of the disposition in a taxation year of eligible shares of an individual that are described in paragraph *b* of the definition of that expression in the first paragraph of section 517.5.3, the amount that would be determined in respect of the individual for the year under paragraph *b* of section 28 if those shares were the only properties referred to in that paragraph *b* is deemed to have been allowed as a deduction in computing the individual’s taxable income for the year for the purposes of the Income Tax Act under section 110.6 of that Act in respect of qualified small business corporation shares.

Additional rules.

Sections 21.4.6 and 21.4.7 apply, with the necessary modifications, in relation to a claim for a deduction made

under section 110.6 of the Income Tax Act in respect of qualified small business corporation shares.

History: 1990, c. 59, s. 261; 1996, c. 39, s. 182; 1997, c. 3, s. 71; 2003, c. 2, s. 201; 2007, c. 12, s. 77; 2009, c. 5, s. 245; 2015, c. 24, s. 96; 2017, c. 1, s. 173; 2017, c. 29, s. 102.

Corresponding Federal Provision: 110.6(2.1).

726.7.2. (Repealed).

History: 2004, c. 21, s. 122; 2007, c. 12, s. 78; 2009, c. 5, s. 246; 2017, c. 1, s. 174; 2017, c. 29, s. 103.

Corresponding Federal Provision: 110.6(2.2).

726.7.3. (Repealed).

History: 2009, c. 15, s. 116; 2017, c. 29, s. 103.

Corresponding Federal Provision: 110.6(2.3).

726.8. (Repealed).

History: 1987, c. 67, s. 142; 1990, c. 59, s. 262; 1994, c. 22, s. 250; 1996, c. 39, s. 183.

Maximum capital gains deduction.

726.9. Despite sections 726.7 and 726.7.1, the total amount that may be deducted under this Title in computing an individual’s taxable income for a taxation year must not exceed the amount determined by the formula in subparagraph *a* of the first paragraph of section 726.7 in respect of the individual for the year.

History: 1987, c. 67, s. 142; 1990, c. 59, s. 263; 1996, c. 39, s. 184; 2003, c. 2, s. 202; 2004, c. 21, s. 123; 2009, c. 15, s. 117; 2017, c. 29, s. 104.

Corresponding Federal Provision: 110.6(4).

Order of deductions.

726.9.1. For the purposes of subparagraph *i* of subparagraph *b* of the second paragraph of section 726.7 and subparagraph *ii* of subparagraph *c* of that paragraph, amounts deducted under this Title in computing an individual’s taxable income for a taxation year that ended before 1 January 1990 are deemed to have first been deducted in respect of amounts that were included in computing the individual’s income under this Part for the year because of subparagraph *ii* of paragraph *a* of section 105, as it applied to a taxation year that ended before 28 February 2000, before being deducted in respect of any other amounts that were included in computing the individual’s income under this Part for the year.

History: 1994, c. 22, s. 251; 1996, c. 39, s. 185; 2003, c. 2, s. 202.

Corresponding Federal Provision: 110.6(17).

CHAPTER II.1**ELECTION FOR PROPERTY OWNED BY AN INDIVIDUAL ON 22 FEBRUARY 1994****Election for property owned on 22 February 1994.**

726.9.2. Subject to section 726.9.3, where an individual, other than a trust, or a personal trust, each of which is referred to in this chapter as the “elector”, elects in prescribed form to have the provisions of this section apply in respect of

(a) a capital property, other than an interest in a trust referred to in any of paragraphs *b* to *f* of the definition of “flow-through entity” in the first paragraph of section 251.1, owned at the end of 22 February 1994 by the elector, the property is deemed, except for the purposes of Division VI of Chapter II of Title II of Book III, sections 218 to 220 and paragraph *a* of section 725.3,

i. to have been disposed of by the elector at that time for proceeds of disposition equal to the greater of

(1) the amount by which the amount designated in respect of the capital property in the election exceeds the amount that would, if the disposition were a disposition for the purposes of Division VI of Chapter II of Title II of Book III or sections 218 to 220, be included under that division and those sections as a result of the disposition in computing the income of the elector, and

(2) the adjusted cost base to the elector of the capital property immediately before the disposition, and

ii. to have been reacquired by the elector immediately after that time at a cost equal to

(1) where the capital property is an interest in or a share of the capital stock of a flow-through entity, within the meaning assigned by section 251.1, of the elector, the cost to the elector of the property immediately before the disposition referred to in subparagraph *i*,

(2) where an amount would, if the disposition referred to in subparagraph *i* were a disposition for the purposes of Division VI of Chapter II of Title II of Book III or sections 218 to 220, be included under that division and those sections as a result of the disposition in computing the income of the elector, the lesser of the elector’s proceeds of disposition of the property determined under subparagraph *i*, and the amount determined by the formula

$A - B$;

(3) in any other case, the lesser of the amount designated in respect of the capital property in the election, and the amount by which the fair market value of the property at that time exceeds the amount determined by the formula

$C - 1.1D$;

(b) a business carried on by the elector, otherwise than as a member of a partnership, on 22 February 1994,

i. the amount that would be determined under subparagraph *ii* of paragraph *a* of section 105 at the end of 22 February 1994 in respect of the elector if the fiscal period of the business ended at that time and all the incorporeal capital property owned at that time by the elector in respect of the business were disposed of by the elector immediately before that time for proceeds of disposition equal to the amount designated in the election in respect of the business is deemed to be a taxable capital gain of the elector for the taxation year in which the fiscal period of the business that includes that time ends from the disposition of a particular property, and

ii. for the purposes of subparagraph *b* of the first paragraph of section 106.1, the amount of the taxable capital gain determined under subparagraph *i* is deemed to have been claimed, by a person who does not deal at arm’s length with each particular person or partnership that does not deal at arm’s length with the elector, as a deduction under this Title in respect of a disposition at that time of the incorporeal capital property; and

(c) an interest owned at the end of 22 February 1994 by the elector in a trust referred to in any of paragraphs *b* to *f* of the definition of “flow-through entity” in the first paragraph of section 251.1, the elector is deemed to have a capital gain for the year from the disposition on 22 February 1994 of property equal to the lesser of

i. the total of amounts designated in elections made under this section by the elector in respect of interests in the trust, and

ii. $\frac{4}{3}$ of the amount that would, if all of the trust’s capital properties were disposed of at the end of 22 February 1994 for proceeds of disposition equal to their fair market value at that time and that portion of the trust’s capital gains and capital losses or its net taxable capital gains, as the case may be, arising from the dispositions as can reasonably be considered to represent the elector’s share thereof were allocated to or designated in respect of the elector, be the increase in the annual gains limit of the elector for the 1994 taxation year as a result of the dispositions.

Interpretation.

For the purposes of the formulas in subparagraphs 2 and 3 of subparagraph *ii* of subparagraph *a* of the first paragraph,

(a) *A* is the amount by which the fair market value of the capital property at the end of 22 February 1994 exceeds the amount that would, if the disposition referred to in subparagraph *i* of subparagraph *a* of the first paragraph were a disposition for the purposes of Division VI of Chapter II of Title II of Book III or sections 218 to 220, be included under

that division and those sections as a result of the disposition in computing the income of the elector;

(b) B is the amount that would be determined by the formula in subparagraph 3 of subparagraph ii of subparagraph *a* of the first paragraph in respect of the capital property if that subparagraph 3 applied to the property;

(c) C is the amount designated in respect of the capital property in the election; and

(d) D is the fair market value of the capital property at the end of 22 February 1994.

Deemed time of disposition.

For the purposes of this Title, the elector is deemed to have disposed of the particular property referred to in subparagraph i of subparagraph *b* of the first paragraph at the end of 22 February 1994.

History: 1996, c. 39, s. 186; 1997, c. 3, s. 71; 2001, c. 53, s. 260; 2003, c. 2, s. 203; 2005, c. 1, s. 139.

Corresponding Federal Provision: 110.6(19).

Application of s. 726.9.2.

726.9.3. Section 726.9.2 applies to a property or to a business of an elector only if

(a) where the elector is an individual, other than a trust,

i. its application to all of the properties in respect of which elections were made under that section by the elector or a spouse of the elector and to all the businesses in respect of which elections were made under that section by the elector

(1) would result in an increase in the amount deductible under section 726.8 in computing the taxable income of the elector or a spouse of the elector, and

(2) in respect of each of the taxation years 1994 and 1995, where no part of the taxable capital gain resulting from an election by the elector is included in computing the income of a spouse of the elector, would not result in the amount determined under paragraph *a* of section 726.8 for the year in respect of the elector being exceeded by the lesser of the amounts determined under paragraphs *b* and *c* of section 726.8 for the year in respect of the elector, and where no part of the taxable capital gain resulting from an election by the elector is included in computing the income of the elector, would not result in the amount determined under paragraph *a* of section 726.8 for the year in respect of a spouse of the elector being exceeded by the lesser of the amounts determined under paragraphs *b* and *c* of section 726.8 for the year in respect of the spouse,

ii. the amount designated in the election in respect of the property exceeds 11/10 of its fair market value at the end of 22 February 1994, or

iii. the amount designated in the election in respect of the business is \$1.00 or exceeds 11/10 of the fair market value at the end of 22 February 1994 of all the incorporeal capital property owned at that time by the elector in respect of the business; and

(b) where the elector is a personal trust, its application to all of the properties in respect of which an election was made under that section 726.9.2 by the elector would result in

i. an increase in the amount deemed by section 668.1 to be a taxable capital gain of an individual, other than a trust, who was a beneficiary under the trust at the end of 22 February 1994 and resident in Canada at any time in the individual's taxation year in which the trust's taxation year that includes that day ends, or

ii. where section 726.19 applies to the trust for the trust's taxation year that includes 22 February 1994, an increase in the amount deductible under that section in computing the trust's taxable income for that year.

History: 1996, c. 39, s. 186; 2005, c. 1, s. 140.

Corresponding Federal Provision: 110.6(20).

Effect of election on non-qualifying immovable property.

726.9.4. Where an elector is deemed by section 726.9.2 to have disposed of a non-qualifying immovable property,

(a) in computing the elector's taxable capital gain from the disposition, there shall be deducted an amount equal to 3/4 of the amount by which the elector's capital gain from the disposition exceeds the elector's eligible immovable property gain from the disposition; and

(b) in determining at any time after the disposition the capital cost to the elector of the property, where it is a depreciable property, and the adjusted cost base to the elector of the property in any other case, other than where the property was at the end of 22 February 1994 an interest in or a share of the capital stock of a flow-through entity within the meaning assigned by the first paragraph of section 251.1, there shall be deducted 4/3 of the amount determined under paragraph *a* in respect of the property.

History: 1996, c. 39, s. 186.

Corresponding Federal Provision: 110.6(21).

Adjusted cost base.

726.9.5. Where an elector is deemed by subparagraph *a* of the first paragraph of section 726.9.2 to have reacquired a property, there shall be deducted in computing the adjusted cost base to the elector of the property at any time after the reacquisition the amount by which

(a) the amount by which the amount designated in the election under section 726.9.2 in respect of the property exceeds the product obtained by multiplying 1.1 by the fair

market value of the property at the end of 22 February 1994, exceeds

(b) where the property is an interest in or a share of the capital stock of a flow-through entity, within the meaning assigned by the first paragraph of section 251.1, 4/3 of the taxable capital gain that would have resulted from the election if the amount designated in the election were equal to the fair market value of the property at the end of 22 February 1994 and, in any other case, the fair market value of the property at the end of 22 February 1994.

History: 1996, c. 39, s. 186.

Corresponding Federal Provision: 110.6(22).

Disposition of partnership interest.

726.9.6. Where an elector is deemed by section 726.9.2 to have disposed of an interest in a partnership, in computing the adjusted cost base to the elector of the interest immediately before the disposition

(a) there shall be added the amount determined by the formula

$$(A - B) \times (C / D) + E; \text{ and}$$

(b) there shall be deducted the amount determined by the formula

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

Interpretation.

For the purposes of the formulas in subparagraphs *a* and *b* of the first paragraph,

(a) A is the aggregate of all amounts each of which is the elector's share of the partnership's income, other than a taxable capital gain from the disposition of a property, from a source in Canada or from sources in another place for its fiscal period that includes 22 February 1994, in this paragraph referred to as the "particular period";

(b) B is the aggregate of all amounts each of which is the elector's share of the partnership's loss, other than an allowable capital loss from the disposition of a property, from a source in Canada or from sources in another place for the particular period;

(c) C is the number of days in the period that begins the first day of the particular period and ends on 22 February 1994;

(d) D is the number of days in the particular period; and

(e) E is 4/3 of the amount that would be determined under paragraph *b* of section 28 in computing the elector's income for the taxation year in which the particular period ends if the elector had no taxable capital gains or allowable capital

losses other than those arising from dispositions of property by the partnership that occurred before 23 February 1994.

History: 1996, c. 39, s. 186; 1997, c. 3, s. 71.

Corresponding Federal Provision: 110.6(23).

Time for election.

726.9.7. An election made under section 726.9.2 shall be filed with the Minister

(a) where the elector is an individual, other than a trust,

i. if the election is in respect of a business of the elector, on or before the individual's filing-due date for the taxation year in which the fiscal period of the business that includes 22 February 1994 ends, and

ii. in any other case, on or before the day on or before which the individual is required to file his fiscal return under section 1000 for the taxation year 1994; and

(b) where the elector is a personal trust, on or before 31 March of the calendar year following the calendar year in which the taxation year of the trust that includes 22 February 1994 ends.

History: 1996, c. 39, s. 186; 1997, c. 31, s. 70.

Corresponding Federal Provision: 110.6(24).

Revocation of election.

726.9.8. Subject to section 726.9.11, an elector may revoke an election made under section 726.9.2 by filing a written notice of the revocation with the Minister on or before 31 December 1997.

History: 1996, c. 39, s. 186.

Corresponding Federal Provision: 110.6(25).

Late election.

726.9.9. Where an election made under section 726.9.2 is filed with the Minister after the time prescribed in section 726.9.7, the election is deemed for the purposes of this Title, except section 726.9.12, to have been filed within the time prescribed if it is filed within two years after the expiry of the time limit and if an estimate of the penalty under section 726.9.12 is paid by the elector when the election is filed with the Minister.

History: 1996, c. 39, s. 186; 2001, c. 7, s. 86.

Corresponding Federal Provision: 110.6(26).

Amended election.

726.9.10. Subject to section 726.9.11, an election made under section 726.9.2 in respect of a property or a business is deemed to be amended and the election, as amended, is deemed, for the purposes of this Title, other than section 726.9.12, to have been filed within the time prescribed in section 726.9.7 if an amended election in prescribed form in respect of the property or the business is

filed with the Minister on or before 31 December 1997 and an estimate of the penalty under section 726.9.12 is paid by the elector when the amended election is filed with the Minister.

History: 1996, c. 39, s. 186; 2000, c. 5, s. 156.

Corresponding Federal Provision: 110.6(27).

Election that cannot be revoked or amended.

726.9.11. An election made under section 726.9.2 cannot be revoked or amended where the amount designated in the election exceeds the product obtained by multiplying 11/10 by

(a) if the election is in respect of a property other than an interest in a partnership, the fair market value of the property at the end of 22 February 1994;

(b) if the election is in respect of an interest in a partnership, the greater of \$1 and the fair market value of the property at the end of 22 February 1994; and

(c) if the election is in respect of a business, the greater of \$1 and the fair market value at the end of 22 February 1994 of all the incorporeal capital property owned at that time by the elector in respect of the business.

History: 1996, c. 39, s. 186; 2000, c. 5, s. 157; 2005, c. 1, s. 141.

Corresponding Federal Provision: 110.6(28).

Amount of penalty.

726.9.12. The penalty in respect of an election to which section 726.9.9 or 726.9.10 applies is the amount determined by the formula

$(A \times B) / 300$.

Interpretation.

For the purposes of the formula in the first paragraph,

(a) A is the number of months each of which is a month all or part of which is during the period that begins the day after the expiry of the time prescribed in section 726.9.7 and ends the day the election to which section 726.9.9 applies or the amended election to which section 726.9.10 applies, as the case may be, is filed with the Minister; and

(b) B is the amount by which the aggregate of all amounts each of which is the taxable capital gain of the elector or a spouse of the elector that results from the application of section 726.9.2 to the property or the business in respect of which the election is made exceeds, where section 726.9.10 applies to the election, the aggregate of all amounts each of which would, if this Act were read without reference to sections 726.9.3 and 726.9.10, be the taxable capital gain of the elector or a spouse of the elector that resulted from the application of section 726.9.2 to the property or the business.

History: 1996, c. 39, s. 186.

Corresponding Federal Provision: 110.6(29).

Unpaid balance of penalty.

726.9.13. The Minister shall, with all due dispatch, examine each election to which section 726.9.9 or 726.9.10 applies, assess the penalty payable and send a notice of assessment to the elector who made the election, and the elector shall pay forthwith to the Minister the unpaid balance of the penalty.

History: 1996, c. 39, s. 186.

Corresponding Federal Provision: 110.6(30).

CHAPTER III

SPECIAL RULES OF APPLICATION

Deemed resident in Canada.

726.10. For the purposes of sections 726.7 and 726.7.1, an individual is deemed to have been resident in Canada throughout a particular taxation year if the individual was resident in Canada at any time in the particular year and throughout the preceding taxation year or the following taxation year.

History: 1987, c. 67, s. 142; 1990, c. 59, s. 264; 1996, c. 39, s. 187; 2004, c. 21, s. 124; 2009, c. 15, s. 118; 2017, c. 29, s. 105.

Corresponding Federal Provision: 110.6(5).

Failure to report capital gain.

726.11. Despite sections 726.7 and 726.7.1, no amount may be deducted under this Title in respect of the capital gain of an individual for a particular taxation year in computing the individual's taxable income for the particular year or any subsequent taxation year, if the individual knowingly or under circumstances amounting to gross negligence

(a) fails to file the individual's fiscal return for the particular year within one year after the individual's filing-due date for the particular year; or

(b) fails to report the capital gain in the fiscal return the individual was required to file for the particular year under section 1000.

History: 1987, c. 67, s. 142; 1990, c. 59, s. 265; 1996, c. 39, s. 188; 1997, c. 31, s. 71; 2004, c. 21, s. 125; 2007, c. 12, s. 79; 2009, c. 15, s. 119; 2015, c. 21, s. 256; 2017, c. 29, s. 106.

Corresponding Federal Provision: 110.6(6)(a).

Burden of proof.

726.12. For the purposes of section 726.11, the Minister establishes the facts justifying that the individual may not make a deduction under this Title.

History: 1987, c. 67, s. 142; 2007, c. 12, s. 79.

Corresponding Federal Provision: 110.6(6)(b).

Deduction not permitted.

726.13. Despite sections 726.7 and 726.7.1, no amount may be deducted under this Title in computing an individual's taxable income for a taxation year in respect of a capital gain of the individual for the year, if the capital gain is from the disposition of a property, which disposition is part of a series of transactions or events

(a) that includes a dividend received by a corporation to which dividend section 308.1 does not apply but would apply if this Act were read without reference to section 308.3; or

(b) in which any property is acquired by a corporation or partnership for consideration that is significantly less than the fair market value of the property at the time of acquisition, other than an acquisition as the result of an amalgamation or merger of corporations or the winding-up of a corporation or partnership or a distribution of property of a trust in satisfaction of all or part of a corporation's capital interest in the trust.

History: 1987, c. 67, s. 142; 1990, c. 59, s. 266; 1996, c. 39, s. 189; 1997, c. 3, s. 71; 2007, c. 12, s. 80; 2009, c. 15, s. 120; 2017, c. 29, s. 107.

Corresponding Federal Provision: 110.6(7).

Deduction not permitted.

726.14. Despite sections 726.7 and 726.7.1, where an individual has a capital gain for a taxation year from the disposition of property, no amount in respect of that capital gain shall be deducted under this Title in computing the individual's taxable income for the year if it may reasonably be considered, having regard to all the circumstances, that a significant portion of the capital gain is attributable to the fact that dividends were not paid on a share, other than a prescribed share, or that dividends paid on such a share in the year or in any preceding taxation year were less than 90% of the average annual rate of return on that share for that year.

History: 1987, c. 67, s. 142; 1990, c. 59, s. 267; 1996, c. 39, s. 189; 2007, c. 12, s. 81; 2009, c. 15, s. 121; 2017, c. 29, s. 108.

Corresponding Federal Provision: 110.6(8).

Average annual rate of return.

726.15. For the purposes of section 726.14, the average annual rate of return on a share other than a prescribed share of a corporation for a taxation year is the annual rate of return by way of dividends that a knowledgeable and prudent investor who purchased the share on the day it was issued would expect to receive in that year, other than the first year after the issue, in respect of the share if

(a) there was no delay or postponement of the payment of dividends and no failure to pay dividends in respect of the share;

(b) there was no variation from year to year in the amount of dividends payable in respect of the share other than where

the amount of dividends payable is expressed as an invariant percentage of or by reference to an invariant difference between the dividend expressed as a rate of interest and a generally quoted market interest rate; and

(c) the proceeds to be received by the investor on the disposition of the share is the same amount the corporation received as consideration on the issue of the share.

History: 1987, c. 67, s. 142; 1997, c. 3, s. 71.

Corresponding Federal Provision: 110.6(9).

726.16. (Repealed).

History: 1987, c. 67, s. 142; 1990, c. 59, s. 268.

When deduction not permitted.

726.17. Notwithstanding any other provision of this Act, where it may reasonably be considered that one of the main reasons for an individual acquiring, holding or having an interest in a partnership or trust, other than an interest in a personal trust, or a share of an investment corporation, mortgage investment corporation or mutual fund corporation, or that one of the main reasons for the existence of any terms, conditions, rights or other attributes of the interest or share, as the case may be, is to enable the individual to receive or have allocated to him a percentage of any capital gain or taxable capital gain of the partnership, trust or corporation that is larger than the percentage of the income of the partnership, trust or corporation to which the individual is entitled, the following rules apply:

(a) no amount may be deducted under this Title by the individual in respect of any gain contemplated in this section allocated or distributed to him after 21 November 1985; and

(b) where the individual is a trust, any gain contemplated in this section allocated or distributed to it after 21 November 1985 shall not be included in computing its eligible taxable capital gain within the meaning of section 668.4.

History: 1987, c. 67, s. 142; 1990, c. 59, s. 269; 1996, c. 39, s. 273; 1997, c. 3, s. 32.

Corresponding Federal Provision: 110.6(11).

726.18. (Repealed).

History: 1987, c. 67, s. 142; 1988, c. 18, s. 64; 1990, c. 59, s. 270.

726.19. (Repealed).

History: 1987, c. 67, s. 142; 1990, c. 59, s. 271; 1994, c. 22, s. 252; 1996, c. 39, s. 190; 1997, c. 3, s. 71; 2003, c. 2, s. 204; 2007, c. 12, s. 82; 2015, c. 21, s. 257; 2017, c. 29, s. 109.

Reserve limit.

726.19.1. Where an amount is included in computing an individual's income for a particular taxation year because of the second paragraph of section 234 in respect of a disposition of property in a preceding taxation year that, at the time of the disposition, is qualified farm property or

qualified fishing property, within the meaning assigned by section 726.6, as it read before subparagraphs *a* and *a.0.1* of the first paragraph of that section were struck out, a qualified small business corporation share or qualified farm or fishing property, the total of all amounts deductible by the individual for the particular year under this Title is reduced by the amount determined by the formula

$A - B$.

Interpretation.

In the formula in the first paragraph,

(a) *A* is the aggregate of all amounts each of which is an amount deductible under this Title by the individual for the particular year or a preceding taxation year, computed without reference to this section; and

(b) *B* is the aggregate of all amounts each of which is an amount that would be deductible under this Title by the individual for the particular year or a preceding taxation year if the individual had not for any preceding taxation year claimed a reserve under subparagraph *b* of the first paragraph of section 234 and had claimed, for each taxation year ending before the particular year, the amount that would have been deductible under this Title.

Exception.

This section does not apply in respect of a disposition of qualified farm or fishing property after 2 December 2014.

History: 2009, c. 15, s. 122; 2015, c. 24, s. 97; 2017, c. 29, s. 110.

Corresponding Federal Provision: 110.6(31) and (32).

Determination under par. b of s. 28.

726.20. For the purposes of this Title, the excess amount determined under paragraph *b* of section 28 in respect of an individual for a period throughout which he was not resident in Canada is nil.

History: 1987, c. 67, s. 142.

Corresponding Federal Provision: 110.6(13).

TITLE VI.5.1

ADDITIONAL CAPITAL GAINS EXEMPTION IN RESPECT OF CERTAIN RESOURCE PROPERTIES

CHAPTER I

INTERPRETATION

Definitions:

726.20.1. In this Title,

“*eligible taxable capital gain amount*”;

“eligible taxable capital gain amount” of an individual for a taxation year from the disposition of a resource property, referred to in this definition as the “particular property”, means the least of

(a) subject to the third paragraph, the amount by which the amount determined under the second paragraph is exceeded by 1/2 of

i. where the particular property was owned by the individual immediately before the disposition and was a property referred to in paragraph *a* or *b* of the definition of “resource property” in respect of the individual, the amount by which the cost to the individual of the particular property, determined without reference, where applicable, to section 419.0.1, exceeds the adjusted cost base to the individual of the particular property immediately before the disposition,

ii. where the particular property was owned by the individual immediately before the disposition and was a property referred to in paragraph *c* of the definition of “resource property” in respect of the individual that was substituted for another property that was a flow-through share or an interest in a partnership, the amount by which the cost to the individual of the other property, determined without reference, where applicable, to section 419.0.1, exceeds the aggregate of the adjusted cost base to the individual of the other property immediately before the substitution and the capital gain, if any, of the individual from the disposition, at the time of such a substitution, of the other property or of a property substituted for the other property,

iii. where immediately before the disposition the particular property was owned by a particular partnership of which the individual is a member, whether directly or indirectly through another partnership, the amount that may reasonably be considered to be the individual’s share of the amount by which the cost to the partnership of the particular property, determined without reference, where applicable, to section 419.0.1, exceeds the adjusted cost base to the partnership of the particular property immediately before the disposition, and

iv. where the particular property was owned by a particular partnership of which the individual is a member, whether directly or indirectly through another partnership, immediately before the disposition and was a property referred to in paragraph *d* of the definition of “resource property” in respect of the individual that was substituted for another property that was a flow-through share or an interest in a partnership, the amount that may reasonably be considered to be the individual’s share of the amount by which the cost to the partnership of the other property, determined without reference, where applicable, to section 419.0.1, exceeds the aggregate of the adjusted cost base to the partnership of the other property immediately before the substitution and the capital gain, if any, of the partnership from the disposition, at the time of such a substitution, of the other property or of a property substituted for the other property;

(b) where paragraph *a* or *d* of section 231.2 applies in respect of the disposition of the particular property, the amount that would correspond to the individual's taxable capital gain for the year from the disposition if that section were read without reference to that paragraph and, in any other case, the individual's taxable capital gain for the year from the disposition of the particular property; and

(c) subject to the fourth paragraph, nil, where the particular property is property described in section 726.7 or 726.7.1 and the amount by which the amount determined in respect of the individual for the year by the formula provided for in subparagraph *a* of the first paragraph of section 726.7 exceeds the amount, if any, deducted under Title VI.5 by the individual in computing the individual's taxable income for the year is not nil;

“resource property”.

“resource property” of an individual or partnership means capital property owned by the individual or the partnership, as the case may be, that is

(a) a flow-through share issued to the individual or partnership pursuant to an agreement in writing entered into after 14 May 1992, as part of a public share issue, where the flow-through share was issued as part of such an issue, in respect of which the receipt for the final prospectus or the exemption from filing a prospectus was granted after that date, except for a flow-through share that

i. was issued following an investment made after 12 June 2003, or following an application for a receipt for the preliminary prospectus or an application for an exemption from filing a prospectus made after 12 June 2003, and

ii. was acquired by the individual or partnership before 31 March 2004;

(b) an interest in a particular partnership acquired by the individual or partnership after 14 May 1992 as part of a public issue of interests in a partnership, where the interest in the particular partnership was acquired as part of such an issue, in respect of which the receipt for the final prospectus or the exemption from filing a prospectus was granted after that date, provided that

i. any of the following conditions is met:

(1) a flow-through share referred to in paragraph *a* is issued to the particular partnership, or

(2) the particular partnership incurs Canadian exploration expenses or Canadian development expenses after 14 May 1992 otherwise than by reason of the acquisition of a flow-through share, and

ii. where the condition set out in subparagraph 2 of subparagraph *i* is met, the interest in the particular partnership was not acquired by the individual or partnership before 31 March 2004 following an investment made after 12 June 2003, or following an application for a receipt for the

preliminary prospectus or an application for an exemption from filing a prospectus made after 12 June 2003; and

(c) a property, in this paragraph referred to as the “new property”, substituted for another property that was a resource property of the individual under paragraph *a* or *b*, where

i. the new property was then acquired by the individual through a transaction in respect of which an election referred to in section 518, 614 or 620 was made or in respect of which sections 530 to 533, 536 to 539, 541 to 543.2 or 626 to 632 apply, on the winding-up of a Canadian corporation in respect of which sections 556 to 564.1 and 565 apply, or by reason of an amalgamation within the meaning of section 544, and

ii. the individual has elected, in a letter enclosed with the fiscal return the individual is required to file under section 1000 for the taxation year in which the substitution occurred and containing a description of the other property and the circumstances in which the new property was acquired, on or before the individual's filing-due date for that taxation year, to consider the new property as being a resource property of the individual under this paragraph; and

(d) a property, in this paragraph referred to as the “new property”, substituted for another property that was a resource property of the partnership under paragraph *a* or *b*, where

i. the new property was then acquired by the partnership through a transaction in respect of which an election referred to in section 529 was made, and

ii. each individual who is a member of the partnership has elected, in a letter enclosed with the fiscal return the individual is required to file under section 1000 for the individual's taxation year in which ends the fiscal period of the partnership in which the substitution occurred and containing a description of the other property and the circumstances in which the new property was acquired, on or before the individual's filing-due date for that taxation year, to consider the new property as being a resource property of the partnership under this paragraph.

Amount referred to.

The amount to which the portion of paragraph *a* of the definition of “eligible taxable capital gain amount” in the first paragraph before subparagraph *i* refers is the aggregate of

(a) any amount that can reasonably be considered as deducted by the individual under this Title in respect of the disposition of the particular property in computing the individual's taxable income for a preceding taxation year that began after 17 October 2000;

(b) any amount that is the quotient obtained when the amount that can reasonably be considered as deducted by the individual under this Title in respect of the disposition of the particular property in computing the individual's taxable income for a preceding taxation year that includes 28 February 2000 or 17 October 2000, or that began after 28 February 2000 and ended before 17 October 2000, is divided by twice the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for that preceding taxation year; and

(c) $\frac{2}{3}$ of any amount that can reasonably be considered as deducted by the individual under this Title in respect of the disposition of the particular property in computing the individual's taxable income for a preceding taxation year that ended before 28 February 2000.

Transitional rules.

Where the individual's taxation year includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the following rules apply:

(a) the reference to the fraction " $\frac{1}{2}$ " in the portion of paragraph *a* of the definition of "eligible taxable capital gain amount" in the first paragraph before subparagraph *i* shall be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for the year;

(b) the reference to the word "twice" in subparagraph *b* of the second paragraph shall be read, with the necessary modifications, as a reference to the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for the year; and

(c) the reference to the fraction " $\frac{2}{3}$ " in subparagraph *c* of the second paragraph shall be read as a reference to the fraction obtained when the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for the year is divided by $\frac{3}{4}$.

Other transitional rules.

When paragraph *c* of the definition of "eligible taxable capital gain amount" in the first paragraph applies

(a) to a taxation year that ends after 18 March 2007 and that includes 19 March 2007, it is to be read as follows:

"(c) nil, where the particular property is property described in any of sections 726.7 to 726.7.2 and the amount by which the total of the amount determined in respect of the individual for the year by the formula provided for in subparagraph *a* of the first paragraph of section 726.7 and, if the particular property was disposed of after 18 March 2007, \$125,000, exceeds the amount, if any, deducted under Title VI.5 by the individual in computing the individual's taxable income for the year, otherwise than under section 726.7.3 if the particular property was disposed of before 19 March 2007, is not nil;"; and

(b) to a taxation year that begins after 19 March 2007 in relation to a resource property the disposition of which occurred before that date, it is to be read as follows:

"(c) nil, where the particular property is property described in any of sections 726.7 to 726.7.2 and the amount by which the amount that would be determined in respect of the individual for the year by the formula provided for in subparagraph *a* of the first paragraph of section 726.7 if the formula were read as if "\$375,000" was replaced by "\$250,000", exceeds the amount, if any, deducted under Title VI.5 by the individual in computing the individual's taxable income for the year is not nil;";

Validity of election.

For the purposes of paragraph *d* of the definition of "resource property" in the first paragraph, if an individual makes an election under subparagraph *ii* of that paragraph *d*, the following rules apply:

(a) the election is not valid unless it was made on behalf of the individual and of each other individual who is a member of the partnership and the individual had authority to act for the partnership;

(b) if the election is valid because of subparagraph *a*, each other individual who is a member of the partnership in the fiscal period is deemed to have made the election; and

(c) despite subparagraph *a*, an election deemed to have been made by a member under paragraph *b* is deemed to be a valid election made by that member.

History: 1993, c. 19, s. 43; 1993, c. 64, s. 65; 1995, c. 1, s. 62; 1996, c. 39, s. 191; 1997, c. 3, s. 71; 1997, c. 14, s. 290; 1997, c. 85, s. 110; 1998, c. 16, s. 182; 2000, c. 5, s. 158; 2002, c. 40, s. 55; 2003, c. 2, s. 205; 2004, c. 21, s. 126; 2005, c. 23, s. 76; 2007, c. 12, s. 83; 2009, c. 15, s. 123; 2012, c. 8, s. 69; 2017, c. 29, s. 111.

Interpretation Bulletins: IMP. 726.20.1-1.

CHAPTER II DEDUCTION

Maximum allowable deduction.

726.20.2. An individual other than a trust, in computing his taxable income for a taxation year may deduct, if he was resident in Canada throughout the year and disposed of a resource property, such amount as he may claim not exceeding the least of

(a) subject to the third paragraph, the amount by which the amount determined under the second paragraph is exceeded by $\frac{1}{2}$ of the excess amount that would be computed under paragraph *a* of section 726.4.10 in respect of the individual at the end of the year if

i. the only expenses referred to in that paragraph *a* were expenses in respect of which section 726.4.10.1 applies, and

ii. the expenses incurred as a consequence of the acquisition, before 31 March 2004, of a flow-through share or of an interest in a partnership following an investment made after 12 June 2003, or an application for a receipt for the preliminary prospectus or an application for an exemption from filing a prospectus made after 12 June 2003, were not referred to in that paragraph *a*;

(b) the aggregate of all amounts each of which is the eligible taxable capital gain amount of the individual for the year from the disposition of a resource property;

(c) the amount that would be determined in respect of the individual for the year under paragraph *b* of section 28 in respect of capital gains and capital losses if the only properties referred to in that paragraph were resource properties;

(d) the amount by which the amount determined in respect of the individual for the year under paragraph *b* of section 28 in respect of capital gains and capital losses exceeds the aggregate of the amount of the net capital losses of the individual in other taxation years deducted under section 729 in computing the individual's taxable income for the year and the amount deducted under Title VI.5 by the individual in computing the individual's taxable income for the year;

(e) *(subparagraph repealed)*.

Amount referred to.

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

(a) any amount that the individual deducted under this section in computing the individual's taxable income for a preceding taxation year that began after 17 October 2000;

(b) any amount that is the quotient obtained when the amount that the individual deducted under this section in computing the individual's taxable income for a preceding taxation year that includes 28 February 2000 or 17 October 2000, or began after 28 February 2000 and ended before 17 October 2000, is divided by twice the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for that preceding taxation year; and

(c) $\frac{2}{3}$ of any amount that the individual deducted under this section in computing the individual's taxable income for a preceding taxation year that ended before 28 February 2000.

Deemed capital gain.

For the purposes of subparagraph *c* of the first paragraph, where an individual is deemed to have realized, at any time in a taxation year, a capital gain from the disposition of another capital property under section 262.5, the capital gain

is deemed to be a capital gain realized by the individual in the year in respect of the disposition of a resource property.

Transitional rules.

Where the individual's taxation year includes 28 February 2000 or 17 October 2000, or begins after 28 February 2000 and ends before 17 October 2000, the following rules apply:

(a) the reference to the fraction " $\frac{1}{2}$ " in subparagraph *a* of the first paragraph shall be read as a reference to the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for the year;

(b) the reference to the word "twice" in subparagraph *b* of the second paragraph shall be read, with the necessary modifications, as a reference to the fraction that is the reciprocal of the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for the year; and

(c) the reference to the fraction " $\frac{2}{3}$ " in subparagraph *c* of the second paragraph shall be read as a reference to the fraction obtained by dividing $\frac{3}{4}$ by the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for the year.

History: 1993, c. 19, s. 43; 1995, c. 1, s. 63; 1996, c. 39, s. 192; 2003, c. 2, s. 206; 2006, c. 13, s. 52; 2012, c. 8, s. 70; 2013, c. 10, s. 41.

Interpretation Bulletins: IMP. 726.20.1-1.

CHAPTER III SPECIAL RULES OF APPLICATION

Applicable provisions.

726.20.3. Sections 726.10 to 726.13, 726.17 and 726.20 apply to this Title, with the necessary modifications.

History: 1993, c. 19, s. 43; 1995, c. 63, s. 261.

Interpretation Bulletins: IMP. 726.20.1-1.

Special rules.

726.20.4. Any reference in section 261, 261.1, 270, 462.6, 517.4.2 or 517.4.4, to Title VI.5 or to sections 726.6 to 726.20 is deemed to include a reference to this Title.

History: 1993, c. 19, s. 43; 1996, c. 39, s. 193.

Interpretation Bulletins: IMP. 726.20.1-1.

TITLE VI.6

(Repealed).

726.21. *(Repealed)*.

History: 1988, c. 18, s. 65; 1993, c. 16, s. 267; 2003, c. 9, s. 52 [amended by 2004, c. 21, s. 553].

726.22. *(Repealed).*

History: 1988, c. 18, s. 65; 1989, c. 5, s. 87; 1993, c. 16, s. 267; 1994, c. 22, s. 253; 1997, c. 85, s. 111; 1999, c. 83, s. 78; 2000, c. 39, s. 41; 2002, c. 40, s. 56; 2003, c. 9, s. 52 [amended by 2004, c. 21, s. 553].

726.22.1. *(Repealed).*

History: 1993, c. 16, s. 268; 1997, c. 85, s. 112; 2003, c. 9, s. 52 [amended by 2004, c. 21, s. 553].

726.23. *(Repealed).*

History: 1988, c. 18, s. 65; 1991, c. 25, s. 86; 1993, c. 16, s. 269; 2001, c. 53, s. 97; 2003, c. 9, s. 52 [amended by 2004, c. 21, s. 553].

726.23.1. *(Repealed).*

History: 1993, c. 16, s. 270; 2003, c. 9, s. 52 [amended by 2004, c. 21, s. 553].

TITLE VI.7*(Repealed).***726.24.** *(Repealed).*

History: 1989, c. 5, s. 88; 1991, c. 8, s. 41; 1993, c. 16, s. 271.

726.25. *(Repealed).*

History: 1989, c. 5, s. 88; 1993, c. 16, s. 271.

TITLE VI.8**DEDUCTION IN RESPECT OF THE COPYRIGHT INCOME OF AN INDIVIDUAL****Deduction in respect of copyright income.**

726.26. An individual who in a taxation year is a professional artist within the meaning of the Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters (chapter S-32.01), or an artist within the meaning of the Act respecting the professional status and conditions of engagement of performing, recording and film artists (chapter S-32.1), may deduct, in computing his taxable income for the taxation year, the lesser of

(a) his copyright income for the year; and

(b) the amount by which \$15,000 exceeds an amount equal to one-half of the amount by which the individual's copyright income for the year exceeds \$30,000.

Copyright income.

In the first paragraph, an individual's copyright income for a taxation year is equal to the amount by which the aggregate of the amounts included in computing the individual's income for the year from rights described in the third paragraph of which the individual is the first owner, exceeds the aggregate of the amounts deducted in computing the

individual's income for the year and that may reasonably be considered as relating to expenses incurred to collect the amounts from those rights described in the third paragraph.

Rights referred to.

The rights to which the second paragraph refers are the following:

(a) copyrights and public lending rights paid under a program administered by the Public Lending Right Commission under the authority of the Canada Council for the Arts, in respect of a work of which the individual is the creator;

(b) copyrights including an exclusive right in respect of a performance of the individual as a performing artist;

(c) the right to be paid equitable remuneration conferred on the individual by the Copyright Act (Revised Statutes of Canada, 1985, chapter C-42) for the performance in public or the communication to the public by telecommunication of the sound recording of a performance of the individual as a performing artist; and

(d) the right to receive remuneration for the reproduction for private use of sound recordings conferred on the individual by the Copyright Act.

History: 1995, c. 63, s. 53; 2002, c. 9, s. 11; 2004, c. 21, s. 127; 2005, c. 23, s. 77.

TITLE VI.9**DEDUCTION FOR QUALIFIED PATRONAGE DIVIDENDS****CHAPTER I****INTERPRETATION****Definitions:**

726.27. In this Title,

“qualified cooperative”;

“qualified cooperative” for a taxation year means a cooperative or a federation of cooperatives to which a qualification certificate has been issued by the Minister of Economy and Innovation for the purposes of this Title, for which it has not received a notice of revocation at the end of the year;

“qualified patronage dividend”.

“qualified patronage dividend” for a taxation year means a patronage dividend allocated in the form of a preferred share received in the year and before 1 January 2023 by a taxpayer who is a member of a cooperative or a federation of cooperatives, or of a partnership that is a member of a cooperative or a federation of cooperatives, and included by the taxpayer in computing the taxpayer's income for the year under section 795, if the patronage dividend is allocated by

the cooperative or the federation of cooperatives in respect of a taxation year for which it is a qualified cooperative.

History: 2004, c. 21, s. 128; 2006, c. 8, s. 31; 2010, c. 25, s. 64; 2013, c. 10, s. 42.

Share of a taxpayer who is a member of a partnership.

726.27.1. For the purposes of the definition of “qualified patronage dividend” in section 726.27, if a partnership receives, at any time before 1 January 2023, a patronage dividend allocated in the form of a preferred share, a taxpayer who is a member of the partnership at the end of the partnership’s fiscal period that includes that time is deemed to have received, at that time, and included, under section 795, in computing the taxpayer’s income for the year in which the fiscal period ends, the portion of the patronage dividend that is equal to the product obtained by multiplying the agreed proportion in respect of the taxpayer for the fiscal period by the patronage dividend received by the partnership.

History: 2010, c. 25, s. 65; 2013, c. 10, s. 43.

CHAPTER II DEDUCTION

Deduction.

726.28. A taxpayer may deduct in computing the taxpayer’s taxable income for a taxation year the amount of the taxpayer’s qualified patronage dividends for the year, if the taxpayer encloses with the fiscal return the taxpayer is required to file under section 1000 for the year the prescribed form containing the prescribed information.

History: 2004, c. 21, s. 128.

CHAPTER III AMOUNT TO BE INCLUDED

Inclusion.

726.29. There shall be included in computing a taxpayer’s taxable income for a taxation year the amount of a qualified patronage dividend deducted by the taxpayer under section 726.28 in computing the taxpayer’s taxable income for the year or for a preceding taxation year, where the preferred share relating to the qualified patronage dividend is disposed of in the year by the taxpayer or in the fiscal period ended in the year by the partnership of which the taxpayer is a member at the end of that fiscal period or was a member at the end of the fiscal period ended in the preceding year.

Rule applicable.

For the purposes of the first paragraph, a member of a cooperative or of a federation of cooperatives is deemed to dispose of the preferred shares issued by the cooperative or federation of cooperatives, as the case may be, that are identical properties in the order in which the member acquired them.

Exception

The first paragraph does not apply if the disposition by a member of a preferred share issued by a cooperative or a federation of cooperatives results from any of the operations referred to in the fourth paragraph and if, after the operation,

(a) all of the outstanding preferred shares issued by the cooperative or federation of cooperatives, as the case may be, and relating to qualified patronage dividends for a particular taxation year have been exchanged for consideration consisting only of preferred shares or fractions of such shares; and

(b) except in respect of the order of priority for the repayment of shares in the event of a winding-up, the new preferred shares or the fractions of such shares have the same characteristics as do the shares and fractions of shares they replace.

Operations referred to.

The operations to which the third paragraph refers are the following:

(a) an amalgamation, within the meaning of section 544, or a winding-up of the cooperative or federation of cooperatives, if, as a consequence of the amalgamation or winding-up, the member receives from another cooperative or federation of cooperatives a new preferred share issued by the other cooperative or federation of cooperatives, as the case may be, to replace the preferred share so disposed of; and

(b) a conversion of the preferred share or a reorganization of the capital stock of the cooperative or federation of cooperatives, if, as a consequence of the conversion or reorganization, the member receives from the cooperative or federation of cooperatives a new preferred share to replace the preferred share so disposed of.

History: 2004, c. 21, s. 128; 2005, c. 38, s. 90; 2009, c. 15, s. 124; 2010, c. 25, s. 66; 2013, c. 10, s. 44.

TITLE VI.10 DEDUCTION FOR FOREST PRODUCERS

CHAPTER I INTERPRETATION

Definitions:

726.30. In this Title,

“*associated group*”;

“associated group” in a taxation year means all the corporations that are associated with each other at any time in the year;

“*eligible activity*”;

“eligible activity” of an individual or corporation for a taxation year, or of a partnership for a fiscal period, in

respect of a private woodlot means the sale of timber to a purchaser having an establishment in Québec, other than a retail sale, derived from the operation of the private woodlot;

“eligibility period”;

“eligibility period” of an individual, corporation or partnership, as the case may be, means the period in which the individual, corporation or partnership is a certified forest producer under the Sustainable Forest Development Act (chapter A-18.1) in respect of a private woodlot;

“qualified corporation”.

“qualified corporation” for a taxation year means a Canadian-controlled private corporation whose paid-up capital attributed to the corporation for the year, determined in accordance with section 726.31, is not greater than \$10,000,000.

History: 2006, c. 36, s. 58; 2010, c. 3, s. 290.

Determination of paid-up capital attributed to a corporation.

726.31. The paid-up capital attributed to a corporation for a particular taxation year of the corporation is equal to

(a) if the corporation is not a member of an associated group in the particular year, its paid-up capital, determined in accordance with section 726.32, for the taxation year that precedes the particular year; and

(b) if the corporation is a member of an associated group in the particular year, the aggregate of all amounts each of which is its paid-up capital, determined in accordance with section 726.32, for the taxation year that precedes the particular year and the paid-up capital of each other member of the group, determined in accordance with section 726.32, for its last taxation year that ended before the beginning of the particular year.

First fiscal period.

For the purposes of subparagraph *a* of the first paragraph, if the particular year is the first fiscal period of the corporation, its paid-up capital is determined, in accordance with section 726.32, on the basis of its financial statements prepared at the beginning of that fiscal period in accordance with generally accepted accounting principles or, if such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, on the basis of such financial statements that would be prepared in accordance with generally accepted accounting principles.

First fiscal period.

For the purposes of subparagraph *b* of the first paragraph, if a member of the associated group, other than the corporation, has no taxation year ending before the beginning of the particular year, its paid-up capital is determined, in accordance with section 726.32, on the basis of its financial statements prepared at the beginning of its first fiscal period

in accordance with generally accepted accounting principles or, if such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, on the basis of such financial statements that would be prepared in accordance with generally accepted accounting principles.

History: 2006, c. 36, s. 58.

Determination of paid-up capital of a corporation.

726.32. For the purposes of section 726.31, the paid-up capital of a corporation for a taxation year means

(a) in respect of a corporation, except a corporation that is an insurer within the meaning assigned by the Insurers Act (chapter A-32.1), its paid-up capital that would be determined for that year in accordance with Book III of Part IV if no reference were made to paragraph *b.2* of subsection 1 of section 1136, paragraphs *d* and *e* of section 1137 and sections 1137.0.0.1, 1138.0.1, 1138.2.1 to 1138.2.3, 1138.2.5, 1138.2.6 and 1141.3 to 1141.11; and

(b) in respect of a corporation that is an insurer, within the meaning assigned by the Insurers Act, its paid-up capital that would be determined for that year in accordance with Title II of Book III of Part IV if it were a bank, if paragraph *a* of section 1140 were replaced by paragraph *a* of subsection 1 of section 1136 and if no reference were made to sections 1141.3 to 1141.11.

History: 2006, c. 36, s. 58; 2009, c. 15, s. 125; 2018, c. 23, s. 811(2).

**CHAPTER II
DEDUCTION**

Deduction for an individual.

726.33. An individual who, at the end of a taxation year ending before 1 January 2010, is a certified forest producer under the Sustainable Forest Development Act (chapter A-18.1) in respect of a private woodlot, or is a member of a partnership that is such a certified forest producer in respect of a private woodlot at the end of a fiscal period of the partnership that ends in the year, may deduct in computing the individual’s taxable income for the year, if the individual encloses the documents described in the third paragraph with the fiscal return the individual is required to file for the year under section 1000, an amount not exceeding 80% of the portion of the individual’s income for the year that may reasonably be considered to be equal to the aggregate of

(a) the amount determined by the formula

A – B; and

(b) the amount determined by the formula

C – D.

Interpretation.

In the formulas in the first paragraph,

(a) A is the aggregate of all amounts each of which is the amount obtained by multiplying the individual's income for the taxation year deriving from the individual's eligible activities for the year in respect of a private woodlot by the proportion that the number of days in the year that are included in the individual's eligibility period in respect of the private woodlot, is of the number of days in the year;

(b) B is the aggregate of all amounts each of which is the amount obtained by multiplying the individual's loss for the taxation year deriving from the individual's eligible activities for the year in respect of a private woodlot by the proportion that the number of days in the year that are included in the individual's eligibility period in respect of the private woodlot, is of the number of days in the year;

(c) C is the aggregate of all amounts each of which is the amount obtained by multiplying the individual's share of the partnership's income for its fiscal period that ends in the year deriving from the partnership's eligible activities for that fiscal period in respect of a private woodlot by the proportion that the number of days in the partnership's fiscal period that are included in the partnership's eligibility period in respect of the private woodlot, is of the number of days in the fiscal period; and

(d) D is the aggregate of all amounts each of which is the amount obtained by multiplying the individual's share of the partnership's loss for its fiscal period that ends in the year deriving from the partnership's eligible activities for that fiscal period in respect of a private woodlot by the proportion that the number of days in the partnership's fiscal period that are included in the partnership's eligibility period in respect of the private woodlot, is of the number of days in the fiscal period.

Documents to be filed.

The documents to which the first paragraph refers are

(a) the prescribed form containing the prescribed information; and

(b) a copy of the valid qualification certificate issued to the individual or partnership, as the case may be, attesting to the individual's or partnership's capacity as a certified forest producer in respect of the private woodlot.

Individual's share.

For the purposes of subparagraphs *c* and *d* of the second paragraph, the share, for a fiscal period of a partnership, of an individual who is a member of the partnership of the income or loss of the partnership deriving from the partnership's eligible activities for the fiscal period in respect of a private woodlot, is equal to the agreed proportion of the

income or loss in respect of the individual for the fiscal period.

History: 2006, c. 36, s. 58; 2009, c. 15, s. 126; 2010, c. 3, s. 291.

Deduction for a qualified corporation.

726.34. A qualified corporation that, at the end of a taxation year ending before 1 January 2010, is a certified forest producer under the Sustainable Forest Development Act (chapter A-18.1) in respect of a private woodlot, or is a member of a partnership that is such a certified forest producer in respect of a private woodlot at the end of a fiscal period of the partnership that ends in the year, may deduct in computing its taxable income for the year, if the qualified corporation encloses the documents described in the third paragraph with the fiscal return it is required to file for the year under section 1000, an amount not exceeding 80% of the portion of the qualified corporation's income for the year that may reasonably be considered to be equal to the aggregate of

(a) the amount determined by the formula

$A - B$; and

(b) the amount determined by the formula

$C - D$.

Interpretation.

In the formulas in the first paragraph,

(a) A is the aggregate of all amounts each of which is the amount obtained by multiplying the qualified corporation's income for the taxation year deriving from the qualified corporation's eligible activities for the year in respect of a private woodlot by the proportion that the number of days in the year that are included in the qualified corporation's eligibility period in respect of the private woodlot, is of the number of days in the year;

(b) B is the aggregate of all amounts each of which is the amount obtained by multiplying the qualified corporation's loss for the taxation year deriving from the qualified corporation's eligible activities for the year in respect of a private woodlot by the proportion that the number of days in the year that are included in the qualified corporation's eligibility period in respect of the private woodlot, is of the number of days in the year;

(c) C is the aggregate of all amounts each of which is the amount obtained by multiplying the qualified corporation's share of the partnership's income for its fiscal period that ends in the year deriving from the partnership's eligible activities for that fiscal period in respect of a private woodlot by the proportion that the number of days in the partnership's fiscal period that are included in the partnership's eligibility

period in respect of the private woodlot, is of the number of days in the fiscal period; and

(d) D is the aggregate of all amounts each of which is the amount obtained by multiplying the qualified corporation's share of the partnership's loss for its fiscal period that ends in the year deriving from the partnership's eligible activities for that fiscal period in respect of a private woodlot by the proportion that the number of days in the partnership's fiscal period that are included in the partnership's eligibility period in respect of the private woodlot, is of the number of days in the fiscal period.

Documents to be filed.

The documents to which the first paragraph refers are

(a) the prescribed form containing the prescribed information; and

(b) a copy of the valid qualification certificate issued to the qualified corporation or to the partnership, as the case may be, attesting to its capacity as a certified forest producer in respect of the private woodlot.

Qualified corporation's share.

For the purposes of subparagraphs *c* and *d* of the second paragraph, the share, for a fiscal period of a partnership, of a qualified corporation that is a member of the partnership of the income or loss of the partnership deriving from the partnership's eligible activities for the fiscal period in respect of a private woodlot, is equal to the agreed proportion of the income or loss in respect of the qualified corporation for the fiscal period.

History: 2006, c. 36, s. 58; 2009, c. 15, s. 127; 2010, c. 3, s. 292.

CHAPTER III AMOUNT TO BE INCLUDED

Amount to be included.

726.35. An individual or a qualified corporation that deducted an amount in computing taxable income for a particular taxation year under section 726.33 or 726.34, as the case may be, as a certified forest producer under the Sustainable Forest Development Act (chapter A-18.1) in respect of a private woodlot, or as a member of a partnership that is such a certified forest producer in respect of a private woodlot, shall include all or part of the amount so deducted in computing taxable income for one or more of the four taxation years that follow the particular year.

Amount to be included.

The individual or corporation referred to in the first paragraph shall include, in computing taxable income for the fourth taxation year that follows the particular year, an amount equal to the amount by which the amount that the individual or corporation deducted under section 726.33 or

726.34, as the case may be, in computing taxable income for the particular year exceeds the aggregate of all amounts each of which is an amount that the individual or corporation included, under the first paragraph, in computing taxable income for a taxation year that follows the particular year in respect of the amount so deducted.

Disposition of a private woodlot.

For the purposes of the second paragraph, any of the following taxation years is deemed to be the fourth taxation year that follows the particular year:

(a) the taxation year in which the individual or corporation disposes of the private woodlot;

(b) the taxation year in which ends the partnership's fiscal period in which the partnership disposes of the private woodlot; or

(c) the taxation year in which the individual or corporation ceases to be a member of the partnership.

History: 2006, c. 36, s. 58; 2010, c. 3, s. 293.

Interposed partnership.

726.36. In this Title, the following rules apply in respect of a taxpayer if one or more partnerships (each of which is in this section referred to as an "interposed partnership") are interposed between the taxpayer and a given partnership that is a forest producer certified under the Sustainable Forest Development Act (chapter A-18.1) in respect of a private woodlot at the end of a given fiscal period of the given partnership:

(a) the taxpayer is deemed to be a member of a particular partnership at the end of a particular fiscal period of the particular partnership and that particular fiscal period is deemed to end in the taxpayer's particular taxation year in which ends the fiscal period of the interposed partnership of which the taxpayer is directly a member (in this section referred to as the "last interposed partnership"), if

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

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

(b) the taxpayer is deemed to be a member of the given partnership at the end of the particular taxation year if

i. the taxpayer is a member of the last interposed partnership throughout the part of the particular taxation year that begins

immediately after the end of that interposed partnership's interposed fiscal period, and

ii. in the period described in subparagraph i, the link between the taxpayer and the given partnership did not cease to exist as a result of the interposed partnership ceasing, in the part of the interposed fiscal period of an interposed partnership that begins immediately after the end of the particular fiscal period of the particular partnership referred to in paragraph *a* of which the interposed partnership was a member at that time, to be a member of that particular partnership;

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

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

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

(d) the taxpayer is deemed to cease to be a member of the given partnership in a taxation year subsequent to the particular year, if any of the following events occurs and, as a result, the link between the taxpayer and that given partnership ceases to exist:

i. at a particular time in that subsequent taxation year, the taxpayer ceases to be a member of the last interposed partnership,

ii. the last interposed partnership ceases, at a particular time in its subsequent fiscal period that ends in that subsequent taxation year, to be a member of the particular partnership whose particular fiscal period ends in that subsequent fiscal period, or

iii. an interposed partnership ceases, at a particular time in its subsequent fiscal period that would be deemed to end in the subsequent taxation year if paragraph *a* were applied to that interposed partnership for that fiscal period, without reference to the event described in this subparagraph, to be a member of the particular partnership whose particular fiscal period ends in the subsequent fiscal period.

History: 2009, c. 15, s. 128; 2010, c. 3, s. 294.

Section 726.36 not applicable.

726.37. Section 726.36 does not apply in respect of a taxpayer, in relation to a given partnership, if the Minister is of the opinion that the interposition, between the taxpayer and the given partnership, of one or more other partnerships is part of an operation or transaction or of a series of operations or transactions, one of the purposes of which is to cause the taxpayer to be able to deduct, in computing the taxpayer's taxable income for a taxation year under this Title, an amount greater than the amount that the taxpayer could have so deducted for that taxation year, but for that interposition.

History: 2009, c. 15, s. 128.

TITLE VI.11 DEDUCTION FOR FOREST PRODUCERS FOR A YEAR SUBSEQUENT TO 2015

CHAPTER I INTERPRETATION AND GENERAL RULES

Definitions:

726.38. In this Title,

“eligible individual”;

“eligible individual” for a taxation year means an individual who is resident in Québec at the end of the year;

“eligible taxpayer”;

“eligible taxpayer” for a taxation year means an eligible individual for the year or a qualified corporation for the year;

“qualified corporation”;

“qualified corporation” for a taxation year means a Canadian-controlled private corporation whose paid-up capital attributed to the corporation for the year, determined in accordance with section 726.39, is not greater than \$15,000,000;

“recognized commercial activity”.

“recognized commercial activity” in respect of a private forest means the sale of timber to a purchaser having an establishment in Québec, other than a retail sale, derived from the operation of the private forest.

History: 2017, c. 29, s. 112.

Paid-up capital attributed to a corporation.

726.39. The paid-up capital attributed to a corporation for a taxation year that ends in a calendar year is equal to

(a) where the corporation is not associated with any other corporation in the taxation year, its paid-up capital determined as provided in section 771.2.1.9 either for its preceding taxation year or, if the corporation is in its first fiscal period, on the basis of its financial statements prepared at the beginning of that fiscal period in accordance with generally accepted accounting principles or, if such financial statements have not been prepared, or have not been prepared

in accordance with generally accepted accounting principles, on the basis of such financial statements that would be prepared in accordance with generally accepted accounting principles; and

(b) where the corporation is associated with one or more other corporations in the taxation year, the aggregate of all amounts each of which is, for the corporation or any of the other corporations, the amount of its paid-up capital determined as provided in section 771.2.1.9 either for its last taxation year that ended in the preceding calendar year or, if such a corporation is in its first fiscal period, on the basis of its financial statements prepared at the beginning of that fiscal period in accordance with generally accepted accounting principles or, if such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, on the basis of such financial statements that would be prepared in accordance with generally accepted accounting principles.

History: 2017, c. 29, s. 112.

Interposed partnership.

726.40. In this Title, the following rules apply in respect of a taxpayer if one or more partnerships (each of which is in this section referred to as an “interposed partnership”) are interposed between the taxpayer and a given partnership that is a certified forest producer under the Sustainable Forest Development Act (chapter A-18.1) in respect of a private forest at the end of a given fiscal period of the given partnership:

(a) the taxpayer is deemed to be a member of a particular partnership at the end of a particular fiscal period of the particular partnership and that particular fiscal period is deemed to end in the taxpayer’s particular taxation year in which ends the fiscal period of the interposed partnership of which the taxpayer is directly a member (in this section referred to as the “last interposed partnership”), if

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

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

(b) the taxpayer is deemed to be a member of the given partnership at the end of the particular taxation year if

i. the taxpayer is a member of the last interposed partnership throughout the part of the particular taxation year that begins immediately after the end of that interposed partnership’s interposed fiscal period, and

ii. in the period described in subparagraph i, the link between the taxpayer and the given partnership did not cease to exist as a result of the interposed partnership ceasing, in the part of the interposed fiscal period of an interposed partnership that begins immediately after the end of the particular fiscal period of the particular partnership referred to in paragraph a of which the interposed partnership was a member at that time, to be a member of that particular partnership;

(c) for the purpose of determining the taxpayer’s share in an amount in respect of the given partnership for the given fiscal period, the agreed proportion in respect of the taxpayer for that fiscal period of the given partnership is deemed to be equal to the product obtained by multiplying the agreed proportion in respect of the taxpayer for the interposed fiscal period of the last interposed partnership of which the taxpayer is directly a member, by

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

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

(d) the taxpayer is deemed to cease to be a member of the given partnership in a taxation year subsequent to the particular year, if any of the following events occurs and, as a result, the link between the taxpayer and that given partnership ceases to exist:

i. at a particular time in that subsequent taxation year, the taxpayer ceases to be a member of the last interposed partnership,

ii. the last interposed partnership ceases, at a particular time in its subsequent fiscal period that ends in that subsequent taxation year, to be a member of the particular partnership whose particular fiscal period ends in that subsequent fiscal period, or

iii. an interposed partnership ceases, at a particular time in its subsequent fiscal period that would be deemed to end in the subsequent taxation year if paragraph a were applied to that interposed partnership for that fiscal period, without reference to the event described in this subparagraph, to be a member of the particular partnership whose particular fiscal period ends in the subsequent fiscal period.

History: 2017, c. 29, s. 112.

Non-application of section 726.40.

726.41. Section 726.40 does not apply in respect of a taxpayer, in relation to a given partnership, if the Minister is of the opinion that the interposition, between the taxpayer and the given partnership, of one or more other partnerships is part of an operation or transaction or of a series of operations or transactions, one of the purposes of which is to cause the taxpayer to be able to deduct, in computing taxable income for a taxation year under this Title, an amount greater than the amount that the taxpayer could have so deducted for that taxation year, but for that interposition.

History: 2017, c. 29, s. 112.

CHAPTER II DEDUCTION

Deduction for an eligible taxpayer.

726.42. An eligible taxpayer for a taxation year ending before 1 January 2021 who, at the end of the year, is a certified forest producer under the Sustainable Forest Development Act (chapter A-18.1) in respect of a private forest, or is a member of a partnership that is such a certified forest producer in respect of a private forest at the end of a fiscal period of the partnership that ends in the year, may deduct in computing taxable income for the year, if the taxpayer encloses the documents described in the third paragraph with the fiscal return the taxpayer is required to file for the year under section 1000, an amount not exceeding the lesser of \$170,000 and 85% of the amount determined by the formula

$$(A - B) + (C - D).$$

Interpretation.

In the formula in the first paragraph,

(a) A is the aggregate of all amounts each of which is the eligible taxpayer's income deriving from recognized commercial activities for the year in respect of a private forest;

(b) B is the aggregate of all amounts each of which is the eligible taxpayer's loss deriving from recognized commercial activities for the year in respect of a private forest;

(c) C is the aggregate of all amounts each of which is the eligible taxpayer's share of the partnership's income deriving from recognized commercial activities for its fiscal period that ends in the year in respect of a private forest; and

(d) D is the aggregate of all amounts each of which is the eligible taxpayer's share of the partnership's loss deriving from recognized commercial activities for its fiscal period that ends in the year in respect of a private forest.

Documents to be filed.

The documents to which the first paragraph refers are

(a) the prescribed form containing prescribed information; and

(b) a copy of the valid qualification certificate issued to the eligible taxpayer or to the partnership, as the case may be, attesting to the eligible taxpayer's or the partnership's capacity as a certified forest producer in respect of the private forest.

Taxpayer's share.

For the purposes of subparagraphs *c* and *d* of the second paragraph, the share, for a fiscal period of a partnership, of a taxpayer who is a member of the partnership of the income or loss of the partnership deriving from recognized commercial activities for the fiscal period in respect of a private forest is equal to the agreed proportion of the income or loss in respect of the taxpayer for the fiscal period.

History: 2017, c. 29, s. 112; 2019, c. 14, s. 191.

CHAPTER III AMOUNT TO BE INCLUDED

Income inclusion.

726.43. A taxpayer who deducted a particular amount in computing taxable income for a particular taxation year under section 726.42, as a certified forest producer under the Sustainable Forest Development Act (chapter A-18.1) in respect of a private forest, or as a member of a partnership that is such a certified forest producer in respect of a private forest, shall include in computing taxable income for each taxation year (in this paragraph referred to as an "inclusion year") that is one of the six taxation years that follow the particular year, except a taxation year for which the taxpayer is required to include an amount in computing taxable income under the second or third paragraph in respect of the particular amount, an amount at least equal to 10% of the particular amount unless, for the inclusion year, that minimum amount is greater than the excess amount that corresponds to the amount by which the particular amount exceeds the aggregate of all amounts each of which is an amount that the taxpayer included in computing taxable income in respect of the particular amount under this section for a taxation year preceding the inclusion year or under the second or third paragraph for the inclusion year, in which case the taxpayer shall include the excess amount in computing taxable income for the inclusion year.

Income inclusion.

Where the particular amount that the taxpayer referred to in the first paragraph deducted for the particular year is in respect of a single private forest, the taxpayer shall include in computing taxable income for a taxation year referred to in the fourth paragraph an amount equal to the amount by

which the particular amount exceeds the aggregate of all amounts each of which is an amount that the taxpayer included, in computing taxable income, in respect of the particular amount, under the first paragraph, for a taxation year preceding the year referred to in the fourth paragraph.

Income inclusion.

Where the particular amount that the taxpayer referred to in the first paragraph deducted for the particular year is in respect of more than one private forest, the taxpayer shall include in computing taxable income for a taxation year referred to in the fourth paragraph (in this paragraph referred to as the “year concerned”) an amount equal to the greater of the amount that the taxpayer should include in respect of the particular amount, under the first paragraph, for the year concerned but for this paragraph, and the lesser of the proportion, described in the fifth paragraph, of the particular amount and the amount by which the particular amount exceeds the aggregate of all amounts each of which is an amount that the taxpayer included in respect of the particular amount in computing taxable income, under this section, for a taxation year preceding the year concerned.

References to taxation year.

A taxation year referred to in the second or third paragraph is one of the six taxation years that follow the particular year and is

- (a) the taxation year in which the taxpayer disposes of a private forest referred to in that paragraph;
- (b) the taxation year in which ends a partnership’s fiscal period in which the partnership disposes of a private forest referred to in that paragraph; or
- (c) the taxation year in which the taxpayer ceases to be a member of a partnership referred to in the first paragraph.

Proportion.

The proportion to which the third paragraph refers is the proportion that the aggregate of all amounts each of which is an amount referred to in subparagraph *a* or *c* of the second paragraph of section 726.42 for the particular year in relation to a private forest in respect of which any of subparagraphs *a* to *c* of the fourth paragraph applies is of the aggregate of all amounts each of which is an amount referred to in subparagraph *a* or *c* of the second paragraph of section 726.42 for the particular year in relation to a private forest.

Seventh taxation year.

The taxpayer to which the first paragraph refers shall include in computing taxable income for the seventh taxation year that follows the particular year an amount equal to the amount by which the particular amount exceeds the aggregate of all amounts each of which is an amount that the taxpayer included, under any of the first, second and third

paragraphs, in computing taxable income, in respect of the particular amount, for a preceding taxation year.

History: 2017, c. 29, s. 112.

Tax liability of a person resident in Canada outside Québec.

726.44. Where an individual deducted a particular amount in computing taxable income for a taxation year under section 726.42, is resident in Canada outside Québec on the last day of a subsequent taxation year and should include an amount under section 726.43 in computing taxable income for the subsequent year, in respect of the particular amount, if the individual was resident in Québec on the last day of the subsequent year, the individual is deemed, for the purposes of sections 25 and 1088, to be carrying on a business through an establishment in Québec at any time in that subsequent year.

History: 2017, c. 29, s. 112.

TITLE VII LOSSES

Non-capital losses.

727. A taxpayer may deduct, in a particular taxation year, the non-capital losses sustained by the taxpayer

- (a) in the seven taxation years that precede and in the three taxation years that follow the particular year if the losses are sustained in a taxation year that ends after 31 December 1983, but before 23 March 2004;
- (b) in the 10 taxation years that precede and in the three taxation years that follow the particular year if the losses are sustained in a taxation year that ends after 22 March 2004, but before 1 January 2006;
- (c) in the 20 taxation years that precede and in the three taxation years that follow the particular year if the losses are sustained in a taxation year that ends after 31 December 2005; and
- (d) despite paragraph *c*, in the three taxation years that precede and in the three taxation years that follow the particular year, if the taxpayer is an employee life and health trust.

History: 1972, c. 23, s. 545; 1978, c. 26, s. 127; 1985, c. 25, s. 118; 2005, c. 38, s. 91; 2006, c. 36, s. 59; 2011, c. 6, s. 151.

Interpretation Bulletins: IMP. 1010-4.

Corresponding Federal Provision: 111(1)(a), (7.3) and (7.4).

Non-capital losses of employee life and health trusts.

727.1. Despite section 727, no amount in respect of a loss other than a trust’s non-capital loss for a taxation year in which the trust was an employee life and health trust may be deducted in computing the trust’s taxable income for another

taxation year (in this section referred to as the “specified year”) if

(a) the trust was not an employee life and health trust for the specified year; or

(b) the trust is an employee life and health trust that, because of the application of section 869.3, may not deduct an amount under paragraph *a* of section 657 for the specified year.

History: 2011, c. 6, s. 152.

Corresponding Federal Provision: 111(7.5).

“non-capital loss”.

728. For the purposes of section 727, the “non-capital loss” of a taxpayer for a taxation year means, at a particular time, the amount by which the amount determined under section 728.0.1 in respect of the taxpayer for the year exceeds the aggregate of

(a) the taxpayer’s farm loss for the year; and

(b) any amount by which the non-capital loss of the taxpayer for the year is required to be reduced because of sections 485 to 485.18.

History: 1972, c. 23, s. 546; 1978, c. 26, s. 127; 1979, c. 18, s. 58; 1985, c. 25, s. 118; 1986, c. 19, s. 150; 1993, c. 19, s. 44; 1996, c. 39, s. 194; 2001, c. 53, s. 98; 2006, c. 36, s. 60.

Corresponding Federal Provision: 111(8) “non-capital loss”.

Computation.

728.0.1. The amount to which section 728 refers is the amount by which

(a) the aggregate of

i. the taxpayer’s losses for the year from an office, employment, business or property,

i.1. the amount deductible in computing the taxpayer’s income for the year as a consequence of the application of paragraph *d* of section 657.1,

ii. the aggregate of the amounts deducted by the taxpayer in computing the taxpayer’s taxable income for the year under sections 726.4.1, 726.4.3 to 726.4.7 and 729, and Titles VI.5 and VI.5.1, or that the taxpayer could have so deducted for the year under section 726.4.3 if the taxpayer’s income had been sufficient for that purpose, and of the amounts deductible in computing the taxpayer’s taxable income for the year under any of sections 725, 725.0.3, 725.1.1, 725.1.2, 725.2 to 725.5, 738 to 746 and 845, and

iii. if the particular time referred to in section 728 precedes the taxpayer’s eleventh taxation year that follows the year,

the taxpayer’s allowable business investment losses for the year, exceeds

(b) the amount by which, for the year, in respect of the taxpayer, the total of the aggregate of the amounts determined under paragraphs *a* and *b* of section 28 and the portion of the amount determined under section 737.0.1 that does not exceed the amount determined under paragraph *b*, *c*, *c.1*, *c.2* or *d*, as the case may be, of the definition of “additional investment expense” in section 336.5, exceeds the aggregate of

i. the amount determined under subparagraph *i* of paragraph *c* of section 28, and

ii. the amount by which the aggregate of the amounts deducted by the taxpayer in computing the taxpayer’s taxable income under sections 725.7.1 and 725.7.2, or that the taxpayer could have so deducted if the taxpayer’s income had been sufficient for that purpose, exceeds the aggregate of the amounts the taxpayer is required to include in computing the taxpayer’s taxable income under sections 694.0.0.1 and 694.0.0.3.

History: 1986, c. 19, s. 151; 1987, c. 67, s. 143; 1989, c. 5, s. 89; 1990, c. 59, s. 272; 1993, c. 19, s. 45; 1994, c. 22, s. 254; 1997, c. 85, s. 113; 2001, c. 53, s. 99; 2004, c. 21, s. 129; 2005, c. 38, s. 92; 2006, c. 36, s. 61; 2009, c. 15, s. 129; 2011, c. 6, s. 153; 2019, c. 14, s. 192.

Corresponding Federal Provision: 111(8) “non-capital loss” A, E and F.

Transitional rule.

728.0.2. Notwithstanding section 728, the non-capital loss of a corporation for a particular taxation year ending after 30 June 1988, determined for the purposes of computing its taxable income for a taxation year ending before 1 July 1988, is deemed to be equal to the amount by which the amount that would, but for this section, be its non-capital loss for the particular taxation year, exceeds 1/5 of the lesser of

(a) the amount deductible under section 725.1.1 in computing the corporation’s taxable income for the particular taxation year, and

(b) the amount that would, but for this section, be its non-capital loss for the particular year.

History: 1990, c. 59, s. 273; 1997, c. 3, s. 71.

Corresponding Federal Provision: L.C. 1988, c. 55, s. 83(13)(a).

Transitional rule.

728.0.3. Notwithstanding section 728, the non-capital loss of a corporation for a particular taxation year ending before 1 July 1988, determined for the purposes of computing its taxable income for a taxation year ending after 30 June 1988, is deemed to be equal to the aggregate of

(a) the amount that would, but for this section, be its non-capital loss for the particular taxation year, and

(b) 1/4 of the lesser of

i. the amount deductible under section 725.1.1 in computing the corporation's taxable income for the particular taxation year, and

ii. the amount that would, but for this section, be its non-capital loss for the particular taxation year.

History: 1990, c. 59, s. 273; 1997, c. 3, s. 71.

Corresponding Federal Provision: L.C. 1988, c. 55, s. 83(13)(b).

Presumption applicable for the purposes of ss. 734 and 735.

728.0.4. For the purposes of sections 734 and 735, any amount deducted in computing a corporation's taxable income for a taxation year ending before 1 July 1988 in respect of a non-capital loss for another taxation year ending after 30 June 1988, is deemed to be equal to the aggregate of the amount so deducted and 1/4 of the amount by which the amount so deducted exceeds the amount by which

(a) the amount deductible for the year in respect of the non-capital loss, exceeds

(b) 4/5 of the amount deductible under section 725.1.1 in computing its taxable income for the other taxation year.

History: 1990, c. 59, s. 273; 1997, c. 3, s. 71.

Corresponding Federal Provision: L.C. 1988, c. 55, s. 83(13)(c).

Farm losses.

728.1. A taxpayer may deduct, in a particular taxation year, the farm losses sustained by the taxpayer

(a) in the 10 taxation years that precede and in the three taxation years that follow the particular year if the losses are sustained in a taxation year that ends after 31 December 1983, but before 1 January 2006; and

(b) in the 20 taxation years that precede and in the three taxation years that follow the particular year if the losses are sustained in a taxation year that ends after 31 December 2005.

History: 1985, c. 25, s. 118; 2006, c. 36, s. 62.

Corresponding Federal Provision: 111(1)(d).

Interpretation.

728.2. In section 728.1, the farm loss of a taxpayer for a taxation year means the amount by which the lesser of the following amounts exceeds any amount by which the farm loss of the taxpayer for the year is required to be reduced because of sections 485 to 485.18:

(a) the amount by which all his losses for the year from a farming or fishing business exceed the aggregate of his income for the year from such a business; and

(b) the amount that would be the taxpayer's non-capital loss if section 728 were read without paragraph *a* thereof.

History: 1985, c. 25, s. 118; 1996, c. 39, s. 195; 2001, c. 53, s. 100.

Corresponding Federal Provision: 111(8) « *perte agricole* ».

Net capital losses.

729. A taxpayer may deduct his net capital losses for the taxation years preceding and the three taxation years following the year.

History: 1972, c. 23, s. 547; 1982, c. 5, s. 143; 1985, c. 25, s. 118; 1987, c. 67, s. 144; 1990, c. 59, s. 274.

Interpretation Bulletins: IMP. 1010-4.

Corresponding Federal Provision: 111(1)(b).

Net capital losses.

729.1. Notwithstanding section 729, the amount that may be deducted by reason of that section in computing the taxable income of a taxpayer for a particular taxation year is the aggregate of

(a) the lesser of

i. the excess contemplated in paragraph *b* of section 28 for the particular taxation year in respect of the taxpayer, and

ii. the aggregate of all amounts each of which is an amount determined by the formula

$$A \times B / C;$$

(b) where the taxpayer is an individual, the least of

i. \$1,000,

ii. his pre-1986 capital loss balance for the particular taxation year, and

iii. the amount by which the amount claimed as a deduction in respect of the taxpayer's net capital losses under section 729 for the particular taxation year exceeds the aggregate of such amounts determined in respect of his net capital losses by the formula set forth in subparagraph ii of subparagraph *a*, that would be required to be claimed as a deduction under section 729 for the particular taxation year to produce the amount determined under subparagraph *a* for the particular taxation year; and

(c) the amount that the Minister determines to be reasonable in the circumstances for the particular taxation year, after considering the application to the taxpayer of sections 668.7, 851.16.2, 1106 and 1113 as they read in their application to

the taxpayer's last taxation year that began before 1 November 2011.

Interpretation.

In the formula in subparagraph ii of subparagraph *a* of the first paragraph,

(a) *A* is the amount claimed as a deduction for the particular taxation year by the taxpayer under section 729 in respect of net capital loss for a taxation year, in this paragraph referred to as the "loss year";

(b) *B* is the fraction that would have been used in respect of the taxpayer for the particular taxation year under section 231 if he had had a capital loss for that year;

(c) *C* is the fraction required to be used under section 231 in respect of the taxpayer for the loss year.

History: 1990, c. 59, s. 275; 1993, c. 16, s. 272; 2009, c. 5, s. 247; 2017, c. 29, s. 113.

Corresponding Federal Provision: 111(1.1).

Net capital loss.

730. In this Title, the net capital loss of a taxpayer for a taxation year means the amount by which the aggregate of the following amounts exceeds the aggregate of all amounts by which the net capital loss of the taxpayer for the year is required to be reduced because of sections 485 to 485.18:

(a) the amount by which the amount obtained under subparagraph ii of paragraph *b* of section 28, for the year, exceeds the amount obtained under subparagraph i of paragraph *b* of section 28; and

(b) the least of

i. the amount of the allowable business investment losses of the taxpayer for the taxpayer's tenth preceding taxation year,

ii. the amount by which the non-capital loss of the taxpayer for the taxpayer's tenth preceding taxation year exceeds the aggregate of all amounts relating to that non-capital loss deducted by the taxpayer in computing the taxpayer's taxable income for the taxation year or for any preceding taxation year or in respect of which the taxpayer has made an election under section 1029.1, as it read for the taxation year in which the non-capital loss was sustained, and

iii. where the taxpayer was subject to a loss restriction event before the end of the year and after the end of the taxpayer's tenth preceding taxation year, zero.

History: 1972, c. 23, s. 548; 1986, c. 19, s. 152; 1987, c. 67, s. 145; 1989, c. 77, s. 79; 1996, c. 39, s. 196; 1997, c. 3, s. 71; 2000, c. 39, s. 42; 2005, c. 38, s. 93; 2017, c. 1, s. 175.

Corresponding Federal Provision: 111(8) "net capital loss".

"pre-1986 capital loss balance".

730.1. In this Title, "pre-1986 capital loss balance" of an individual for a particular taxation year means the amount by which the amount determined under section 730.2 in respect of the individual for the particular year exceeds the aggregate of

(a) the aggregate of all amounts each of which is an amount deducted under Titles VI.5 and VI.5.1 in computing the individual's taxable income for taxation years that precede the particular year and that ended before 1 January 1988 or began after 17 October 2000;

(b) 3/4 of the aggregate of all amounts each of which is an amount deducted under Titles VI.5 and VI.5.1 in computing the individual's taxable income for taxation years that precede the particular year and that ended after 31 December 1987 but before 1 January 1990, or that began after 28 February 2000 and ended before 17 October 2000;

(c) 2/3 of the aggregate of all amounts each of which is an amount deducted under Titles VI.5 and VI.5.1 in computing the individual's taxable income for taxation years that precede the particular year and that ended after 31 December 1989 but before 28 February 2000; and

(d) any amount that is the quotient obtained by dividing the amount deducted under Titles VI.5 and VI.5.1 in computing the individual's taxable income for a taxation year that precedes the particular year and includes 28 February 2000 or 17 October 2000 by twice the fraction in paragraphs *a* to *d* of section 231.0.1 that applies to the individual for that taxation year that precedes the particular year.

History: 1987, c. 67, s. 146; 1990, c. 59, s. 276; 1993, c. 19, s. 46; 2003, c. 2, s. 207.

Corresponding Federal Provision: 111(8) "pre-1986 capital loss balance" C, D and E.

Amount determined.

730.2. The amount to which section 730.1 refers is equal to the aggregate of

(a) the amount by which the individual's net capital losses for taxation years ending before 1 January 1985 exceeds the aggregate of amounts claimed by him under this Title, in respect of those losses, in computing his taxable income for taxation years preceding the particular taxation year; and

(b) the amount by which the aggregate of amounts claimed by him under this Title in respect of his net capital loss for the taxation year 1985 in computing his taxable income for a taxation year preceding the particular taxation year is exceeded by the lesser of

i. the amount of his net capital loss for the taxation year 1985, and

ii. the excess amount that would represent, in respect of the individual for the taxation year 1985, the amount by which the amount determined under subparagraph ii of paragraph *b* of the first paragraph of section 28 exceeds the amount determined under subparagraph i of paragraph *b* of the first paragraph of section 28 if the individual's taxable capital gains and his allowable capital losses did not include such gains or losses from the disposition of property by him in the year and after 22 May 1985 and if the rules set forth in the second paragraph of section 28 applied for the purposes of computing that last excess amount, the amount deductible by virtue of subparagraph iii of paragraph *c* of the first paragraph of section 28 in computing his taxable income for the taxation year 1985.

History: 1987, c. 67, s. 146; 1993, c. 16, s. 273.

Corresponding Federal Provision: 111(8) “pre-1986 capital loss balance” A and B.

Restricted farm losses.

731. A taxpayer may deduct, in a particular taxation year, up to the taxpayer's income for the particular year from all farming businesses carried on by the taxpayer, the restricted farm losses sustained by the taxpayer

(a) in the 10 taxation years that precede and in the three taxation years that follow the particular year if those losses are sustained in a taxation year that ends after 31 December 1983, but before 1 January 2006; and

(b) in the 20 taxation years that precede and in the three taxation years that follow the particular year if those losses are sustained in a taxation year that ends after 31 December 2005.

History: 1972, c. 23, s. 549; 1985, c. 25, s. 119; 2006, c. 36, s. 63.

Interpretation Bulletins: IMP. 1010-4.

Corresponding Federal Provision: 111(1)(c).

Restriction as to farm losses.

732. For the purposes of section 731, a loss by a taxpayer resulting from a farming business during a taxation year is deemed, to the extent that such loss is included in the amount of a deduction permitted by sections 634 and 635 in computing his income for a subsequent year, not to be a loss for the purpose of computing his taxable income for that subsequent year or any year subsequent to it.

History: 1972, c. 23, s. 550.

Corresponding Federal Provision: 111(7).

Restriction as to farm losses.

733. A loss by a taxpayer resulting from a farming business during a taxation year is not deductible for the purposes of section 731, when the taxpayer has disposed of the land used in such farming business, to the extent that such loss must be, under paragraph *l* of section 255, added in

computing the adjusted cost base of the taxpayer's land, immediately before the disposition.

History: 1972, c. 23, s. 551; 2000, c. 39, s. 43; 2003, c. 2, s. 208.

Corresponding Federal Provision: 111(6).

Limited partnership losses.

733.0.0.1. A taxpayer may deduct his limited partnership losses in respect of a partnership for taxation years preceding the year, but no amount is deductible for the year in respect of a limited partnership loss except to the extent of the amount by which his at-risk amount in respect of the partnership, within the meaning assigned by sections 613.2 to 613.4, at the end of the last fiscal period of the partnership ending in the year exceeds the aggregate of all amounts each of which is

(a) that part of the amount determined in respect of the partnership which is required by subsection 8 of section 127 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) to be added in computing the investment tax credit of the taxpayer for the taxation year within the meaning assigned to that expression by the said Act for the purposes of the said subsection;

(b) the taxpayer's share of any losses of the partnership for that fiscal period from a business or property; or

(c) the taxpayer's share of the foreign resource pool expenses, the Canadian exploration expense, the Canadian development expense, and the Canadian oil and gas property expense, incurred by the partnership in that fiscal period.

History: 1988, c. 4, s. 54; 1997, c. 3, s. 71; 2004, c. 8, s. 141.

Interpretation Bulletins: IMP. 1010-4.

Corresponding Federal Provision: 111(1)(e).

Individual operating or working at an international financial centre.

733.0.1. For the purpose of determining the amount of the non-capital loss, farm loss, net capital loss, restricted farm loss and limited partnership loss of a taxpayer for a taxation year, the rules in sections 56 and 70 of the Act respecting international financial centres (chapter C-8.3), also apply.

History: 1986, c. 15, s. 111; 1988, c. 4, s. 55; 1997, c. 3, s. 71; 1999, c. 86, s. 76 [amended by 2004, c. 21, s. 549].

733.0.2. (*Repealed*).

History: 1999, c. 83, s. 79; 2012, c. 8, s. 71.

Foreign specialist.

733.0.3. For the purpose of determining the amount of the non-capital loss, farm loss, net capital loss, restricted farm loss or limited partnership loss for a taxation year of an individual who, for that year, benefited from the deduction provided for in section 737.18.10, income realized by the individual during the individual's exemption period, within the meaning of section 737.18.6, in relation to an

employment, or a loss sustained by the individual during such a period is deemed to be nil.

History: 2000, c. 39, s. 44; 2004, c. 21, s. 130.

Corporation carrying on a recognized business.

733.0.4. For the purpose of determining the amount of the non-capital loss, farm loss, net capital loss or limited partnership loss for a taxation year of a corporation that, in that year, carries on a recognized business, within the meaning of the first paragraph of section 1029.8.36.0.38, or is a member of a partnership that, in a fiscal period of the partnership ending in that year, carries on such a business, the amount determined under subparagraph *a* of the first paragraph of section 737.18.11 in respect of the corporation for the year and the amount determined in respect of the corporation for the year under subparagraph *b* of that paragraph are deemed to be nil.

History: 2000, c. 39, s. 44.

Loss of a corporation carrying out a major investment project.

733.0.5. For the purpose of determining the amount of the non-capital loss, farm loss, net capital loss or limited partnership loss for a taxation year of a corporation that carries on a recognized business in the year or is a member of a partnership that carries on such a recognized business in a fiscal period of the partnership ending in the year, in relation to a major investment project of the corporation or partnership, in respect of which the Minister of Finance issued an annual qualification certificate for the taxation year of the corporation or fiscal period of the partnership, the following rules apply:

(a) where the amount determined under subparagraph *a* of the second paragraph of section 737.18.17 in respect of the corporation for the year exceeds the amount determined under subparagraph *b* of that paragraph in its respect for the year,

i. the amount that is the income or portion of the income of the corporation for the year, determined under subparagraph *a* of the second paragraph of section 737.18.17, is deemed to be nil, and

ii. the amount that is the loss or portion of the loss of the corporation for the year, determined under subparagraph *b* of the second paragraph of section 737.18.17, is deemed to be nil; and

(b) where the amount determined under subparagraph *d* of the second paragraph of section 737.18.17 in respect of the partnership for the fiscal period exceeds the amount determined under subparagraph *e* of that paragraph in respect of the partnership for the fiscal period,

i. the corporation's share of the amount that is the income or portion of the income, determined under subparagraph *d* of

the second paragraph of section 737.18.17 in respect of the partnership for the fiscal period, is deemed to be nil, and

ii. the corporation's share of the amount that is the loss or portion of the loss, determined under subparagraph *e* of the second paragraph of section 737.18.17 in respect of the partnership for the fiscal period, is deemed to be nil.

Corporation's share.

For the purposes of the first paragraph, a corporation's share of an amount is equal to the proportion of that amount that the corporation's share of the partnership's income for the fiscal period is of the partnership's income for that fiscal period.

Interpretation.

In this section, the following rules apply:

(a) "annual qualification certificate", "major investment project" and "recognized business" have the meaning assigned by the first paragraph of section 737.18.14, as it read before being repealed; and

(b) a reference to section 737.18.17 is a reference to that section as it read before being repealed.

History: 2002, c. 9, s. 12; 2004, c. 21, s. 131; 2019, c. 14, s. 193.

Loss of a corporation carrying on a large investment project.

733.0.5.1. For the purpose of determining the amount of the non-capital loss, farm loss, net capital loss or limited partnership loss for a taxation year of a corporation that carries on a recognized business in the year or is a member of a partnership that carries on such a recognized business in a fiscal period of the partnership ending in the year, in relation to a large investment project of the corporation or partnership, as the case may be, in respect of which a certificate was issued for the corporation's taxation year or the partnership's fiscal period, the following rules apply:

(a) where, in respect of the corporation for the year, the amount determined under subparagraph *a* of the second paragraph of section 737.18.17.5 exceeds the amount determined under subparagraph *b* of that paragraph,

i. the amount that is the income or portion of the income, as the case may be, of the corporation for the year, determined under that subparagraph *a*, is, in the proportion determined in the second paragraph, deemed to be nil, and

ii. the amount that is the loss or portion of the loss, as the case may be, of the corporation for the year, determined under that subparagraph *b*, is, in the proportion determined in the second paragraph, deemed to be nil; and

(b) where, in respect of the partnership for the fiscal period, the amount determined under subparagraph *d* of the second

paragraph of section 737.18.17.5 exceeds the amount determined under subparagraph *e* of that paragraph,

i. the corporation's share of the amount that is the income or portion of the income, as the case may be, determined under that subparagraph *d* in respect of the partnership for the fiscal period, is, in the proportion determined in the second paragraph, deemed to be nil, and

ii. the corporation's share of the amount that is the loss or portion of the loss, as the case may be, determined under that subparagraph *e* in respect of the partnership for the fiscal period, is, in the proportion determined in the second paragraph, deemed to be nil.

Proportion.

The proportion to which the first paragraph refers is the proportion that the amount that would be determined in respect of the corporation for the year under section 737.18.17.5 if, for the purposes of section 737.18.17.6, its taxable income for the year otherwise determined were equal to the particular amount that is the total of the amounts determined in accordance with subparagraphs *a* and *b* of the first paragraph of section 737.18.17.5, is of that particular amount.

Corporation's share.

For the purposes of the first paragraph, a corporation's share of an amount is equal to the agreed proportion of that amount in respect of the corporation for the partnership's fiscal period.

Meaning of certain expressions

In this section, "certificate", "large investment project" and "recognized business" have the meaning assigned by the first paragraph of section 737.18.17.1.

History: 2015, c. 21, s. 258.

Manufacturing or processing business carried on in a resource region.

733.0.6. For the purpose of determining the amount of the non-capital loss, farm loss, net capital loss or limited partnership loss for a taxation year of a corporation that is, for that year, a qualified corporation within the meaning of the first paragraph of section 737.18.18, the following rules apply:

(a) the product obtained by multiplying the amount that is the income or portion of the income, as the case may be, of the corporation for the year, determined under subparagraph *a* of the second paragraph of section 737.18.26, by the proportion determined in the second paragraph is deemed to be nil; and

(b) the product obtained by multiplying the amount that is the loss or the portion of the loss, as the case may be, of the

corporation for the year, determined under subparagraph *b* of the second paragraph of section 737.18.26, up to the amount that would, but for subparagraph *a*, be the income or portion of the income, as the case may be, of the corporation for the year, determined under subparagraph *a* of the second paragraph of section 737.18.26, by the proportion determined in the second paragraph is deemed to be nil.

Formula.

The proportion to which the first paragraph refers is determined by the formula

$$75\% \times \{1 - [(A - \$20,000,000)/\$10,000,000]\} \times (1 - B) \times C/D.$$

Interpretation.

In the formula in the second paragraph,

(a) *A* is the greater of \$20,000,000 and the paid-up capital attributed to the corporation for the year, determined in accordance with section 737.18.24; and

(b) *B* is the corporation's reduction factor for the year, within the meaning assigned by the first paragraph of section 737.18.18;

(c) *C* is,

i. where the amount that would be deductible in computing the corporation's taxable income for the year under section 737.18.26 if no reference were made to section 737.18.26.1 exceeds the particular amount that is deductible in computing the corporation's taxable income for the year under section 737.18.26, the particular amount, and

ii. in any other case, 1; and

(d) *D* is,

i. where the particular amount that would be deductible in computing the corporation's taxable income for the year under section 737.18.26 if no reference were made to section 737.18.26.1 exceeds the amount that is deductible in computing the corporation's taxable income for the year under section 737.18.26, the particular amount, and

ii. in any other case, 1.

History: 2002, c. 40, s. 57; 2004, c. 21, s. 132; 2009, c. 5, s. 248; 2010, c. 25, s. 67.

Loss of a corporation operating a stock exchange business or a securities clearing-house business.

733.0.7. For the purpose of determining the amount of the non-capital loss, farm loss, net capital loss or limited partnership loss for a taxation year of a corporation that, for that year, is a qualified corporation, within the meaning of the first paragraph of section 737.18.29, where the amount

determined under subparagraph *a* of the second paragraph of section 737.18.33 in respect of the corporation for the year exceeds the amount determined under subparagraph *b* of that second paragraph in respect of the corporation for that year, the following rules apply:

(a) 75% of the amount that is the income or portion of the income of the corporation for the year, determined under subparagraph *a* of the second paragraph of section 737.18.33, is deemed to be nil; and

(b) 75% of the amount that is the loss or portion of the loss of the corporation for the year, determined under subparagraph *b* of the second paragraph of section 737.18.33, is deemed to be nil.

History: 2003, c. 9, s. 53; 2004, c. 21, s. 133.

Foreign specialist.

733.0.8. For the purpose of determining the amount of the non-capital loss, farm loss, net capital loss, restricted farm loss or limited partnership loss for a taxation year of an individual who, for that year, benefited from the deduction provided for in section 737.18.34, an income realized by the individual during any of the individual's specified periods, within the meaning of section 737.18.29, in relation to an employment, or a loss sustained by the individual during such a period is deemed to be equal to the product obtained by multiplying the income or loss by the amount by which 100% exceeds the percentage determined under subparagraph *a* of the second paragraph of section 737.18.34 in respect of that period.

History: 2003, c. 9, s. 53; 2004, c. 21, s. 134; 2005, c. 38, s. 94.

Losses from taxable Canadian property.

733.1. For the purposes of this Title, a taxpayer's non-capital loss, farm loss, net capital loss, restricted farm loss and limited partnership loss for a taxation year during which the taxpayer was not resident in Canada shall be determined as if, in the part of the year throughout which the individual was not resident in Canada, in the case of an individual referred to in any of sections 23, 24 and 25 for the year, and throughout the year, in any other case, the taxpayer had no income other than income described in subparagraphs *a* to *l* of the first paragraph of section 1090, the taxpayer's only taxable capital gains and allowable capital losses were taxable capital gains and allowable capital losses from the disposition of taxable Canadian property, other than tax-agreement-protected property, and the taxpayer's only other losses were losses from the duties of an office or employment performed by the taxpayer in Canada and the taxpayer's only other losses from businesses, other than tax-agreement-protected businesses, carried on by the taxpayer in Canada that were attributable, in the manner

prescribed for the purposes of section 1090, to an establishment in Canada.

History: 1985, c. 25, s. 120; 1988, c. 4, s. 56; 1994, c. 22, s. 255; 1997, c. 3, s. 71; 2001, c. 53, s. 101; 2004, c. 8, s. 142.

Corresponding Federal Provision: 111(9).

Restriction as to the deductibility of certain losses.

734. An amount in respect of a non-capital loss, a farm loss, a restricted farm loss or a limited partnership loss is deductible, and an amount in respect of a net capital loss may be claimed, for a particular taxation year under section 727, 728.1, 729, 731, 733.0.0.1 or 737 only to the extent that it exceeds the aggregate of

(a) the amounts deducted under this Title in respect of that non-capital loss, farm loss, restricted farm loss or limited partnership loss in computing taxable income for taxation years preceding the particular taxation year, and

(b) the deduction that was claimed under section 729 in respect of that net capital loss for taxation years preceding the particular taxation year.

History: 1972, c. 23, s. 552; 1985, c. 25, s. 120; 1988, c. 4, s. 57; 1990, c. 59, s. 277; 1993, c. 16, s. 274; 1997, c. 3, s. 71.

Corresponding Federal Provision: 111(3)(a).

Restrictions as to certain losses.

735. No amount is deductible as a non-capital loss, farm loss, net capital loss, restricted farm loss or limited partnership loss under section 727, 728.1, 729, 731, 733.0.0.1 or 737 for any taxation year, as long as the corresponding deductible losses for the previous years have not been deducted.

History: 1972, c. 23, s. 553; 1985, c. 25, s. 120; 1988, c. 4, s. 57; 1997, c. 3, s. 71.

Corresponding Federal Provision: 111(3)(b).

Loss not deductible where an election is made under s. 1029.1.

735.1. Notwithstanding sections 727 and 728.1, no amount may be deducted by a corporation in computing its taxable income for a taxation year in respect of a non-capital loss or a farm loss, as the case may be, sustained in any preceding taxation year, where an election was made in respect of that loss under section 1029.1, as it read for that preceding taxation year.

History: 1981, c. 12, s. 7; 1985, c. 25, s. 120; 1997, c. 3, s. 71; 2000, c. 39, s. 45.

Loss restriction event.

736. Despite section 729 and subject to section 736.0.5, where, at any time (in this section referred to as "that time") a taxpayer is subject to a loss restriction event, the following rules apply:

(a) no amount in respect of a net capital loss for a taxation year ending before that time is deductible in computing the taxpayer's taxable income for a taxation year ending after that time; and

(b) no amount in respect of a net capital loss for a taxation year ending after that time is deductible in computing the taxpayer's taxable income for a taxation year ending before that time.

Special rules.

In addition, where, at that time, the taxpayer neither became nor ceased to be exempt from tax under this Part on the taxpayer's taxable income, the following rules apply:

(a) in computing the adjusted cost base to the taxpayer at and after that time of each capital property, other than a depreciable property, owned by the taxpayer immediately before that time, there is to be deducted an amount equal to the amount by which the adjusted cost base to the taxpayer of the capital property immediately before that time exceeds its fair market value immediately before that time;

(b) each amount required by subparagraph *a* to be deducted in computing the adjusted cost base to the taxpayer of a property is deemed to be a capital loss of the taxpayer for the taxation year ending immediately before that time from the disposition of the property;

(c) each capital property that is owned by the taxpayer immediately before that time (other than a property in respect of which an amount would, but for this subparagraph, be required under subparagraph *a* to be deducted in computing its adjusted cost base to the taxpayer or a depreciable property of a prescribed class to which, but for this subparagraph, paragraph *a* of section 736.0.2 would apply) and that the taxpayer designates after 19 December 2006 in accordance with paragraph *e* of subsection 4 of section 111 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the loss restriction event, is deemed to have been disposed of by the taxpayer immediately before the time that is immediately before that time for proceeds of disposition equal to the lesser of the fair market value of the capital property immediately before that time and the greater of the adjusted cost base to the taxpayer of the capital property immediately before the disposition and the amount designated by the taxpayer after 19 December 2006, in respect of the loss restriction event, in accordance with that paragraph *e* in respect of the capital property, and is deemed, subject to the third paragraph, to have been reacquired by the taxpayer at that time at a cost equal to those proceeds of disposition; and

(d) each amount that under subparagraph *b* or *c* is a capital loss or gain of the taxpayer from a disposition of a property for the taxation year ending immediately before that time is deemed, for the purposes of paragraph *b* of section 570, to be a capital loss or gain, as the case may be, of the taxpayer

from the disposition of the property immediately before the time that a capital property of the taxpayer in respect of which subparagraph *c* would be applicable would be deemed by that subparagraph to have been disposed of by the taxpayer.

Cases where the capital cost of depreciable property exceeds the proceeds of disposition.

Despite subparagraph *c* of the second paragraph and for the purposes of Division II of Chapter II of Title III of Book III, sections 130, 130.1, 142 and 149 and any regulation made under paragraph *a* of section 130 or section 130.1, where the property is depreciable property of the taxpayer the capital cost of which to the taxpayer immediately before the disposition exceeds the proceeds of disposition determined under that subparagraph *c*, the following rules apply:

(a) the capital cost of the property to the taxpayer at that time is deemed to be the amount that was its capital cost immediately before the disposition; and

(b) the excess is deemed to have been allowed to the taxpayer in respect of the property under the regulations made under paragraph *a* of section 130 in computing the taxpayer's income for taxation years that ended before that time.

Designation deemed made or changed with the consent of the Minister.

For the purposes of subparagraph *c* of the second paragraph, the taxpayer is deemed to have designated a particular capital property, as well as an amount in its respect, after 19 December 2006 in accordance with paragraph *e* of subsection 4 of section 111 of the Income Tax Act in respect of the loss restriction event, or to have designated after that date, in respect of that event, in accordance with that paragraph *e* in respect of a particular capital property, a particular amount different from that designated by the taxpayer after that date, in relation to that event, in accordance with that paragraph *e* in its respect, if

(a) the taxpayer files an application with the Minister in that respect, in a document containing information that is satisfactory to the Minister, on or before the day that is 90 days after the day on which a notice of assessment of tax payable for the taxation year ending immediately before that time or a notice that no tax is payable for the year is sent to the taxpayer;

(b) it may reasonably be considered that the taxpayer's designation regarding the particular capital property and the amount in its respect, or the change made to the amount designated in respect of the particular capital property, as the case may be, is justified only because of a difference between tax attributes, in particular the adjusted cost base of the particular capital property or the undeducted balance of a deductible loss, for the purposes of Part I of the Income Tax

Act and the corresponding tax attributes for the purposes of this Part; and

(c) the Minister is of the opinion that the tax consequences of the application are consistent with the objectives of subparagraph *c* of the second paragraph, and grants the application.

Additional rules.

Chapter V.2 of Title II of Book I applies in relation to a designation made under paragraph *e* of subsection 4 of section 111 of the Income Tax Act or in relation to a designation made under this section before 20 December 2006.

History: 1972, c. 23, s. 554; 1974, c. 18, s. 28; 1984, c. 15, s. 167; 1985, c. 25, s. 120; 1989, c. 77, s. 80; 1993, c. 16, s. 275; 1997, c. 3, s. 71; 2004, c. 4, s. 5; 2009, c. 5, s. 249; 2017, c. 1, s. 176.

Corresponding Federal Provision: 111(4).

Foreign currency debt on loss restriction event.

736.0.0.1. For the purposes of section 736, if at a particular time a taxpayer owes a foreign currency debt in respect of which the taxpayer would have had, if the foreign currency debt had been repaid at that time, a capital loss or gain, the taxpayer is deemed to own at the time (in this section referred to as the “measurement time”) that is immediately before the particular time a property

(a) the adjusted cost base of which at the measurement time is equal to the amount determined by the formula

$A + B - C$; and

(b) the fair market value of which is equal to the amount that would be the amount of principal owed by the taxpayer under the foreign currency debt at the measurement time if that amount were calculated using the exchange rate applicable at the time of the original borrowing.

Interpretation.

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

(a) *A* is the amount of principal owed by the taxpayer under the foreign currency debt at the measurement time, calculated using the exchange rate applicable at that time;

(b) *B* is the portion of any gain, previously recognized in respect of the foreign currency debt because of this Title, that is reasonably attributable to the amount determined under subparagraph *a*; and

(c) *C* is the portion of any capital loss, previously recognized in respect of the foreign currency debt because of

this Title, that is reasonably attributable to the amount determined under subparagraph *a*.

History: 2010, c. 5, s. 56; 2017, c. 1, s. 177.

Corresponding Federal Provision: 111(12).

Definitions

736.0.0.2. In this Title,

“*exchange rate*”;

“*exchange rate*” at a particular time in respect of a foreign currency means the rate of exchange between that currency and Canadian currency quoted by the Bank of Canada at noon on the day that includes the particular time or, if that day is not a working day, on the day that immediately precedes that day, or a rate of exchange acceptable to the Minister;

“*foreign currency debt*”.

“*foreign currency debt*” means a debt obligation denominated in a foreign currency.

History: 2010, c. 5, s. 56.

Corresponding Federal Provision: 111(8) “*foreign currency debt*” and “*exchange rate*”.

Loss restriction event — non-capital losses and farm losses.

736.0.1. Where, at any time, a taxpayer is subject to a loss restriction event, no amount in respect of a non-capital loss or farm loss for a taxation year ending before that time is deductible by the taxpayer for a taxation year ending after that time.

Allowable deduction.

However, the taxpayer may deduct, for a particular taxation year ending after that time, such portion of a non-capital loss or farm loss, as the case may be, for a taxation year ending before that time as may reasonably be regarded as the taxpayer’s loss from carrying on a business and, where a business was carried on by the taxpayer in that taxation year, such portion of the non-capital loss as may reasonably be regarded as being attributable to an amount deductible under section 725.1.1 in computing the taxpayer’s taxable income for that taxation year, if the following conditions are met:

(a) the business was carried on by the taxpayer for profit or with a reasonable expectation of profit throughout the particular year; and

(b) the amount that the taxpayer may deduct must not exceed the aggregate of the taxpayer’s income for the particular year from the business and, where the taxpayer sold, leased, rented or developed properties or rendered services in the course of carrying on that business before that time, from any other business substantially all the income of which was derived from the sale, leasing, rental or

development, as the case may be, of similar properties, or the rendering of similar services.

History: 1984, c. 15, s. 167; 1985, c. 25, s. 120; 1986, c. 19, s. 153; 1989, c. 77, s. 80; 1990, c. 59, s. 278; 1997, c. 3, s. 71; 2017, c. 1, s. 178.

Corresponding Federal Provision: 111(5)(a).

Loss restriction event — non-capital losses and farm losses.

736.0.1.1. Where, at any time, a taxpayer is subject to a loss restriction event, no amount in respect of a non-capital loss or farm loss for a taxation year ending after that time is deductible by the taxpayer for a taxation year ending before that time.

Allowable deduction.

However, the taxpayer may deduct, for a particular taxation year ending before that time, such portion of a non-capital loss or farm loss, as the case may be, for a taxation year ending after that time as may reasonably be regarded as the taxpayer's loss from carrying on a business and, where a business was carried on by the taxpayer in that taxation year, such portion of the non-capital loss as may reasonably be regarded as being attributable to an amount deductible under section 725.1.1 in computing the taxpayer's taxable income for that taxation year, if the following conditions are met:

(a) the business was carried on by the taxpayer for profit or with a reasonable expectation of profit throughout the taxation year and in the particular year; and

(b) the amount that the taxpayer may deduct must not exceed the taxpayer's income for the particular year from the business and, where the taxpayer sold, leased, rented or developed properties or rendered services in the course of carrying on that business before that time, from any other business substantially all of the income of which was derived from the sale, leasing, rental or development, as the case may be, of similar properties, or the rendering of similar services.

History: 1985, c. 25, s. 120; 1989, c. 77, s. 80; 1990, c. 59, s. 279; 1997, c. 3, s. 71; 2017, c. 1, s. 178.

Corresponding Federal Provision: 111(5)(b).

Loss restriction event.

736.0.1.2. For the purposes of sections 736.0.1 and 736.0.1.1, a taxpayer's business that is at any time an adventure or concern in the nature of trade is deemed to be a business carried on at that time by the taxpayer.

History: 2000, c. 5, s. 159; 2017, c. 1, s. 178.

Corresponding Federal Provision: 10(11).

Loss restriction event — special rules.

736.0.2. Subject to section 736.0.5, where, at any time, a taxpayer (other than a taxpayer who, at that time, became or ceased to be exempt from tax under this Part on the taxpayer's taxable income) is subject to a loss restriction

event and the undepreciated capital cost to the taxpayer of depreciable property of a prescribed class immediately before that time would have exceeded, if this Part were read without reference to section 93.4, the aggregate of the fair market value of all the property of that class immediately before that time and the amount in respect of property of that class otherwise allowed under regulations made under paragraph *a* of section 130 or deductible under the second paragraph of section 130.1 in computing the taxpayer's income for the taxation year ending immediately before that time, the excess is to be deducted in computing the taxpayer's income for the taxation year ending immediately before that time and is deemed to have been allowed to the taxpayer in respect of the property of that class under regulations made under paragraph *a* of section 130.

History: 1984, c. 15, s. 167; 1985, c. 25, s. 121; 1989, c. 77, s. 80; 1990, c. 59, s. 280; 1997, c. 3, s. 71; 2005, c. 1, s. 142; 2017, c. 1, s. 178; 2019, c. 14, s. 194.

Corresponding Federal Provision: 111(5.1).

736.0.3. (*Repealed*).

History: 1984, c. 15, s. 167; 1989, c. 77, s. 81.

Loss restriction event — doubtful debts and bad debts.

736.0.3.1. Subject to section 736.0.5, where, at any time, a taxpayer, other than a taxpayer who at that time became or ceased to be exempt from tax under this Part on the taxpayer's taxable income, is subject to a loss restriction event, no amount may be deducted under section 140 in computing the taxpayer's income for the taxpayer's taxation year ending immediately before that time and each amount that is the greatest amount that would, but for this section, have been deductible under section 140 in respect of a debt owing to the taxpayer immediately before that time is deemed to be a separate debt and is, despite any other provision of this Part, to be deducted as a bad debt under section 141 in computing the taxpayer's income for the year.

Deemed separate debt.

In addition, the amount by which the debt exceeds that separate debt is deemed to be a separate debt incurred at the same time and under the same circumstances as the debt was incurred.

History: 1989, c. 77, s. 82; 1995, c. 49, s. 236; 1997, c. 3, s. 71; 1997, c. 31, s. 72; 2017, c. 1, s. 179.

Corresponding Federal Provision: 111(5.3).

Loss deemed to be non-capital loss.

736.0.4. Where control of a corporation has been acquired at any time by a person or persons, such portion of the corporation's non-capital loss for a taxation year ending before that time to the extent that it was not deductible in computing the corporation's income for such a year and may be considered such a loss of a subsidiary, within the meaning of section 556, from carrying on a particular business and in respect of which sections 564.2, 564.3 and 564.4 apply, as

they read on 12 November 1981, is deemed to be a non-capital loss of the corporation from carrying on the particular business of the subsidiary.

History: 1984, c. 15, s. 167; 1997, c. 3, s. 71.

Corresponding Federal Provision: 111(5.4).

Loss restriction event — special rules.

736.0.5. Where a taxpayer is subject to a loss restriction event at a particular time and it can reasonably be considered that the main reason that the taxpayer is subject to the loss restriction event was to cause subparagraph *b* of the second paragraph of section 736 or section 736.0.2 or 736.0.3.1 to apply, the following provisions do not apply with respect to the loss restriction event:

(a) the said subparagraph *b* of the second paragraph of section 736, the said sections 736.0.2 and 736.0.3.1 and subparagraph *c* of the second paragraph of section 736;

(b) where, but for paragraph *a*, the said subparagraph *b* of the second paragraph of section 736 would apply, subparagraph *a* of the second paragraph of section 736.

History: 1989, c. 77, s. 83; 1997, c. 3, s. 71; 2017, c. 1, s. 180.

Corresponding Federal Provision: 111(5.5).

736.1. (Repealed).

History: 1978, c. 26, s. 128; 2017, c. 29, s. 114.

Corresponding Federal Provision: 111(7.1).

736.2. (Repealed).

History: 1978, c. 26, s. 128; 1979, c. 18, s. 59; 2017, c. 29, s. 114.

Corresponding Federal Provision: 111(7.2).

Reimbursement of salary.

736.3. Despite section 727, an individual to whom the Minister grants an authorization following an application to that effect may deduct, under that section, in computing the individual's taxable income for a particular taxation year an amount in respect of a non-capital loss sustained by the individual in a taxation year, in this section referred to as the "reimbursement year", subsequent to the third taxation year that follows the particular taxation year, if

(a) the individual deducted in computing the individual's income for the reimbursement year, under section 78.1, an amount paid by or on behalf of the individual as the reimbursement of an amount the individual included in computing the individual's income from an office or employment for the particular taxation year;

(b) the amount for which the application is made does not exceed the portion of the non-capital loss sustained by the individual in the reimbursement year that may reasonably be considered to be attributable to the reimbursement referred to in paragraph *a*; and

(c) in the Minister's opinion, it is reasonable to expect, by reason of the nature and severity of the individual's disability, that the individual will not earn sufficient income in a taxation year subsequent to the reimbursement year to allow the individual to deduct in computing the individual's taxable income, under section 727, the non-capital loss sustained by the individual in the reimbursement year.

Assessments.

Despite section 1010, the Minister shall make such assessments, reassessments or additional assessments of tax, interest and penalties and such determinations or redeterminations as are necessary for any taxation year to give effect to the first paragraph.

History: 2005, c. 23, s. 78; 2011, c. 6, s. 154.

Reimbursement of an amount included in computing income.

736.4. Despite section 727, an individual may deduct, under that section, in computing the individual's taxable income for a particular taxation year subsequent to the taxation year 2003, an amount in respect of a non-capital loss sustained by the individual in a taxation year (in this section referred to as the "reimbursement year") subsequent to the third taxation year that follows the particular taxation year, if

(a) the individual deducted, in computing the individual's income for the reimbursement year, an amount paid by or on behalf of the individual as the reimbursement of an amount the individual included in computing the individual's income for the particular taxation year;

(b) the reimbursement referred to in subparagraph *a* results from the determination, in respect of the individual, in the reimbursement year of an amount relating to the particular taxation year that is a covered benefit attributable to a preceding taxation year, within the meaning assigned to that expression by section 766.3.1; and

(c) the amount deducted does not exceed the portion of the non-capital loss sustained by the individual in the reimbursement year that may reasonably be considered to be attributable to the reimbursement referred to in subparagraph *a*.

Assessments.

Despite section 1010, 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 in order to give effect to the first paragraph.

History: 2011, c. 6, s. 155; 2015, c. 21, s. 259.

Net capital losses of a deceased taxpayer.

737. Where a taxpayer dies in a taxation year, for the purposes of computing his taxable income for that year and the preceding taxation year, the following rules apply:

(a) section 729 shall read as follows:

“**729.** A taxpayer may deduct the taxpayer’s net capital losses for all his taxation years not claimed in computing the taxpayer’s taxable income for any other taxation year.”; and

(b) subparagraph *b* of the first paragraph of section 729.1 shall read as follows:

“(b) the amount by which the amount claimed in respect of the taxpayer’s net capital losses under section 729 for the particular taxation year exceeds the aggregate of

i. all amounts in respect of the taxpayer’s net capital losses that, using the formula in subparagraph ii of subparagraph *a*, would be required to be claimed under section 729 for the particular taxation year to produce the amount determined under subparagraph *a* for the particular taxation year, and

ii. all amounts each of which is an amount deducted by the taxpayer under Title VI.5 or VI.5.1 in computing the taxpayer’s taxable income for a taxation year, except to the extent that, where the particular year is the year in which the taxpayer died, the amount claimed under section 729 for the preceding taxation year in respect of the taxpayer’s net capital losses exceeds the amount so determined under subparagraph i.”.

History: 1972, c. 23, s. 555; 1972, c. 26, s. 55; 1973, c. 17, s. 86; 1978, c. 26, s. 129; 1985, c. 25, s. 122; 1987, c. 67, s. 147; 1990, c. 59, s. 281; 1993, c. 16, s. 276; 1993, c. 19, s. 47.

Corresponding Federal Provision: 111(2).

TITLE VII.0.1**ADJUSTMENT IN RESPECT OF AN ADDITIONAL INVESTMENT EXPENSE****Amount to be included.**

737.0.1. An individual, other than a trust that is not a personal trust, shall include in computing the individual’s taxable income for a taxation year an amount equal to the amount by which the amount of the individual’s additional investment expense for the year exceeds the portion of the individual’s investment income for the year in excess of the individual’s investment expense for the year.

Foreign specialists.

If the individual benefits for the year from the deduction provided for in any of sections 737.16, 737.18.10 and 737.18.34 in respect of an employment, the amount determined under the first paragraph must be determined on the assumption that the rules set out in the second paragraph of section 313.10 apply in respect of the particular amounts

otherwise included in the investment expense or investment income of the individual for the year and, with the necessary modifications, in respect of the particular amounts taken into account in computing the amounts otherwise included in the additional investment expense of the individual for the year.

Interpretation.

In this section, “additional investment expense”, “investment expense” and “investment income” have the meaning assigned by section 336.5.

History: 2005, c. 38, s. 95.

TITLE VII.1

(Repealed).

CHAPTER I

(Repealed).

737.1. (Repealed).

History: 1984, c. 15, s. 168; 1986, c. 19, s. 154; 1989, c. 5, s. 90; 1993, c. 16, s. 277; 2001, c. 53, s. 102.

CHAPTER II

(Repealed).

737.2. (Repealed).

History: 1984, c. 15, s. 168; 1985, c. 25, s. 123; 1989, c. 5, s. 91; 2001, c. 53, s. 102.

737.3. (Repealed).

History: 1984, c. 15, s. 168; 1986, c. 19, s. 155; 1987, c. 67, s. 148; 1989, c. 5, s. 92.

CHAPTER III

(Repealed).

737.4. (Repealed).

History: 1984, c. 15, s. 168; 1986, c. 19, s. 156; 1989, c. 5, s. 92.

737.5. (Repealed).

History: 1984, c. 15, s. 168; 1986, c. 19, s. 157; 1987, c. 67, s. 149; 1989, c. 5, s. 92.

737.6. (Repealed).

History: 1984, c. 15, s. 168; 1986, c. 19, s. 158; 1989, c. 5, s. 92.

737.7. (Repealed).

History: 1984, c. 15, s. 168; 1985, c. 25, s. 124; 1986, c. 19, s. 159; 1989, c. 5, s. 92.

CHAPTER IV (Repealed).

737.8. (Repealed).

History: 1984, c. 15, s. 168; 1985, c. 25, s. 125; 1989, c. 5, s. 93; 1997, c. 31, s. 73; 2001, c. 53, s. 102.

CHAPTER V (Repealed).

737.9. (Repealed).

History: 1984, c. 15, s. 168; 1989, c. 5, s. 94; 2001, c. 53, s. 102.

737.10. (Repealed).

History: 1984, c. 15, s. 168; 1989, c. 5, s. 95.

737.11. (Repealed).

History: 1984, c. 15, s. 168; 1989, c. 5, s. 96; 2001, c. 53, s. 102.

737.12. (Repealed).

History: 1984, c. 15, s. 168; 1986, c. 19, s. 160.

737.12.1. (Repealed).

History: 1986, c. 19, s. 161; 1989, c. 5, s. 97; 1997, c. 31, s. 74; 2001, c. 53, s. 102.

TITLE VII.2 INTERNATIONAL FINANCIAL CENTRE

CHAPTER I (Repealed).

737.13. (Repealed).

History: 1986, c. 15, s. 112; 1987, c. 21, s. 24; 1995, c. 1, s. 64; 1997, c. 3, s. 71; 1999, c. 86, s. 77.

737.13.1. (Repealed).

History: 1992, c. 1, s. 48; 1995, c. 1, s. 65; 1997, c. 3, s. 71; 1999, c. 86, s. 77 [amended by 2004, c. 21, s. 550].

CHAPTER II DEDUCTIONS

Deduction relating to the operations of an international financial centre.

737.14. A person who, in a taxation year, is a corporation that operates an international financial centre or a member of a partnership that, in a fiscal period of the partnership ending in that year, operates such a centre may deduct, in computing the person's taxable income for the year, the amount determined in respect of the person for the year under

section 52 of the Act respecting international financial centres (chapter C-8.3).

History: 1986, c. 15, s. 112; 1992, c. 1, s. 49; 1995, c. 1, s. 66; 1995, c. 49, s. 167; 1997, c. 3, s. 71; 1999, c. 86, s. 78 [amended by 2004, c. 21, s. 551]; 2009, c. 5, s. 250.

737.15. (Repealed).

History: 1986, c. 15, s. 112; 1987, c. 21, s. 25; 1990, c. 7, s. 57; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1997, c. 14, s. 105; 1999, c. 86, s. 79.

Amount deductible by an individual.

737.16. An individual described in section 66 of the Act respecting international financial centres (chapter C-8.3) who holds employment with a particular corporation or partnership referred to in that section may deduct, in computing the individual's taxable income for a taxation year, the amount determined in respect of the individual for the year, under section 65 of that Act, in relation to that employment.

History: 1986, c. 15, s. 112; 1997, c. 3, s. 71; 1999, c. 86, s. 80; 2002, c. 40, s. 343; 2004, c. 21, s. 135.

Amount deductible by an individual.

737.16.1. An individual described in section 71 of the Act respecting international financial centres (chapter C-8.3) may deduct, in computing the individual's taxable income for a taxation year, the amount determined in respect of the individual for the year under that section.

History: 1995, c. 1, s. 67; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 1997, c. 14, s. 106; 1999, c. 86, s. 80 [amended by 2002, c. 9, s. 178].

CHAPTER III AMOUNTS TO BE INCLUDED

Amount to be included in relation to the operations of an international financial centre.

737.17. A person who, in a taxation year, is a corporation operating an international financial centre or a member of a partnership that, in a fiscal period of the partnership ending in that taxation year, operates such a centre shall include, in computing the person's taxable income for the year, the amount determined for the year in respect of the person under section 55 of the Act respecting international financial centres (chapter C-8.3).

History: 1986, c. 15, s. 112; 1992, c. 1, s. 50; 1997, c. 3, s. 71; 1999, c. 86, s. 81 [amended by 2004, c. 21, s. 552]; 2009, c. 5, s. 251.

CHAPTER IV COMPUTATION OF TAXABLE INCOME

Rules applicable.

737.18. For the purpose of computing the taxable income of the individual referred to in section 737.16 for a taxation year, the following rules apply:

(a) for the purpose of computing the deduction under section 725.2, the amount that is the benefit the individual is deemed to receive in the year under any of sections 49 and 50 to 52.1, in respect of a security, or the transfer or any other disposition of the rights under the agreement referred to in section 48 and that the individual has included in computing income for the year, shall not include the portion of such an amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of the individual's reference period, established under section 69 of the Act respecting international financial centres (chapter C-8.3), in relation to an employment that is included in the year;

(b) for the purpose of computing the deduction under section 725.3, the amount that is the benefit the individual is deemed to receive in the year under section 49, as a consequence of the application of section 49.2, in respect of a share acquired by the individual after 22 May 1985 and that the individual has included in computing income for the year, shall not include the portion of such an amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of the individual's reference period, established under section 69 of the Act respecting international financial centres, in relation to an employment that is included in the year;

(c) for the purpose of computing the deduction under section 725.4, the individual shall subtract from the amount included by the individual under paragraph *b* of section 218 in computing income for the year in respect of a share the individual has received after 22 May 1985, the product obtained by multiplying the portion of such an amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of any of the individual's specified periods, established under the fourth paragraph of section 65 of the Act respecting international financial centres, in relation to an employment that is included in the year, by the percentage determined under subparagraph 1 of the second paragraph of that section 65 in respect of that period;

(d) for the purpose of computing the deduction under section 725.5, the individual shall subtract from the amount included by the individual under section 888.1 in computing income for the year, the product obtained by multiplying the portion of such an amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of any of the individual's specified periods, established under the fourth paragraph of

section 65 of the Act respecting international financial centres, in relation to an employment that is included in the year, by the percentage determined under subparagraph 1 of the second paragraph of that section 65 in respect of that period;

(e) for the purpose of computing the deduction under section 725, the individual shall subtract from the amount included by the individual in computing income for the year, and that is an amount described in any of the paragraphs of that section, the product obtained by multiplying the portion of such an amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of any of the individual's specified periods, established under the fourth paragraph of section 65 of the Act respecting international financial centres, in relation to an employment that is included in the year, by the percentage determined under subparagraph 1 of the second paragraph of that section 65 in respect of that period;

(f) for the purpose of computing the deduction under section 725.1.2, the individual shall subtract from the amount included by the individual in computing income for the year, and that is an amount described in the second paragraph of that section, the product obtained by multiplying the portion of such an amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of any of the individual's specified periods, established under the fourth paragraph of section 65 of the Act respecting international financial centres, in relation to an employment that is included in the year, by the percentage determined under subparagraph 1 of the second paragraph of that section 65 in respect of that period;

(g) (*paragraph repealed*);

(h) any capital gain realized during any of the individual's specified periods, established under the fourth paragraph of section 65 of the Act respecting international financial centres, in relation to an employment, or any capital loss, including any allowable business investment loss, for such a period is, for the purposes of Titles VI.5 and VI.5.1, deemed to be equal to the product obtained by multiplying the capital gain or capital loss by the amount by which 100% exceeds the percentage determined under subparagraph 1 of the second paragraph of that section 65 in respect of that period.

History: 1987, c. 67, s. 150; 1991, c. 25, s. 87; 1992, c. 1, s. 51; 1993, c. 19, s. 48; 1997, c. 85, s. 114; 1999, c. 86, s. 82; 2001, c. 53, s. 103; 2004, c. 21, s. 136; 2005, c. 38, s. 96; 2019, c. 14, s. 195.

Rules applicable.

737.18.0.1. For the purpose of computing the taxable income of an individual contemplated in section 737.16.1, for a taxation year, the following rules apply:

(a) for the purpose of computing the deduction under section 725.2, the amount of the benefit that the individual is deemed to receive in the year, under any of sections 49 and 50 to 52.1, in respect of a security, or the transfer or any other disposition of the rights under the agreement referred to in section 48, and included by the individual in computing the individual's income for the year, does not include the part of such an amount included in the amount determined in respect of the individual for the year under section 71 of the Act respecting international financial centres (chapter C-8.3);

(b) for the purpose of computing the deduction under section 725.3, the amount of the benefit that the individual is deemed to receive under section 49, by virtue of section 49.2, in respect of a share acquired by the individual after 22 May 1985 and that was included by the individual in computing the individual's income for the year, does not include the part of such an amount included in the amount determined in respect of the individual for the year under section 71 of the Act respecting international financial centres.

History: 2002, c. 40, s. 58.

TITLE VII.2.1

(Repealed).

CHAPTER I

(Repealed).

737.18.1. *(Repealed).*

History: 1999, c. 83, s. 80; 2000, c. 39, s. 46; 2012, c. 8, s. 72.

737.18.2. *(Repealed).*

History: 1999, c. 83, s. 80; 2005, c. 38, s. 97; 2012, c. 8, s. 72.

CHAPTER II

(Repealed).

737.18.3. *(Repealed).*

History: 1999, c. 83, s. 80; 2000, c. 39, s. 264; 2012, c. 8, s. 72.

737.18.3.1. *(Repealed).*

History: 2000, c. 39, s. 47; 2012, c. 8, s. 72.

CHAPTER III

(Repealed).

737.18.4. *(Repealed).*

History: 1999, c. 83, s. 80; 2000, c. 39, s. 264; 2004, c. 4, s. 6; 2012, c. 8, s. 72.

737.18.5. *(Repealed).*

History: 1999, c. 83, s. 80; 2000, c. 39, s. 48; 2012, c. 8, s. 72.

TITLE VII.2.2

DEDUCTIONS RELATING TO THE CREATION OF THE INTERNATIONAL TRADE ZONE AT MIRABEL

CHAPTER I

INTERPRETATION AND GENERAL

Definitions:

737.18.6. In this Title,

“*base period*”;

“*base period*” applicable to a corporation or partnership in respect of eligible activities of a recognized business carried on by the corporation in a taxation year, or by the partnership in a fiscal period, means

(a) where the certificate issued to the corporation or partnership in respect of the recognized business became effective or is deemed to have become effective, in accordance with section 737.18.9.1, before 1 January 2001, the period beginning on the day after the effective date of the certificate and, subject to subparagraph ii of subparagraph *a* of the first paragraph of section 737.18.9.2 and subparagraph *b* of that paragraph, ending on the earlier of

i. the day preceding the day when the corporation or partnership ceases to carry on the eligible activities, and

ii. 31 December 2010;

(b) where the certificate issued to the corporation or partnership in respect of the recognized business became effective or is deemed to have become effective, in accordance with section 737.18.9.1, after 31 December 2000 and before 1 January 2004, the period beginning on the day after the effective date of the certificate and, subject to subparagraph ii of subparagraph *a* of the first paragraph of section 737.18.9.2 and subparagraph *b* of that paragraph, ending on the earlier of

i. the day preceding the day when the corporation or partnership ceases to carry on the eligible activities, and

ii. the day of the tenth anniversary of the effective date of the certificate; and

(c) where the certificate issued to the corporation or partnership in respect of the recognized business became effective or is deemed to have become effective, in accordance with section 737.18.9.1, after 31 December 2003, the period beginning on the day after the effective date of the certificate and, subject to subparagraph ii of subparagraph *a* of the first paragraph of section 737.18.9.2 and subparagraph *b* of that paragraph, ending on the earlier of

i. the day preceding the day when the corporation or partnership ceases to carry on the eligible activities, and

ii. 31 December 2013;

“eligible activities”;

“eligible activities” of a recognized business carried on by a corporation in a taxation year, or by a partnership in a fiscal period, means the activities shown on the certificate issued to the corporation or partnership in respect of the recognized business and carried on in the international trade zone by the corporation in the year or by the partnership in the fiscal period;

“eligible employer”;

“eligible employer” means a corporation or a partnership that carries on a recognized business;

“exemption period”;

“exemption period” of an individual who is a foreign specialist for all or part of a taxation year, in relation to an employment the individual holds with an eligible employer, means the period that, subject to the second paragraph, begins on the later of the day on which the individual begins to perform the duties of that employment and 10 March 1999, and that, subject to subparagraph i of subparagraph a of the first paragraph of section 737.18.9.2, ends on the earlier of

(a) the day preceding the day on which the individual ceases to be a foreign specialist; and

(b) the day on which that period totals five years, with reference to

i. where the individual began to stay or became resident in Canada after 19 December 2002 by reason of an employment contract entered into after that date, the aggregate of all periods each of which is a preceding period within the meaning of section 737.18.6.2 that is established in respect of the individual, and

ii. in any other case, the aggregate of all preceding periods each of which is

(1) all or part of a preceding period, established in respect of the individual under this definition, to which an amount that the individual may deduct in computing the individual’s taxable income for a taxation year, under section 737.18.10, in relation to a preceding employment, may reasonably be attributed, or

(2) a preceding period within the meaning of section 737.18.6.2 that is established in respect of the individual since the last time the individual became resident in Canada, other than a period described in subparagraph 1;

“foreign specialist”;

“foreign specialist” for all or part of a taxation year, means an individual in respect of whom the following conditions are met:

(a) at a particular time after 9 March 1999 but before 2 September 2003, the individual takes up employment, as an employee, with an eligible employer under an employment contract that they entered into before 13 June 2003;

(b) the individual is not resident in Canada immediately before taking up employment, as an employee, with the eligible employer;

(c) from the particular time to the end of the year or the part of the year

i. the individual performs employment duties for the eligible employer exclusively or almost exclusively in the international trade zone,

ii. the individual works exclusively or almost exclusively for the eligible employer, and

iii. the individual’s duties for the eligible employer consist exclusively or almost exclusively in carrying out work relating to activities shown on the certificate issued to the employer in respect of the recognized business carried on by the employer in the international trade zone; and

(d) the eligible employer has obtained in respect of the individual, for the purposes of this Title, a certificate issued by Investissement Québec for the taxation year and the certificate and, if applicable, all the similar certificates that were obtained in respect of the individual for preceding taxation years certify that, from the particular time to the end of the year or the part of the year, the individual is recognized as a specialist;

“international trade zone”;

“international trade zone” has the meaning assigned by the first paragraph of section 1029.8.36.0.38;

“recognized business”.

“recognized business” has the meaning assigned by the first paragraph of section 1029.8.36.0.38 and by section 1029.8.36.0.38.1.

Exemption period beginning after the taking up of employment.

Where the certificate referred to in the definition of “foreign specialist” was not issued in respect of an individual for the taxation year that includes the particular day that is the later of the day on which the individual began to perform the duties of an employment the individual holds with an eligible employer and 10 March 1999, the exemption period of the individual in relation to that employment begins only on the first day of the first taxation year following the particular day for which such a certificate has been issued in respect of the individual.

Individual who took up employment before 10 March 1999.

Where an individual holds employment with an eligible employer on 10 March 1999 under a particular contract, but took up employment, as an employee, with that employer before that date, and the particular contract is not deemed to end under the first or second paragraph of section 737.18.7.2, the definition of “foreign specialist” in the first paragraph shall be read

(a) with paragraphs *a* and *b* replaced by the following paragraphs:

“(a) on 10 March 1999, the individual holds employment with an eligible employer under an employment contract that they entered into before that date;

“(b) the individual is not resident in Canada immediately before 10 March 1999;”;

(b) with “from the particular time” in the portion of paragraph *c* before subparagraph *i* and in paragraph *d* replaced by “from 10 March 1999”.

History: 2000, c. 39, s. 49; 2001, c. 51, s. 41; 2003, c. 9, s. 54; 2004, c. 21, s. 137; 2005, c. 23, s. 79; 2012, c. 8, s. 73.

Activities carried on outside the international trade zone.

737.18.6.1. For the purposes of this Title, where, in a taxation year or a fiscal period, as the case may be, a corporation or a partnership carries on a business in respect of which section 1029.8.36.0.38.1 applies and whose activities are carried on in Québec but outside the international trade zone, the following rules apply:

(a) the activities shown on the certificate referred to in paragraph *a* of section 1029.8.36.0.38.1 in respect of the recognized business, that are carried on in Québec but outside the international trade zone, are deemed to be activities carried on in the international trade zone;

(b) the individual who, at a particular time after 13 March 2000, holds employment with that corporation or partnership and whose duties consist in carrying out work relating to the activities referred to in paragraph *a* exclusively or almost exclusively in Québec is deemed, from that time and throughout the period in which the individual actually performs those duties, to carry out work, exclusively or almost exclusively, that is related to the activities shown on the certificate issued to the corporation or partnership in respect of the recognized business and to perform the duties of the individual’s employment exclusively or almost exclusively in the international trade zone.

History: 2001, c. 51, s. 42.

Preceding period.

737.18.6.2. For the purpose of establishing the exemption period of an individual in relation to an employment, a preceding period to which subparagraph *i* of paragraph *b* of the definition of “exemption period” in the first paragraph of section 737.18.6 and subparagraph 2 of subparagraph *ii* of that paragraph *b* refer means all or part of a preceding period, established in respect of the individual under any of the sections mentioned in the second paragraph of section 737.19.2 or under the regulations mentioned in that paragraph, to which an amount that the individual may deduct in computing the individual’s taxable income for a taxation year, in relation to a preceding employment, under

any of the sections mentioned in the third paragraph of section 737.19.2, may reasonably be attributed.

History: 2004, c. 21, s. 138.

Power of the Minister.

737.18.6.3. If, in a taxation year, an individual is absent from an employment the individual holds with an eligible employer and, were it not for that absence, would be a foreign specialist for the part of the year that is included in the individual’s period of absence, the Minister may, for the purposes of this Title, consider that part of the year to be included in the individual’s exemption period in relation to the employment if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.

Individual deemed a foreign specialist.

The individual is deemed to be a foreign specialist for the part of the year in respect of which the Minister has exercised discretion in the individual’s favour in accordance with the first paragraph.

History: 2005, c. 23, s. 80.

Rule applicable in cases of change of employment.

737.18.7. For the purposes of the definition of “foreign specialist” in the first paragraph of section 737.18.6, an individual is deemed not to be resident in Canada immediately before taking up employment, as an employee, with an eligible employer if

(a) the individual may deduct an amount in computing the individual’s taxable income for the taxation year in which the individual so took up employment or for a preceding taxation year, in relation to a preceding employment, under any of the sections mentioned in the third paragraph of section 737.19.2; or

(b) the individual would meet the condition set out in paragraph *a* if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph *ii* of paragraph *a* of section 737.20.

History: 2000, c. 39, s. 49; 2004, c. 21, s. 139.

Individual holding employment on 1 January 2001.

737.18.7.1. For the purposes of this Title, an individual to whom the fourth paragraph applies is deemed to take up employment, as an employee, with an eligible employer at the particular time referred to in subparagraph *b* where

(a) the individual holds employment with the eligible employer on 1 January 2001; and

(b) at a particular time, the individual would be, for the first time since 1 January 2001, a foreign specialist working for

the eligible employer if the definition of “foreign specialist” in the first paragraph of section 737.18.6 were read

- i. without reference to paragraph *b* thereof, and
- ii. with the reference to “from the particular time to the end of the year or the part of the year” in the portion of paragraph *c* before subparagraph *i* and in paragraph *d* replaced by a reference to “throughout the year or the part of the year”.

Individual entering into a new employment contract after 31 December 2000.

An individual to whom the fifth paragraph applies is deemed to take up employment, as an employee, with an eligible employer at the particular time referred to in subparagraph *b* where

(*a*) the individual enters into an employment contract with the eligible employer after 31 December 2000; and

(*b*) at a particular time, the individual would be, for the first time since the entering into the contract referred to in subparagraph *a*, a foreign specialist working for the eligible employer if the portion of paragraph *c* of the definition of “foreign specialist” in the first paragraph of section 737.18.6 before subparagraph *i* and paragraph *d* of that definition were read with the reference to “from the particular time to the end of the year or the part of the year” replaced by a reference to “throughout the year or the part of the year”.

Presumption.

In addition, the individual to whom the first or second paragraph applies is also deemed to begin performing the duties of the employment the individual holds with the eligible employer at the particular time referred to in subparagraph *b* of that paragraph.

Individual to whom the first paragraph refers.

The individual to whom the first paragraph refers is the individual who

(*a*) has no exemption period that is running on 1 January 2001 in relation to that employment; and

(*b*) may deduct, in computing the individual’s taxable income for a taxation year preceding the year 2001, in relation to a preceding employment, an amount under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph *ii* of paragraph *a* of section 737.20.

Individual to whom the second paragraph refers.

The individual to whom the second paragraph refers is the individual who may deduct, in computing the individual’s taxable income for the taxation year in which the individual has entered into the individual’s employment contract or for a preceding taxation year, in relation to a preceding employment, an amount under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph *ii* of paragraph *a* of section 737.20.

History: 2004, c. 21, s. 140.

Deemed change of employment.

737.18.7.2. For the purposes of this Title, the employment contract that an individual entered into with an eligible employer, in this section referred to as the “original contract”, or a deemed contract within the meaning of subparagraph *a* of the third paragraph, is deemed to end at the time when the individual ceases to be a foreign specialist.

Individual holding employment on 1 January 2001.

Where on 1 January 2001 an individual to whom the fourth paragraph applies holds employment with an eligible employer, the employment contract the individual entered into with that employer, in this section referred to as the “original contract”, is deemed to have ended before that date.

Deemed new employment.

In addition, where at a particular time an individual would again become a foreign specialist if this section were read without reference to the first and second paragraphs and the portion of paragraph *c* of the definition of “foreign specialist” in the first paragraph of section 737.18.6 before subparagraph *i* and paragraph *d* of that definition were read with the reference to “from the particular time to the end of the year or the part of the year” replaced by a reference to “throughout the year or the part of the year”, the following rules apply:

(*a*) the individual is deemed to enter into, with the eligible employer, a new employment contract, in this section referred to as the “deemed contract”, and that contract is deemed to be entered into before 13 June 2003; and

(*b*) the individual is deemed to take up employment, as an employee, with the eligible employer at the particular time and is also deemed to begin at that time to perform the duties of that new employment.

Individual to whom this section relates.

The individual to whom the second paragraph refers is the individual who

(a) is not resident in Canada immediately before taking up employment, as an employee, with the eligible employer;

(b) has no exemption period that is running on 1 January 2001 in relation to that employment; and

(c) may deduct, in computing the individual's taxable income for a taxation year preceding the year 2001, in relation to that employment, an amount under section 737.18.10, or could so deduct such an amount if the eligible employer had not failed to apply, in respect of the individual, for a certificate referred to in paragraph *f* of the definition of "foreign specialist" in section 737.18.6, as it read for that preceding taxation year.

Individual who took up employment before 10 March 1999.

Where an individual holds employment with an eligible employer on 10 March 1999 under the original contract, but took up employment, as an employee, with that employer before that date, the following rules apply:

(a) the third paragraph, where it applies for the first time since the original contract is deemed to have ended under the first or second paragraph, shall be read with the reference to "from the particular time" replaced by a reference to "from 10 March 1999"; and

(b) if the second paragraph applies to the original contract, subparagraph *a* of the fourth paragraph shall be read as follows:

"(a) the individual is not resident in Canada immediately before 10 March 1999;"

Termination of the original contract.

The expiry, termination or cancellation of the original contract or any other event having the effect of terminating the original contract also entails the expiry, termination or cancellation, as the case may be, of a deemed contract continuing the original contract, or otherwise terminates such a contract.

Renewal of the original contract.

The renewal of the original contract also entails the renewal of a deemed contract continuing the original contract, except if the deemed contract is deemed to have ended under the first paragraph.

History: 2004, c. 21, s. 140.

Employment contract renewed after 12 June 2003.

737.18.7.3. For the purposes of this Title, the contract resulting from the renewal, after 12 June 2003, of an employment contract referred to in the definition of "foreign specialist" in the first paragraph of section 737.18.6 and in this section referred to as the "original contract", is deemed

not to be an employment contract separate from the original contract.

New employment contract entered into after 12 June 2003..

The rule set out in the first paragraph applies, with the necessary modifications, to a new employment contract that is entered into after 12 June 2003 with another eligible employer, who is deemed not to be an employer separate from the eligible employer, in this section referred to as the "first employer", who entered into the original contract, provided that

(a) the other eligible employer

i. controls directly or indirectly the first employer,

ii. is, directly or indirectly, a controlled subsidiary of the first employer, or

iii. as a result of a transaction referred to in section 518 or 566, continues to carry on the business of the first employer in the course of which the individual who entered into the original contract performed the individual's duties as a foreign specialist; and

(b) it may reasonably be considered that, but for the change of employer, the individual who entered into the original contract would have continued to be a foreign specialist working for the first employer until the time when the individual took up employment, as an employee, with the other eligible employer.

Exception.

The first paragraph does not apply in respect of a contract that is deemed to have ended under the first or second paragraph of section 737.18.7.2.

History: 2004, c. 21, s. 140.

Computation of income.

737.18.8. For the purpose of determining, for the purposes of this Title, the income or loss of a corporation for a taxation year, or of a partnership for a fiscal period, from the eligible activities of a recognized business carried on by the corporation or partnership, as the case may be, the income or loss shall be computed as if the activities were the carrying on, by the corporation or partnership, of a separate business.

History: 2000, c. 39, s. 49.

Revocation of a certificate.

737.18.9. For the purposes of the definition of "eligible employer" in the first paragraph of section 737.18.6 and despite any provision to the contrary, a certificate that has been issued to a corporation or a partnership in respect of a recognized business is deemed to be valid until the time the

certificate is revoked and it is deemed, only as of that time, not to have been issued.

History: 2000, c. 39, s. 49; 2005, c. 23, s. 81; 2005, c. 38, s. 98; 2012, c. 8, s. 74.

Continuation of a business.

737.18.9.1. For the purposes of this Title, where, at a particular time in a taxation year or fiscal period, a corporation or partnership, in this section referred to as the “transferee entity”, carries on a business in respect of which Investissement Québec issued a qualification certificate and the business, according to Investissement Québec, is the continuation of a recognized business or part of a recognized business carried on before that time by a corporation or partnership, in this section referred to as the “transferor entity”, the effective date of the qualification certificate issued to the transferee entity, in relation to the recognized business, is deemed to be the same as the effective date of the qualification certificate issued to the transferor entity, in relation to the recognized business or part of the recognized business.

History: 2004, c. 21, s. 141; 2005, c. 23, s. 82.

Rules applicable where control of a corporation is acquired.

737.18.9.2. For the purposes of this Title, where, at any time after 11 June 2003, control of a corporation that carries on at that time a recognized business or is a member of a partnership that carries on at that time a recognized business is acquired by a person or group of persons, the following rules apply:

(a) where the recognized business is carried on by the corporation,

i. the exemption period of an individual, in relation to an employment the individual holds with the corporation, is deemed to end immediately before that time, and

ii. the base period applicable to the corporation, in respect of the eligible activities of the recognized business, is deemed to end immediately before that time; and

(b) where the recognized business is carried on by the partnership, the base period applicable to the partnership, in respect of the eligible activities of the recognized business, is deemed, for the purpose of computing the amount that the corporation may deduct under section 737.18.11 for the taxation year in which the fiscal period of the partnership that includes that time ends and for a subsequent taxation year, to end immediately before that time.

Exceptions.

However, the first paragraph does not apply if the acquisition of control

(a) occurs before 1 July 2004 and Investissement Québec certifies that it results from a transaction that was sufficiently advanced on 11 June 2003 and was binding on the parties on that date;

(b) is by a corporation carrying on at that time a recognized business, by a person or group of persons that controls such a corporation, or by a group of persons each member of which is such a corporation or a person who, alone or together with other members of the group, controls such a corporation;

(c) derives from the exercise after 11 June 2003 of one or more rights described in paragraph *b* of section 20 that were acquired before 12 June 2003; or

(d) derives from the performance after 11 June 2003 of one or more obligations described in the third paragraph of section 21.3.5 that were contracted before 12 June 2003.

History: 2004, c. 21, s. 141; 2005, c. 23, s. 83; 2006, c. 13, s. 53.

CHAPTER II DEDUCTIONS

Amount deductible by a foreign specialist.

737.18.10. Subject to the third paragraph, an individual who, for all or part of a taxation year, is a foreign specialist who holds employment with an eligible employer, may deduct, in computing the individual’s taxable income for the year, an amount not greater than the part of the individual’s income for the year that may reasonably be considered to be earned in the part of the individual’s exemption period in relation to that employment that is included in the year.

Time when income is earned.

For the purposes of the first paragraph, the following rules apply:

(a) if the individual is a member of a partnership in a taxation year, the individual’s share of the income or loss of the partnership for a fiscal period that ended in the year must be considered to be earned or sustained during the part of the year referred to in that paragraph if the fiscal period ends in that part of the year, and to be earned or sustained during another part of the year if the fiscal period ends in that other part of the year; and

(b) if the individual includes an amount in computing the individual’s income for a taxation year under section 313.11, the amount must be considered to be income earned by the individual on the last day of that year.

Filing requirement.

An individual may deduct an amount under the first paragraph in computing the individual’s taxable income for a taxation year only if the individual encloses, with the fiscal return the individual is required to file under section 1000 for the year, a copy of the certificate that

(a) was issued to the eligible employer for the year in respect of the individual; and

(b) certifies that the individual is recognized as a specialist for all or part of the year;

(c) *(subparagraph repealed)*.

History: 2000, c. 39, s. 49; 2004, c. 21, s. 142; 2009, c. 5, s. 252; 2012, c. 8, s. 75.

Presumptions.

737.18.10.1. Where, at a particular time included in an individual's exemption period in relation to an employment held by the individual with an eligible employer, the individual, who was a foreign specialist for all or part of the taxation year that includes the particular time, acquired a right to a security under an agreement referred to in section 48 and, at a later time after the expiration of the exemption period, the individual is deemed to receive a benefit in a particular taxation year by reason of the application of any of sections 49 and 50 to 52.1 in respect of the security, or the transfer or any other disposition of the rights under the agreement, the following rules apply:

(a) for the purposes of the first paragraph of section 737.18.10, the individual is deemed, for a part of the particular taxation year that includes the later time, to be a foreign specialist who holds that employment with the eligible employer;

(b) for the purposes of the first paragraph of section 737.18.10 and paragraphs *a* and *b* of section 737.18.13 in respect of the amount of the benefit included by the individual in computing the individual's income for the particular taxation year, the later time is deemed to be an exemption period of the individual in relation to that employment; and

(c) the third paragraph of section 737.18.10 shall be read with "for the year" in subparagraph *a* replaced by "for the taxation year that includes the particular time referred to in the portion of section 737.18.10.1 before paragraph *a*" and without reference to subparagraph *b* thereof.

History: 2002, c. 40, s. 59; 2004, c. 21, s. 143.

Deduction in relation to the carrying on of a recognized business.

737.18.11. Subject to the second paragraph, a corporation that, in a taxation year, carries on a recognized business or is a member of a partnership that, in a fiscal period of the partnership ending in that year, carries on a recognized business, may deduct, in computing its taxable income for the year, an amount not exceeding the part of its income for the year that may reasonably be considered to be the amount by which

(a) the aggregate of all amounts each of which is

i. the amount obtained by multiplying the corporation's income for the year from the eligible activities of a recognized business carried on by the corporation, by the proportion that the number of days in the year that are within the base period applicable to the corporation in respect of the eligible activities is of the number of days in the year during which the corporation carries on the eligible activities, or

ii. the amount obtained by multiplying the corporation's share of the partnership's income for the fiscal period from the eligible activities of a recognized business carried on by the partnership, by the proportion that the number of days in the fiscal period that are within the base period applicable to the partnership in respect of the eligible activities is of the number of days in the fiscal period during which the partnership carries on the eligible activities; exceeds

(b) the aggregate of all amounts each of which is

i. the amount obtained by multiplying the corporation's loss for the year from the eligible activities of a recognized business carried on by the corporation, by the proportion that the number of days in the year that are within the base period applicable to the corporation in respect of the eligible activities is of the number of days in the year during which the corporation carries on the eligible activities, or

ii. the amount obtained by multiplying the corporation's share of the partnership's loss for the fiscal period from the eligible activities of a recognized business carried on by the partnership, by the proportion that the number of days in the fiscal period that are within the base period applicable to the partnership in respect of the eligible activities is of the number of days in the fiscal period during which the partnership carries on the eligible activities.

Documents to be filed.

A corporation may deduct an amount under the first paragraph in computing its taxable income for a taxation year only if it encloses, with its fiscal return it is required to file under section 1000 for the year, the prescribed form containing the prescribed information and, in relation to each recognized business carried on by the corporation or the partnership, a copy of the certificate issued to the corporation or partnership in respect of the recognized business.

History: 2000, c. 39, s. 49.

CHAPTER III INCLUSION

Inclusion in relation to the carrying on of a recognized business.

737.18.12. A corporation that, in a taxation year, carries on a recognized business or is a member of a partnership that, in a fiscal period of the partnership ending in that year, carries on a recognized business, shall include, in computing its taxable income for the year, an amount equal to the lesser of

(a) the amount by which the amount determined in its respect for the year under subparagraph *b* of the first paragraph of section 737.18.11 exceeds the amount determined in its respect for the year under subparagraph *a* of that paragraph; and

(b) its income for the year, computed as if the amount determined in its respect for the year under subparagraph *a* of the first paragraph of section 737.18.11 and the amount determined in its respect for the year under subparagraph *b* of that paragraph were nil.

History: 2000, c. 39, s. 49.

CHAPTER IV COMPUTATION OF TAXABLE INCOME

Rules applicable.

737.18.13. For the purpose of computing the taxable income of an individual referred to in section 737.18.10 for a taxation year, the following rules apply:

(a) for the purpose of computing the deduction under section 725.2, the amount that is the benefit the individual is deemed to receive in the year under any of sections 49 and 50 to 52.1, in respect of a security, or the transfer or any other disposition of the rights under the agreement referred to in section 48 and which the individual has included in computing the individual's income for the year, shall not include the portion of the amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of the individual's exemption period in relation to an employment that is included in the year;

(b) for the purpose of computing the deduction under section 725.3, the amount that is the benefit the individual is deemed to receive in the year under section 49, as a consequence of the application of section 49.2, in respect of a share acquired by the individual after 22 May 1985 and which the individual has included in computing the individual's income for the year, shall not include the portion of the amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of the individual's exemption period in relation to an employment that is included in the year;

(c) for the purpose of computing the deduction under section 725.4, the amount included by the individual under paragraph *b* of section 218 in computing the individual's income for the year in respect of a share the individual has received after 22 May 1985 shall not include the portion of the amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of the individual's exemption period in relation to an employment that is included in the year;

(d) for the purpose of computing the deduction under section 725.5, the amount included by the individual under

section 888.1 in computing the individual's income for the year shall not include the portion of the amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of the individual's exemption period in relation to an employment that is included in the year;

(e) for the purpose of computing the deduction under section 725, the amount included by the individual in computing the individual's income for the year, which is an amount described in any of the paragraphs of that section, shall not include the portion of the amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of the individual's exemption period in relation to an employment that is included in the year;

(f) for the purpose of computing the deduction under section 725.1.2, the amount included by the individual in computing the individual's income for the year, which is an amount described in the second paragraph of that section, shall not include the portion of the amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of the individual's exemption period in relation to an employment that is included in the year;

(g) where the individual has included in computing the individual's income for the year an amount under sections 487.1 to 487.6 in respect of a benefit received by the individual as a home relocation loan, the individual shall, for the purpose of computing the deduction provided for in section 725.6,

i. subtract, from the amount determined in paragraph *a* of section 725.6, the portion of that amount that may reasonably be attributed to the part of the year that is included in the individual's exemption period, in relation to an employment,

ii. subtract, from the amount determined in paragraph *b* of section 725.6, the amount of interest, computed pursuant to that paragraph, for the part of the year that is included in the individual's exemption period, in relation to an employment, and

iii. subtract, from the amount determined in paragraph *c* of section 725.6, the portion of that amount that may reasonably be considered to have been received in the part of the year that is included in the individual's exemption period, in relation to an employment; and

(h) a capital gain realized during the individual's exemption period, in relation to an employment, or a capital loss, including any allowable business investment loss, for such a period is deemed to be nil for the purposes of Titles VI.5 and VI.5.1.

History: 2000, c. 39, s. 49; 2001, c. 53, s. 104; 2004, c. 21, s. 144.

TITLE VII.2.3*(Repealed).***CHAPTER I***(Repealed).***737.18.14.** *(Repealed).*

History: 2002, c. 9, s. 13; 2006, c. 13, s. 54; 2009, c. 5, s. 253; 2009, c. 15, s. 130; 2011, c. 1, s. 34; 2012, c. 8, s. 76; 2019, c. 14, s. 196.

737.18.15. *(Repealed).*

History: 2002, c. 9, s. 13; 2005, c. 1, s. 143; 2012, c. 8, s. 77; 2019, c. 14, s. 196.

737.18.16. *(Repealed).*

History: 2002, c. 9, s. 13; 2019, c. 14, s. 196.

737.18.16.1. *(Repealed).*

History: 2009, c. 5, s. 254; 2019, c. 14, s. 196.

CHAPTER II*(Repealed).***737.18.17.** *(Repealed).*

History: 2002, c. 9, s. 13; 2019, c. 14, s. 196.

TITLE VII.2.3.1**DEDUCTION RELATING TO THE CARRYING OUT OF A LARGE INVESTMENT PROJECT****CHAPTER I****INTERPRETATION AND GENERAL RULES****Definitions:**

737.18.17.1. In this Title, unless the context indicates otherwise,

“certificate”;

“certificate” for a taxation year of a corporation or a fiscal period of a partnership, in relation to a large investment project, means the certificate that, for the purposes of this Title, is issued by the Minister of Finance, in relation to the large investment project for the corporation’s taxation year or the partnership’s fiscal period, as the case may be;

“date of the beginning of the tax-free period”;

“date of the beginning of the tax-free period” in respect of a large investment project means the date that is specified as such in the first certificate in relation to the large investment project;

“digital platform”;

“digital platform” is a computer environment that enables content management or use and that, as an intermediary, enables access to information, services or property supplied

or edited by the corporation or partnership operating it or by a third party;

“eligible activities”;

“eligible activities” of a corporation or a partnership, in relation to a large investment project, means, subject to section 737.18.17.4, the activities or part of the activities that are carried on by the corporation or partnership, as the case may be, in the course of carrying on its recognized business in relation to the large investment project and that arise from the project, except

(a) where the large investment project concerns the development of a digital platform, activities relating to the sale of property or the supply of services through that platform; or

(b) in the case of a corporation’s large investment project, the activities that

i. are carried on under a contract that is an eligible contract for the purposes of Division II.6.0.1.8 of Chapter III.1 of Title III of Book IX, or

ii. are eligible activities for the purposes of Division II.6.0.1.9 of Chapter III.1 of Title III of Book IX;

“large investment project”;

“large investment project” of a corporation or a partnership means an investment project in respect of which a qualification certificate has been issued to the corporation or partnership, as the case may be, by the Minister of Finance, for the purposes of this Title;

“last day of the tax-free period”;

“last day of the tax-free period” in respect of a large investment project means the last day of the 15-year period that begins on the date of the beginning of the tax-free period in respect of the project;

“prior loss attributable to eligible activities”;

“prior loss attributable to eligible activities” of a corporation for a taxation year or of a partnership for a fiscal period means the amount determined by the formula

$$A - B;$$
“recognized business”;

“recognized business” of a corporation or a partnership in relation to a large investment project means a business or part of a business, carried on in Québec by the corporation or partnership, in connection with which the large investment project was carried out or is in the process of being carried out and in respect of which the corporation or partnership keeps separate accounts in relation to the eligible activities of the corporation or partnership, in relation to the project;

“tax-free period”;

“tax-free period” of a corporation or a partnership, for a taxation year or a fiscal period, in relation to a large investment project, means, subject to the third paragraph of section 737.18.17.1.1, the part of the taxation year or fiscal

period that is both covered by a certificate issued to the corporation or partnership in respect of the large investment project and included in the 15-year period that begins on the date of the beginning of the tax-free period in respect of the project or, where the corporation or partnership acquired all or substantially all of the recognized business in relation to the project and the Minister of Finance authorized the transfer of the carrying out of the project to the corporation or partnership, according to the qualification certificate issued to the corporation or partnership, in relation to the project, in the part of that 15-year period that begins on the date of acquisition of the recognized business;

“total qualified capital investments”.

“total qualified capital investments”, at a particular date, of a corporation or a partnership, in relation to a large investment project, means the aggregate of the expenditures of a capital nature incurred by the corporation or partnership, as the case may be, from the beginning of the carrying out of the large investment project until that date, to obtain goods or services with a view to establishing, in Québec, the recognized business of the corporation or partnership, in relation to the project, or with a view to increasing or modernizing the production of such a business, except such expenditures that are related to the purchase or use of land or the acquisition of a business already carried on in Québec.

Prior loss attributable to eligible activities — formula elements.

In the formula in the definition of “prior loss attributable to eligible activities” of a corporation for a particular taxation year or of a partnership for a particular fiscal period, in the first paragraph,

(a) A is

i. in relation to a corporation, the aggregate of all amounts each of which is the amount, in respect of the corporation, for a taxation year preceding the particular year, by which the amount determined under subparagraph *b* of the second paragraph of section 737.18.17.5 exceeds the amount determined under subparagraph *a* of that second paragraph, and

ii. in relation to a partnership, the aggregate of all amounts each of which is the amount, in respect of the partnership, for a fiscal period preceding the particular fiscal period, by which the amount determined under subparagraph *e* of the second paragraph of section 737.18.17.5 exceeds the amount determined under subparagraph *d* of that second paragraph; and

(b) B is

i. in relation to a corporation, the aggregate of all amounts each of which is the amount that reduced, because of C in the formula in subparagraph *a* of the first paragraph of section 737.18.17.5, the amount that would have been otherwise deductible by the corporation, under that section, for a taxation year preceding the particular year, and

ii. in relation to a partnership, the aggregate of all amounts each of which is the amount that reduced, because of F in the formula in subparagraph *b* of the first paragraph of section 737.18.17.5, the amount of which a portion would have been otherwise deductible by a corporation that is a member of the partnership, under that section, for a taxation year in which a fiscal period preceding the particular fiscal period of the partnership ends.

Determination of the tax assistance limit.

In this Title, the tax assistance limit, in relation to a large investment project, is, except for the purposes of section 737.18.17.12, determined in accordance with section 737.18.17.8 where the tax assistance limit is that of a corporation carrying out the project, section 737.18.17.9 where the tax assistance limit is that of a corporation that is a member of a partnership carrying out the project and section 34.1.0.4 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5) where the tax assistance limit is that of such a partnership.

History: 2015, c. 21, s. 260; 2017, c. 1, s. 181; 2019, c. 14, s. 197.

Large investment projects interrelated.

737.18.17.11. In this Title, two large investment projects that are covered by the same qualification certificate are deemed to be a single large investment project (referred to as a “deemed large investment project”), except as regards the determination, in respect of each project, of the total qualified capital investments of the corporation or partnership carrying out the projects, the date of the beginning of the tax-free period and the last day of the tax-free period.

Period.

Such a rule applies throughout the particular period that begins on the date of the beginning of the tax-free period in respect of the large investment project that began first (in this Title referred to as the “first large investment project”) and that ends on the last day of the tax-free period in respect of the other large investment project (in this Title referred to as the “second large investment project”).

Tax-free period in respect of the deemed large investment project.

The definition of “tax-free period” in the first paragraph of section 737.18.17.1 is, in relation to a deemed large investment project, to be read as follows:

“tax-free period” of a corporation or a partnership, for a taxation year or a fiscal period, in relation to a deemed large investment project, means the part of the taxation year or fiscal period that is both covered by a certificate issued to the corporation or partnership in respect of the large investment project and included in the particular period referred to in the second paragraph of section 737.18.17.1.1 or, where the corporation or partnership acquired all or substantially all of

the recognized business in relation to the project and the Minister of Finance authorized the transfer of the carrying out of the project to the corporation or partnership, according to the qualification certificate issued to the corporation or partnership, in relation to the project, in the part of that particular period that begins on the date of acquisition of the recognized business.

History: 2019, c. 14, s. 198.

Determination of income or loss.

737.18.17.2. For the purposes of this Title, to determine the income or loss of a corporation for a taxation year, or of a partnership for a fiscal period, from its eligible activities in relation to a large investment project, the income or loss is to be computed as if

(a) the eligible activities were the carrying on of a separate business; and

(b) the corporation or partnership were deducting in computing its income for the taxation year or fiscal period and had deducted in computing its income for any preceding taxation year or fiscal period, in relation to the separate business, the maximum amount in respect of any reserve, allowance or other amount.

Special rules.

For the purposes of subparagraph *b* of the first paragraph, the undepreciated capital cost, on the date described in the third paragraph for the corporation or partnership, in respect of the large investment project, of depreciable property of a prescribed class in relation to the separate business referred to in subparagraph *a* of the first paragraph, is deemed to include the amount that is the amount by which the total depreciation, within the meaning of paragraph *b* of section 93, allowed to the corporation or partnership, as the case may be, before that date, in respect of property of that class, exceeds the aggregate of all amounts each of which is an amount that the corporation or partnership, as the case may be, included, under section 94, in respect of property of that class, in computing its income for a taxation year or fiscal period that ended before that date.

Date referred to.

The date to which the second paragraph refers is the date of the beginning of the tax-free period in respect of the large investment project or, in the case of a deemed large investment project within the meaning of section 737.18.17.1.1, of the first large investment project, unless the corporation or partnership acquired all or substantially all of the recognized business in relation to the large investment project and the Minister of Finance authorized the transfer of the carrying out of the project to the corporation or partnership, according to the qualification certificate issued to the corporation or partnership, in relation to the project, in

which case it is the date of acquisition of the recognized business.

Development of a digital platform.

Where a large investment project concerns the development of a digital platform, the income or loss of a corporation or partnership in relation to the project determined in accordance with the first paragraph is only to take into account the income reasonably attributable to the use of the digital platform, which includes the fees and royalties charged by the corporation or partnership for the use of that platform, the part of the subscription fees to that platform that can reasonably be considered to have been paid for its use, except for any part of the fees paid as consideration for services received or property acquired, the amounts paid by a third party to use it as a gateway to the third party's own website, or any other similar amount.

Computation of taxable income after the end of the tax-free period in respect of the first large investment project.

The income or loss of a corporation or partnership from its eligible activities in relation to a deemed large investment project within the meaning of section 737.18.17.1.1, for a taxation year or fiscal period that ends after the last day of the tax-free period in respect of the first large investment project (in this section referred to as the "particular day") is deemed to be equal to

(a) where the taxation year or fiscal period includes the particular day, the amount determined by the formula

$$A - \{A \times [B/(B + C)] \times D\}; \text{ or}$$

(b) in any other case, the amount determined by the formula

$$A \times [C/(B + C)].$$

Formula elements.

In the formulas in the fifth paragraph,

(a) A is the income or loss of the corporation for the taxation year, or of the partnership for the fiscal period, from its eligible activities in relation to the deemed large investment project, otherwise determined;

(b) B is the total qualified capital investments of the corporation or partnership, in relation to the first large investment project, on the date of the beginning of the tax-free period in respect of the project;

(c) C is the total qualified capital investments of the corporation or partnership, in relation to the second large investment project, on the date of the beginning of the tax-free period in respect of the project; and

(d) D is the proportion that the number of days in the taxation year or fiscal period that follow the particular day is of the number of days in that taxation year or fiscal period.

History: 2015, c. 21, s. 260; 2019, c. 14, s. 199.

Transfer of a business.

737.18.17.3. Where, at any time, a corporation or a partnership (in this section referred to as the “acquirer”) acquired all or substantially all of a recognized business from another corporation or partnership (in this section referred to as the “vendor”), in relation to a large investment project, and the Minister of Finance previously authorized the transfer of the carrying out of the large investment project to the acquirer, according to a qualification certificate issued by that Minister to the acquirer in respect of the project,

(a) the following rules must be taken into consideration for the purposes of this Title:

i. for the purpose of computing the prior loss attributable to eligible activities of the acquirer for a taxation year or fiscal period that ends after that time, there shall be added to the amount otherwise represented by A in the formula in the definition of “prior loss attributable to eligible activities” in the first paragraph of section 737.18.17.1, unless it is otherwise included in that amount, the portion that is reasonably attributable to the recognized business of the amount by which the aggregate of the following amounts exceeds the amount represented by C or F in the formula in subparagraph *a* or *b* of the first paragraph of section 737.18.17.5, in respect of the vendor for that taxation year or fiscal period:

(1) the amount, in respect of the vendor for the taxation year or fiscal period, by which the amount determined under subparagraph *b* or *e* of the second paragraph of section 737.18.17.5 exceeds the amount determined under subparagraph *a* or *d* of that second paragraph, and

(2) the prior loss attributable to eligible activities of the vendor for that taxation year or fiscal period, and

ii. for the purpose of computing the prior loss attributable to eligible activities of the vendor for a taxation year or fiscal period that ends after that time, there shall be added to the amount otherwise represented by B in the formula in the definition of “prior loss attributable to eligible activities” in the first paragraph of section 737.18.17.1, the portion of the excess amount referred to in subparagraph *i*, in respect of the acquirer for such a taxation year or fiscal period; and

(b) the following rules must be taken into consideration when determining, for the purposes of subparagraphs *a* and *b* or *d* and *e* of the second paragraph of section 737.18.17.5, the amount referred to therein in relation to the large investment project:

i. the taxation year or fiscal period of the vendor that includes that time is deemed to end immediately before that time, and

ii. the taxation year or fiscal period of the acquirer that includes that time is deemed to begin at that time.

History: 2015, c. 21, s. 260.

Activities deemed not to be eligible activities.

737.18.17.4. If, at a particular time, the activities carried on in Québec by a person or a partnership in relation to a business diminish or cease and it may reasonably be considered that, as a result, a corporation or another partnership begins, after the particular time, to carry on similar activities in the course of carrying on a recognized business, in relation to a large investment project, or increases the scope of similar activities carried on in the course of carrying on such a business, those activities or portions of activities, as the case may be, are, subject to section 737.18.17.3, deemed not to be eligible activities of the corporation or of the other partnership carried on in the course of carrying on the recognized business.

History: 2015, c. 21, s. 260.

CHAPTER II DEDUCTION

Deduction relating to eligible activities.

737.18.17.5. A corporation that, in a taxation year, carries on a recognized business in relation to a large investment project or is a member of a partnership that carries on such a recognized business in the partnership’s fiscal period ending in that year, may, subject to the third paragraph, deduct in computing its taxable income for the year, if a certificate has been issued for the year or fiscal period in relation to the large investment project, an amount not exceeding the portion of its income for the year that may reasonably be considered to be equal to the lesser of the amount determined in accordance with section 737.18.17.6, in respect of the corporation for the year, and the aggregate of

(a) the amount determined by the formula

$(A - B) - C$; and

(b) the aggregate of all amounts each of which is the corporation’s share of the amount determined, in respect of such a partnership of which the corporation is a member, by the formula

$(D - E) - F$.

Interpretation.

In the formulas in the first paragraph,

(a) A is the aggregate of all amounts each of which is equal to the amount obtained by multiplying the corporation's income for the taxation year from its eligible activities, in relation to a large investment project, by the proportion that the number of days in the corporation's tax-free period for the year, in relation to the large investment project, is of the number of days in the year;

(b) B is the aggregate of all amounts each of which is equal to the amount obtained by multiplying the corporation's loss for the taxation year from its eligible activities, in relation to a large investment project, by the proportion that the number of days in the corporation's tax-free period for the year, in relation to the large investment project, is of the number of days in the year;

(c) C is the prior loss attributable to eligible activities of the corporation for the year;

(d) D is the aggregate of all amounts each of which is equal to the amount obtained by multiplying the partnership's income for the fiscal period from its eligible activities, in relation to a large investment project, by the proportion that the number of days in the partnership's tax-free period for the fiscal period, in relation to the large investment project, is of the number of days in the fiscal period;

(e) E is the aggregate of all amounts each of which is equal to the amount obtained by multiplying the partnership's loss for the fiscal period from its eligible activities, in relation to a large investment project, by the proportion that the number of days in the partnership's tax-free period for the fiscal period, in relation to the large investment project, is of the number of days in the fiscal period; and

(f) F is the prior loss attributable to eligible activities of the partnership for the fiscal period.

Filing requirements.

A corporation may deduct an amount under the first paragraph in computing its taxable income for a taxation year only if it encloses, with the fiscal return it is required to file under section 1000 for the year,

(a) the prescribed form containing prescribed information; and

(b) in relation to each large investment project referred to in the first paragraph of the corporation or of a partnership of which the corporation is a member,

i. the financial statements relating to the eligible activities of the corporation or partnership, in relation to the large investment project, for the taxation year or fiscal period, as the case may be,

ii. a copy of the qualification certificate issued to the corporation or partnership in respect of the large investment project,

iii. a copy of the certificate issued for the corporation's taxation year or the partnership's fiscal period, as the case may be, in relation to the large investment project,

iv. where the large investment project is a project of the partnership, a copy of each agreement referred to in section 737.18.17.10 in respect of the fiscal period of the partnership that ends in the taxation year or in a preceding taxation year, in relation to the project, unless it has already been filed, and

v. where the corporation or partnership acquired or sold all or substantially all of the recognized business in relation to the large investment project, a copy of the agreement referred to in section 737.18.17.12 in respect of the transfer, unless it has already been filed.

Corporation's share.

For the purposes of subparagraph *b* of the first paragraph, the corporation's share of an amount, for a fiscal period of a partnership, is equal to the agreed proportion of that amount in respect of the corporation for the partnership's fiscal period.

History: 2015, c. 21, s. 260.

Limit.

737.18.17.6. The amount to which the first paragraph of section 737.18.17.5 refers in respect of a corporation for a taxation year is equal, subject to paragraph *a* of section 737.18.17.7 or 737.18.17.7.1, as the case may be, to the aggregate of the following amounts that is multiplied, if the corporation has an establishment situated outside Québec, by the reciprocal of the proportion that its business carried on in Québec is of the aggregate of its business carried on in Canada or in Québec and elsewhere, as determined under subsection 2 of section 771:

(a) the product obtained by multiplying the proportion that is the reciprocal of the basic rate determined for the year in respect of the corporation under section 771.0.2.3.1 by the lesser of the aggregate of all amounts each of which is the corporation's tax exemption amount for the year in respect of a large investment project of the corporation, or of a partnership of which it is a member, that is referred to in the first paragraph of section 737.18.17.5 and the amount that is determined in its respect for the year under subparagraph ii of subparagraph *d* of the fifth paragraph; and

(b) the product obtained by multiplying the proportion that is the reciprocal of the rate determined in respect of the corporation for the year in accordance with the sixth paragraph by the amount by which the aggregate of all amounts each of which is the corporation's tax exemption amount for the year in respect of a large investment project of the corporation, or of a partnership of which it is a member, that is referred to in the first paragraph of section 737.18.17.5 exceeds the amount that is determined in its

respect for the year under subparagraph ii of subparagraph *d* of the fifth paragraph.

Tax exemption amount.

For the purposes of this section, a corporation's tax exemption amount for a taxation year in respect of a large investment project of the corporation, or of a partnership of which it is a member, is equal to the lesser of the amount that is determined under the fourth paragraph, for the year, in relation to the large investment project and the balance of the corporation's tax assistance limit for the year in respect of the project.

Balance of the tax assistance limit.

The balance of a corporation's tax assistance limit, for a particular taxation year, in respect of a large investment project, is equal to

(a) in the case of a large investment project of the corporation, the amount by which the corporation's tax assistance limit for the particular year, in relation to the project, exceeds the aggregate of

i. the aggregate of all amounts each of which is, for a preceding taxation year, in relation to the large investment project, equal to the amount determined by the formula

$$A \times B \times C,$$

ii. the aggregate of all amounts each of which is the corporation's contribution exemption amount, for the particular taxation year or a preceding taxation year, in respect of the large investment project, determined in accordance with the second paragraph of section 34.1.0.3 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5),

iii. where, at any time in the particular taxation year, the corporation transfers its recognized business in relation to the large investment project to another corporation or a partnership, the amount that was transferred to the other corporation or the partnership pursuant to the agreement referred to in section 737.18.17.12 in respect of the transfer; and

iv. in the case of a deemed large investment project within the meaning of section 737.18.17.1.1, the aggregate of the following amounts, if any:

(1) the amount determined by the following formula for the taxation year that includes the last day of the tax-free period in respect of the first large investment project and ends after that day, unless the balance of the corporation's tax assistance limit for that year, in respect of the deemed large investment project, determined without reference to this subparagraph, is less than or equal to the corporation's tax assistance limit in relation to the second large investment project:

$$F - [(F \times H) + (G \times I)], \text{ and}$$

(2) the amount determined by the following formula for the taxation year that follows the taxation year that includes the last day of the tax-free period in respect of the first large investment project, unless the balance of the corporation's tax assistance limit for that year, in respect of the deemed large investment project, determined without reference to this subparagraph, is less than or equal to the corporation's tax assistance limit in relation to the second large investment project:

$$F - G; \text{ or}$$

(b) in the case of a large investment project of a partnership of which the corporation is a member, the amount by which the corporation's tax assistance limit for the particular year, in relation to the large investment project, exceeds the aggregate of all amounts each of which is, for a preceding taxation year, in relation to the project, equal to the amount determined by the formula

$$A \times B \times C.$$

Tax attributable to a large investment project.

The amount to which the second paragraph refers, for a taxation year of the corporation, in relation to a large investment project, is determined by the formula

$$A \times D \times E.$$

Interpretation.

In the formulas in the third and fourth paragraphs,

(a) A is 1, unless the corporation has an establishment situated outside Québec for the taxation year, in which case it is the proportion that the corporation's business carried on in Québec is of the aggregate of its business carried on in Canada or in Québec and elsewhere, as determined under subsection 2 of section 771 for the year;

(b) B is, subject to paragraph *b* of sections 737.18.17.7 and 737.18.17.7.1, the aggregate of

i. the product obtained by multiplying the rate determined in respect of the corporation for the year in accordance with the sixth paragraph by the amount by which the amount that would be determined in respect of the corporation for the year under section 771.2.1.2 if no reference were made to section 771.2.5.1 and if, for the purposes of paragraph *b* of section 771.2.1.2, its taxable income for the year were computed without reference to section 737.18.17.5, exceeds the amount determined in its respect for the year under section 771.2.1.2, and

ii. the product obtained by multiplying the basic rate determined for the year in respect of the corporation under section 771.0.2.3.1 by the amount by which the amount that

is deducted by the corporation in computing its taxable income for the year under section 737.18.17.5 exceeds the excess amount determined under subparagraph i;

(c) C is the proportion that the corporation's tax exemption amount for the year in respect of the large investment project is of the aggregate of all amounts each of which is the corporation's tax exemption amount for the year in respect of a large investment project of the corporation, or of a partnership of which it is a member, that is referred to in the first paragraph of section 737.18.17.5 for the year;

(d) D is, subject to paragraph b of sections 737.18.17.7 and 737.18.17.7.1, the aggregate of

i. the product obtained by multiplying the rate determined in respect of the corporation for the year in accordance with the sixth paragraph by the amount by which the amount that would be determined in respect of the corporation for the year under section 771.2.1.2 if no reference were made to section 771.2.5.1 and if, for the purposes of paragraph b of section 771.2.1.2, its taxable income for the year were computed without reference to section 737.18.17.5, exceeds the amount that would be determined in its respect for the year under section 771.2.1.2 if the corporation were to deduct, in computing its taxable income, the amount that, but for this section, would be determined under section 737.18.17.5, and

ii. the product obtained by multiplying the basic rate determined for the year in respect of the corporation under section 771.0.2.3.1 by the amount by which the amount that could be deducted in computing the corporation's taxable income for the year under section 737.18.17.5 if no reference were made to this section exceeds the excess amount determined under subparagraph i;

(e) E is

i. in the case of a large investment project of the corporation, the proportion that the amount that A would be in the formula in subparagraph a of the first paragraph of section 737.18.17.5, for the taxation year, in respect of the corporation, if the corporation's income referred to in subparagraph a of the second paragraph of that section were derived only from its eligible activities, in relation to the large investment project, is of the total of the amount that A is in that formula for the year, in respect of the corporation, and the aggregate of all amounts each of which is the corporation's share of the amount that D is in the formula in subparagraph b of that first paragraph for the fiscal period of a partnership of which the corporation is a member that ends in the year, or

ii. in the case of a large investment project of a partnership of which the corporation is a member, the proportion that the corporation's share of the amount that D would be in the formula in subparagraph b of the first paragraph of section 737.18.17.5, for the fiscal period of the partnership that ends

in the taxation year, if the partnership's income referred to in subparagraph d of the second paragraph of that section were derived only from its eligible activities, in relation to the large investment project, is of the total of the amount that A is in the formula in subparagraph a of that first paragraph for the year, in respect of the corporation, and the aggregate of all amounts each of which is the corporation's share of the amount that D is for the fiscal period of a partnership of which the corporation is a member that ends in the year;

(f) F is the balance of the corporation's tax assistance limit for the taxation year referred to in subparagraph 1 or 2 of subparagraph iv of subparagraph a of the third paragraph, in respect of the deemed large investment project, determined without reference to that subparagraph 1 or 2, as the case may be;

(g) G is the corporation's tax assistance limit in relation to the second large investment project;

(h) H is the proportion that the number of days in the part of the year referred to in subparagraph 1 of subparagraph iv of subparagraph a of the third paragraph that ends on the last day of the tax-free period in respect of the first large investment project is of the number of days in that year; and

(i) I is the proportion that the number of days in the year referred to in subparagraph 1 of subparagraph iv of subparagraph a of the third paragraph that follow the last day of the tax-free period in respect of the first large investment project is of the number of days in that year.

Applicable rate.

The rate to which subparagraph b of the first paragraph and subparagraph i of subparagraphs b and d of the fifth paragraph refer in respect of a corporation for a taxation year is equal to the amount by which the basic rate determined for the year in respect of the corporation under section 771.0.2.3.1 exceeds the percentage determined for the year in its respect under subparagraph c of the first paragraph of section 771.0.2.4.

Rules for determining the balance of the tax assistance limit.

For the purpose of determining the amount referred to in subparagraph i of subparagraph a of the third paragraph or in subparagraph b of that paragraph for any preceding taxation year for which section 733.0.5.1 applies to the corporation, subparagraph b of the fifth paragraph is to be read as if

(a) the amount that is deducted by the corporation in computing its taxable income for the year under section 737.18.17.5 were increased by the amount by which its non-capital loss for the year exceeds the amount that would be that loss if it were determined without reference to section 733.0.5.1; and

(b) the corporation's taxable income for the year, determined without reference to section 737.18.17.5, were equal to the

amount that, but for this section, would be determined in its respect for the year under section 737.18.17.5.

Corporation's share.

For the purposes of subparagraph *e* of the fifth paragraph, the corporation's share of an amount for a partnership's fiscal period is equal to the agreed proportion of that amount in respect of the corporation for the partnership's fiscal period.

History: 2015, c. 21, s. 260; 2017, c. 1, s. 182; 2019, c. 14, s. 200.

Manufacturing corporation.

737.18.17.7. Where the corporation described in section 737.18.17.5 for a taxation year is a manufacturing corporation, within the meaning assigned by the first paragraph of section 771.1, to which paragraph *d.3* of subsection 1 of section 771 applies for the year, section 737.18.17.6, as it reads in its application to a taxation year that begins before 1 January 2017, is to be read

(a) as if "100/8 of" in subparagraph *b* of the first paragraph were replaced by "the product obtained by multiplying the proportion that is the reciprocal of the difference between the basic rate determined for the year in respect of the corporation under section 771.0.2.3.1 and the percentage determined for the year in its respect under section 771.0.2.5 by"; and

(b) as if "8% of" in subparagraph *i* of subparagraphs *b* and *d* of the fifth paragraph were replaced by "the product obtained by multiplying the difference between the basic rate determined for the year in respect of the corporation under section 771.0.2.3.1 and the percentage determined for the year in its respect under section 771.0.2.5 by".

History: 2015, c. 21, s. 260; 2017, c. 1, s. 183; 2019, c. 14, s. 201.

Primary and manufacturing sectors corporation.

737.18.17.7.1. Where the corporation described in section 737.18.17.5 for a taxation year is a primary and manufacturing sectors corporation, within the meaning assigned by the first paragraph of section 771.1, to which paragraph *d.4* of subsection 1 of section 771 applies for the year, section 737.18.17.6 is to be read as if "subparagraph *c* of the first paragraph of section 771.0.2.4" in the sixth paragraph were replaced by "section 771.0.2.6".

History: 2017, c. 1, s. 184; 2019, c. 14, s. 202.

Corporation's tax assistance limit in relation to a large investment project.

737.18.17.8. Subject to the second paragraph, a corporation's tax assistance limit in relation to a large investment project is 15% of its total qualified capital investments on the date of the beginning of the tax-free period in respect of the large investment project, unless the corporation acquired all or substantially all of the recognized business in relation to the project, in which case it is the

amount that was transferred to the corporation pursuant to the agreement referred to in section 737.18.17.12 in respect of the acquisition.

Corporation's tax assistance limit in relation to a deemed large investment project.

In the case of a deemed large investment project within the meaning of section 737.18.17.1.1, the corporation's tax assistance limit in relation to the project is, for a particular taxation year,

(a) where the particular year ends before the date of the beginning of the tax-free period in respect of the second large investment project, the corporation's tax assistance limit in relation to the first large investment project;

(b) where the particular year begins before the date of the beginning of the tax-free period in respect of the second large investment project and ends on or after that date, the amount determined by the formula

$$A + (B \times C); \text{ or}$$

(c) where the particular year begins on or after the date of the beginning of the tax-free period in respect of the second large investment project, the amount determined by the formula

$$A + B.$$

Formula elements.

In the formulas in the second paragraph,

(a) A is the corporation's tax assistance limit in relation to the first large investment project;

(b) B is the corporation's tax assistance limit in relation to the second large investment project; and

(c) C is the proportion that the number of days in the part of the particular year that begins on the date of the beginning of the tax-free period in respect of the second large investment project is of the number of days in that year.

History: 2015, c. 21, s. 260; 2019, c. 14, s. 203.

Corporation's limit in relation to a large investment project of a partnership.

737.18.17.9. A corporation's tax assistance limit, in relation to a large investment project of a partnership of which the corporation is a member, for a particular taxation year in which a fiscal period of the partnership ends is

(a) the aggregate of all amounts each of which is an amount allocated to the corporation, for the particular year or for a preceding taxation year, pursuant to the agreement referred to in section 737.18.17.10 in respect of the fiscal period of the

partnership that ends in that year, in relation to the large investment project; or

(b) zero, if in respect of any fiscal period of the partnership that ends in the particular taxation year or in a preceding taxation year, no such agreement has been entered into in relation to the large investment project.

History: 2015, c. 21, s. 260.

Allocation agreement.

737.18.17.10. The agreement to which section 737.18.17.9 refers in respect of a particular fiscal period of a partnership, in relation to a large investment project of the partnership, is the agreement under which the partnership and all its members agree on an amount in respect of the partnership's tax assistance limit in relation to the large investment project, for the purpose of allocating to each corporation that is a member of the partnership, for the taxation year in which the particular fiscal period ends, its share of the agreed amount, which amount must not be greater than the amount by which the tax assistance limit exceeds the aggregate of

(a) the aggregate of all amounts each of which is the amount so agreed on, in respect of a preceding fiscal period of the partnership, in relation to the particular large investment project;

(b) the aggregate of all amounts each of which is the partnership's contribution exemption amount for a preceding fiscal period, in respect of the large investment project, determined in accordance with the second paragraph of section 34.1.0.3 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5);

(c) where, at any time in the particular fiscal period, the partnership transfers its recognized business in relation to the large investment project to a corporation or another partnership, the amount that was transferred to the corporation or the other partnership pursuant to the agreement referred to in section 737.18.17.12 in respect of the transfer; and

(d) in the case of a deemed large investment project within the meaning of section 737.18.17.1.1, the aggregate of the following amounts, if any:

i. the amount determined by the following formula for the partnership's fiscal period that includes the last day of the tax-free period in respect of the first large investment project and ends after that day, unless the excess amount referred to in this paragraph, for that fiscal period, in respect of the deemed large investment project, determined without reference to this subparagraph, is less than or equal to the partnership's tax assistance limit in relation to the second large investment project:

$$A - [(A \times C) + (B \times D)], \text{ and}$$

ii. the amount determined by the following formula for the partnership's fiscal period that follows the fiscal period that includes the last day of the tax-free period in respect of the first large investment project, unless the excess amount referred to in this paragraph, for that fiscal period, in respect of the deemed large investment project, determined without reference to this subparagraph, is less than or equal to the partnership's tax assistance limit in relation to the second large investment project:

$$A - B.$$

Formula elements.

In the formulas in the first paragraph,

(a) A is the excess amount referred to in the first paragraph for the partnership's fiscal period referred to in subparagraph i or ii of subparagraph *d* of the first paragraph, in respect of the deemed large investment project, determined without reference to that subparagraph i or ii, as the case may be;

(b) B is the partnership's tax assistance limit in relation to the second large investment project;

(c) C is the proportion that the number of days in the part of the fiscal period referred to in subparagraph i of subparagraph *d* of the first paragraph that ends on the last day of the tax-free period in respect of the first large investment project is of the number of days in that fiscal period; and

(d) D is the proportion that the number of days in the fiscal period referred to in subparagraph i of subparagraph *d* of the first paragraph that follow the last day of the tax-free period in respect of the first large investment project is of the number of days in that fiscal period.

Corporation's share.

The share of a corporation that is a member of the partnership of the amount agreed on under an agreement referred to in the first paragraph, in respect of a fiscal period, is the agreed proportion of that amount in respect of the corporation for the partnership's fiscal period.

History: 2015, c. 21, s. 260; 2019, c. 14, s. 204.

Amount agreed on.

737.18.17.11. Where the amount agreed on, in respect of a particular fiscal period of a partnership, in relation to a large investment project, pursuant to an agreement referred to in section 737.18.17.10, is greater than the excess amount referred to in the first paragraph of that section, the agreed amount is, for the purposes of this Title and section 34.1.0.3 of the Act respecting the Régie de l'assurance maladie du

Québec (chapter R-5), deemed to be equal to that excess amount.

History: 2015, c. 21, s. 260.

Agreement to transfer tax assistance limit.

737.18.17.12. Where, at any time in a particular taxation year or fiscal period, a corporation or a partnership, as the case may be, (in this section referred to as the “acquirer”) acquired all or substantially all of a recognized business from another corporation or partnership (in this section referred to as the “vendor”) in relation to a large investment project, and the Minister of Finance previously authorized the transfer of the carrying out of the large investment project to the acquirer, according to a qualification certificate issued by that Minister to the acquirer in respect of the project, the vendor and the acquirer shall, subject to the third paragraph, enter into an agreement under which an amount in respect of the vendor’s tax assistance limit in relation to the project is transferred to the acquirer, which amount must not be greater than the amount by which the limit, determined in accordance with the second paragraph, exceeds,

(a) where the vendor is a corporation, the total of

i. the aggregate of all amounts each of which is, for a preceding taxation year, equal to the amount determined by the formula

$A \times B \times C$, and

ii. the aggregate of all amounts each of which is the vendor’s contribution exemption amount, for a preceding taxation year, in respect of the large investment project, determined in accordance with the second paragraph of section 34.1.0.3 of the Act respecting the Régie de l’assurance maladie du Québec (chapter R-5); or

(b) where the vendor is a partnership, the total of

i. the aggregate of all amounts each of which is the amount agreed on, in respect of a preceding fiscal period of the vendor, in relation to the large investment project, pursuant to an agreement referred to in section 737.18.17.10 in respect of the fiscal period, and

ii. the aggregate of all amounts each of which is the vendor’s contribution exemption amount, for a preceding fiscal period, in respect of the large investment project, determined in accordance with the second paragraph of section 34.1.0.3 of the Act respecting the Régie de l’assurance maladie du Québec.

Vendor’s limit.

A vendor’s tax assistance limit in relation to a large investment project is 15% of its total qualified capital investments on the date of the beginning of the tax-free period in respect of the large investment project, unless the

vendor acquired all or substantially all of the recognized business in relation to the project following a previous transfer, in which case it is the amount that was transferred to the vendor pursuant to the agreement referred to in this section in respect of the acquisition.

Amounts in the agreement in respect of a deemed large investment project.

Where the recognized business referred to in the first paragraph is operated by the vendor in relation to a deemed large investment project within the meaning of section 737.18.17.1.1, the vendor and the acquirer shall, for the purpose of determining, in accordance with section 737.18.17.8 or section 34.1.0.4 of the Act respecting the Régie de l’assurance maladie du Québec (chapter R-5), the acquirer’s tax assistance limit in relation to the deemed large investment project, agree on one or more of the following amounts in the agreement referred to in the first paragraph:

(a) where the time referred to in the first paragraph is before the date of the beginning of the tax-free period in respect of the second large investment project, an amount in respect of the vendor’s tax assistance limit in relation to the first large investment project, which amount must not be greater than the amount determined by the formula

$D - F$;

(b) where the time referred to in the first paragraph is included in the 15-year period that begins on the date of the beginning of the tax-free period in respect of the second large investment project, but is not after the last day of the tax-free period in respect of the first large investment project, a first amount in respect of the vendor’s tax assistance limit in relation to the first large investment project, which amount may be equal to zero, and a second amount in respect of the vendor’s tax assistance limit in relation to the second large investment project, subject to the total of those amounts not being greater than the amount determined by the formula

$(D + E) - F$; or

(c) in any other case, an amount in respect of the vendor’s tax assistance limit in relation to the second large investment project, which amount must not be greater than the amount determined by the formula

$(D + E) - (F + G)$.

Formula elements.

In the formulas in the first and third paragraphs,

(a) A is 1, unless the vendor has an establishment situated outside Québec for the preceding year, in which case it is the proportion that the vendor’s business carried on in Québec is of the aggregate of its business carried on in Canada or in Québec and elsewhere, as determined under subsection 2 of section 771 for that preceding year;

(b) B is, subject to the seventh and eighth paragraphs, the aggregate of

i. the product obtained by multiplying the rate determined in respect of the corporation for the year in accordance with the sixth paragraph by the amount by which the amount that would be determined in respect of the vendor for the preceding year under section 771.2.1.2 if no reference were made to section 771.2.5.1 and if, for the purposes of paragraph *b* of section 771.2.1.2, its taxable income for the preceding year were computed without reference to section 737.18.17.5, exceeds the amount determined in its respect for the preceding year under section 771.2.1.2, and

ii. the product obtained by multiplying the basic rate determined for the preceding year in respect of the vendor under section 771.0.2.3.1 by the amount by which the amount that the vendor deducts in computing its taxable income for the preceding year under section 737.18.17.5 exceeds the excess amount determined under subparagraph *i*;

(c) C is the proportion that the vendor's tax exemption amount for the preceding year in respect of the large investment project, determined in accordance with the second paragraph of section 737.18.17.6, is of the aggregate of all amounts each of which is the vendor's tax exemption amount for the preceding year, determined in accordance with that second paragraph, in respect of a large investment project of the vendor, or of a partnership of which it is a member, that is referred to in the first paragraph of section 737.18.17.5 for that preceding year;

(d) D is the vendor's tax assistance limit in relation to the first large investment project;

(e) E is the vendor's tax assistance limit in relation to the second large investment project;

(f) F is the amount determined in respect of the deemed large investment project in accordance with subparagraph *a* or *b* of the first paragraph for the particular taxation year or fiscal period, as the case may be; and

(g) G is the amount by which the vendor's tax assistance limit in relation to the first large investment project exceeds the amount determined in respect of the deemed large investment project in accordance with subparagraph *a* or *b* of the first paragraph for the vendor's taxation year or fiscal period that includes the last day of the tax-free period in respect of the first large investment project.

Rules applicable in computing the limit of the amount transferred.

For the purpose of determining the amount referred to in subparagraph *i* of subparagraph *a* of the first paragraph for any preceding taxation year for which section 733.0.5.1 applies to the vendor, subparagraph *b* of the fourth paragraph is to be read as if

(a) the amount that is deducted by the vendor in computing its taxable income for the preceding year under section 737.18.17.5 were increased by the amount by which its non-capital loss for the preceding year exceeds the amount that would be that loss if it were determined without reference to section 733.0.5.1; and

(b) the vendor's taxable income for the preceding year, determined without reference to section 737.18.17.5, were equal to the amount that, but for section 737.18.17.6, would be determined in its respect for the preceding year under section 737.18.17.5.

Applicable rate.

The rate to which subparagraph *i* of subparagraph *b* of the fourth paragraph refers in respect of a corporation for a taxation year is equal to the amount by which the basic rate determined for the year in respect of the corporation under section 771.0.2.3.1 exceeds the percentage determined for the year in its respect under subparagraph *c* of the first paragraph of section 771.0.2.4.

Manufacturing corporation.

Where the corporation is a manufacturing corporation, within the meaning assigned by the first paragraph of section 771.1, to which paragraph *d.3* of subsection 1 of section 771 applies for the preceding taxation year, this section, as it reads in its application to a taxation year that begins before 1 January 2017, is to be read as if "8% of" in subparagraph *i* of subparagraph *b* of the third paragraph were replaced by "the product obtained by multiplying the difference between the basic rate determined for the preceding year in respect of the vendor under section 771.0.2.3.1 and the percentage determined for the preceding year in its respect under section 771.0.2.5 by

Primary and manufacturing sectors corporation.

Where the corporation is a primary and manufacturing sectors corporation, within the meaning assigned by the first paragraph of section 771.1, to which paragraph *d.4* of subsection 1 of section 771 applies for the preceding taxation year, the sixth paragraph is to be read as if "subparagraph *c* of the first paragraph of section 771.0.2.4" were replaced by "section 771.0.2.6".

History: 2015, c. 21, s. 260; 2017, c. 1, s. 185; 2019, c. 14, s. 205.

Amount transferred.

737.18.17.13. Where the amount that was transferred to a corporation or a partnership, in relation to a large investment project, pursuant to an agreement referred to in section 737.18.17.12 is greater than the excess amount referred to in the first paragraph of that section, the amount transferred to the corporation or partnership is, for the purposes of this Title and sections 34.1.0.3 and 34.1.0.4 of the Act respecting the

Régie de l'assurance maladie du Québec (chapter R-5), deemed to be equal to the excess amount.

History: 2015, c. 21, s. 260.

TITLE VII.2.4

DEDUCTION IN RESPECT OF MANUFACTURING OR PROCESSING BUSINESSES IN THE RESOURCE REGIONS

CHAPTER I

INTERPRETATION AND GENERAL

Definitions:

737.18.18. In this Title,

“associated group”;

“associated group” in a taxation year has the meaning assigned by section 737.18.20;

“eligible activity”;

“eligible activity” of a corporation for a taxation year means a manufacturing or processing activity, other than an excluded activity, and includes the following activities where they are incidental to the manufacturing or processing activity:

- (a) engineering design of products and production facilities;
- (b) receiving and storing of raw materials;
- (c) producing, assembling and handling of goods in process;
- (d) inspecting and packaging of finished goods;
- (e) line supervision;
- (f) production support activities including security, cleaning, heating and factory maintenance;
- (g) quality and production control;
- (h) repair of production facilities;
- (i) pollution control; and
- (j) the installation of a property by the corporation, where the property is the result of the manufacturing or processing activity carried out by the corporation or a corporation to which it is associated;

“eligible cost”;

“eligible cost” of a qualified property to a corporation for a taxation year means

- (a) where the property is referred to in paragraph *a* of the definition of “qualified property”, 10% of the capital cost of the property to the corporation; or
- (b) where the property is referred to in paragraph *b* of the definition of “qualified property”, the rental expenses incurred by the corporation in the year in respect of the property;

“eligible employee”;

“eligible employee” of a corporation for a pay period within a taxation year means an employee of the corporation who,

during that period, reports for work at an establishment of the corporation situated in an eligible region;

“eligible region”;

“eligible region” means

(a) one of the following administrative regions described in the Décret concernant la révision des limites des régions administratives du Québec (chapter D-11, r. 1):

- i. administrative region 01 Bas-Saint-Laurent,
- ii. administrative region 02 Saguenay–Lac-Saint-Jean,
- iii. administrative region 08 Abitibi-Témiscamingue,
- iv. administrative region 09 Côte-Nord,
- v. administrative region 10 Nord-du-Québec, or
- vi. administrative region 11 Gaspésie–Îles-de-la-Madeleine;

(b) one of the following regional county municipalities:

- i. Municipalité régionale de comté d’Antoine-Labelle,
- ii. *(subparagraph repealed)*;
- iii. Municipalité régionale de comté de La Vallée-de-la-Gatineau,
- iv. Municipalité régionale de comté de Mékinac, or
- v. Municipalité régionale de comté de Pontiac; or

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

“excluded activity”;

“excluded activity” for a taxation year means

- (a) farming, fishing or forestry;
- (b) construction;
- (c) operating an oil or gas well or extracting petroleum or natural gas from a natural accumulation of petroleum or natural gas;
- (d) extracting minerals from a mineral resource;
- (e) processing
 - i. ore, other than iron ore or tar sands ore, from a mineral resource to any stage that is not beyond the prime metal stage or its equivalent,
 - ii. iron ore from a mineral resource to any stage that is not beyond the pellet stage or its equivalent,
 - iii. tar sands ore from a mineral resource to any stage that is not beyond the crude oil stage or its equivalent,

iv. producing industrial minerals, other than sulfur obtained by processing natural gas,

v. processing natural gas by a public utility as part of the business of selling or distributing gas, or

vi. processing, in Canada, heavy crude oil recovered from a natural reservoir in Canada to a stage that is not beyond the crude oil stage or its equivalent;

(f) storing, shipping, selling and leasing of finished goods;

(g) purchasing of raw materials;

(h) administration, including clerical and personnel activities;

(i) purchase and resale operations;

(j) data processing; or

(k) providing facilities for employees, including cafeterias, clinics and recreational facilities;

(l) photographic development undertaken in a laboratory;

(m) an activity engaged in as part of the operation of a service sector business in relation in particular to transportation or storage, administrative or financial services, wholesale or retail trade, lodging or restaurant services, including any preparation of meals or beverages ordered by customers for immediate consumption on the premises or outside the establishment where the meals or beverages are prepared, or personal services;

(n) *(paragraph repealed)*;

(o) *(paragraph repealed)*;

(p) *(paragraph repealed)*;

(q) *(paragraph repealed)*;

“excluded corporation”;

“excluded corporation” for a taxation year means a corporation

(a) that is exempt from tax under Book VIII; or

(b) that would be exempt from tax under section 985 but for section 192;

“exemption period”;

“exemption period” applicable to a qualified corporation means the period that begins on 30 March 2001 and that ends on 31 December 2010;

“qualified corporation”;

“qualified corporation” for a taxation year means, subject to sections 737.18.22 and 737.18.23, a corporation, other than an excluded corporation,

(a) all or substantially all the total payroll of which for the year is attributable to employees of the corporation in respect of pay periods within the year for which the employees qualify as eligible employees of the corporation;

(b) the activities of which consist mainly in carrying on a manufacturing or processing business; and

(c) the paid-up capital attributed to the corporation for the year, determined in accordance with section 737.18.24, is less than \$30,000,000;

“qualified property”;

“qualified property” of a corporation for a taxation year means

(a) depreciable property owned by the corporation at the end of the year and used by the corporation at any time in the year; or

(b) property leased by the corporation in the year and that would be property referred to in paragraph a if it were owned by the corporation at the end of the year;

“qualified salary or wages”;

“qualified salary or wages” of a corporation for a taxation year, in respect of an employee of the corporation for the year, means the lesser of

(a) the amount obtained by multiplying \$125,000 by the proportion that the number of days in the taxation year during which the employee works for the corporation is of 365; and

(b) the salary or wages incurred by the corporation in the taxation year in respect of the employee;

“qualified total payroll”;

“qualified total payroll” of a corporation for a taxation year means the aggregate of all amounts each of which is the qualified salary or wages incurred by the corporation in the year in respect of an employee of the corporation for the year;

“reduction factor”;

“reduction factor” of a qualified corporation for a taxation year means the reduction factor specified in the qualification certificate issued by Investissement Québec to the qualified corporation for the year for the purposes of this Title or, in the absence of such a specification, zero;

“total payroll”.

“total payroll” of a corporation for a taxation year means the aggregate of all amounts each of which is the salary or wages incurred by the corporation in the year in respect of an employee of the corporation for the year.

Eligible employee.

For the purposes of the definition of “eligible employee” in the first paragraph,

(a) where, during a pay period within a taxation year, an employee reports for work at an establishment of a corporation situated in an eligible region and at an establishment of the corporation situated outside that region, the employee is, for that period, deemed

i. except if subparagraph ii applies, to report for work only at the establishment situated in the eligible region, and

ii. to report for work only at the establishment situated outside the eligible region if, during that period, the employee reports for work mainly at an establishment of the corporation situated outside the eligible region; and

(b) where, during a pay period within a taxation year, an employee is not required to report for work at an establishment of a corporation and the employee's salary or wages are paid from such an establishment situated in an eligible region, the employee is deemed to report for work at that establishment if the duties performed by the employee during that period are performed mainly in the eligible region.

History: 2002, c. 40, s. 60; 2003, c. 9, s. 55; 2004, c. 21, s. 145; 2006, c. 13, s. 55; 2009, c. 5, s. 255; 2009, c. 15, s. 131; 2011, c. 1, s. 35.

Carrying on of a manufacturing or processing business.

737.18.19. For the purposes of paragraph *b* of the definition of "qualified corporation" in the first paragraph of section 737.18.18, the activities of a corporation for a taxation year consist mainly in carrying on a manufacturing or processing business where the proportion represented by either of the following formulas is greater than 50%:

(a) A / B ;

(b) C / D .

Interpretation.

In the formulas provided for in the first paragraph,

(a) *A* is the aggregate of all amounts each of which is the proportion of the qualified salary or wages of the corporation for the year, in respect of an employee of the corporation for the year whose duties relate to an eligible activity of the corporation for the year, that the working time spent by the employee on eligible activities of the corporation for the year is of the aggregate of the employee's working time for the year as an employee of the corporation;

(b) *B* is the qualified total payroll of the corporation for the year;

(c) *C* is the aggregate of all amounts each of which is the proportion of the eligible cost of a qualified property to the corporation for the year that is used directly to carry on an eligible activity of the corporation in the year, that the direct use of the qualified property to carry on an eligible activity of the corporation for the year is of the use of the qualified property to carry on the aggregate of the activities of the corporation for the year; and

(d) *D* is the aggregate of all amounts each of which is the eligible cost of a qualified property to the corporation for the year.

Presumption.

For the purposes of subparagraph *a* of the second paragraph, an employee who spends 90% or more of working time on an eligible activity of the corporation is deemed to spend all working time thereon.

History: 2002, c. 40, s. 60.

Associated group.

737.18.20. An associated group, in a taxation year, means all the corporations that are associated with each other at any time in the year.

Rules applicable.

For the purposes of the first paragraph, the following rules apply:

(a) a business carried on by an individual, other than a trust, is deemed to be carried on by a corporation all the voting shares in the capital stock of which are owned at that time by the individual;

(b) a partnership is deemed to be a corporation all the voting shares in the capital stock of which are 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; and

(c) a trust is deemed to be a corporation all the voting shares in the capital stock of which

i. in the case of a testamentary trust under which one or more beneficiaries are entitled to receive all of the income of the trust that arose before the date of death of one or the last surviving of those beneficiaries, in this subparagraph *c* referred to as the "distribution date", and under which no other person can, before the distribution date, receive or otherwise obtain the enjoyment of any of the income or capital of the trust,

(1) where any such 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, and where that time occurs before the distribution date, are owned at that time by the beneficiary,

(2) where subparagraph 1 does not apply and where that time occurs before the distribution date, are owned at that time by the beneficiary in a proportion equal to the proportion that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of the beneficial interests in the trust of all the beneficiaries,

ii. where a beneficiary's share of the accumulating 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, are owned at that time by the beneficiary, except where subparagraph i applies and that time occurs before the distribution date,

iii. in any case where subparagraph ii does not apply, are owned at that time by the beneficiary in a proportion equal to the proportion 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, except where subparagraph i applies and that time occurs before the distribution date, and

iv. in the case of a trust referred to in section 467, are owned at that time by the person referred to therein from whom property of the trust or property for which it was substituted was directly or indirectly received.

History: 2002, c. 40, s. 60; 2005, c. 1, s. 144; 2009, c. 15, s. 132.

Rules applicable to a salary or wages.

737.18.21. For the purposes of this chapter, the following rules apply:

(a) an amount incurred in a taxation year under an agreement by a corporation, in respect of a person, for services that would normally be rendered by an employee of the corporation is deemed to be a salary or wages incurred in that year for the services in respect of such an employee who reports for work at the establishment of the corporation to which such services are reasonably attributable and to the extent that they are so attributable, except where a commission is paid to a person who is not an employee of the corporation; and

(b) where an employee renders a service to or on behalf of a corporation that is not the employer of the employee, an amount that may reasonably be considered to be the salary or wages incurred in respect of the employee for the rendering of the service is deemed, for the taxation year during which the salary or wages are so incurred, to be a salary or wages incurred by the corporation for the service, in respect of an employee who reports for work at the establishment of the corporation to which such service is reasonably attributable, to the extent that it is so attributable, and the employee is deemed to be an employee of the corporation, where

i. the amount is not otherwise included in the aggregate of the salaries or wages incurred by the corporation that are determined for the purposes of this Title, and

ii. the service rendered by the employee is

(1) performed by the employee in the normal course of the employee's duties for the employer,

(2) rendered to or on behalf of the corporation as part of the regular, ongoing activities of carrying on a business by the corporation, and

(3) of the same type as services rendered by employees of entities carrying on the same type of business as the business referred to in subparagraph 2.

History: 2002, c. 40, s. 60.

Corporation deemed not to be a qualified corporation.

737.18.22. Where, for a taxation year, a corporation would, but for this section, be a qualified corporation and the corporation is a party to a transaction or operation or to a series of transactions or operations, one of the main purposes of which may reasonably be considered to enable the corporation to benefit from the deduction provided for in section 737.18.26 in computing its taxable income for that year, the deduction provided for in section 1138.2.3 in computing its paid-up capital for that year or the exemption from the contribution payable under the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5) provided for in the sixth paragraph of section 34 of that Act, or to increase the deductions or the exemption, the corporation is deemed not to be a qualified corporation.

History: 2002, c. 40, s. 60.

Corporation deemed not to be a qualified corporation.

737.18.23. Where, for a taxation year, a corporation would, but for this section, be a qualified corporation and the paid-up capital of the corporation for the year, determined in accordance with the second paragraph, is equal to or greater than \$30,000,000, the corporation is deemed not to be a qualified corporation.

Determination of the paid-up capital of a corporation.

For the purposes of the first paragraph, the paid-up capital of a corporation for a taxation year is equal to

(a) where the corporation is not a member of an associated group in the year, its paid-up capital, determined in accordance with section 737.18.25 for the year; and

(b) where the corporation is a member of an associated group in the year, the aggregate of all amounts each of which is its paid-up capital, determined in accordance with section 737.18.25 for the year and the paid-up capital of each other member of the group, determined in accordance with that section 737.18.25, for its taxation year that ended in the year.

History: 2002, c. 40, s. 60.

Determination of the paid-up capital attributed to a corporation.

737.18.24. The paid-up capital attributed to a corporation for a particular taxation year of the corporation is equal to

(a) where the corporation is not a member of an associated group in the particular year, its paid-up capital, determined in accordance with section 737.18.25, for the taxation year preceding the particular year; and

(b) where the corporation is a member of an associated group in the particular year, the aggregate of all amounts each of which is its paid-up capital, determined in accordance with section 737.18.25, for the taxation year preceding the particular year and the paid-up capital of each other member of the group, determined in accordance with that section 737.18.25, for its last taxation year that ended before the beginning of the particular year.

Determination of paid-up capital on the basis of financial statements.

For the purposes of subparagraph *a* of the first paragraph, where the particular year is the first fiscal period of the corporation, its paid-up capital is determined, in accordance with section 737.18.25, on the basis of its financial statements prepared at the beginning of that fiscal period in accordance with generally accepted accounting principles or, where such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, on the basis of such financial statements that would be prepared in accordance with generally accepted accounting principles.

Determination of paid-up capital on the basis of financial statements.

For the purposes of subparagraph *b* of the first paragraph, where a member of the associated group, other than the corporation, has no taxation year ending before the beginning of the particular year, its paid-up capital is determined, in accordance with section 737.18.25, on the basis of its financial statements prepared at the beginning of its first fiscal period in accordance with generally accepted accounting principles or, where such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, on the basis of such financial statements that would be prepared in accordance with generally accepted accounting principles.

History: 2002, c. 40, s. 60.

Determination of the paid-up capital of a corporation.

737.18.25. For the purposes of this section and sections 737.18.23 and 737.18.24,

(a) the paid-up capital of a corporation for a taxation year is

i. in respect of a corporation, except a corporation that is an insurer within the meaning assigned by the Insurers Act (chapter A-32.1), its paid-up capital that would be determined for that year in accordance with Book III of Part IV if no reference were made to paragraph *b.2* of subsection 1 of section 1136, paragraphs *d* and *e* of

section 1137 and sections 1137.0.0.1, 1138.0.1, 1138.2.1 to 1138.2.3, 1138.2.5, 1138.2.6 and 1141.3 to 1141.11, and

ii. in respect of a corporation that is an insurer, within the meaning assigned by the Insurers Act, its paid-up capital that would be determined for that year in accordance with Title II of Book III of Part IV if it were a bank, if paragraph *a* of section 1140 were replaced by paragraph *a* of subsection 1 of section 1136 and if no reference were made to sections 1141.3 to 1141.11;

(b) a business carried on by an individual who is a member of an associated group in a taxation year is deemed to be carried on by a corporation referred to in subparagraph *i* of paragraph *a* and a partnership or a trust which is a member of an associated group in a taxation year is deemed to be a corporation referred to in subparagraph *i* of paragraph *a*, the paid-up capital of which is determined in accordance with Title I of Book III of Part IV but without reference to paragraph *b.1.2* of section 1137 and any participating interest of which in the nature of capital stock or surplus is deemed to be referred to in paragraph *a* or *b* of subsection 1 of section 1136; and

(c) the interest of a member of an associated group in a taxation year in another member of that group is deemed to be an investment in shares and bonds of another corporation.

History: 2002, c. 40, s. 60; 2003, c. 9, s. 56; 2004, c. 21, s. 146; 2005, c. 38, s. 99; 2009, c. 15, s. 133; 2018, c. 23, s. 811(2).

CHAPTER II DEDUCTION

Amount deductible.

737.18.26. Subject to the third paragraph, a qualified corporation for a taxation year may deduct, in computing its taxable income for the year, an amount not exceeding the portion of its income for the year that may reasonably be considered as equal to the lesser of the amount determined under section 737.18.26.1 in respect of the corporation for the year and the amount determined by the formula

$$[75\% \times (A - B)] \times \{1 - [(C - \$20,000,000)/\$10,000,000]\} \times (1 - D).$$

Interpretation.

In the formula provided for in the first paragraph,

(a) *A* is the proportion of the income of the corporation for the year from a qualified business that the number of days in the year that are within the exemption period applicable to the corporation is of the number of days in the year;

(b) *B* is the proportion of the loss of the corporation for the year from a qualified business that the number of days in the year that are within the exemption period applicable to the corporation is of the number of days in the year;

(c) C is the greater of \$20,000,000 and the paid-up capital attributed to the corporation for the year determined in accordance with section 737.18.24; and

(d) D is the corporation's reduction factor for the year.

Restriction.

A qualified corporation may deduct an amount, under the first paragraph, in computing its taxable income for a taxation year only if

(a) it encloses the prescribed form containing prescribed information and a copy of the qualification certificate issued to it for the year by Investissement Québec for the purposes of this Title with the fiscal return it is required to file for the year under section 1000; and

(b) where it would be a qualified corporation, within the meaning of sections 771.5 to 771.7 if that section 771.5 were read without reference to paragraph *e* thereof, it elected irrevocably, in prescribed form, not to be considered as such a qualified corporation.

History: 2002, c. 40, s. 60; 2004, c. 21, s. 147; 2009, c. 5, s. 256; 2010, c. 25, s. 68.

Limit.

737.18.26.1. The amount to which the first paragraph of section 737.18.26 refers in respect of a corporation for a taxation year is equal to the aggregate of the following amounts that is multiplied, if the corporation has an establishment situated outside Québec, by the reciprocal of the proportion that its business carried on in Québec is of the aggregate of its business carried on in Canada or in Québec and elsewhere, as determined under subsection 2 of section 771:

(a) the lesser of 100/8 of the balance of the corporation's tax assistance limit for the year and the amount by which the amount that would be determined in its respect for the year under section 771.2.1.2 if no reference were made to section 771.2.6 and if, for the purposes of paragraph *b* of section 771.2.1.2, its taxable income otherwise determined for the year were computed without reference to section 737.18.26, exceeds the amount that would be determined in its respect for the year under section 771.2.1.2 if the corporation were to deduct, in computing its taxable income, all of the amount that, but for this section, would be determined under section 737.18.26; and

(b) 100/11.9 of the amount by which the balance of the corporation's tax assistance limit for the year exceeds 8% of the amount determined under subparagraph *a* in respect of the corporation for the year.

Balance of the tax assistance limit.

For the purposes of the first paragraph, the balance of a corporation's tax assistance limit for a taxation year is equal

to the amount by which its tax assistance limit for the year, determined under section 1029.8.36.72.82.1.1, exceeds the aggregate of

(a) the amount that the corporation is deemed to have paid to the Minister for the year under subparagraph *a.1* of the first paragraph of section 1029.8.36.72.82.3.2 or 1029.8.36.72.82.3.3;

(b) the amount of tax that would be payable by the corporation under Part IV for the year if its paid-up capital for the purposes of that Part were equal to the amount it deducted for the year under section 1138.2.3 that is multiplied, if the corporation has an establishment situated outside Québec, by the proportion that its business carried on in Québec is of the aggregate of its business carried on in Canada or in Québec and elsewhere, as determined under subsection 2 of section 771; and

(c) the amount that would be payable by the corporation as the contribution provided for in section 34 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5) in respect of the aggregate of all amounts each of which is an amount, representing a proportion of wages paid or deemed to be paid in the year, for which no contribution is payable under the sixth paragraph of section 34 of that Act.

History: 2010, c. 25, s. 69.

TITLE VII.2.5

(Repealed).

CHAPTER I

(Repealed).

737.18.27. *(Repealed).*

History: 2003, c. 9, s. 57; 2010, c. 25, s. 70.

CHAPTER II

(Repealed).

737.18.28. *(Repealed).*

History: 2003, c. 9, s. 57; 2010, c. 25, s. 70.

TITLE VII.2.6

DEDUCTIONS RELATING TO A STOCK EXCHANGE OR A SECURITIES CLEARING-HOUSE

CHAPTER I

INTERPRETATION AND GENERAL

Definitions:

737.18.29. In this Title,

“eligibility period”;

“eligibility period” of an individual who is a foreign specialist for all or part of a taxation year, in relation to an employment the individual holds with a qualified corporation, means the period that, subject to the second paragraph, begins on the day on which the individual begins to perform the duties of that employment and ends on the earlier of

(a) the day preceding the day on which the individual ceases to be a foreign specialist; and

(b) the day on which that period totals five years, with reference to

i. where the individual began to stay or became resident in Canada after 19 December 2002 by reason of an employment contract entered into after that date, the aggregate of all periods each of which is a preceding period within the meaning of section 737.18.29.1 that is established in respect of the individual, and

ii. in any other case, the aggregate of all preceding periods each of which is

(1) all or part of a preceding period, established in respect of the individual under this definition, to which an amount that the individual may deduct in computing the individual’s taxable income for a taxation year, under section 737.18.34, in relation to a preceding employment, may reasonably be attributed, or

(2) a preceding period within the meaning of section 737.18.29.1 that is established in respect of the individual since the last time the individual became resident in Canada, other than a preceding period described in subparagraph 1;

(c) where the individual entered into the individual’s employment contract with the qualified corporation after 30 March 2004, the last day of the five-year period that begins,

i. unless subparagraph ii applies, on the day on which the individual first begins to perform the duties of an employment for which the individual may deduct an amount in computing the individual’s taxable income for a taxation year under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph a of section 737.20, or

ii. if the individual began to perform the duties of the employment referred to in subparagraph i under a contract of employment entered into with a particular corporation or partnership operating an international financial centre established by the individual and if the individual was resident in Canada immediately before the contract of employment was entered into and immediately before the

individual took up that employment, on the day, determined without reference to paragraph a of section 8, on which the individual becomes resident in Canada to work on the establishment of that centre;

“eligible activities”;

“eligible activities” of a recognized business carried on by a corporation in a taxation year means the activities relating to the operations carried out in the course of carrying on the recognized business;

“exemption period”;

“exemption period” applicable to a qualified corporation means the period that begins on 1 October 2000 and that ends on 31 December 2010;

“foreign specialist”;

“foreign specialist” for all or part of a taxation year means an individual in respect of whom the following conditions are met:

(a) at a particular time after 26 April 2000 but before 1 January 2011, the individual takes up employment, as an employee, with a qualified corporation under an employment contract entered into after 26 April 2000;

(b) the individual is not resident in Canada immediately before entering into the employment contract or immediately before taking up employment, as an employee, with the qualified corporation;

(c) the individual works exclusively or almost exclusively for the qualified corporation from the particular time to the end of the year or the part of the year; and

(d) the qualified corporation has obtained in respect of the individual, for the purposes of this Title, a qualification certificate issued by the Minister of Finance for the taxation year and the qualification certificate and, if applicable, all the similar qualification certificates that were obtained in respect of the individual for preceding taxation years certify that, from the particular time to the end of the year or the part of the year, the individual is recognized as a specialist;

(e) (*paragraph repealed*);

“prior loss attributable to eligible activities”;

“prior loss attributable to eligible activities” of a qualified corporation for a taxation year means the amount determined by the formula

$A - B$;

“qualified corporation”;

“qualified corporation” for a taxation year means a corporation that, in the year, carries on a recognized business in Québec, carries out eligible activities of that recognized business in an establishment situated within the urban agglomeration of Montréal, as described in section 4 of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (chapter E-20.001), and pays to employees of an establishment situated in Québec more than 50% of the wages it pays in the year;

“recognized business”;

“recognized business” carried on by a corporation in a taxation year means a stock exchange or a securities clearing-house, recognized by the Autorité des marchés financiers as a self-regulatory organization under section 17 of the Derivatives Act (chapter I-14.01) or under the second paragraph of section 170 of the Securities Act (chapter V-1.1);

“specified period”;

“specified period” of an individual in relation to an employment held by the individual with a qualified corporation means

(a) where the individual entered into the individual’s employment contract with the qualified corporation after 30 March 2004, any part of the individual’s eligibility period in relation to that employment that is included in any of the five years of the period described in paragraph *c* of the definition of “eligibility period”; and

(b) in any other case, the individual’s eligibility period in relation to that employment;

“wages”.

“wages” means the income computed under Chapters I and II of Title II of Book III.

Eligibility period beginning after the taking up of employment.

Where the qualification certificate referred to in paragraph *d* of the definition of “foreign specialist” in the first paragraph was not issued in respect of an individual for the taxation year that includes the particular day on which the individual begins to perform the duties of an employment the individual holds with a qualified corporation, the individual’s eligibility period in relation to that employment begins only on the first day of the first taxation year following the particular day for which such a qualification certificate was issued in respect of the individual.

Interpretation.

In the formula provided for in the first paragraph in the definition of “prior loss attributable to eligible activities” of a qualified corporation for a particular taxation year,

(a) A is the aggregate of all amounts each of which is the amount by which the amount determined under subparagraph *b* of the second paragraph of section 737.18.33, in respect of the qualified corporation, for a taxation year preceding the particular taxation year, exceeds the amount determined under subparagraph *a* of that second paragraph, in respect of the qualified corporation, for the preceding taxation year; and

(b) B is the aggregate of all amounts each of which is the amount that reduced, because of C in the formula provided for in the first paragraph of section 737.18.33, the amount otherwise deductible by the qualified corporation, under that section, for a taxation year preceding the particular taxation year.

Qualified corporation.

For the purposes of the definition of “qualified corporation” in the first paragraph and for the purpose of determining the proportion of the wages of the corporation’s employees that a corporation pays in a taxation year to employees of an establishment situated in Québec, the following rules apply:

(a) an amount paid by the corporation to a person in the year under an agreement for services that would normally be rendered by the employees of the corporation is deemed to be wages paid to such an employee of the establishment of the corporation to which such services are reasonably attributable and to the extent that they are so attributable, except where a commission is paid to a person who is not an employee of the corporation; and

(b) where an employee renders a service to or on behalf of a corporation that is not the employer of the employee, an amount that may reasonably be considered to be the wages earned by the employee for the rendering of the service is deemed, for the taxation year during which the wages are so paid to the employee, to be wages paid by the corporation for the service to an employee of an establishment of the corporation to which such service is reasonably attributable, to the extent that it is so attributable, and the employee is deemed to be an employee of the corporation, where the amount is not otherwise included in the aggregate of the wages paid by the corporation that are determined for the purposes of this Title and the service rendered by the employee is

- i. performed by the employee in the normal course of the employee’s duties for the employer,
- ii. rendered to or on behalf of the corporation as part of the regular, ongoing activities of carrying on a business by the corporation, and
- iii. of the same type as services rendered by employees of entities carrying on the same type of business as the business referred to in subparagraph ii.

History: 2003, c. 9, s. 57; 2004, c. 21, s. 148; 2004, c. 37, s. 90; 2005, c. 38, s. 100; 2006, c. 13, s. 56; 2009, c. 58, s. 87; 2010, c. 25, s. 71; 2012, c. 8, s. 78.

Preceding period.

737.18.29.1. For the purpose of establishing the eligibility period of an individual in relation to an employment, a preceding period to which subparagraph *i* of paragraph *b* of the definition of “eligibility period” in the first paragraph of section 737.18.29 and subparagraph 2 of subparagraph *ii* of that paragraph *b* refer means all or part of a preceding period, established in respect of the individual under any of the sections mentioned in the second paragraph of section 737.19.2 or under the regulations mentioned in that paragraph, to which an amount that the individual may deduct in computing the individual’s taxable income for a

taxation year, in relation to a preceding employment, under any of the sections mentioned in the third paragraph of section 737.19.2, may reasonably be attributed.

History: 2004, c. 21, s. 149.

Power of the Minister.

737.18.29.2. If, in a taxation year, an individual is absent from an employment the individual holds with a qualified corporation and, were it not for that absence, would be a foreign specialist for the part of the year that is included in the individual's period of absence, the Minister may, for the purposes of this Title, consider that part of the year to be included in the individual's eligibility period in relation to the employment if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.

Individual deemed a foreign specialist.

The individual is deemed to be a foreign specialist for the part of the year in respect of which the Minister has exercised discretion in the individual's favour in accordance with the first paragraph.

History: 2005, c. 23, s. 84.

Rule applicable in cases of change of employment.

737.18.30. For the purposes of the definition of "foreign specialist" in the first paragraph of section 737.18.29, an individual is deemed not to be resident in Canada immediately before taking up employment, as an employee, with a qualified corporation if

(a) the individual may deduct an amount in computing the individual's taxable income for the taxation year in which the individual so took up employment or for a preceding taxation year, in relation to a preceding employment, under any of the sections mentioned in the third paragraph of section 737.19.2; or

(b) the individual would meet the condition set out in paragraph *a* if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20.

History: 2003, c. 9, s. 57; 2004, c. 21, s. 150.

Individual holding employment on 1 January 2001.

737.18.30.1. For the purposes of this Title, an individual to whom the fourth paragraph applies is deemed to take up employment, as an employee, with a qualified corporation at the particular time referred to in subparagraph *b* where

(a) the individual holds employment with the qualified corporation on 1 January 2001; and

(b) at a particular time, the individual would be, for the first time since 1 January 2001, a foreign specialist working for the qualified corporation if the definition of "foreign specialist" in the first paragraph of section 737.18.29 were read

i. without reference to paragraph *b* thereof, and

ii. as if "from the particular time to the end of the year or the part of the year" in paragraphs *c* and *d* was replaced by "throughout the year or the part of the year".

Individual entering into a new employment contract after 31 December 2000.

An individual to whom the fifth paragraph applies is deemed to take up employment, as an employee, with a qualified corporation at the particular time referred to in subparagraph *b* where

(a) the individual enters into an employment contract with the qualified corporation after 31 December 2000; and

(b) at a particular time, the individual would be, for the first time since the entering into the contract referred to in subparagraph *a*, a foreign specialist working for the qualified corporation if paragraphs *c* and *d* of the definition of "foreign specialist" in the first paragraph of section 737.18.29 were read as if "from the particular time to the end of the year or the part of the year" was replaced by "throughout the year or the part of the year".

Presumption.

In addition, the individual to whom the first or second paragraph applies is also deemed to begin performing the duties of the employment the individual holds with the qualified corporation at the particular time referred to in subparagraph *b* of that paragraph.

Individual to whom the first paragraph refers.

The individual to whom the first paragraph refers is the individual who

(a) has no eligibility period that is running on 1 January 2001 in relation to that employment; and

(b) may deduct, in computing the individual's taxable income for a taxation year preceding the year 2001, in relation to a preceding employment, an amount under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20.

Individual to whom the second paragraph refers.

The individual to whom the second paragraph refers is the individual who may deduct, in computing the individual's taxable income for the taxation year in which the individual has entered into the individual's employment contract or for a preceding taxation year, in relation to a preceding employment, an amount under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20.

History: 2004, c. 21, s. 151; 2012, c. 8, s. 79.

Deemed change of employment.

737.18.30.2. For the purposes of this Title, the employment contract that an individual entered into with a qualified corporation, in this section referred to as the "original contract", or a deemed contract within the meaning of subparagraph *a* of the third paragraph, is deemed to end at the time when the individual ceases to be a foreign specialist.

Individual holding employment on 1 January 2001.

Where on 1 January 2001 an individual to whom the fourth paragraph applies holds employment with a qualified corporation, the employment contract the individual entered into with that corporation, in this section referred to as the "original contract", is deemed to have ended before that date.

Deemed new employment.

In addition, where at a particular time an individual would again become a foreign specialist if this section were read without reference to the first and second paragraphs and paragraphs *c* and *d* of the definition of "foreign specialist" in the first paragraph of section 737.18.29 were read as if "from the particular time to the end of the year or the part of the year" was replaced by "throughout the year or the part of the year", the following rules apply:

(*a*) the individual is deemed to enter into, with the qualified corporation, a new employment contract, in this section referred to as the "deemed contract", and that contract is deemed to be entered into at the particular time; and

(*b*) the individual is deemed to take up employment, as an employee, with the qualified corporation at the particular time and is also deemed to begin at that time to perform the duties of that new employment.

Individual to whom this section relates.

The individual to whom the second paragraph refers is the individual who

(*a*) is not resident in Canada immediately before entering into the original contract or immediately before taking up employment, as an employee, with the qualified corporation;

(*b*) has no eligibility period that is running on 1 January 2001 in relation to that employment; and

(*c*) may deduct, in computing the individual's taxable income for a taxation year preceding the year 2001, in relation to that employment, an amount under section 737.18.34, or could so deduct such an amount if the qualified corporation had not failed to apply, in respect of the individual, for the qualification certificate referred to in paragraph *d* of the definition of "foreign specialist" in the first paragraph of section 737.18.29, as it read for that preceding taxation year.

Termination of the original contract.

The expiry, termination or cancellation of the original contract or any other event having the effect of terminating the original contract also entails the expiry, termination or cancellation, as the case may be, of a deemed contract continuing the original contract, or otherwise terminates such a contract.

Renewal of the original contract.

The renewal of the original contract also entails the renewal of a deemed contract continuing the original contract, except if the deemed contract is deemed to have ended under the first paragraph.

History: 2004, c. 21, s. 151; 2005, c. 38, s. 101; 2012, c. 8, s. 80.

Employment contract renewed after 12 June 2003.

737.18.30.3. For the purposes of this Title, the contract resulting from the renewal, after 12 June 2003, of an employment contract referred to in the definition of "foreign specialist" in the first paragraph of section 737.18.29 is deemed not to be an employment contract separate from the employment contract referred to in that definition.

Exception.

The first paragraph does not apply in respect of a contract that is deemed to have ended under the first or second paragraph of section 737.18.30.2.

History: 2004, c. 21, s. 151.

Determination of the income or loss.

737.18.31. For the purpose of determining, for the purposes of this Title, the income or loss of a qualified corporation for a taxation year from the eligible activities of a recognized business it carries on, the income or loss shall be computed as if

(*a*) the eligible activities were the carrying on of a separate business; and

(b) the qualified corporation were deducting in computing its income for the taxation year and had deducted in computing its income for any preceding taxation year, in relation to the separate business, the maximum amount in respect of any reserve, allowance or other amount.

History: 2003, c. 9, s. 57.

Determination of income.

737.18.32. If, at a particular time included in a specified period of an individual in relation to an employment held by the individual with a qualified corporation, in this section referred to as the “initial specified period”, the individual, who was a foreign specialist for all or part of the taxation year that includes the particular time, acquired a right to a security under an agreement referred to in section 48 and, at a later time after the end of the initial specified period, the individual is deemed to receive a benefit in a particular taxation year because of the application of any of sections 49 and 50 to 52.1 in respect of the security, or the transfer or any other disposition of the rights under the agreement, the following rules apply:

(a) for the purposes of the first paragraph of section 737.18.34, the individual is deemed, for a part of the particular taxation year that includes the later time, to be a foreign specialist who holds that employment with the qualified corporation;

(b) for the purpose of applying the first and second paragraphs of section 737.18.34 in respect of the amount of the benefit included by the individual in computing the individual’s income for the particular taxation year, the later time is deemed to be a specified period of the individual in relation to that employment and that specified period is deemed to be included in the year of the period described in paragraph *c* of the definition of “eligibility period” in the first paragraph of section 737.18.29 in which the initial specified period is itself included;

(b.1) for the purpose of applying paragraphs *a* and *b* of section 737.18.35 in respect of the amount of the benefit included by the individual in computing the individual’s income for the particular taxation year, the later time is deemed to be an eligibility period of the individual in relation to that employment; and

(c) the fourth paragraph of section 737.18.34 shall be read with “for the year” in subparagraph *a* replaced by “for the taxation year that includes the particular time referred to in the portion of section 737.18.32 before paragraph *a*” and without reference to subparagraph *b* thereof.

History: 2003, c. 9, s. 57; 2004, c. 21, s. 152; 2005, c. 38, s. 102.

CHAPTER II DEDUCTIONS

Deduction in respect of eligible activities.

737.18.33. A qualified corporation for a taxation year that encloses the prescribed form containing the prescribed information with the fiscal return it is required to file for the year under section 1000, may deduct in computing its taxable income for the year, an amount not exceeding 75% of the part of its income for the year that may reasonably be considered to be equal to the amount determined by the formula

$$(A - B) - C.$$

Interpretation.

In the formula provided for in the first paragraph,

(a) *A* is the aggregate of all amounts each of which is the amount obtained by multiplying the qualified corporation’s income for the year from the eligible activities of a recognized business it carries on by the proportion that the number of days in the year that are in the exemption period applicable to the qualified corporation is of the number of days in the year;

(b) *B* is the aggregate of all amounts each of which is the amount obtained by multiplying the qualified corporation’s loss for the year from the eligible activities of a recognized business it carries on by the proportion that the number of days in the year that are in the exemption period applicable to the qualified corporation is of the number of days in the year; and

(c) *C* is the prior loss attributable to eligible activities of the qualified corporation for the year.

History: 2003, c. 9, s. 57; 2004, c. 21, s. 153.

Deduction for foreign specialists.

737.18.34. Subject to the fourth paragraph, an individual who, for all or part of a taxation year, is a foreign specialist holding employment with a qualified corporation, may deduct, in computing the individual’s taxable income for the year, an amount not greater than the aggregate of all amounts each of which is determined, in respect of a specified period of the individual in relation to that employment, by the formula

$$A \times B.$$

Interpretation.

In the formula provided for in the first paragraph,

(a) *A* is

i. if the individual entered into the individual's employment contract with the qualified corporation between 12 June 2003 and 31 March 2004, or entered into the contract before 13 June 2003 but began to perform the duties of that employment after 1 September 2003, 75%,

i.1. if the individual entered into the individual's employment contract with the qualified corporation after 30 March 2004,

(1) 100%, if that specified period of the individual is included in the first or second year of the period described in paragraph *c* of the definition of "eligibility period" in the first paragraph of section 737.18.29,

(2) 75%, if that specified period of the individual is included in the third year of the period described in that paragraph *c*,

(3) 50%, if that specified period of the individual is included in the fourth year of the period described in that paragraph *c*, or

(4) 37.5%, if that specified period of the individual is included in the fifth year of the period described in that paragraph *c*, and

ii. in any other case, 100%; and

(b) B is the portion of the individual's income for the year that may reasonably be considered to be realized in the part of the individual's specified period that is included in the year.

Time when income is earned.

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

(a) if the individual is a member of a partnership in a taxation year, the individual's share of the income or loss of the partnership for a fiscal period that ended in the year must be considered to be earned or sustained during the part of the year referred to in that subparagraph *b* if the fiscal period ends in that part of the year, and to be earned or sustained during another part of the year if the fiscal period ends in that other part of the year; and

(b) if the individual includes an amount in computing the individual's income for a taxation year under section 313.11, the amount must be considered to be income earned by the individual on the last day of that year.

Filing requirement.

An individual may deduct an amount under the first paragraph, in computing the individual's taxable income for a taxation year only if the individual encloses, with the fiscal return the individual is required to file under section 1000 for the year, a copy of the qualification certificate that

(a) has been issued to the qualified corporation for the year in respect of the individual; and

(b) certifies that the individual is recognized as a specialist for all or part of the year;

(c) (*subparagraph repealed*).

History: 2003, c. 9, s. 57; 2004, c. 21, s. 154; 2005, c. 38, s. 103; 2009, c. 5, s. 257; 2012, c. 8, s. 81.

CHAPTER III COMPUTATION OF TAXABLE INCOME

Rules applicable.

737.18.35. For the purpose of computing the taxable income of an individual referred to in section 737.18.34 for a taxation year, the following rules apply:

(a) for the purpose of computing the deduction under section 725.2, the amount that is the benefit the individual is deemed to receive in the year under any of sections 49 and 50 to 52.1, in respect of a security, or the transfer or any other disposition of the rights under the agreement referred to in section 48 and that the individual has included in computing income for the year, shall not include the portion of such an amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of the individual's eligibility period in relation to an employment that is included in the year;

(b) for the purpose of computing the deduction under section 725.3, the amount that is the benefit the individual is deemed to receive in the year under section 49, as a consequence of the application of section 49.2, in respect of a share acquired by the individual after 22 May 1985 and that the individual has included in computing income for the year, shall not include the portion of such an amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of the individual's eligibility period in relation to an employment that is included in the year;

(c) for the purpose of computing the deduction under section 725.4, the individual shall subtract from the amount included by the individual under paragraph *b* of section 218 in computing income for the year in respect of a share the individual has received after 22 May 1985, the product obtained by multiplying the portion of such an amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of any of the individual's specified periods in relation to an employment that is included in the year, by the percentage determined under subparagraph *a* of the second paragraph of section 737.18.34 in respect of that period;

(d) for the purpose of computing the deduction under section 725.5, the individual shall subtract from the amount

included by the individual under section 888.1 in computing income for the year, the product obtained by multiplying the portion of such an amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of any of the individual's specified periods in relation to an employment that is included in the year, by the percentage determined under subparagraph *a* of the second paragraph of section 737.18.34 in respect of that period;

(*e*) for the purpose of computing the deduction under section 725, the individual shall subtract from the amount included by the individual in computing income for the year, and that is an amount described in any of the paragraphs of that section, the product obtained by multiplying the portion of such an amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of any of the individual's specified periods in relation to an employment that is included in the year, by the percentage determined under subparagraph *a* of the second paragraph of section 737.18.34 in respect of that period;

(*f*) for the purpose of computing the deduction under section 725.1.2, the individual shall subtract from the amount included by the individual in computing income for the year, and that is an amount described in the second paragraph of that section, the product obtained by multiplying the portion of such an amount that is included in the part of the individual's income for the year that may reasonably be considered to be earned in the part of any of the individual's specified periods in relation to an employment that is included in the year, by the percentage determined under subparagraph *a* of the second paragraph of section 737.18.34 in respect of that period;

(*g*) where the individual has included in computing income for the year an amount under sections 487.1 to 487.6 in respect of a benefit received by the individual as a home relocation loan, the individual shall, for the purpose of computing the deduction under section 725.6,

i. subtract from the amount determined under paragraph *a* of section 725.6, the product obtained by multiplying the portion of that amount that may reasonably be attributed to the part of the year that is included in any of the individual's specified periods, in relation to an employment, by the percentage determined under subparagraph *a* of the second paragraph of section 737.18.34 in respect of that period,

ii. subtract from the amount determined under paragraph *b* of section 725.6, the product obtained by multiplying the amount of interest, computed in accordance with that paragraph, for the part of the year that is included in any of the individual's specified periods, in relation to an employment, by the percentage determined under subparagraph *a* of the second paragraph of section 737.18.34 in respect of that period, and

iii. subtract from the amount determined under paragraph *c* of section 725.6, the product obtained by multiplying the portion of that amount that may reasonably be considered to have been received in the part of the year that is included in any of the individual's specified periods, in relation to an employment, by the percentage determined under subparagraph *a* of the second paragraph of section 737.18.34 in respect of that period; and

(*h*) any capital gain realized during any of the individual's specified periods, in relation to an employment, or any capital loss, including any allowable business investment loss, for such a period is, for the purposes of Titles VI.5 and VI.5.1, deemed to be equal to the product obtained by multiplying the capital gain or capital loss by the amount by which 100% exceeds the percentage determined under subparagraph *a* of the second paragraph of section 737.18.34 in respect of that period.

History: 2003, c. 9, s. 57; 2004, c. 21, s. 155; 2005, c. 38, s. 104.

TITLE VII.2.7 DEDUCTION FOR INNOVATIVE MANUFACTURING CORPORATIONS

CHAPTER I INTERPRETATION AND GENERAL RULES

Definitions:

737.18.36. In this Title, unless the context indicates otherwise,

“cost of labour”;

“cost of labour” of a corporation for a taxation year means the portion of the cost of labour of the corporation for the year, determined in accordance with the definition of that expression in section 5202 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), that may reasonably be attributed to activities carried out in Québec;

“cost of manufacturing and processing labour”;

“cost of manufacturing and processing labour” of a corporation for a taxation year means the lesser of the cost of labour of the corporation for the year and the amount that would be the cost of manufacturing and processing labour of the corporation for the year, determined in accordance with the definition of that expression in section 5202 of the Income Tax Regulations, if that definition were read without reference to the portion after paragraph *b* and if the definition of “qualified activities” in that section 5202 were read as if “Canada” were replaced wherever it appears by “Québec”;

“manufacturing corporation”;

“manufacturing corporation” for a taxation year means a corporation in respect of which the proportion of the manufacturing and processing activities for the year is at least 50%;

“proportion of the manufacturing and processing activities”;

“proportion of the manufacturing and processing activities” of a corporation for a taxation year means the proportion that the cost of manufacturing and processing labour of the corporation for the year is of the cost of labour of the corporation for the year;

“qualified manufacturing corporation”;

“qualified manufacturing corporation” for a taxation year means a manufacturing corporation for the year whose paid-up capital determined for the year in accordance with section 737.18.37 is at least \$15,000,000;

“qualified patented part”;

“qualified patented part” of a qualified manufacturing corporation for a taxation year means an invention of the corporation if

(a) the corporation has made sustained innovation efforts in relation to the invention;

(b) the invention derives in whole or in part from scientific research and experimental development work undertaken in Québec by the corporation or another corporation associated with it at the time the work was undertaken, or on behalf of the corporation or the other corporation, as the case may be, and the corporation or the other corporation is deemed to have paid an amount to the Minister under any of Divisions II to II.3.0.1 of Chapter III.1 of Title III of Book IX in respect of the work; and

(c) the corporation, alone or together with other persons, holds a patent, in respect of the invention, that satisfies the following conditions:

i. it is issued under the Patent Act (Revised Statutes of Canada, 1985, chapter P-4) or an Act having the same effect of a jurisdiction other than Canada,

ii. the application by virtue of which the patent is issued is made, after 17 March 2016, in accordance with the requirements of an Act referred to in subparagraph i, and

iii. it is valid throughout the year;

“qualified property”.

“qualified property” of a qualified manufacturing corporation for a taxation year means property in respect of which the following conditions are satisfied:

(a) it incorporates at least one qualified patented part of the corporation;

(b) it is sold, leased or rented by the corporation in the year;

(c) the corporation keeps a register containing the information necessary to prepare separate accounts, in respect of the property, by virtue of which the corporation designates, in relation to the property, a portion of the corporation’s gross revenue for the year from the sale, lease or rental of the property and a portion of the expenses, reserves, allowances and other amounts otherwise deductible

by the corporation in computing its income for the year that may reasonably be considered to be attributable to the property; and

(d) the gross revenue of the corporation for the year from the sale, lease or rental of the property is reasonably attributable to an establishment of the corporation situated in Québec.

Presumption.

A qualified manufacturing corporation is deemed to hold a patent and satisfy the conditions of paragraph c of the definition of “qualified patented part” in the first paragraph, in respect of the patent, for a taxation year if the application for a patent is made, after 17 March 2016, in accordance with the requirements of an Act referred to in subparagraph i of that paragraph c and if a decision by the competent authority regarding the application is pending in the year.

History: 2017, c. 29, s. 115.

Paid-up capital of a corporation.

737.18.37. The paid-up capital of a corporation for a particular taxation year of the corporation that ends in a calendar year is equal,

(a) where the corporation is not associated with any other corporation in the particular year, to the corporation’s paid-up capital determined in accordance with section 737.18.38 either for the taxation year that precedes the particular year or, if the corporation is in its first fiscal period, on the basis of its financial statements prepared at the beginning of that fiscal period in accordance with generally accepted accounting principles or, if such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, on the basis of such financial statements that would be prepared in accordance with generally accepted accounting principles; and

(b) where the corporation is associated with one or more other corporations in the particular year, to the aggregate of all amounts each of which is, for the corporation or each of the other corporations, its paid-up capital determined in accordance with section 737.18.38 either for its last taxation year that ends in the preceding calendar year or, if such a corporation is in its first fiscal period, on the basis of its financial statements prepared at the beginning of that fiscal period in accordance with generally accepted accounting principles or, if such financial statements have not been prepared, or have not been prepared in accordance with generally accepted accounting principles, on the basis of such financial statements that would be prepared in accordance with generally accepted accounting principles.

History: 2017, c. 29, s. 115.

Paid-up capital of a corporation.

737.18.38. For the purposes of section 737.18.37, the paid-up capital of a corporation for a taxation year is the corporation's paid-up capital that would be determined for that year in accordance with Book III of Part IV if no reference were made to section 1138.2.6.

History: 2017, c. 29, s. 115.

Sustained innovation efforts.

737.18.39. For the purposes of paragraph *a* of the definition of "qualified patented part" in the first paragraph of section 737.18.36, a corporation has made sustained innovation efforts in relation to an invention if the total of all amounts each of which is an aggregate described in any of subparagraphs *a* to *d* of the first paragraph of section 1029.8.19.13, reduced as provided in that section and determined in relation to scientific research and experimental development work undertaken in the particular period described in the second paragraph by the corporation or by another corporation with which it is associated in the taxation year in which the work was undertaken and in respect of which the corporation or the other corporation, as the case may be, is deemed to have paid an amount to the Minister under any of Divisions II to II.3.0.1 of Chapter III.1 of Title III of Book IX is at least \$500,000.

Period referred to.

The particular period to which the first paragraph refers is the five-taxation-year period that precedes the taxation year in which the application referred to in subparagraph *ii* of paragraph *c* of the definition of "qualified patented part" in the first paragraph of section 737.18.36 is made in relation to the invention referred to in the first paragraph.

History: 2017, c. 29, s. 115.

CHAPTER II DEDUCTION

Deduction relating to a qualified patented part.

737.18.40. Subject to the third paragraph, a qualified manufacturing corporation for a taxation year may deduct in computing its taxable income for the year an amount not exceeding the product obtained by multiplying the annual percentage determined in its respect for the year under section 737.18.42 by the aggregate of all amounts each of which is equal, in respect of a qualified property of the corporation, to the lesser of

(a) the ceiling determined under section 737.18.41 for the year in respect of the qualified property; and

(b) the portion of the particular amount described in the second paragraph, determined in respect of the qualified property for the year, that may reasonably be considered to

be attributable to the added value that one or more qualified patented parts of the corporation bring to the property.

Particular amount.

The particular amount to which the first paragraph refers, in relation to a qualified property of the corporation for a taxation year, is equal to the amount by which the portion of the corporation's gross revenue for the year from the sale, lease or rental of the property exceeds the portion of the expenses, reserves, allowances and other amounts otherwise deductible by the corporation in computing its income for the year that may reasonably be considered to be attributable to the property, such portions being determined on the basis of the separate accounts relating to the property referred to in paragraph *c* of the definition of "qualified property" in the first paragraph of section 737.18.36.

Documents to be filed.

A corporation may deduct an amount under the first paragraph in computing its taxable income for a taxation year only if it encloses, with the fiscal return it is required to file for the year under section 1000,

(a) the prescribed form containing prescribed information; and

(b) in relation to each qualified property of the corporation referred to in the first paragraph, a copy of the register kept by the corporation containing the information necessary to prepare separate accounts in respect of the property for the year.

History: 2017, c. 29, s. 115.

Maximum amount of the deduction.

737.18.41. The ceiling to which subparagraph *a* of the first paragraph of section 737.18.40 refers, determined for a taxation year in respect of a qualified property of a corporation, is equal to 50% of the particular amount determined under the second paragraph of section 737.18.40 in relation to that property for the year.

History: 2017, c. 29, s. 115.

Annual percentage.

737.18.42. The annual percentage determined for a taxation year of a qualified manufacturing corporation is equal to the total of

(a) the proportion of 66.1% that the number of days in the taxation year that precede 1 January 2018 is of the number of days in the taxation year;

(b) the proportion of 65.8% that the number of days in the taxation year that follow 31 December 2017 but precede 1 January 2019 is of the number of days in the taxation year;

(c) the proportion of 65.5% that the number of days in the taxation year that follow 31 December 2018 but precede 1 January 2020 is of the number of days in the taxation year; and

(d) the proportion of 65.2% that the number of days in the taxation year that follow 31 December 2019 is of the number of days in the taxation year.

History: 2017, c. 29, s. 115.

TITLE VII.3

DEDUCTION IN RESPECT OF A FOREIGN RESEARCHER

CHAPTER I

INTERPRETATION AND GENERAL

Definitions:

737.19. In this Title,

“eligible employer”;

“eligible employer” means a person or partnership who or which carries on a business in Canada, undertakes or causes to be undertaken, on the person’s or the partnership’s behalf in Québec, scientific research and experimental development related to a business of the person or partnership and who or which is not

(a) a person exempt from tax under section 984 or 985 or that would be exempt from tax under section 985 but for section 192, or

(b) an eligible university entity within the meaning of paragraph *f* of section 1029.8.1;

“eligible income”;

“eligible income”, for a taxation year, of an individual who is a foreign researcher at any time, in relation to an employment the individual holds with an eligible employer, means the aggregate of all amounts paid as wages in the year by that employer to undertake scientific research and experimental development in Québec that may reasonably be attributed to the individual’s research activity period in relation to that employment;

“foreign researcher”;

“foreign researcher” for all or part of a taxation year, means an individual in respect of whom the following conditions are met:

(a) at a particular time, the individual takes up employment, as an employee, with an eligible employer under an employment contract entered into with that employer;

(b) the individual is not resident in Canada immediately before entering into the employment contract or immediately before taking up employment, as an employee, with the eligible employer;

(c) from the particular time to the end of the year or the part of the year,

i. the individual works exclusively or almost exclusively for the eligible employer, and

ii. the individual’s duties for the eligible employer consist exclusively or almost exclusively in carrying on, as an employee, scientific research and experimental development that cannot reasonably be considered to be scientific research and experimental development activities carried on in an eligible university entity within the meaning of paragraph *f* of section 1029.8.1 or an eligible public research centre within the meaning of paragraph *a.1* of that section; and

(d) the eligible employer has obtained in respect of the individual, for the purposes of this Title, from the Minister of Economy and Innovation, a certificate certifying that the individual is recognized as a researcher;

“research activity period”;

“research activity period” of an individual who is a foreign researcher for all or part of a taxation year, in relation to an employment the individual holds with an eligible employer, means the period that, subject to the second paragraph, begins on the day on which the individual begins to perform the duties of that employment and ends on the earlier of

(a) the day preceding the day on which the individual ceases to be a foreign researcher; and

(b) the day on which that period totals five years, with reference to

i. where the individual began to stay or became resident in Canada after 19 December 2002 by reason of an employment contract entered into after that date, the aggregate of all periods each of which is a preceding period within the meaning of section 737.19.2 that is established in respect of the individual, and

ii. in any other case, the aggregate of all preceding periods each of which is

(1) all or part of a preceding period, established in respect of the individual under this definition, to which an amount that the individual may deduct in computing the individual’s taxable income for a taxation year, under section 737.21, in relation to a preceding employment, may reasonably be attributed, or

(2) a preceding period within the meaning of section 737.19.2 that is established in respect of the individual since the last time the individual became resident in Canada, other than a period described in subparagraph 1;

(c) where the individual entered into the individual’s employment contract with the eligible employer after 30 March 2004, the last day of the five-year period that begins,

i. unless subparagraph ii applies, on the day on which the individual first begins to perform the duties of an employment for which the individual may deduct an amount

in computing the individual's taxable income for a taxation year under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20, or

ii. if the individual began to perform the duties of the employment referred to in subparagraph i under a contract of employment entered into with a particular corporation or partnership operating an international financial centre established by the individual and if the individual was resident in Canada immediately before the contract of employment was entered into and immediately before the individual took up that employment, on the day, determined without reference to paragraph *a* of section 8, on which the individual becomes resident in Canada to work on the establishment of that centre;

“specified period”;

“specified period” of an individual in relation to an employment held by the individual with an eligible employer means

(a) where the individual entered into the individual's employment contract with the eligible employer after 30 March 2004, any part of the individual's research activity period in relation to that employment that is included in any of the five years of the period described in paragraph *c* of the definition of “research activity period”; and

(b) in any other case, the individual's research activity period in relation to that employment;

“wages”.

“wages” means the income computed under Chapters I and II of Title II of Book III.

Research activity period beginning after the taking up of employment.

Where an individual is not a foreign researcher for any part of the taxation year that includes the particular day on which the individual begins to perform the duties of an employment the individual holds with an eligible employer because the certificate referred to in the definition of “foreign researcher” in the first paragraph was not obtained in respect of the individual, the individual's research activity period in relation to that employment begins only on the first day of the first taxation year following the particular day for all or part of which the individual is a foreign researcher.

Interpretation.

For the purposes of the definition of “eligible income” in the first paragraph, any benefit that an individual is deemed to receive, in a particular taxation year, in connection with an employment the individual holds with an eligible employer, because of the application of any of sections 49 and 50 to

52.1, is considered to be included in the amounts that are paid to the individual as wages in the year by that employer.

History: 1988, c. 4, s. 58; 1989, c. 5, s. 98; 1990, c. 7, s. 58; 1992, c. 1, s. 52; 1995, c. 1, s. 68; 1997, c. 3, s. 71; 1997, c. 14, s. 107; 1997, c. 31, s. 75; 1999, c. 8, s. 25; 1999, c. 83, s. 81; 1999, c. 86, s. 99; 2000, c. 5, s. 160; 2000, c. 39, s. 50; 2002, c. 40, s. 61; 2003, c. 29, s. 137; O.C. 222-2004; 2004, c. 21, s. 156; 2005, c. 38, s. 106; 2006, c. 8, s. 31; 2012, c. 8, s. 82; 2013, c. 28, s. 141; 2019, c. 29, s. 85.

Scientific research and experimental development undertaken by a partnership.

737.19.1. In determining, for the purposes of this Title, whether work undertaken by or on behalf of a partnership constitutes scientific research and experimental development, the references in subsection 3 of section 222 to “taxpayer” shall be read as references to “partnership”.

History: 2000, c. 5, s. 161.

Preceding period.

737.19.2. For the purpose of establishing the research activity period of an individual in relation to an employment, a period preceding the period to which subparagraph i of paragraph *b* of the definition of “research activity period” in the first paragraph of section 737.19 and subparagraph 2 of subparagraph ii of that paragraph *b* refer means all or part of a particular period referred to in the second paragraph to which an amount referred to in the third paragraph may reasonably be attributed.

Particular period.

The particular period to which the first paragraph refers is a period that precedes the research activity period and is established in respect of the individual under any of sections 737.18.6, 737.18.29, 737.19, 737.22.0.0.1, 737.22.0.0.5, 737.22.0.1, 737.22.0.4.1 and 737.22.0.5, or section 69 of the Act respecting international financial centres (chapter C-8.3), or regulations made under the first paragraph of section 737.16, as they read for a taxation year beginning on or before 20 December 1999.

Amount to which this section relates.

The amount to which the first paragraph refers is an amount that the individual may deduct in computing the individual's taxable income for a taxation year, in relation to a preceding employment, under any of sections 737.16, 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 and 737.22.0.7.

History: 2004, c. 21, s. 157; 2013, c. 10, s. 45.

Power of the Minister.

737.19.3. If, in a taxation year, an individual is absent from an employment the individual holds with an eligible

employer and, were it not for that absence, would be a foreign researcher for the part of the year that is included in the individual's period of absence, the Minister may, for the purposes of this Title, consider the remuneration paid by the eligible employer to the individual for that part of the year to be included in the individual's eligible income for the year in relation to the employment, that the eligible employer certifies in prescribed manner, if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.

Individual deemed a foreign researcher.

The individual is deemed to be a foreign researcher for the part of the year in respect of which the Minister has exercised discretion in the individual's favour in accordance with the first paragraph.

History: 2005, c. 23, s. 85.

Rules applicable in cases of change of employment.

737.20. For the application of the definition of "foreign researcher" in the first paragraph of section 737.19 to an individual who is resident in Canada immediately before entering into an employment contract with an eligible employer and immediately before taking up employment, as an employee, with that employer, the following rules apply:

(a) the individual is deemed not to be resident in Canada immediately before taking up employment, as an employee, with the eligible employer if

i. the individual may deduct an amount in computing the individual's taxable income for the taxation year in which the individual so took up employment or for a preceding taxation year, in relation to a preceding employment, under any of the sections mentioned in the third paragraph of section 737.19.2, or

ii. the individual would meet the condition set out in subparagraph i if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of sections 737.18.6, 737.18.29, 737.19, 737.22.0.0.1, 737.22.0.0.5, 737.22.0.1, 737.22.0.4.1 and 737.22.0.5, section 3.5 of Schedule E to the Act respecting the sectoral parameters of certain fiscal measures (chapter P-5.1), section 19 of the Act respecting international financial centres (chapter C-8.3), as it read before being repealed, or section 737.15, as it read before being repealed; and

(b) a certificate referred to in paragraph d of the definition of "foreign researcher" in the first paragraph of section 737.19 that has been issued in respect of the individual, in relation to a preceding employment contract entered into with any

eligible employer, is deemed to be issued to the eligible employer, in relation to the employment contract.

History: 1988, c. 4, s. 58; 1997, c. 3, s. 71; 1997, c. 31, s. 76; 2000, c. 39, s. 51; 2002, c. 40, s. 62; 2004, c. 21, s. 158; 2012, c. 1, s. 61; 2012, c. 8, s. 83; 2013, c. 10, s. 46.

Individual holding employment on 1 January 2001.

737.20.1. For the purposes of this Title, an individual to whom the fourth paragraph applies is deemed to take up employment, as an employee, with an eligible employer at the particular time referred to in subparagraph *b* where

(a) the individual holds employment with the eligible employer on 1 January 2001; and

(b) at a particular time, the individual would be, for the first time since 1 January 2001, a foreign researcher working for the eligible employer if the definition of "foreign researcher" in the first paragraph of section 737.19 were read

i. without reference to paragraph *b* thereof, and

ii. with the reference to "from the particular time to the end of the year or the part of the year" in the portion of paragraph *c* before subparagraph i replaced by a reference to "throughout the year or the part of the year".

Individual entering into a new employment contract after 31 December 2000.

An individual to whom the fifth paragraph applies is deemed to take up employment, as an employee, with an eligible employer at the particular time referred to in subparagraph *b* where

(a) the individual enters into an employment contract with the eligible employer after 31 December 2000; and

(b) at a particular time, the individual would be, for the first time since the entering into the contract referred to in subparagraph *a*, a foreign researcher working for the eligible employer if the portion of paragraph *c* of the definition of "foreign researcher" in the first paragraph of section 737.19 before subparagraph i were read with the reference to "from the particular time to the end of the year or the part of the year" replaced by a reference to "throughout the year or the part of the year".

Presumption.

In addition, the individual to whom the first or second paragraph applies is also deemed to begin performing the duties of the employment the individual holds with the eligible employer at the particular time referred to in subparagraph *b* of that paragraph.

Individual to whom the first paragraph refers.

The individual to whom the first paragraph refers is the individual who

(a) has no research activity period that is running on 1 January 2001 in relation to that employment; and

(b) may deduct, in computing the individual's taxable income for a taxation year preceding the year 2001, in relation to a preceding employment, an amount under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20.

Individual to whom the second paragraph refers.

The individual to whom the second paragraph refers is the individual who may deduct, in computing the individual's taxable income for the taxation year in which the individual has entered into the individual's employment contract or for a preceding taxation year, in relation to a preceding employment, an amount under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20.

History: 2004, c. 21, s. 159.

Deemed change of employment.

737.20.2. For the purposes of this Title, the employment contract that an individual entered into with an eligible employer, in this section referred to as the "original contract", or a deemed contract, is deemed to end at the time when the individual ceases to be a foreign researcher.

Individual holding employment on 1 January 2001.

Where on 1 January 2001 an individual to whom the fourth paragraph applies holds employment with an eligible employer, the employment contract the individual entered into with that employer, in this section referred to as the "original contract", is deemed to have ended before that date.

Deemed new employment.

In addition, where at a particular time an individual would again become a foreign researcher if this section were read without reference to the first and second paragraphs and the portion of paragraph *c* of the definition of "foreign researcher" in the first paragraph of section 737.19 before subparagraph i were read with the reference to "from the particular time to the end of the year or the part of the year" replaced by a reference to "throughout the year or the part of the year", the following rules apply:

(a) the individual is deemed to enter into, with the eligible employer, a new employment contract, in this section referred to as the "deemed contract", and that contract is deemed to be entered into at the particular time; and

(b) the individual is deemed to take up employment, as an employee, with the eligible employer at the particular time and is also deemed to begin at that time to perform the duties of that new employment.

Individual to whom this section relates.

The individual to whom the second paragraph refers is the individual who

(a) is not resident in Canada immediately before entering into the original contract or immediately before taking up employment, as an employee, with the eligible employer;

(b) has no research activity period that is running on 1 January 2001 in relation to that employment; and

(c) may deduct, in computing the individual's taxable income for a taxation year preceding the year 2001, in relation to that employment, an amount under section 737.21, or could so deduct such an amount if the eligible employer had not failed to apply, in respect of the individual, for a certificate referred to in the definition of "foreign researcher" in section 737.19, as it read for that preceding taxation year.

Termination of the original contract.

The expiry, termination or cancellation of the original contract or any other event having the effect of terminating the original contract also entails the expiry, termination or cancellation, as the case may be, of a deemed contract continuing the original contract, or otherwise terminates such a contract.

Renewal of the original contract.

The renewal of the original contract also entails the renewal of a deemed contract continuing the original contract, except if the deemed contract is deemed to have ended under the first paragraph.

History: 2004, c. 21, s. 159; 2005, c. 38, s. 107.

Employment contract renewed after 12 June 2003.

737.20.3. For the purposes of this Title, the contract resulting from the renewal, after 12 June 2003, of an employment contract referred to in the definition of "foreign researcher" in the first paragraph of section 737.19 is deemed not to be an employment contract separate from the employment contract referred to in that definition.

Exception.

The first paragraph does not apply in respect of a contract that is deemed to have ended under the first or second paragraph of section 737.20.2.

History: 2004, c. 21, s. 159.

CHAPTER II DEDUCTION

Deduction for foreign researchers.

737.21. An individual who, at any time, holds employment as a foreign researcher with an eligible employer may deduct, in computing the individual's taxable income for a taxation year, an amount not greater than the aggregate of all amounts each of which is determined, in respect of a specified period of the individual in relation to that employment, by the formula

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

Interpretation.

In the formula provided for in the first paragraph,

(a) A is

i. if the individual entered into the individual's employment contract with the eligible employer between 12 June 2003 and 31 March 2004, or entered into the contract before 13 June 2003 but began to perform the duties of that employment after 1 September 2003, 75%,

i.1. if the individual entered into the individual's employment contract with the eligible employer after 30 March 2004,

(1) 100%, if that specified period of the individual is included in the first or second year of the period described in paragraph *c* of the definition of "research activity period" in the first paragraph of section 737.19,

(2) 75%, if that specified period of the individual is included in the third year of the period described in that paragraph *c*,

(3) 50%, if that specified period of the individual is included in the fourth year of the period described in that paragraph *c*, or

(4) 25%, if that specified period of the individual is included in the fifth year of the period described in that paragraph *c*, and

ii. in any other case, 100%;

(b) B is the portion of the individual's eligible income for the year, in relation to that employment, that is certified by the eligible employer in prescribed manner and that may

reasonably be attributed to that specified period of the individual; and

(c) C is the aggregate of all amounts that the individual may deduct in computing the individual's income for the year under Chapter III of Title II of Book III and that may reasonably be attributed to the individual's employment as a foreign researcher during that specified period of the individual.

History: 1988, c. 4, s. 58; 2004, c. 21, s. 160; 2005, c. 38, s. 108.

CHAPTER III COMPUTATION OF TAXABLE INCOME

Rules applicable in computing taxable income of a foreign researcher.

737.22. For the purpose of computing the taxable income of an individual referred to in section 737.21 for a taxation year, the following rules apply:

(a) where the individual has included in computing income for the year an amount that is the benefit the individual is deemed to receive in the year under any of sections 49 and 50 to 52.1, in respect of a security, or the transfer or any other disposition of the rights under the agreement referred to in section 48 and the amount of the benefit is included in the individual's eligible income for the year, in relation to an employment, the amount of the benefit is, for the purpose of computing the deduction under section 725.2, deemed to be nil;

(b) where the individual has included in computing income for the year an amount that is the benefit the individual is deemed to receive under section 49 as a consequence of the application of section 49.2 in respect of a share acquired by the individual after 22 May 1985 and the amount of the benefit is included in the individual's eligible income for the year, in relation to an employment, the amount of the benefit is, for the purpose of computing the deduction under section 725.3, deemed to be nil;

(c) where the individual has included in computing income for the year an amount referred to in paragraph *a* or *e* of section 725 and the amount is included in the portion of the individual's eligible income for the year, in relation to an employment, that may reasonably be attributed to any of the individual's specified periods, in relation to that employment, the amount is, for the purpose of computing the deduction under that paragraph, deemed to be equal to the product obtained by multiplying that amount by the amount by which 100% exceeds the percentage determined under subparagraph *a* of the second paragraph of section 737.21 in respect of that period; and

(d) where the individual has included in computing income for the year an amount referred to in subparagraph *a* of the second paragraph of section 725.1.2 and the amount is included in the portion of the individual's eligible income for

the year, in relation to an employment, that may reasonably be attributed to any of the individual's specified periods, in relation to that employment, the amount is, for the purpose of computing the deduction under the first paragraph of that section, deemed to be equal to the product obtained by multiplying that amount by the amount by which 100% exceeds the percentage determined under subparagraph *a* of the second paragraph of section 737.21 in respect of that period;

(e) (paragraph repealed).

History: 1988, c. 4, s. 58; 1988, c. 18, s. 66; 1991, c. 25, s. 88; 1992, c. 1, s. 53; 1993, c. 16, s. 278; 1993, c. 19, s. 49; 1997, c. 3, s. 71; 1997, c. 85, s. 115; 1999, c. 83, s. 82; 2001, c. 53, s. 105; 2003, c. 9, s. 58; 2004, c. 21, s. 161; 2005, c. 38, s. 109; 2019, c. 14, s. 206.

TITLE VII.3.0.1

DEDUCTION IN RESPECT OF A FOREIGN RESEARCHER ON A POSTDOCTORAL INTERNSHIP

CHAPTER I

INTERPRETATION AND GENERAL

Definitions:

737.22.0.0.1. In this Title,

“eligible employer”;

“eligible employer” means an eligible public research centre within the meaning of paragraph *a.1* of section 1029.8.1 or an eligible university entity within the meaning of paragraph *f* of that section;

“eligible income”;

“eligible income”, for a taxation year, of an individual who is a foreign researcher on a postdoctoral internship at any time, in relation to an employment the individual holds with an eligible employer, means the aggregate of all amounts paid as wages in the year by that employer and that may reasonably be attributed to the individual's research activity period in relation to that employment;

“foreign researcher on a postdoctoral internship”;

“foreign researcher on a postdoctoral internship” for all or part of a taxation year, means an individual in respect of whom the following conditions are met:

(*a*) at a particular time after 31 March 1998, the individual takes up employment, as an employee, with an eligible employer under an employment contract entered into with that employer after that date;

(*b*) the individual is not resident in Canada immediately before entering into the employment contract or immediately before taking up employment, as an employee, with the eligible employer;

(*c*) from the particular time to the end of the year or the part of the year,

i. the individual works exclusively or almost exclusively for the eligible employer, and

ii. the individual's duties for the eligible employer consist exclusively or almost exclusively in carrying on, as an employee, scientific research and experimental development; and

(*d*) the eligible employer has obtained in respect of the individual, for the purposes of this Title, a certificate issued by the Minister of Higher Education, Research, Science and Technology for the taxation year and the certificate and, if applicable, all the similar certificates that were obtained in respect of the individual for preceding taxation years certify that, from the particular time to the end of the year or the part of the year, the individual is recognized as a researcher on a postdoctoral internship;

(e) (paragraph repealed);

“research activity period”;

“research activity period” of an individual who is a foreign researcher on a postdoctoral internship for all or part of a taxation year, in relation to an employment the individual holds with an eligible employer, means the period that, subject to the second paragraph, begins on the day on which the individual begins to perform the duties of that employment and ends on the earlier of

(*a*) the day preceding the day on which the individual ceases to be a foreign researcher on a postdoctoral internship; and

(*b*) the day on which that period totals five years, with reference to

i. where the individual began to stay or became resident in Canada after 19 December 2002 by reason of an employment contract entered into after that date, the aggregate of all periods each of which is a preceding period within the meaning of section 737.22.0.0.1.1 that is established in respect of the individual, and

ii. in any other case, the aggregate of all preceding periods each of which is

(1) all or part of a preceding period, established in respect of the individual under this definition, to which an amount that the individual may deduct in computing the individual's taxable income for a taxation year, under section 737.22.0.0.3, in relation to a preceding employment, may reasonably be attributed, or

(2) a preceding period within the meaning of section 737.22.0.0.1.1 that is established in respect of the individual since the last time the individual became resident in Canada, other than a period described in subparagraph 1;

(*c*) if the individual entered into the individual's employment contract with the eligible employer after 30 March 2004, the last day of the five-year period that begins,

i. unless subparagraph ii applies, on the day on which the individual first begins to perform the duties of an employment for which the individual may deduct an amount in computing the individual's taxable income for a taxation year under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20, or

ii. if the individual began to perform the duties of the employment referred to in subparagraph i under a contract of employment entered into with a particular corporation or partnership operating an international financial centre established by the individual and if the individual was resident in Canada immediately before the contract of employment was entered into and immediately before the individual took up that employment, on the day, determined without reference to paragraph *a* of section 8, on which the individual becomes resident in Canada to work on the establishment of that centre;

“specified period”;

“specified period” of an individual in relation to an employment held by the individual with an eligible employer means

(a) if the individual entered into the individual's employment contract with the eligible employer after 30 March 2004, any part of the individual's research activity period in relation to that employment that is included in any of the five years of the period described in paragraph *c* of the definition of “research activity period”; and

(b) in any other case, the individual's research activity period in relation to that employment;

“wages”.

“wages” means the income computed pursuant to Chapters I and II of Title II of Book III.

Research activity period beginning after the taking up of employment.

Where the certificate referred to in paragraph *d* of the definition of “foreign researcher on a postdoctoral internship” in the first paragraph was not issued in respect of an individual for the taxation year that includes the particular day on which the individual begins to perform the duties of an employment the individual holds with an eligible employer, the individual's research activity period in relation to that employment begins only on the first day of the first taxation year following the particular day for which such a certificate was issued in respect of the individual.

History: 1999, c. 83, s. 83; 2000, c. 39, s. 52; 2004, c. 21, s. 162; 2005, c. 28, s. 195; 2005, c. 38, s. 111; 2012, c. 8, s. 84; 2013, c. 28, s. 140.

Preceding period.

737.22.0.0.1.1. For the purpose of establishing the research activity period of an individual in relation to an employment, a preceding period to which subparagraph i of paragraph *b* of the definition of “research activity period” in the first paragraph of section 737.22.0.0.1 and subparagraph 2 of subparagraph ii of that paragraph *b* refer means all or part of a preceding period, established in respect of the individual under any of the sections mentioned in the second paragraph of section 737.19.2 or under the regulations mentioned in that paragraph, to which an amount that the individual may deduct in computing the individual's taxable income for a taxation year, in relation to a preceding employment, under any of the sections mentioned in the third paragraph of section 737.19.2, may reasonably be attributed.

History: 2004, c. 21, s. 163.

Power of the Minister.

737.22.0.0.1.2. If, in a taxation year, an individual is absent from an employment the individual holds with an eligible employer and, were it not for that absence, would be a foreign researcher on a postdoctoral internship for the part of the year that is included in the individual's period of absence, the Minister may, for the purposes of this Title, consider the remuneration paid by the eligible employer to the individual for that part of the year to be included in the individual's eligible income for the year in relation to the employment, if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.

Individual deemed a foreign researcher.

The individual is deemed to be a foreign researcher on a postdoctoral internship for the part of the year in respect of which the Minister has exercised discretion in the individual's favour in accordance with the first paragraph.

History: 2005, c. 23, s. 86.

Rule applicable in cases of change of employment.

737.22.0.0.2. For the purposes of the definition of “foreign researcher on a postdoctoral internship” in the first paragraph of section 737.22.0.0.1, an individual is deemed not to be resident in Canada immediately before taking up employment, as an employee, with an eligible employer if

(a) the individual may deduct an amount in computing the individual's taxable income for the taxation year in which the individual so took up employment or for a preceding taxation year, in relation to a preceding employment, under any of the sections mentioned in the third paragraph of section 737.19.2; or

(b) the individual would meet the condition set out in paragraph *a* if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate

referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20.

History: 1999, c. 83, s. 83; 2004, c. 21, s. 164.

Individual holding employment on 1 January 2001.

737.22.0.0.2.1. For the purposes of this Title, an individual to whom the fourth paragraph applies is deemed to take up employment, as an employee, with an eligible employer at the particular time referred to in subparagraph *b* where

(a) the individual holds employment with the eligible employer on 1 January 2001; and

(b) at a particular time, the individual would be, for the first time since 1 January 2001, a foreign researcher on a postdoctoral internship working for the eligible employer if the definition of “foreign researcher on a postdoctoral internship” in the first paragraph of section 737.22.0.0.1 were read

i. without reference to paragraph *b* thereof, and

ii. as if “from the particular time to the end of the year or the part of the year” in the portion of paragraph *c* before subparagraph i and in paragraph *d* was replaced by “throughout the year or the part of the year”.

Individual entering into a new employment contract after 31 December 2000.

An individual to whom the fifth paragraph applies is deemed to take up employment, as an employee, with an eligible employer at the particular time referred to in subparagraph *b* where

(a) the individual enters into an employment contract with the eligible employer after 31 December 2000; and

(b) at a particular time, the individual would be, for the first time since the entering into the contract referred to in subparagraph *a*, a foreign researcher on a postdoctoral internship working for the eligible employer if the portion of paragraph *c* of the definition of “foreign researcher on a postdoctoral internship” in the first paragraph of section 737.22.0.0.1 before subparagraph i and paragraph *d* of that definition were read as if “from the particular time to the end of the year or the part of the year” was replaced by “throughout the year or the part of the year”.

Presumption.

In addition, the individual to whom the first or second paragraph applies is also deemed to begin performing the duties of the employment the individual holds with the eligible employer at the particular time referred to in subparagraph *b* of that paragraph.

Individual to whom the first paragraph refers.

The individual to whom the first paragraph refers is the individual who

(a) has no research activity period that is running on 1 January 2001 in relation to that employment; and

(b) may deduct, in computing the individual’s taxable income for a taxation year preceding the year 2001, in relation to a preceding employment, an amount under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20.

Individual to whom the second paragraph refers.

The individual to whom the second paragraph refers is the individual who may deduct, in computing the individual’s taxable income for the taxation year in which the individual has entered into the individual’s employment contract or for a preceding taxation year, in relation to a preceding employment, an amount under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20.

History: 2004, c. 21, s. 165; 2012, c. 8, s. 85.

Deemed change of employment.

737.22.0.0.2.2. For the purposes of this Title, the employment contract that an individual entered into with an eligible employer, in this section referred to as the “original contract”, or a deemed contract, is deemed to end at the time when the individual ceases to be a foreign researcher on a postdoctoral internship.

Individual holding employment on 1 January 2001.

Where on 1 January 2001 an individual to whom the fourth paragraph applies holds employment with an eligible employer, the employment contract the individual entered into with that employer, in this section referred to as the “original contract”, is deemed to have ended before that date.

Deemed new employment.

In addition, where at a particular time an individual would again become a foreign researcher on a postdoctoral internship if this section were read without reference to the first and second paragraphs and the portion of paragraph *c* of the definition of “foreign researcher on a postdoctoral internship” in the first paragraph of section 737.22.0.0.1 before subparagraph i and paragraph *d* of that definition were read as if “from the particular time to the end of the year or

the part of the year” was replaced by “throughout the year or the part of the year”, the following rules apply:

(a) the individual is deemed to enter into, with the eligible employer, a new employment contract, in this section referred to as the “deemed contract”, and that contract is deemed to be entered into at the particular time; and

(b) the individual is deemed to take up employment, as an employee, with the eligible employer at the particular time and is also deemed to begin at that time to perform the duties of that new employment.

Individual to whom this section relates.

The individual to whom the second paragraph refers is the individual who

(a) is not resident in Canada immediately before entering into the original contract or immediately before taking up employment, as an employee, with the eligible employer;

(b) has no research activity period that is running on 1 January 2001 in relation to that employment; and

(c) may deduct, in computing the individual’s taxable income for a taxation year preceding the year 2001, in relation to that employment, an amount under section 737.22.0.0.3, or could so deduct such an amount if the eligible employer had not failed to apply, in respect of the individual, for a certificate referred to in the definition of “foreign researcher on a postdoctoral internship” in section 737.22.0.0.1, as it read for that preceding taxation year.

Termination of the original contract.

The expiry, termination or cancellation of the original contract or any other event having the effect of terminating the original contract also entails the expiry, termination or cancellation, as the case may be, of a deemed contract continuing the original contract, or otherwise terminates such a contract.

Renewal of the original contract.

The renewal of the original contract also entails the renewal of a deemed contract continuing the original contract, except if the deemed contract is deemed to have ended under the first paragraph.

History: 2004, c. 21, s. 165; 2005, c. 38, s. 112; 2012, c. 8, s. 86.

Employment contract renewed after 12 June 2003.

737.22.0.0.2.3. For the purposes of this Title, the contract resulting from the renewal, after 12 June 2003, of an employment contract referred to in the definition of “foreign researcher on a postdoctoral internship” in the first paragraph of section 737.22.0.0.1 is deemed not to be an employment

contract separate from the employment contract referred to in that definition.

Exception.

The first paragraph does not apply in respect of a contract that is deemed to have ended under the first or second paragraph of section 737.22.0.0.2.2.

History: 2004, c. 21, s. 165.

CHAPTER II DEDUCTION

Deduction.

737.22.0.0.3. An individual who, at any time, holds employment as a foreign researcher on a postdoctoral internship with an eligible employer may deduct, in computing the individual’s taxable income for a taxation year, an amount not greater than the aggregate of all amounts each of which is determined, in respect of a specified period of the individual in relation to that employment, by the formula

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

Interpretation.

In the formula provided for in the first paragraph,

(a) A is

i. if the individual entered into the individual’s employment contract with the eligible employer between 12 June 2003 and 31 March 2004, or entered into the contract before 13 June 2003 but began to perform the duties of that employment after 1 September 2003, 75%,

i.1. if the individual entered into the individual’s employment contract with the eligible employer after 30 March 2004,

(1) 100%, if that specified period of the individual is included in the first or second year of the period described in paragraph *c* of the definition of “research activity period” in the first paragraph of section 737.22.0.0.1,

(2) 75%, if that specified period of the individual is included in the third year of the period described in that paragraph *c*,

(3) 50%, if that specified period of the individual is included in the fourth year of the period described in that paragraph *c*, or

(4) 25%, if that specified period of the individual is included in the fifth year of the period described in that paragraph *c*, and

ii. in any other case, 100%;

(b) B is the portion of the individual's eligible income for the year, in relation to that employment, that is certified by the eligible employer in prescribed manner and that may reasonably be attributed to that specified period of the individual; and

(c) C is the aggregate of all amounts that the individual may deduct in computing the individual's income for the year under Chapter III of Title II of Book III and that may reasonably be attributed to the individual's employment as a foreign researcher on a postdoctoral internship during that specified period of the individual.

History: 1999, c. 83, s. 83; 2004, c. 21, s. 166; 2005, c. 38, s. 113.

CHAPTER III COMPUTATION OF TAXABLE INCOME

Rules applicable.

737.22.0.0.4. For the purpose of computing the taxable income of an individual referred to in section 737.22.0.0.3 for a taxation year, the following rules apply:

(a) where the individual has included in computing income for the year an amount that is the benefit the individual is deemed to receive in the year under any of sections 49 and 50 to 52.1, in respect of a security, or the transfer or any other disposition of the rights under the agreement referred to in section 48 and the amount of the benefit is included in the individual's eligible income for the year, in relation to an employment, the amount of the benefit is, for the purpose of computing the deduction under section 725.2, deemed to be nil;

(b) where the individual has included in computing income for the year an amount that is the benefit the individual is deemed to receive under section 49 as a consequence of the application of section 49.2 in respect of a share acquired by the individual after 22 May 1985 and the amount of the benefit is included in the individual's eligible income for the year, in relation to an employment, the amount of the benefit is, for the purpose of computing the deduction under section 725.3, deemed to be nil;

(c) where the individual has included in computing income for the year an amount referred to in paragraph *a* or *e* of section 725 and the amount is included in the portion of the individual's eligible income for the year, in relation to an employment, that may reasonably be attributed to any of the individual's specified periods, in relation to that employment, the amount is, for the purpose of computing the deduction under that paragraph, deemed to be equal to the product obtained by multiplying that amount by the amount by which 100% exceeds the percentage determined under subparagraph *a* of the second paragraph of section 737.22.0.0.3 in respect of that period; and

(d) where the individual has included in computing income for the year an amount referred to in subparagraph *a* of the

second paragraph of section 725.1.2 and the amount is included in the portion of the individual's eligible income for the year, in relation to an employment, that may reasonably be attributed to any of the individual's specified periods, in relation to that employment, the amount is, for the purpose of computing the deduction under the first paragraph of that section, deemed to be equal to the product obtained by multiplying that amount by the amount by which 100% exceeds the percentage determined under subparagraph *a* of the second paragraph of section 737.22.0.0.3 in respect of that period;

(e) (*paragraph repealed*).

History: 1999, c. 83, s. 83; 2001, c. 53, s. 106; 2003, c. 9, s. 59; 2004, c. 21, s. 167; 2005, c. 38, s. 114; 2019, c. 14, s. 207.

TITLE VII.3.0.2 DEDUCTION IN RESPECT OF FOREIGN EXPERTS

CHAPTER I INTERPRETATION AND GENERAL

Definitions:

737.22.0.0.5. In this Title,

“eligible activity period”;

“eligible activity period” of an individual who is a foreign expert for all or part of a taxation year, in relation to an employment the individual holds with an eligible employer, means the period that, subject to the second paragraph, begins on the day on which the individual begins to perform the duties of that employment and that ends on the earlier of

(a) the day preceding the day on which the individual ceases to be a foreign expert;

(b) the day on which that period totals five years, with reference to

i. where the individual began to stay or became resident in Canada after 19 December 2002 by reason of an employment contract entered into after that date, the aggregate of all periods each of which is a preceding period within the meaning of section 737.22.0.0.5.1 that is established in respect of the individual, and

ii. in any other case, the aggregate of all preceding periods each of which is

(1) all or part of a preceding period, established in respect of the individual under this definition, to which an amount that the individual may deduct in computing the individual's taxable income for a taxation year, under section 737.22.0.0.7, in relation to a preceding employment, may reasonably be attributed, or

(2) a preceding period within the meaning of section 737.22.0.0.5.1 that is established in respect of the individual since the last time the individual became resident

in Canada, other than a period described in subparagraph 1; and

(c) if the individual entered into the individual's employment contract with the eligible employer after 30 March 2004, the last day of the five-year period that begins,

i. unless subparagraph ii applies, on the day on which the individual first begins to perform the duties of an employment for which the individual may deduct an amount in computing the individual's taxable income for a taxation year under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20, or

ii. if the individual began to perform the duties of the employment referred to in subparagraph i under a contract of employment entered into with a particular corporation or partnership operating an international financial centre established by the individual and if the individual was resident in Canada immediately before the contract of employment was entered into and immediately before the individual took up that employment, on the day, determined without reference to paragraph *a* of section 8, on which the individual becomes resident in Canada to work on the establishment of that centre;

“eligible employer”;

“eligible employer” means a person or a partnership who or which carries on a business in Canada, but does not include a person mentioned in section 984 or 985 or an eligible university entity within the meaning of paragraph *f* of section 1029.8.1, for the period in which the person or partnership undertakes or causes to be undertaken on the person's or partnership's behalf in Québec, as part of a project, scientific research and experimental development related to a business of the person or partnership and for the periods that precede and follow the carrying out of the project;

“eligible income”;

“eligible income”, for a taxation year, of an individual who is a foreign expert at any time, in relation to an employment the individual holds with an eligible employer, means the aggregate of all amounts paid as wages in the year by that employer and that may reasonably be attributed to the foreign expert's eligible activity period in relation to that employment;

“foreign expert”;

“foreign expert” for all or part of a taxation year means an individual in respect of whom the following conditions are met:

(a) at a particular time after 9 March 1999, the individual takes up employment, as an employee, with an eligible

employer under an employment contract entered into with the eligible employer after that date;

(b) the individual is not resident in Canada immediately before entering into the employment contract or immediately before taking up employment, as an employee, with the eligible employer;

(c) from the particular time to the end of the year or the part of the year,

i. the individual works exclusively or almost exclusively for the eligible employer, and

ii. the individual performs duties as an employee of the eligible employer exclusively or almost exclusively as part of a scientific research and experimental development project, whether before, during or after the carrying out of the project; and

(d) the eligible employer has obtained in respect of the individual, for the purposes of this Title, a certificate issued by the Minister of Economy and Innovation for the taxation year and the certificate and, if applicable, all the similar certificates that were obtained in respect of the individual for preceding taxation years certify that, from the particular time to the end of the year or the part of the year, the individual is recognized as an expert;

“specified period”;

“specified period” of an individual in relation to an employment held by the individual with an eligible employer means

(a) if the individual entered into the individual's employment contract with the eligible employer after 30 March 2004, any part of the individual's eligible activity period in relation to that employment that is included in any of the five years of the period described in paragraph *c* of the definition of “eligible activity period”; and

(b) in any other case, the individual's eligible activity period in relation to that employment;

“wages”.

“wages” means the income computed under Chapters I and II of Title II of Book III.

Eligible activity period beginning after the taking up of employment.

Where an individual is not a foreign expert for any part of the taxation year that includes the particular day on which the individual begins to perform the duties of an employment the individual holds with an eligible employer, because the certificate referred to in the definition of “foreign expert” in the first paragraph was not obtained in respect of the individual, the individual's eligible activity period in relation to that employment begins only on the first day of the first taxation year following the particular day for all or part of which the individual is a foreign expert.

Interpretation.

For the purposes of the definition of “eligible income” in the first paragraph, any benefit that an individual is deemed to receive, in a particular taxation year, in connection with an employment held by the individual with an eligible employer, because of the application of any of sections 49 and 50 to 52.1, is considered to be included in the amounts that are paid to the individual as wages in the year by that employer.

History: 2000, c. 39, s. 53; 2002, c. 9, s. 14; 2003, c. 29, s. 137; O.C. 222-2004; 2004, c. 21, s. 168; 2005, c. 38, s. 116; 2006, c. 8, s. 31; 2012, c. 8, s. 87; 2013, c. 28, s. 141; 2019, c. 29, s. 86.

Preceding period.

737.22.0.0.5.1. For the purpose of establishing the eligible activity period of an individual in relation to an employment, a preceding period to which subparagraph *i* of paragraph *b* of the definition of “eligible activity period” in the first paragraph of section 737.22.0.0.5 and subparagraph 2 of subparagraph *ii* of that paragraph *b* refer means all or part of a preceding period, established in respect of the individual under any of the sections mentioned in the second paragraph of section 737.19.2 or under the regulations mentioned in that paragraph, to which an amount that the individual may deduct in computing the individual’s taxable income for a taxation year, in relation to a preceding employment, under any of the sections mentioned in the third paragraph of section 737.19.2, may reasonably be attributed.

History: 2004, c. 21, s. 169.

Power of the Minister.

737.22.0.0.5.2. If, in a taxation year, an individual is absent from an employment the individual holds with an eligible employer and, were it not for that absence, would be a foreign expert for the part of the year that is included in the individual’s period of absence, the Minister may, for the purposes of this Title, consider the remuneration paid by the eligible employer to the individual for that part of the year to be included in the individual’s eligible income for the year in relation to the employment, that the eligible employer certifies in prescribed manner, if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.

Individual deemed a foreign expert.

The individual is deemed to be a foreign expert for the part of the year in respect of which the Minister has exercised discretion in the individual’s favour in accordance with the first paragraph.

History: 2005, c. 23, s. 87.

Rules applicable.

737.22.0.0.6. For the application of the definition of “foreign expert” in the first paragraph of section 737.22.0.0.5 to an individual who entered into an employment contract with an eligible employer, the following rules must be taken into consideration:

(a) the individual is deemed not to be resident in Canada immediately before taking up employment, as an employee, with the eligible employer if

i. the individual may deduct an amount in computing the individual’s taxable income for the taxation year in which the individual so took up employment or for a preceding taxation year, in relation to a preceding employment, under any of the sections mentioned in the third paragraph of section 737.19.2, or

ii. the individual would meet the condition set out in subparagraph *i* if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph *ii* of paragraph *a* of section 737.20; and

(b) where, in relation to taxation years preceding the year 2011, a particular certificate referred to in paragraph *d* of that definition has been issued in respect of the individual to any eligible employer,

i. the particular certificate is deemed to have been issued for each of the preceding taxation years, and

ii. the particular certificate is deemed to have been issued to the eligible employer in relation to the employment contract, if the contract has been entered into in any of the preceding taxation years.

History: 2000, c. 39, s. 53; 2002, c. 9, s. 15; 2002, c. 40, s. 63; 2004, c. 21, s. 170; 2012, c. 8, s. 88.

Individual holding employment on 1 January 2001.

737.22.0.0.6.1. For the purposes of this Title, an individual to whom the fourth paragraph applies is deemed to take up employment, as an employee, with an eligible employer at the particular time referred to in subparagraph *b* where

(a) the individual holds employment with the eligible employer on 1 January 2001; and

(b) at a particular time, the individual would be, for the first time since 1 January 2001, a foreign expert working for the eligible employer if the definition of “foreign expert” in the first paragraph of section 737.22.0.0.5 were read

i. without reference to paragraph *b* thereof, and

ii. as if “from the particular time to the end of the year or the part of the year” in the portion of paragraph *c* before subparagraph *i* and in paragraph *d* was replaced by “throughout the year or the part of the year”.

Individual entering into a new employment contract after 31 December 2000.

An individual to whom the fifth paragraph applies is deemed to take up employment, as an employee, with an eligible employer at the particular time referred to in subparagraph *b* where

(a) the individual enters into an employment contract with the eligible employer after 31 December 2000; and

(b) at a particular time, the individual would be, for the first time since the entering into the contract referred to in subparagraph *a*, a foreign expert working for the eligible employer if the portion of paragraph *c* of the definition of “foreign expert” in the first paragraph of section 737.22.0.0.5 before subparagraph *i* and paragraph *d* of that definition were read as if “from the particular time to the end of the year or the part of the year” was replaced by “throughout the year or the part of the year”.

Presumption.

In addition, the individual to whom the first or second paragraph applies is also deemed to begin performing the duties of the employment the individual holds with the eligible employer at the particular time referred to in subparagraph *b* of that paragraph.

Individual to whom the first paragraph refers.

The individual to whom the first paragraph refers is the individual who

(a) has no eligible activity period that is running on 1 January 2001 in relation to that employment; and

(b) may deduct, in computing the individual’s taxable income for a taxation year preceding the year 2001, in relation to a preceding employment, an amount under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph *ii* of paragraph *a* of section 737.20.

Individual to whom the second paragraph refers.

The individual to whom the second paragraph refers is the individual who may deduct, in computing the individual’s taxable income for the taxation year in which the individual has entered into the individual’s employment contract or for a preceding taxation year, in relation to a preceding employment, an amount under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct

such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph *ii* of paragraph *a* of section 737.20.

History: 2004, c. 21, s. 171; 2012, c. 8, s. 89.

Deemed change of employment.

737.22.0.0.6.2. For the purposes of this Title, the employment contract that an individual entered into with an eligible employer, in this section referred to as the “original contract”, or a deemed contract, is deemed to end at the time when the individual ceases to be a foreign expert.

Individual holding employment on 1 January 2001.

Where on 1 January 2001 an individual to whom the fourth paragraph applies holds employment with an eligible employer, the employment contract the individual entered into with that employer, in this section referred to as the “original contract”, is deemed to have ended before that date.

Deemed new employment.

In addition, where at a particular time an individual would again become a foreign expert if this section were read without reference to the first and second paragraphs and the portion of paragraph *c* of the definition of “foreign expert” in the first paragraph of section 737.22.0.0.5 before subparagraph *i* and paragraph *d* of that definition were read as if “from the particular time to the end of the year or the part of the year” was replaced by “throughout the year or the part of the year”, the following rules apply:

(a) the individual is deemed to enter into, with the eligible employer, a new employment contract, in this section referred to as the “deemed contract”, and that contract is deemed to be entered into at the particular time; and

(b) the individual is deemed to take up employment, as an employee, with the eligible employer at the particular time and is also deemed to begin at that time to perform the duties of that new employment.

Individual to whom this section relates.

The individual to whom the second paragraph refers is the individual who

(a) is not resident in Canada immediately before entering into the original contract or immediately before taking up employment, as an employee, with the eligible employer;

(b) has no eligible activity period that is running on 1 January 2001 in relation to that employment; and

(c) may deduct, in computing the individual’s taxable income for a taxation year preceding the year 2001, in relation to that employment, an amount under section 737.22.0.0.7, or could so deduct such an amount if

the eligible employer had not failed to apply, in respect of the individual, for a certificate referred to in the definition of “foreign expert” in section 737.22.0.0.5, as it read for that preceding taxation year.

Termination of the original contract.

The expiry, termination or cancellation of the original contract or any other event having the effect of terminating the original contract also entails the expiry, termination or cancellation, as the case may be, of a deemed contract continuing the original contract, or otherwise terminates such a contract.

Renewal of the original contract.

The renewal of the original contract also entails the renewal of a deemed contract continuing the original contract, except if the deemed contract is deemed to have ended under the first paragraph.

History: 2004, c. 21, s. 171; 2005, c. 38, s. 117; 2012, c. 8, s. 90.

Employment contract renewed after 12 June 2003.

737.22.0.0.6.3. For the purposes of this Title, the contract resulting from the renewal, after 12 June 2003, of an employment contract referred to in the definition of “foreign expert” in the first paragraph of section 737.22.0.0.5 is deemed not to be an employment contract separate from the employment contract referred to in that definition.

Exception.

The first paragraph does not apply in respect of a contract that is deemed to have ended under the first or second paragraph of section 737.22.0.0.6.2.

History: 2004, c. 21, s. 171.

CHAPTER II DEDUCTION

Deduction.

737.22.0.0.7. An individual who, at any time, holds employment as a foreign expert with an eligible employer may deduct, in computing the individual’s taxable income for a taxation year, an amount not greater than the aggregate of all amounts each of which is determined, in respect of a specified period of the individual in relation to that employment, by the formula

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

Interpretation.

In the formula provided for in the first paragraph,

(a) A is

i. if the individual entered into the individual’s employment contract with the eligible employer between 12 June 2003 and 31 March 2004, or entered into the contract before 13 June 2003 but began to perform the duties of that employment after 1 September 2003, 75%,

i.1. if the individual entered into the individual’s employment contract with the eligible employer after 30 March 2004,

(1) 100%, if that specified period of the individual is included in the first or second year of the period described in paragraph *c* of the definition of “eligible activity period” in the first paragraph of section 737.22.0.0.5,

(2) 75%, if that specified period of the individual is included in the third year of the period described in that paragraph *c*,

(3) 50%, if that specified period of the individual is included in the fourth year of the period described in that paragraph *c*, or

(4) 25%, if that specified period of the individual is included in the fifth year of the period described in that paragraph *c*, and

ii. in any other case, 100%;

(b) B is the portion of the individual’s eligible income for the year, in relation to that employment, that is certified by the eligible employer in prescribed manner and that may reasonably be attributed to that specified period of the individual; and

(c) C is the aggregate of all amounts that the individual may deduct in computing the individual’s income for the year under Chapter III of Title II of Book III and that may reasonably be attributed to the individual’s employment as a foreign expert during that specified period of the individual.

History: 2000, c. 39, s. 53; 2004, c. 21, s. 172; 2005, c. 38, s. 118.

CHAPTER III COMPUTATION OF TAXABLE INCOME

Rules applicable.

737.22.0.0.8. For the purpose of computing the taxable income of an individual referred to in section 737.22.0.0.7 for a taxation year, the following rules apply:

(a) where the individual has included in computing income for the year an amount that is the benefit the individual is deemed to receive in the year under any of sections 49 and 50 to 52.1, in respect of a security, or the transfer or any other disposition of the rights under the agreement referred to in section 48 and the amount of the benefit is included in the individual’s eligible income for the year, in relation to an employment, the amount of the benefit is, for the purpose of

computing the deduction under section 725.2, deemed to be nil;

(b) where the individual has included in computing income for the year an amount that is the benefit the individual is deemed to receive under section 49 as a consequence of the application of section 49.2 in respect of a share acquired by the individual after 22 May 1985 and the amount of the benefit is included in the individual's eligible income for the year, in relation to an employment, the amount of the benefit is, for the purpose of computing the deduction under section 725.3, deemed to be nil;

(c) where the individual has included in computing income for the year an amount referred to in paragraph *a* or *e* of section 725 and the amount is included in the portion of the individual's eligible income for the year, in relation to an employment, that may reasonably be attributed to any of the individual's specified periods, in relation to that employment, the amount is, for the purpose of computing the deduction under that paragraph, deemed to be equal to the product obtained by multiplying that amount by the amount by which 100% exceeds the percentage determined under subparagraph *a* of the second paragraph of section 737.22.0.0.7 in respect of that period; and

(d) where the individual has included in computing income for the year an amount referred to in subparagraph *a* of the second paragraph of section 725.1.2 and the amount is included in the portion of the individual's eligible income for the year, in relation to an employment, that may reasonably be attributed to any of the individual's specified periods, in relation to that employment, the amount is, for the purpose of computing the deduction under the first paragraph of that section, deemed to be equal to the product obtained by multiplying that amount by the amount by which 100% exceeds the percentage determined under subparagraph *a* of the second paragraph of section 737.22.0.0.7 in respect of that period;

(e) (*paragraph repealed*).

History: 2000, c. 39, s. 53; 2001, c. 53, s. 107; 2003, c. 9, s. 60; 2004, c. 21, s. 173; 2005, c. 38, s. 119; 2019, c. 14, s. 208.

TITLE VII.3.1 DEDUCTION IN RESPECT OF A FOREIGN SPECIALIST

CHAPTER I INTERPRETATION AND GENERAL

Definitions:

737.22.0.1. In this Title,

“biotechnology development centre”;
“biotechnology development centre” has the meaning assigned by the first paragraph of section 771.1;

“eligible activity”;

“eligible activity” of an eligible employer for a taxation year means

(a) an eligible activity of the eligible employer for that year within the meaning of

i. the first paragraph of section 1029.8.36.0.3.28, as it read for the year, where the eligible employer is a corporation referred to in paragraph *b* of the definition of “eligible employer”;

ii. the first paragraph of section 1029.8.36.0.3.38, as it read for the year, where the eligible employer is a corporation referred to in paragraph *c* of the definition of “eligible employer”;

iii. the first paragraph of section 1029.8.36.0.3.46, where the eligible employer is a corporation referred to in paragraph *e* of the definition of “eligible employer”;

(b) a specified activity of the eligible employer for the year within the meaning of section 1029.8.36.0.17, where the eligible employer is a corporation referred to in paragraph *d* or *f* of the definition of “eligible employer”;

(c) an activity of a recognized business of the eligible employer for that year within the meaning of

i. the first paragraph of section 1029.8.36.0.3.60, where the eligible employer is a corporation referred to in paragraph *g* of the definition of “eligible employer”;

ii. the first paragraph of section 1029.8.36.72.83, where the eligible employer is a corporation referred to in paragraph *h* of the definition of “eligible employer”;

(d) an activity of a recognized business of the eligible employer for that year within the meaning of the first paragraph of section 1029.8.36.72.56 that is a recognized business described

i. in paragraph *a* of the definition of “recognized business” in that first paragraph, if the eligible employer is a corporation described in paragraph *i* of the definition of “eligible employer”;

ii. in paragraph *b* of the definition of “recognized business” in that first paragraph, if the eligible employer is a corporation described in paragraph *j* of the definition of “eligible employer”;

“eligible employer”;

“eligible employer” for a taxation year means

(a) a corporation that would be an exempt corporation within the meaning of sections 771.12 and 771.13 for that year if section 771.12 were read without reference to paragraph *e* and paragraph *d* were replaced by the following paragraph:

“(d) the year is comprised in whole or in part in the corporation’s eligibility period within the meaning assigned by section 1029.8.36.0.17, without reference to the sixth paragraph, if the definition of “eligibility period” in the first paragraph of that section applies for the purpose of determining the amount referred to in paragraph *a* of that definition.”;

(b) where the taxation year of the corporation begins before 21 December 2001, a qualified corporation within the meaning of the first paragraph of section 1029.8.36.0.3.28, as it read for that taxation year, that holds an unrevoked certificate issued by Investissement Québec for the purposes of Division II.6.0.1.4 of Chapter III.1 of Title III of Book IX, as it read before being repealed, certifying that an eligible activity is carried on by the qualified corporation for that year;

(c) where the taxation year of the corporation begins before 21 December 2001, a qualified corporation within the meaning of the first paragraph of section 1029.8.36.0.3.38, as it read for that taxation year, that holds an unrevoked certificate issued by Investissement Québec for the purposes of Division II.6.0.1.5 of Chapter III.1 of Title III of Book IX, as it read before being repealed, certifying that an eligible activity is carried on by the qualified corporation for that year;

(d) a corporation that is

i. where this paragraph applies after 29 March 2001, a specified corporation for the year within the meaning of the first paragraph of section 1029.8.36.0.17, other than a corporation that carries on or may carry on its business in a biotechnology development centre, and

ii. in any other case, a specified corporation within the meaning of the first paragraph of section 1029.8.36.0.17 that is not a corporation referred to in paragraph *a* for the year and that holds an unrevoked certificate issued by Investissement Québec for the purposes of Division II.6.0.3 of Chapter III.1 of Title III of Book IX, certifying that the specified corporation carries out or may carry out in that year a specified activity in a building housing all or any part of a new economy centre;

(e) a qualified corporation within the meaning of the first paragraph of section 1029.8.36.0.3.46 that holds a valid qualification certificate issued by the Minister of Finance for the purposes of Division II.6.0.1.6 of Chapter III.1 of Title III of Book IX;

(f) a specified corporation for the year within the meaning of section 1029.8.36.0.17 that carries on or may carry on its business in a biotechnology development centre;

(g) a qualified corporation, for the calendar year ending in the taxation year, within the meaning of the first paragraph of section 1029.8.36.0.3.60 that, in that taxation year, carries on a recognized business within the meaning of that paragraph;

(h) a qualified corporation, for the calendar year ending in the taxation year, within the meaning of the first paragraph of section 1029.8.36.72.83 that, in that taxation year, carries on a recognized business within the meaning of that paragraph;

(i) a qualified corporation, for the calendar year ending in the taxation year, within the meaning of the first paragraph of section 1029.8.36.72.56 that, in the taxation year, carries on a recognized business, within the meaning of that paragraph, that is described in paragraph *a* of the definition of “recognized business” in that first paragraph; or

(j) a qualified corporation, for the calendar year ending in the taxation year, within the meaning of the first paragraph of section 1029.8.36.72.56 that, in the taxation year, carries on a recognized business, within the meaning of that paragraph, that is described in paragraph *b* of the definition of “recognized business” in that first paragraph;

“eligible income”;

“eligible income”, for a taxation year, of an individual who is a foreign specialist at any time, in relation to an employment the individual holds with an eligible employer, means the aggregate of all amounts paid as wages in the year by that employer and that may reasonably be attributed to the foreign specialist’s specialized activity period in relation to that employment;

“foreign specialist”;

“foreign specialist” for all or part of a taxation year means an individual in respect of whom the following conditions are met:

(a) at a particular time the individual takes up employment, as an employee, with an eligible employer under an employment contract they have entered into in the hiring period of the eligible employer;

(a.1) the individual took up employment, as an employee, with the eligible employer before 2 September 2003, except if the eligible employer was, at the time the individual took up employment, a corporation referred to in subparagraph iii of paragraph *a* of section 771.12 or, where the employment contract was entered into after 30 March 2004, a corporation referred to in paragraph *f* of the definition of “eligible employer”;

(b) the individual is not resident in Canada immediately before entering into the employment contract or immediately before taking up employment, as an employee, with the eligible employer;

(c) the individual works exclusively or almost exclusively for the eligible employer from the particular time to the end of the year or the part of the year; and

(d) the eligible employer has obtained in respect of the individual, for the purposes of this Title, a certificate issued by Investissement Québec for the taxation year and the certificate and, if applicable, all the similar certificates that were obtained in respect of the individual for preceding taxation years certify that, from the particular time to the end

of the year or the part of the year, the individual is recognized as a specialist;

(e) (*paragraph repealed*);

“hiring period”;

“hiring period” of an eligible employer means

(a) where the eligible employer is a corporation referred to in subparagraph i of paragraph *a* of section 771.12, the period that begins on 26 March 1997 and that ends on 12 June 2003;

(b) where the eligible employer is a corporation referred to in subparagraph ii of paragraph *a* of section 771.12, the period that begins on 10 March 1999 and that ends on 12 June 2003;

(c) where the eligible employer is a corporation referred to in paragraph *b* or *c* of the definition of “eligible employer”, the period that begins on 15 March 2000 and that ends on the last day of the last taxation year of the corporation that begins before 21 December 2001;

(d) where the eligible employer is a corporation referred to in paragraph *d* of the definition of “eligible employer”, the period that begins on 15 March 2000 and that ends on 12 June 2003;

(e) where the eligible employer is a corporation referred to in paragraph *e* of the definition of “eligible employer”, the period that begins on 12 May 2000 and that ends on 12 June 2003;

(f) where the eligible employer is a corporation referred to in subparagraph iii of paragraph *a* of section 771.12, the period that begins on 30 March 2001;

(g) where the eligible employer is a corporation referred to in paragraph *f* of the definition of “eligible employer”, the period that begins on 30 March 2001 and that ends on 12 June 2003 or the period that begins on 31 March 2004; and

(h) where the eligible employer is a corporation referred to in any of paragraphs *g* to *j* of the definition of “eligible employer”, the period that begins on 20 March 2002 and that ends on 12 June 2003;

“new economy centre”;

“new economy centre” has the meaning assigned by section 771.1;

“specialized activity period”;

“specialized activity period” of an individual who is a foreign specialist for all or part of a taxation year, in relation to an employment the individual holds with an eligible employer, means the period that, subject to the second paragraph, begins on the day on which the individual begins to perform the duties of that employment and ends on the earlier of

(a) the day preceding the day on which the individual ceases to be a foreign specialist;

(b) the day on which that period totals five years, with reference to

i. where the individual began to stay or became resident in Canada after 19 December 2002 by reason of an employment contract entered into after that date, the aggregate of all periods each of which is a preceding period within the meaning of section 737.22.0.1.1 that is established in respect of the individual, and

ii. in any other case, the aggregate of all preceding periods each of which is

(1) all or part of a preceding period, established in respect of the individual under this definition, to which an amount that the individual may deduct in computing the individual’s taxable income for a taxation year, under section 737.22.0.3, in relation to a preceding employment, may reasonably be attributed; or

(2) a preceding period within the meaning of section 737.22.0.1.1 that is established in respect of the individual since the last time the individual became resident in Canada, other than a period described in subparagraph 1; and

(c) where the individual entered into the individual’s employment contract with the eligible employer after 30 March 2004, the last day of the five-year period that begins,

i. unless subparagraph ii applies, on the day on which the individual first begins to perform the duties of an employment for which the individual may deduct an amount in computing the individual’s taxable income for a taxation year under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20, or

ii. if the individual began to perform the duties of the employment referred to in subparagraph i under a contract of employment entered into with a particular corporation or partnership operating an international financial centre established by the individual and if the individual was resident in Canada immediately before the contract of employment was entered into and immediately before the individual took up that employment, on the day, determined without reference to paragraph *a* of section 8, on which the individual becomes resident in Canada to work on the establishment of that centre;

“specified period”;

“specified period” of an individual in relation to an employment held by the individual with an eligible employer means

(a) where the individual entered into the individual’s employment contract with the eligible employer after

30 March 2004, any part of the individual's specialized activity period in relation to that employment that is included in any of the five years of the period described in paragraph *c* of the definition of "specialized activity period"; and

(*b*) in any other case, the individual's specialized activity period in relation to that employment;

"wages".

"wages" means the income computed pursuant to Chapters I and II of Title II of Book III.

Specialized activity period beginning after the taking up of employment.

Where the certificate referred to in paragraph *d* of the definition of "foreign specialist" in the first paragraph was not issued in respect of an individual for the taxation year that includes the particular day on which the individual begins to perform the duties of an employment the individual holds with an eligible employer, the specialized activity period of the individual in relation to that employment begins only on the first day of the first taxation year following the particular day for which such a certificate has been issued in respect of the individual.

Interpretation.

For the purposes of the definition of "eligible income" in the first paragraph, any benefit that an individual is deemed to receive, in a particular taxation year, in connection with an employment held by the individual with an eligible employer, because of the application of any of sections 49 and 50 to 52.1, is considered to be included in the amounts that are paid to the individual as wages in the year by that employer.

History: 1997, c. 85, s. 116; 1998, c. 17, s. 64; 1999, c. 86, s. 99; 2000, c. 39, s. 55; 2001, c. 51, s. 43; 2001, c. 69, s. 12; 2002, c. 9, s. 16; 2003, c. 9, s. 61; 2004, c. 21, s. 174; 2005, c. 23, s. 88; 2005, c. 38, s. 121; 2007, c. 12, s. 84; 2012, c. 8, s. 91.

Preceding period.

737.22.0.1.1. For the purpose of establishing the specialized activity period of an individual in relation to an employment, a preceding period to which subparagraph *i* of paragraph *b* of the definition of "specialized activity period" in the first paragraph of section 737.22.0.1 and subparagraph 2 of subparagraph *ii* of that paragraph *b* refer means all or part of a preceding period, established in respect of the individual under any of the sections mentioned in the second paragraph of section 737.19.2 or under the regulations mentioned in that paragraph, to which an amount that the individual may deduct in computing the individual's taxable income for a taxation year, in relation to a preceding employment, under any of the sections mentioned in the third paragraph of section 737.19.2, may reasonably be attributed.

History: 2004, c. 21, s. 175.

Power of the Minister.

737.22.0.1.2. If, in a taxation year, an individual is absent from an employment the individual holds with an eligible employer and, were it not for that absence, would be a foreign specialist for the part of the year that is included in the individual's period of absence, the Minister may, for the purposes of this Title, consider the remuneration paid by the eligible employer to the individual for that part of the year to be included in the individual's eligible income for the year in relation to the employment, that the eligible employer certifies in prescribed manner, if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.

Individual deemed a foreign specialist.

The individual is deemed to be a foreign specialist for the part of the year in respect of which the Minister has exercised discretion in the individual's favour in accordance with the first paragraph.

History: 2005, c. 23, s. 89.

Revocation of a certificate or qualification certificate.

737.22.0.1.3. Where, but for this section, a corporation would no longer be an eligible employer for a taxation year because of the revocation of a certificate or a qualification certificate it was issued, the following rules must, for the purposes of this Title, be taken into consideration despite any provision to the contrary:

(*a*) if the corporation is described in any of paragraphs *a* and *g* to *j* of the definition of "eligible employer" in the first paragraph of section 737.22.0.1, the certificate or qualification certificate is deemed to be valid until the time the certificate or qualification certificate is revoked and it is deemed, only as of that time, not to have been issued; and

(*b*) if the corporation is described in any of paragraphs *b* to *f* of that definition, the certificate is deemed not to have been revoked for that taxation year.

History: 2005, c. 38, s. 122; 2012, c. 8, s. 92.

Rule applicable in cases of change of employment.

737.22.0.2. For the purposes of the definition of "foreign specialist" in the first paragraph of section 737.22.0.1, an individual is deemed not to be resident in Canada immediately before taking up employment, as an employee, with an eligible employer if

(*a*) the individual may deduct an amount in computing the individual's taxable income for the taxation year in which the individual so took up employment or for a preceding taxation year, in relation to a preceding employment, under any of the sections mentioned in the third paragraph of section 737.19.2; or

(b) the individual would meet the condition set out in paragraph *a* if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20.

History: 1997, c. 85, s. 116; 2000, c. 39, s. 56; 2002, c. 40, s. 64; 2003, c. 9, s. 62; 2004, c. 21, s. 176.

Individual holding employment on 1 January 2001.

737.22.0.2.1. For the purposes of this Title, an individual to whom the fourth paragraph applies is deemed to take up employment, as an employee, with an eligible employer at the particular time referred to in subparagraph *b* where

(a) the individual holds employment with the eligible employer on 1 January 2001; and

(b) at a particular time, the individual would be, for the first time since 1 January 2001, a foreign specialist working for the eligible employer if the definition of “foreign specialist” in the first paragraph of section 737.22.0.1 were read

i. without reference to paragraph *b* thereof, and

ii. as if “from the particular time to the end of the year or the part of the year” in paragraphs *c* and *d* was replaced by “throughout the year or the part of the year”.

Individual entering into a new employment contract after 31 December 2000.

An individual to whom the fifth paragraph applies is deemed to take up employment, as an employee, with an eligible employer at the particular time referred to in subparagraph *b* where

(a) the individual enters into an employment contract with the eligible employer after 31 December 2000; and

(b) at a particular time, the individual would be, for the first time since the entering into the contract referred to in subparagraph *a*, a foreign specialist working for the eligible employer if paragraphs *c* and *d* of the definition of “foreign specialist” in the first paragraph of section 737.22.0.1 were read as if “from the particular time to the end of the year or the part of the year” was replaced by “throughout the year or the part of the year”.

Presumption.

In addition, the individual to whom the first or second paragraph applies is also deemed to begin performing the duties of the employment the individual holds with the eligible employer at the particular time referred to in subparagraph *b* of that paragraph.

Individual to whom the first paragraph refers.

The individual to whom the first paragraph refers is the individual who

(a) has no specialized activity period that is running on 1 January 2001 in relation to that employment; and

(b) may deduct, in computing the individual’s taxable income for a taxation year preceding the year 2001, in relation to a preceding employment, an amount under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20.

Individual to whom the second paragraph refers.

The individual to whom the second paragraph refers is the individual who may deduct, in computing the individual’s taxable income for the taxation year in which the individual has entered into the individual’s employment contract or for a preceding taxation year, in relation to a preceding employment, an amount under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20.

History: 2004, c. 21, s. 177; 2012, c. 8, s. 93.

Deemed change of employment.

737.22.0.2.2. For the purposes of this Title, the employment contract that an individual entered into with an eligible employer, in this section referred to as the “original contract”, or a deemed contract, is deemed to end at the time when the individual ceases to be a foreign specialist.

Individual holding employment on 1 January 2001.

Where on 1 January 2001 an individual to whom the fourth paragraph applies holds employment with an eligible employer, the employment contract the individual entered into with that employer, in this section referred to as the “original contract”, is deemed to have ended before that date.

Deemed new employment.

In addition, where at a particular time an individual would again become a foreign specialist if this section were read without reference to the first and second paragraphs and paragraphs *c* and *d* of the definition of “foreign specialist” in the first paragraph of section 737.22.0.1 were read as if “from the particular time to the end of the year or the part of the year” was replaced by “throughout the year or the part of the year”, the following rules apply:

(a) the individual is deemed to enter into, with the eligible employer, a new employment contract, in this section referred to as the “deemed contract”, and that contract is deemed to be entered into at the particular time; and

(b) the individual is deemed to take up employment, as an employee, with the eligible employer at the particular time and is also deemed to begin at that time to perform the duties of that new employment.

Individual to whom this section relates.

The individual to whom the second paragraph refers is the individual who

(a) is not resident in Canada immediately before entering into the original contract or immediately before taking up employment, as an employee, with the eligible employer;

(b) has no specialized activity period that is running on 1 January 2001 in relation to that employment; and

(c) may deduct, in computing the individual’s taxable income for a taxation year preceding the year 2001, in relation to that employment, an amount under section 737.22.0.3, or could so deduct such an amount if the eligible employer had not failed to apply, in respect of the individual, for a certificate referred to in paragraph *d* of the definition of “foreign specialist” in section 737.22.0.1, as it read for that preceding taxation year.

Termination of the original contract.

The expiry, termination or cancellation of the original contract or any other event having the effect of terminating the original contract also entails the expiry, termination or cancellation, as the case may be, of a deemed contract continuing the original contract, or otherwise terminates such a contract.

Renewal of the original contract.

The renewal of the original contract also entails the renewal of a deemed contract continuing the original contract, except if the deemed contract is deemed to have ended under the first paragraph.

History: 2004, c. 21, s. 177; 2005, c. 38, s. 123; 2012, c. 8, s. 94.

Employment contract renewed after 12 June 2003.

737.22.0.2.3. For the purposes of this Title, the contract resulting from the renewal, after 12 June 2003, of an employment contract referred to in the definition of “foreign specialist” in the first paragraph of section 737.22.0.1 and in this section referred to as the “original contract”, is deemed not to be an employment contract separate from the original contract.

New employment contract.

The rule set out in the first paragraph applies, with the necessary modifications, to a new employment contract that is entered into after 12 June 2003 with another eligible employer, who is deemed not to be an employer separate from the eligible employer, in this section referred to as the “first employer”, who entered into the original contract, provided that

(a) the other eligible employer is a corporation described in the third paragraph;

(b) the other eligible employer meets any of the following conditions:

i. the other eligible employer controls directly or indirectly the first employer,

ii. the other eligible employer is, directly or indirectly, a controlled subsidiary of the first employer, or

iii. as a result of a transaction referred to in section 518 or 566, the other eligible employer continues to carry on the business of the first employer in the course of which the individual who entered into the original contract performed the individual’s duties as a foreign specialist; and

(c) it may reasonably be considered that, but for the change of employer, the individual who entered into the original contract would have continued to be a foreign specialist working for the first employer until the time when the individual took up employment, as an employee, with the other eligible employer.

Corporation to whom this section relates.

The corporation to which subparagraph *a* of the second paragraph refers is

(a) if the first employer is a corporation described in paragraph *a* of the definition of “eligible employer” in the first paragraph of section 737.22.0.1, a corporation described in subparagraph *i* or *ii* of paragraph *a* of section 771.12;

(b) if the first employer is a corporation described in paragraph *d* or *f* of the definition of “eligible employer” in the first paragraph of section 737.22.0.1, any of the following corporations:

i. where the new employment contract is entered into between 12 June 2003 and 31 March 2004, a corporation described in that paragraph *d* or *f*, or

ii. where the new employment contract is entered into after 30 March 2004, a corporation described in that paragraph *d*; or

(c) if the first employer is a corporation referred to in any of paragraphs *e*, *g*, *h*, *i* and *j* of the definition of “eligible

employer” in the first paragraph of section 737.22.0.1, a corporation described in that paragraph.

Exception.

The first paragraph does not apply in respect of a contract that is deemed to have ended under the first or second paragraph of section 737.22.0.2.2.

History: 2004, c. 21, s. 177; 2005, c. 23, s. 90.

Deemed eligible employer.

737.22.0.2.4. For the purposes of this Title, a corporation that would be an eligible employer for a taxation year within the meaning of any of paragraphs *g*, *h*, *i* and *j* of the definition of “eligible employer” in the first paragraph of section 737.22.0.1, but for paragraph *c* of the definition of “qualified corporation” in the first paragraph of any of sections 1029.8.36.0.3.60, 1029.8.36.72.56 and 1029.8.36.72.83, is deemed to be an eligible employer for the corporation’s taxation year ending immediately before the acquisition of control described in that paragraph *c* and to be a corporation described in that paragraph *g*, *h*, *i* or *j*, as the case may be, for that taxation year.

History: 2004, c. 21, s. 177.

**CHAPTER II
DEDUCTION**

Deduction.

737.22.0.3. An individual who, at any time, holds employment as a foreign specialist with an eligible employer may deduct, in computing the individual’s taxable income for a taxation year, an amount not greater than the aggregate of all amounts each of which is determined, in respect of a specified period of the individual in relation to that employment, by the formula

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

Interpretation.

In the formula provided for in the first paragraph,

(a) A is

i. if the eligible employer is a corporation to which subparagraph iii of paragraph *a* of section 771.12 applies and the individual entered into the individual’s employment contract with the eligible employer between 12 June 2003 and 31 March 2004, or entered into the contract before 13 June 2003 but began to perform the duties of that employment after 1 September 2003, 75%,

i.1. if the eligible employer is a corporation to which subparagraph iii of paragraph *a* of section 771.12 applies or that is described in paragraph *f* of the definition of “eligible employer” in the first paragraph of section 737.22.0.1 and the

individual entered into the individual’s employment contract with the eligible employer after 30 March 2004,

(1) 100%, if that specified period of the individual is included in the first or second year of the period described in paragraph *c* of the definition of “specialized activity period” in the first paragraph of section 737.22.0.1,

(2) 75%, if that specified period of the individual is included in the third year of the period described in that paragraph *c*,

(3) 50%, if that specified period of the individual is included in the fourth year of the period described in that paragraph *c*, or

(4) 25%, if that specified period of the individual is included in the fifth year of the period described in that paragraph *c*, and

ii. in any other case, 100%;

(b) B is the portion of the individual’s eligible income for the year, in relation to that employment, that is certified by the eligible employer in prescribed manner and that may reasonably be attributed to that specified period of the individual; and

(c) C is the aggregate of all amounts that the individual may deduct in computing the individual’s income for the year under Chapter III of Title II of Book III and that may reasonably be attributed to the individual’s employment as a foreign specialist during that specified period of the individual.

History: 1997, c. 85, s. 116; 2000, c. 39, s. 57; 2004, c. 21, s. 178; 2005, c. 38, s. 124.

**CHAPTER III
COMPUTATION OF TAXABLE INCOME**

Rules applicable.

737.22.0.4. For the purpose of computing the taxable income of an individual referred to in section 737.22.0.3 for a taxation year, the following rules apply:

(a) where the individual has included in computing income for the year an amount that is the benefit the individual is deemed to receive in the year under any of sections 49 and 50 to 52.1, in respect of a security, or the transfer or any other disposition of the rights under the agreement referred to in section 48 and the amount of the benefit is included in the individual’s eligible income for the year, in relation to an employment, the amount of the benefit is, for the purpose of computing the deduction under section 725.2, deemed to be nil;

(b) where the individual has included in computing income for the year an amount that is the benefit the individual is deemed to receive under section 49 as a consequence of the

application of section 49.2 in respect of a share acquired by the individual after 22 May 1985 and the amount of the benefit is included in the individual's eligible income for the year, in relation to an employment, the amount of the benefit is, for the purpose of computing the deduction under section 725.3, deemed to be nil;

(c) where the individual has included in computing income for the year an amount referred to in paragraph *a* or *e* of section 725 and the amount is included in the portion of the individual's eligible income for the year, in relation to an employment, that may reasonably be attributed to any of the individual's specified periods, in relation to that employment, the amount is, for the purpose of computing the deduction under that paragraph, deemed to be equal to the product obtained by multiplying that amount by the amount by which 100% exceeds the percentage determined under subparagraph *a* of the second paragraph of section 737.22.0.3 in respect of that period; and

(d) where the individual has included in computing income for the year an amount referred to in subparagraph *a* of the second paragraph of section 725.1.2 and the amount is included in the portion of the individual's eligible income for the year, in relation to an employment, that may reasonably be attributed to any of the individual's specified periods, in relation to that employment, the amount is, for the purpose of computing the deduction under the first paragraph of that section, deemed to be equal to the product obtained by multiplying that amount by the amount by which 100% exceeds the percentage determined under subparagraph *a* of the second paragraph of section 737.22.0.3 in respect of that period;

(e) *(paragraph repealed)*.

History: 1997, c. 85, s. 116; 2000, c. 39, s. 58; 2001, c. 53, s. 108; 2003, c. 9, s. 63; 2004, c. 21, s. 179; 2005, c. 38, s. 125; 2019, c. 14, s. 209.

TITLE VII.3.1.1

DEDUCTION RELATING TO FOREIGN SPECIALISTS WORKING FOR FINANCIAL SERVICES CORPORATIONS

CHAPTER I

INTERPRETATION AND GENERAL RULES

Definitions:

737.22.0.4.1. In this Title,

“eligible employer”;

“eligible employer” for a taxation year means a qualified corporation for the year within the meaning of section 1029.8.36.166.65 that holds a certificate for the year, issued by the Minister of Finance, for the purposes of Division II.6.14.4 of Chapter III.1 of Title III of Book IX or a corporation that would be such a qualified corporation for the year but for the expiration of the period of validity specified in the corporation's qualification certificate;

“eligible income”;

“eligible income”, for a taxation year, of an individual who is a foreign specialist at any time, in relation to an employment the individual holds with an eligible employer, means the aggregate of all amounts paid to the individual as wages in the year by that employer and that may reasonably be attributed to the foreign specialist's specialized activity period in relation to that employment;

“foreign specialist”;

“foreign specialist” for all or part of a taxation year means an individual in respect of whom the following conditions are met:

(a) at a particular time after 20 March 2012, the individual takes up employment, as an employee, with an eligible employer under an employment contract that they entered into after that date but in the period of validity specified in the employer's qualification certificate;

(b) the individual is not resident in Canada immediately before entering into the employment contract or immediately before taking up employment, as an employee, with the eligible employer;

(c) the individual works exclusively or almost exclusively for the eligible employer from the particular time to the end of the year or the part of the year; and

(d) the eligible employer has obtained in respect of the individual, for the purposes of this Title, a certificate issued by the Minister of Finance for the taxation year and the certificate and, if applicable, all the similar certificates that were obtained in respect of the individual for preceding taxation years certify that, from the particular time to the end of the year or the part of the year, the individual is recognized as a specialist;

“qualification certificate”;

“qualification certificate” of a corporation means the qualification certificate issued to the corporation for the purposes of Division II.6.14.4 of Chapter III.1 of Title III of Book IX;

“specialized activity period”;

“specialized activity period” of an individual who is a foreign specialist for all or part of a taxation year, in relation to an employment the individual holds with an eligible employer, means the period that, subject to the second paragraph, begins on the day on which the individual begins to perform the duties of that employment and ends on the earlier of

(a) the day preceding the day on which the individual ceases to be a foreign specialist; and

(b) the last day of the five-year period that begins,

i. unless subparagraph ii applies, on the day on which the individual first begins to perform the duties of an employment for which the individual may deduct an amount in computing the individual's taxable income for a taxation year under any of the sections mentioned in the third

paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20, or

ii. if the individual began to perform the duties of the employment referred to in subparagraph i under a contract of employment entered into with a particular corporation or partnership operating an international financial centre established by the individual and if the individual was resident in Canada immediately before the contract of employment was entered into and immediately before the individual took up that employment, on the day, determined without reference to paragraph *a* of section 8, on which the individual becomes resident in Canada to work on the establishment of that centre;

“specified period”;

“specified period” of an individual, in relation to an employment held by the individual with an eligible employer, means any part of the individual’s specialized activity period in relation to that employment that is included in any of the five years of the period described in paragraph *b* of the definition of “specialized activity period”;

“wages”.

“wages” means the income computed under Chapters I and II of Title II of Book III.

Specialized activity period beginning after the taking up of employment.

Where the certificate referred to in paragraph *d* of the definition of “foreign specialist” in the first paragraph was not issued in respect of an individual for the taxation year that includes the particular day on which the individual begins to perform the duties of an employment the individual holds with an eligible employer, the specialized activity period of the individual in relation to that employment begins only on the first day of the first taxation year following the particular day for which such a certificate has been issued in respect of the individual.

Security options.

For the purposes of the definition of “eligible income” in the first paragraph, any benefit that an individual is deemed to receive, in a particular taxation year, in connection with an employment held by the individual with an eligible employer, because of the application of any of sections 49 and 50 to 52.1, is considered to be included in the amounts that are paid to the individual as wages in the year by that employer.

History: 2013, c. 10, s. 47.

Power of the Minister.

737.22.0.4.2. If, in a taxation year, an individual is absent from an employment the individual holds with an eligible employer and, were it not for that absence, would be

a foreign specialist for the part of the year that is included in the individual’s period of absence, the Minister may, for the purposes of this Title, consider the wages paid by the eligible employer to the individual for that part of the year to be included in the individual’s eligible income for the year in relation to the employment, that the eligible employer certifies in prescribed manner, if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.

Individual deemed a foreign specialist.

The individual is deemed to be a foreign specialist for the part of the year in respect of which the Minister has exercised discretion in the individual’s favour in accordance with the first paragraph.

History: 2013, c. 10, s. 47.

Revocation of a qualification certificate or certificate.

737.22.0.4.3. Where, but for this section, a corporation would no longer be an eligible employer for a taxation year because of the revocation of its qualification certificate or of the certificate it was issued for the year, the following rules must, for the purposes of this Title, be taken into consideration despite any provision to the contrary:

(a) the qualification certificate is deemed to be valid until the time it is revoked, and it is deemed, only as of that time, not to have been issued; and

(b) the certificate is deemed not to have been revoked.

History: 2013, c. 10, s. 47.

Rules applicable in cases of change of employment.

737.22.0.4.4. For the purposes of the definition of “foreign specialist” in the first paragraph of section 737.22.0.4.1, an individual is deemed not to be resident in Canada immediately before taking up employment, as an employee, with an eligible employer if

(a) the individual may deduct an amount in computing the individual’s taxable income for the taxation year in which the individual so took up employment or for a preceding taxation year, in relation to a preceding employment, under any of the sections mentioned in the third paragraph of section 737.19.2; or

(b) the individual would meet the condition of paragraph *a* if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20.

History: 2013, c. 10, s. 47.

Deemed change of employment.

737.22.0.4.5. For the purposes of this Title, the employment contract that an individual entered into with an eligible employer (in this section referred to as the “original contract”), or a deemed contract referred to in the second paragraph, is deemed to end at the time when the individual ceases to be a foreign specialist.

Deemed new employment.

In addition, where at a particular time an individual would again become a foreign specialist if this section were read without reference to the first paragraph and paragraphs *c* and *d* of the definition of “foreign specialist” in the first paragraph of section 737.22.0.4.1 were read as if “from the particular time to the end of the year or the part of the year” was replaced by “throughout the year or the part of the year”, the following rules apply:

(a) the individual is deemed to enter into, with the eligible employer, a new employment contract (in this section referred to as the “deemed contract”) and that contract is deemed to be entered into at the particular time; and

(b) the individual is deemed to take up employment, as an employee, with the eligible employer at the particular time and is also deemed to begin at that time to perform the duties of that new employment.

Termination of original contract.

The expiry, termination or cancellation of the original contract or any other event having the effect of terminating the original contract also entails the expiry, termination or cancellation, as the case may be, of a deemed contract continuing the original contract, or otherwise terminates such a contract.

Renewal of original contract.

The renewal of the original contract also entails the renewal of a deemed contract continuing the original contract, except if the deemed contract is deemed to have ended under the first paragraph.

History: 2013, c. 10, s. 47.

Renewal of an employment contract.

737.22.0.4.6. For the purposes of this Title, the contract resulting from the renewal, after the date specified in the second paragraph, of an employment contract referred to in the definition of “foreign specialist” in the first paragraph of section 737.22.0.4.1 and in this section referred to as the “original contract”, is deemed not to be an employment contract separate from the original contract.

End of period of validity.

The date to which the first paragraph refers is the date of expiry of the period of validity specified in the qualification certificate of the eligible employer with whom the individual entered into the original contract.

Exception.

The first paragraph does not apply in respect of a contract that is deemed to have ended under the first paragraph of section 737.22.0.4.5.

History: 2013, c. 10, s. 47.

**CHAPTER II
DEDUCTION****Deduction.**

737.22.0.4.7. An individual who, at any time, holds employment as a foreign specialist with an eligible employer may deduct, in computing the individual’s taxable income for a taxation year, an amount not greater than the aggregate of all amounts each of which is determined, in respect of a specified period of the individual in relation to that employment, by the formula

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

Interpretation.

In the formula provided for in the first paragraph,

(a) *A* is

i. 100%, if that specified period of the individual is included in the first or second year of the period described in paragraph *b* of the definition of “specialized activity period” in the first paragraph of section 737.22.0.4.1,

ii. 75%, if that specified period of the individual is included in the third year of the period described in that paragraph *b*,

iii. 50%, if that specified period of the individual is included in the fourth year of the period described in that paragraph *b*, or

iv. 25%, if that specified period of the individual is included in the fifth year of the period described in that paragraph *b*;

(b) *B* is the portion of the individual’s eligible income for the year, in relation to that employment, that is certified by the eligible employer in the prescribed manner and that may reasonably be attributed to that specified period of the individual; and

(c) *C* is the aggregate of all amounts that the individual may deduct in computing the individual’s income for the year under Chapter III of Title II of Book III and that may reasonably be attributed to the individual’s employment as a

foreign specialist during that specified period of the individual.

History: 2013, c. 10, s. 47.

CHAPTER III COMPUTATION OF TAXABLE INCOME

Rules applicable.

737.22.0.4.8. For the purpose of computing the taxable income of an individual referred to in section 737.22.0.4.7 for a taxation year, the following rules apply:

(a) where the individual has included in computing income for the year an amount that is the benefit the individual is deemed to receive in the year under any of sections 49 and 50 to 52.1, in respect of a security, or the transfer or any other disposition of the rights under the agreement referred to in section 48 and the amount of the benefit is included in the individual's eligible income for the year, in relation to an employment, the amount of the benefit is, for the purpose of computing the deduction under section 725.2, deemed to be nil;

(b) where the individual has included in computing income for the year an amount that is the benefit the individual is deemed to receive under section 49 as a consequence of the application of section 49.2 in respect of a share acquired by the individual after 22 May 1985 and the amount of the benefit is included in the individual's eligible income for the year, in relation to an employment, the amount of the benefit is, for the purpose of computing the deduction under section 725.3, deemed to be nil;

(c) where the individual has included in computing income for the year an amount referred to in paragraph *a* or *e* of section 725 and the amount is included in the portion of the individual's eligible income for the year, in relation to an employment, that may reasonably be attributed to any of the individual's specified periods, in relation to that employment, the amount is, for the purpose of computing the deduction under that paragraph, deemed to be equal to the product obtained by multiplying that amount by the amount by which 100% exceeds the percentage determined under subparagraph *a* of the second paragraph of section 737.22.0.4.7 in respect of that period; and

(d) where the individual has included in computing income for the year an amount referred to in subparagraph *a* of the second paragraph of section 725.1.2 and the amount is included in the portion of the individual's eligible income for the year, in relation to an employment, that may reasonably be attributed to any of the individual's specified periods, in relation to that employment, the amount is, for the purpose of computing the deduction under the first paragraph of that section, deemed to be equal to the product obtained by multiplying that amount by the amount by which 100% exceeds the percentage determined under subparagraph *a* of

the second paragraph of section 737.22.0.4.7 in respect of that period;

(e) *(paragraph repealed)*.

History: 2013, c. 10, s. 47; 2019, c. 14, s. 210.

TITLE VII.3.2 DEDUCTION IN RESPECT OF FOREIGN PROFESSORS

CHAPTER I INTERPRETATION AND GENERAL

Definitions:

737.22.0.5. In this Title,

“eligible activity period”;

“eligible activity period” of an individual who is a foreign professor for all or part of a taxation year, in relation to an employment the individual holds with an eligible employer, means the period that, subject to the second paragraph, begins on the day on which the individual begins to perform the duties of that employment and that ends on the earlier of

(a) the day preceding the day on which the individual ceases to be a foreign professor;

(b) the day on which that period totals five years, with reference to

i. where the individual began to stay or became resident in Canada after 19 December 2002 by reason of an employment contract entered into after that date, the aggregate of all periods each of which is a preceding period within the meaning of section 737.22.0.5.1 that is established in respect of the individual, and

ii. in any other case, the aggregate of all preceding periods each of which is

(1) all or part of a preceding period, established in respect of the individual under this definition, to which an amount that the individual may deduct in computing the individual's taxable income for a taxation year, under section 737.22.0.7, in relation to a preceding employment, may reasonably be attributed, or

(2) a preceding period within the meaning of section 737.22.0.5.1 that is established in respect of the individual since the last time the individual became resident in Canada, other than a period described in subparagraph 1; and

(c) where the individual entered into the individual's employment contract with the eligible employer after 30 March 2004, the last day of the five-year period that begins,

i. unless subparagraph ii applies, on the day on which the individual first begins to perform the duties of an

employment for which the individual may deduct an amount in computing the individual's taxable income for a taxation year under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20, or

ii. if the individual began to perform the duties of the employment referred to in subparagraph i under a contract of employment entered into with a particular corporation or partnership operating an international financial centre established by the individual and if the individual was resident in Canada immediately before the contract of employment was entered into and immediately before the individual took up that employment, on the day, determined without reference to paragraph *a* of section 8, on which the individual becomes resident in Canada to work on the establishment of that centre;

“eligible employer”;

“eligible employer” means a Québec university;

“eligible income”;

“eligible income”, for a taxation year, of an individual who is a foreign professor at any time, in relation to an employment the individual holds with an eligible employer, means the aggregate of all amounts paid as wages in the year by that employer and that may reasonably be attributed to the foreign professor's eligible activity period in relation to that employment;

“foreign professor”;

“foreign professor” for all or part of a taxation year means an individual in respect of whom the following conditions are met:

(a) at a particular time after 29 June 2000, the individual takes up employment, as an employee, with an eligible employer under an employment contract entered into with the eligible employer after that date;

(b) the individual is not resident in Canada immediately before entering into the employment contract or immediately before taking up employment, as an employee, with the eligible employer;

(c) the individual works exclusively or almost exclusively for the eligible employer from the particular time to the end of the year or the part of the year;

(d) the eligible employer has obtained in respect of the individual, for the purposes of this Title, a certificate issued by the Minister of Higher Education, Research, Science and Technology for the taxation year and the certificate and, if applicable, all the similar certificates that were obtained in respect of the individual for preceding taxation years certify that, from the particular time to the end of the year or the part of the year, the individual is recognized as a professor;

(e) (*paragraph repealed*);

“specified period”;

“specified period” of an individual in relation to an employment held by the individual with an eligible employer means

(a) where the individual entered into the individual's employment contract with the eligible employer after 30 March 2004, any part of the individual's eligible activity period in relation to that employment that is included in any of the five years of the period described in paragraph *c* of the definition of “eligible activity period”; and

(b) in any other case, the individual's eligible activity period in relation to that employment;

“wages”.

“wages” means the income computed under Chapters I and II of Title II of Book III.

Eligible activity period beginning after the taking up of employment.

Where the certificate referred to in paragraph *d* of the definition of “foreign professor” in the first paragraph was not issued in respect of an individual for the taxation year that includes the particular day on which the individual begins to perform the duties of an employment the individual holds with an eligible employer, the individual's eligible activity period in relation to that employment begins only on the first day of the first taxation year following the particular day for which such a certificate has been issued in respect of the individual.

History: 2002, c. 40, s. 65; 2004, c. 21, s. 180; 2005, c. 28, s. 195; 2005, c. 38, s. 127; 2012, c. 8, s. 95; 2013, c. 28, s. 140.

Preceding period.

737.22.0.5.1. For the purpose of establishing the eligible activity period of an individual in relation to an employment, a preceding period to which subparagraph i of paragraph *b* of the definition of “eligible activity period” in the first paragraph of section 737.22.0.5 and subparagraph 2 of subparagraph ii of that paragraph *b* refer means all or part of a preceding period, established in respect of the individual under any of the sections mentioned in the second paragraph of section 737.19.2 or under the regulations mentioned in that paragraph, to which an amount that the individual may deduct in computing the individual's taxable income for a taxation year, in relation to a preceding employment, under any of the sections mentioned in the third paragraph of section 737.19.2, may be attributed.

History: 2004, c. 21, s. 181.

Power of the Minister.

737.22.0.5.2. If, in a taxation year, an individual is absent from an employment the individual holds with an eligible employer and, were it not for that absence, would be a foreign professor for the part of the year that is included in the individual's period of absence, the Minister may, for the purposes of this Title, consider the remuneration paid by the

eligible employer to the individual for that part of the year to be included in the individual's eligible income for the year in relation to the employment, that the eligible employer certifies in prescribed manner, if the Minister is of the opinion that the individual is temporarily absent from the employment for reasons the Minister considers reasonable.

Individual deemed a foreign professor.

The individual is deemed to be a foreign professor for the part of the year in respect of which the Minister has exercised discretion in the individual's favour in accordance with the first paragraph.

History: 2005, c. 23, s. 91.

Rule applicable in cases of change of employment.

737.22.0.6. For the purposes of the definition of "foreign professor" in the first paragraph of section 737.22.0.5, an individual is deemed not to be resident in Canada immediately before taking up employment, as an employee, with an eligible employer if

(a) the individual may deduct an amount in computing the individual's taxable income for the taxation year in which the individual so took up employment or for a preceding taxation year, in relation to a preceding employment, under any of the sections mentioned in the third paragraph of section 737.19.2; or

(b) the individual would meet the condition set out in paragraph *a* if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20.

History: 2002, c. 40, s. 65; 2004, c. 21, s. 182.

Individual holding employment on 1 January 2001.

737.22.0.6.1. For the purposes of this Title, an individual to whom the fourth paragraph applies is deemed to take up employment, as an employee, with an eligible employer at the particular time referred to in subparagraph *b* where

(a) the individual holds employment with the eligible employer on 1 January 2001; and

(b) at a particular time, the individual would be, for the first time since 1 January 2001, a foreign professor working for the eligible employer if the definition of "foreign professor" in the first paragraph of section 737.22.0.5 were read

i. without reference to paragraph *b* thereof, and

ii. as if "from the particular time to the end of the year or the part of the year" in paragraphs *c* and *d* was replaced by "throughout the year or the part of the year".

Individual entering into a new employment contract after 31 December 2000.

An individual to whom the fifth paragraph applies is deemed to take up employment, as an employee, with an eligible employer at the particular time referred to in subparagraph *b* where

(a) the individual enters into an employment contract with the eligible employer after 31 December 2000; and

(b) at a particular time, the individual would be, for the first time since the entering into the contract referred to in subparagraph *a*, a foreign professor working for the eligible employer if paragraphs *c* and *d* of the definition of "foreign professor" in the first paragraph of section 737.22.0.5 were read as if "from the particular time to the end of the year or the part of the year" was replaced by "throughout the year or the part of the year".

Presumption.

In addition, the individual to whom the first or second paragraph applies is also deemed to begin performing the duties of the employment the individual holds with the eligible employer at the particular time referred to in subparagraph *b* of that paragraph.

Individual to whom the first paragraph refers.

The individual to whom the first paragraph refers is the individual who

(a) has no eligible activity period that is running on 1 January 2001 in relation to that employment; and

(b) may deduct, in computing the individual's taxable income for a taxation year preceding the year 2001, in relation to a preceding employment, an amount under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20.

Individual to whom the second paragraph refers.

The individual to whom the second paragraph refers is the individual who may deduct, in computing the individual's taxable income for the taxation year in which the individual has entered into the individual's employment contract or for a preceding taxation year, in relation to a preceding employment, an amount under any of the sections mentioned in the third paragraph of section 737.19.2, or could so deduct such an amount if an employer had not failed to apply, in respect of the individual, for a qualification certificate or a certificate referred to in any of the sections mentioned in subparagraph ii of paragraph *a* of section 737.20.

History: 2004, c. 21, s. 183; 2012, c. 8, s. 96.

Deemed change of employment.

737.22.0.6.2. For the purposes of this Title, the employment contract that an individual entered into with an eligible employer, in this section referred to as the “original contract”, or a deemed contract within the meaning of subparagraph *a* of the third paragraph, is deemed to end at the time when the individual ceases to be a foreign professor.

Individual holding employment on 1 January 2001.

Where on 1 January 2001 an individual to whom the fourth paragraph applies holds employment with an eligible employer, the employment contract the individual entered into with that employer, in this section referred to as the “original contract”, is deemed to have ended before that date.

Deemed new employment.

In addition, where at a particular time an individual would again become a foreign professor if this section were read without reference to the first and second paragraphs and paragraphs *c* and *d* of the definition of “foreign professor” in the first paragraph of section 737.22.0.5 were read as if “from the particular time to the end of the year or the part of the year” was replaced by “throughout the year or the part of the year”, the following rules apply:

(a) the individual is deemed to enter into, with the eligible employer, a new employment contract, in this section referred to as the “deemed contract”, and that contract is deemed to be entered into at the particular time; and

(b) the individual is deemed to take up employment, as an employee, with the eligible employer at the particular time and is also deemed to begin at that time to perform the duties of that new employment.

Individual to whom this section relates.

The individual to whom the second paragraph refers is the individual who

(a) is not resident in Canada immediately before entering into the original contract or immediately before taking up employment, as an employee, with the eligible employer;

(b) has no eligible activity period that is running on 1 January 2001 in relation to that employment; and

(c) may deduct, in computing the individual’s taxable income for a taxation year preceding the year 2001, in relation to that employment, an amount under section 737.22.0.7, or could so deduct such an amount if the eligible employer had not failed to apply, in respect of the individual, for a certificate referred to in the definition of “foreign professor” in section 737.22.0.5, as it read for that preceding taxation year.

Termination of the original contract.

The expiry, termination or cancellation of the original contract or any other event having the effect of terminating the original contract also entails the expiry, termination or cancellation, as the case may be, of a deemed contract continuing the original contract, or otherwise terminates such a contract.

Renewal of the original contract.

The renewal of the original contract also entails the renewal of a deemed contract continuing the original contract, except if the deemed contract is deemed to have ended under the first paragraph.

History: 2004, c. 21, s. 183; 2005, c. 38, s. 128; 2012, c. 8, s. 97.

Employment contract renewed after 12 June 2003.

737.22.0.6.3. For the purposes of this Title, the contract resulting from the renewal, after 12 June 2003, of an employment contract referred to in the definition of “foreign professor” in the first paragraph of section 737.22.0.5 is deemed not to be an employment contract separate from the employment contract referred to in that definition.

Exception.

The first paragraph does not apply in respect of a contract that is deemed to have ended under the first or second paragraph of section 737.22.0.6.2.

History: 2004, c. 21, s. 183.

**CHAPTER II
DEDUCTION****Deduction.**

737.22.0.7. An individual who, at any time, holds employment as a foreign professor with an eligible employer may deduct, in computing the individual’s taxable income for a taxation year, an amount not greater than the aggregate of all amounts each of which is determined, in respect of a specified period of the individual in relation to that employment, by the formula

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

Interpretation.

In the formula provided for in the first paragraph,

(a) A is

i. if the individual entered into the individual’s employment contract with the eligible employer between 12 June 2003 and 31 March 2004, or entered into the contract before 13 June 2003 but began to perform the duties of that employment after 1 September 2003, 75%,

i.1. if the individual entered into the individual's employment contract with the eligible employer after 30 March 2004,

(1) 100%, if that specified period of the individual is included in the first or second year of the period described in paragraph *c* of the definition of "eligible activity period" in the first paragraph of section 737.22.0.5,

(2) 75%, if that specified period of the individual is included in the third year of the period described in that paragraph *c*,

(3) 50%, if that specified period of the individual is included in the fourth year of the period described in that paragraph *c*, or

(4) 25%, if that specified period of the individual is included in the fifth year of the period described in that paragraph *c*, and

ii. in any other case, 100%;

(b) B is the portion of the individual's eligible income for the year, in relation to that employment, that is certified by the eligible employer in prescribed manner and that may reasonably be attributed to that specified period of the individual; and

(c) C is the aggregate of all amounts that the individual may deduct in computing the individual's income for the year under Chapter III of Title II of Book III and that may reasonably be attributed to the individual's employment as a foreign professor during that specified period of the individual.

History: 2002, c. 40, s. 65; 2004, c. 21, s. 184; 2005, c. 38, s. 129.

CHAPTER III COMPUTATION OF TAXABLE INCOME

Rules applicable.

737.22.0.8. For the purpose of computing the taxable income of an individual referred to in section 737.22.0.7 for a taxation year, the following rules apply:

(a) where the individual has included in computing income for the year an amount that is the benefit the individual is deemed to receive in the year under any of sections 49 and 50 to 52.1, in respect of a security, or the transfer or any other disposition of the rights under the agreement referred to in section 48 and the amount of the benefit is included in the individual's eligible income for the year, in relation to an employment, the amount of the benefit is, for the purpose of computing the deduction under section 725.2, deemed to be nil;

(b) where the individual has included in computing income for the year an amount that is the benefit the individual is deemed to receive under section 49 as a consequence of the

application of section 49.2 in respect of a share acquired by the individual after 22 May 1985 and the amount of the benefit is included in the individual's eligible income for the year, in relation to an employment, the amount of the benefit is, for the purpose of computing the deduction under section 725.3, deemed to be nil;

(c) where the individual has included in computing income for the year an amount referred to in paragraph *a* or *e* of section 725 and the amount is included in the portion of the individual's eligible income for the year, in relation to an employment, that may reasonably be attributed to any of the individual's specified periods, in relation to that employment, the amount is, for the purpose of computing the deduction under that paragraph, deemed to be equal to the product obtained by multiplying that amount by the amount by which 100% exceeds the percentage determined under subparagraph *a* of the second paragraph of section 737.22.0.7 in respect of that period; and

(d) where the individual has included in computing income for the year an amount referred to in subparagraph *a* of the second paragraph of section 725.1.2 and the amount is included in the portion of the individual's eligible income for the year, in relation to an employment, that may reasonably be attributed to any of the individual's specified periods, in relation to that employment, the amount is, for the purpose of computing the deduction under the first paragraph of that section, deemed to be equal to the product obtained by multiplying that amount by the amount by which 100% exceeds the percentage determined under subparagraph *a* of the second paragraph of section 737.22.0.7 in respect of that period;

(e) (*paragraph repealed*).

History: 2002, c. 40, s. 65; 2003, c. 9, s. 64; 2004, c. 21, s. 185; 2005, c. 38, s. 130; 2019, c. 14, s. 211.

TITLE VII.3.3 DEDUCTION IN RESPECT OF A FOREIGN WORKER HOLDING A KEY POSITION IN A FOREIGN PRODUCTION

CHAPTER I DEFINITIONS

Definitions:

737.22.0.9. In this Title,

"eligible individual";

"eligible individual", for a taxation year, means an individual who was not resident in Canada at any time in the year and who holds a qualification certificate that was issued to the individual by the Société de développement des entreprises culturelles for the purposes of this Title in respect of an eligible production;

“eligible production”;

“eligible production”, in relation to an individual, means the production specified in the qualification certificate referred to in the definition of “eligible individual” that the Société de développement des entreprises culturelles has issued to the individual, and in respect of which, if the qualification certificate certifies that the individual works on the production otherwise than as a producer, the position of producer has been entrusted to another individual who was not resident in Canada at the time the position was entrusted to the other individual.

History: 2003, c. 9, s. 65 [amended by 2006, c. 36, s. 299]; 2011, c. 1, s. 37; 2012, c. 8, s. 98.

CHAPTER II DEDUCTION

Deductible amount.

737.22.0.10. An eligible individual who encloses with the fiscal return the eligible individual is required to file for a taxation year under section 1000 a copy of the qualification certificate that was issued to the eligible individual by the Société de développement des entreprises culturelles in respect of an eligible production, may deduct, in computing the eligible individual’s taxable income for the year, any amount not greater than the amount by which the aggregate of the amounts included in computing the income for the year for services rendered or to be rendered in Québec in connection with the eligible production, exceeds the aggregate of the amounts deducted by the eligible individual in computing the eligible individual’s income for the year and which may reasonably be attributed to such services.

History: 2003, c. 9, s. 65 [amended by 2006, c. 36, s. 299].

CHAPTER III COMPUTATION OF TAXABLE INCOME

Rules applicable.

737.22.0.11. For the purpose of computing the taxable income of an eligible individual referred to in section 737.22.0.10 for a taxation year, the following rules apply:

(a) where the eligible individual has included in computing the eligible individual’s income for the year an amount that is the benefit the eligible individual is deemed to receive in the year under any of sections 49 and 50 to 52.1, in respect of a security, or the transfer or any other disposition of the rights under the agreement referred to in section 48, and the amount of the benefit is included in the amount determined in respect of the eligible individual for the year under section 737.22.0.10, the amount of the benefit is, for the purpose of computing the deduction provided for in section 725.2, deemed to be nil;

(b) where the eligible individual has included in computing the eligible individual’s income for the year an amount that is

the benefit the eligible individual is deemed to receive under section 49, as a consequence of the application of section 49.2, in respect of a share acquired by the eligible individual after 22 May 1985 and the amount of the benefit is included in the amount determined in respect of the eligible individual for the year under section 737.22.0.10, the amount of the benefit is, for the purpose of computing the deduction provided for in section 725.3, deemed to be nil;

(c) where the eligible individual has included in computing the eligible individual’s income for the year a particular amount referred to in paragraph *a* or *e* of section 725 and the amount is included in the amount determined in respect of the eligible individual for the year under section 737.22.0.10, the particular amount is, for the purpose of computing the deduction provided for in either of those paragraphs, deemed to be nil; and

(d) where the eligible individual has included in computing the eligible individual’s income for the year a particular amount referred to in subparagraph *a* of the second paragraph of section 725.1.2 and the amount is included in the amount determined in respect of the eligible individual for the year under section 737.22.0.10, the particular amount is, for the purpose of computing the deduction provided for in the first paragraph of section 725.1.2, deemed to be nil.

History: 2003, c. 9, s. 65 [amended by 2006, c. 36, s. 299].

TITLE VII.3.4 DEDUCTION IN RESPECT OF FOREIGN FARM WORKERS

CHAPTER I DEFINITIONS

Definitions:

737.22.0.12. In this Title,

“foreign farm worker”;

“foreign farm worker”, for a taxation year, means an individual who was not resident in Canada at any time in the year and who holds a valid work permit issued by the competent Canadian authority under the Immigration and Refugee Protection Act (Statutes of Canada, 2001, chapter 27) within the framework of a recognized federal program;

“recognized federal program”;

“recognized federal program” means any of the following streams of the Temporary Foreign Worker Program of the Government of Canada:

- (a) the Seasonal Agricultural Worker Program; and
- (b) the Agricultural Stream;

“wages”;

“wages” means the income computed under Chapters I and II of Title II of Book III;

“work income”.

“work income”, for a taxation year, of an individual who is a foreign farm worker, in relation to an employment held by the individual in Québec within the framework of a recognized federal program, means the aggregate of all amounts each of which is wages received in the year by the individual because of, or in the course of, that employment.

History: 2006, c. 36, s. 64; 2015, c. 36, s. 40.

CHAPTER II DEDUCTION

Deduction.

737.22.0.13. An individual who is a foreign farm worker for a taxation year may deduct, in computing taxable income for the year, an amount not exceeding 50% of the amount by which the individual’s work income for the year, in relation to an employment, exceeds the aggregate of the amounts that the individual may deduct in computing income for the year under Chapter III of Title II of Book III and that may reasonably be attributed to that employment.

History: 2006, c. 36, s. 64.

CHAPTER III COMPUTATION OF TAXABLE INCOME

Rules applicable.

737.22.0.14. For the purpose of computing the taxable income of an individual referred to in section 737.22.0.13 for a taxation year, the following rules apply:

(a) if the individual has included in computing income for the year an amount that is the benefit the individual is deemed to receive in the year under any of sections 49 and 50 to 52.1, in respect of a security, or the transfer or any other disposition of the rights under the agreement referred to in section 48 and the amount of the benefit is included in the individual’s work income for the year, in relation to an employment, the amount of the benefit is, for the purpose of computing the deduction under section 725.2, deemed to be nil;

(b) if the individual has included in computing income for the year an amount that is the benefit the individual is deemed to receive under section 49 as a consequence of the application of section 49.2 in respect of a share acquired by the individual after 22 May 1985 and the amount of the benefit is included in the individual’s work income for the year, in relation to an employment, the amount of the benefit is, for the purpose of computing the deduction under section 725.3, deemed to be nil; and

(c) if the individual has included in computing income for the year an amount referred to in paragraph *a* or *e* of section 725 and the amount is included in the individual’s work income for the year, in relation to an employment, the amount is, for the purpose of computing the deduction under

that paragraph, deemed to be equal to the product obtained by multiplying that amount by 50%; and

(d) if the individual has included in computing income for the year an amount referred to in subparagraph *a* of the second paragraph of section 725.1.2 and the amount is included in the individual’s work income for the year, in relation to an employment, the amount is, for the purpose of computing the deduction under the first paragraph of that section, deemed to be equal to the product obtained by multiplying that amount by 50%.

History: 2006, c. 36, s. 64.

TITLE VII.4 (Repealed).

737.22.1. (Repealed).

History: 1995, c. 63, s. 54; 2004, c. 21, s. 186.

737.23. (Repealed).

History: 1990, c. 7, s. 59; 1995, c. 63, s. 54; 1997, c. 3, s. 71; 2004, c. 21, s. 186.

TITLE VII.4.1 (Repealed).

737.23.1. (Repealed).

History: 2002, c. 9, s. 17; 2004, c. 21, s. 186.

TITLE VII.5 DEDUCTION FOR EMPLOYMENT OUT OF CANADA

CHAPTER I DEFINITIONS

Definitions:

737.24. In this Title,

“basic allowance”;

“basic allowance” of an individual for a period means, in respect of an employment, the part of the out-of-Canada living allowance received by the individual in respect of the employment for that period, which does not exceed one-half of the individual’s basic income for that period in respect of that employment;

“basic income”;

“basic income” means, in respect of an employment, the income from an employment, computed before any deduction under Chapter III of Title II of Book III and without taking into account any out-of-Canada living allowance or, except in the definition of “basic allowance”, the part of any other amount included in computing that income, which corresponds to the deduction granted in respect of that other amount, otherwise than under this Title, in computing the taxable income;

“specified employer”.

“specified employer” means a person resident in Canada, a corporation that is a foreign affiliate of such a person, or a partnership whose members, resident in Canada, including a corporation controlled by persons resident in Canada, are the owners of interests in that partnership having a fair market value in excess of 10% of the fair market value of all interests in the partnership.

History: 1995, c. 1, s. 69 [amended by 1997, c. 14, s. 370]; 1997, c. 3, s. 71.

Corresponding Federal Provision: 122.3(2) “specified employer”.

CHAPTER II DEDUCTION

Deduction.

737.25. An individual resident in Québec in a taxation year who, throughout a period of not less than 30 consecutive days that commenced in the year or a preceding taxation year, performed substantially all the duties of the individual’s employment outside Canada may deduct, in computing the individual’s taxable income for the year, the product obtained by multiplying the amount determined in respect of the individual for the year under section 737.26 in respect of that period by the percentage specified in respect of the individual for the year under section 737.26.1 where

(a) the individual was employed throughout that period by a specified employer; and

(b) such duties were performed in connection with a contract under which the specified employer carried on business outside Canada with respect to the exploration for or exploitation of petroleum, natural gas, minerals or other similar resources, any agricultural, construction, installation or engineering activity, or any prescribed activity, or for the purpose of obtaining such a contract on behalf of the specified employer.

Exception.

However, the first paragraph does not apply in respect of an individual who, throughout the period described in the said paragraph, is deemed to have been resident in Québec under paragraph *d* of section 8 or who performed his duties in the employ of the Government of Canada or the government of a province, or of a municipality, a school board, an educational institution or an establishment providing health services or social services that receives or is entitled to receive financial assistance from a government.

History: 1995, c. 1, s. 69 [amended by 1997, c. 14, s. 370]; 2010, c. 5, s. 57; 2015, c. 21, s. 261.

Corresponding Federal Provision: 122.3(1)(a), (b) and (d).

Amount determined.

737.26. The amount referred to in the first paragraph of section 737.25 in respect of an individual for a taxation year in respect of a particular period throughout which the individual performed substantially all the duties of the individual’s employment outside Canada is the aggregate of

(a) the proportion of the out-of-Canada living allowance in respect of that employment received in the year by the individual in respect of the particular period that the individual’s basic allowance in respect of that employment for the particular period is of the individual’s total out-of-Canada living allowance in respect of the individual’s employment for the particular period; and

(b) the proportion of the aggregate of the basic income from that employment received in the year by the individual in respect of the particular period and the amount by which the out-of-Canada living allowance in respect of that employment received in the year by the individual in respect of the particular period exceeds the amount computed under paragraph *a*, that the number of consecutive periods of 30 full days, not exceeding 12, worked outside Canada by the individual in respect of that employment during the particular period, is of 12.

Excluded income.

For the purposes of the first paragraph and despite the definition of “basic income” in section 737.24, no amount may be included in computing an individual’s basic income or regarded as an out-of-Canada living allowance for a taxation year in respect of the individual’s employment by an employer

(a) if

i. the employer carries on a business of providing services and does not employ in the business throughout the year more than five full-time employees,

ii. the individual does not deal at arm’s length with the employer, or is a specified shareholder of the employer, or, where the employer is a partnership, does not deal at arm’s length with a member of the partnership, or is a specified shareholder of a member of the partnership, and

iii. but for the existence of the employer, the individual would reasonably be regarded as an employee of a person or partnership that is not a specified employer; or

(b) if at any time in that portion of the period described in the first paragraph of section 737.25 that is in the year

i. the employer provides the services of the individual to a corporation, trust or partnership with which the employer does not deal at arm’s length, and

ii. the fair market value of all the issued shares of the capital stock of the corporation or of all interests in the trust or partnership, as the case may be, that are held, directly or indirectly, by persons who are resident in Canada is less than 10% of the fair market value of all those shares or interests, as the case may be.

History: 1995, c. 1, s. 69 [amended by 1997, c. 14, s. 370]; 1998, c. 16, s. 183; 2015, c. 21, s. 262.

Corresponding Federal Provision: 122.3(1)(c) to (e) and (1.1).

Specified percentage.

737.26.1. The percentage referred to in the first paragraph of section 737.25 in respect of an individual for a taxation year is equal to

- (a) 75%, where the taxation year is the year 2013;
- (b) 50%, where the taxation year is the year 2014;
- (c) 25%, where the taxation year is the year 2015; and
- (d) 0%, for a taxation year subsequent to the year 2015.

Contract committed to before 1 January 2013.

For the purposes of the first paragraph, the percentage specified in any of subparagraphs *a* to *c* of that paragraph in respect of an individual is to be replaced by a percentage of 100% where the duties of the individual's employment outside Canada are in connection with a contract that was committed to in writing before 1 January 2013 by a specified employer of the individual.

History: 2015, c. 21, s. 263.

Corresponding Federal Provision: 122.3(1.01)(part) and (1.02).

TITLE VII.6 DEDUCTION TO SEAMEN ENGAGED IN THE INTERNATIONAL TRANSPORTATION OF FREIGHT

CHAPTER I INTERPRETATION AND GENERAL

Definitions:

737.27. In this Title,

“eligible seaman”;

“eligible seaman” for a taxation year means an individual who is the employee of an eligible shipowner for the year and in respect of whom a certificate has been issued by the Minister of Transport certifying that the individual is recognized as an eligible seaman in respect of the shipowner for that year;

“eligible shipowner”;

“eligible shipowner” for a taxation year means a shipowner who, in the year, is a person resident in Canada, a corporation

that is a foreign affiliate of such a person or a partnership whose members, resident in Canada, including a corporation controlled by persons resident in Canada, are the owners of interests in that partnership having a fair market value in excess of 10% of the fair market value of all interests in the partnership;

“salaries or wages”;

“salaries or wages” means the income computed under Chapters I and II of Title II of Book III.

History: 1997, c. 14, s. 108; 2001, c. 51, s. 44; 2004, c. 21, s. 187; 2012, c. 1, s. 62.

Right to a security.

737.27.1. If an individual, in respect of whom the Minister of Transport issued a certificate certifying that the individual was an eligible seaman for a taxation year, acquired, at a particular time of that year that is included in a period specified in the certificate, a right to a security, under an agreement referred to in section 48, from the eligible shipowner whose name appears on the certificate or from a person with whom the eligible shipowner is not dealing at arm's length and, at a later time, the individual is deemed to receive a benefit in a particular taxation year because of the application of any of sections 49 and 50 to 52.1 in respect of the security, or the transfer or any other disposition of the rights under the agreement, the following rules apply for the purpose of determining the amount that the individual may deduct under section 737.28 in computing the individual's taxable income for the particular year, in relation to the amount of that benefit:

(a) section 737.28 is to be read as if “for that taxation year” was replaced by “for the taxation year that includes the particular time to which the portion of section 737.27.1 before paragraph *a* refers”; and

(b) such a benefit is considered to be included in the amount of salaries or wages received by the individual in the particular year from the eligible shipowner.

History: 2005, c. 38, s. 132.

CHAPTER II DEDUCTION

Deduction.

737.28. An individual resident in Québec in a taxation year who encloses, with the fiscal return the individual is required to file under this Part for the year, a copy of the certificate issued by the Minister of Transport certifying that the individual was an eligible seaman for that taxation year may deduct, in computing the individual's taxable income for the year, the aggregate of all amounts each of which is an amount equal to 75% of the amount of salaries or wages received by the individual in the year, in relation to a period

determined in the certificate, from an eligible shipowner whose name appears on the certificate.

History: 1997, c. 14, s. 108; 2001, c. 51, s. 45; 2004, c. 21, s. 188.

Rules applicable.

737.28.1. For the purpose of computing the taxable income of an individual to whom section 737.28 applies, for a taxation year, the following rules apply:

(a) for the purpose of computing the deduction under section 725.2, the amount of the benefit that the individual is deemed to receive in the year, under any of sections 49 and 50 to 52.1, in respect of a security, or the transfer or any other disposition of the rights under the agreement referred to in section 48, and that was included by the individual in computing the individual's income for the year, does not include the part of such an amount included in the amount determined in respect of the individual for the year under section 737.28;

(b) for the purpose of computing the deduction under section 725.3, the amount of the benefit that the individual is deemed to receive under section 49, by virtue of section 49.2, in respect of a share acquired by the individual after 22 May 1985 and that was included by the individual in computing the individual's income for the year, does not include the part of such an amount included in the amount determined in respect of the individual for the year under section 737.28.

History: 2002, c. 40, s. 66.

TITLE VII.7 DEDUCTION IN RESPECT OF SPLIT INCOME

Deduction.

737.29. A specified individual in relation to a taxation year may deduct in computing the specified individual's taxable income for the year the specified individual's split income for the year.

History: 2001, c. 53, s. 109.

TITLE VIII DIVIDENDS

Deduction of taxable dividends received by corporation.

738. A corporation may deduct from its income for a taxation year the amount of any taxable dividend it receives in the year from a taxable Canadian corporation or a corporation controlled by it, resident in Canada, other than a non-resident-owned investment corporation or a corporation exempt from tax under this Part.

History: 1972, c. 23, s. 556; 1978, c. 26, s. 130; 1984, c. 15, s. 169; 1997, c. 3, s. 71.

Corresponding Federal Provision: 112(1).

Definitions:

739. For the purposes of this Title:

“taxable dividend”;

(a) a dividend or a taxable dividend does not include a capital gains dividend within the meaning assigned by sections 1106 and 1116 or any dividend received by a taxpayer on which the taxpayer was required to pay any prescribed tax;

“corporation controlled by another”;

(b) a corporation is controlled by another if more than 50 per cent 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;

“mark-to-market property”.

“mark-to-market property” and “financial institution”;

(c) “mark-to-market property” and “financial institution” have the meanings assigned by section 851.22.1;

“qualified dividend”.

(d) a dividend on a share is a qualified dividend to the extent that

i. it is not received under section 508 to the extent that that section refers to section 506, or

ii. it is received under section 508 to the extent that that section refers to section 506 and,

(1) if the share is held by an individual other than a trust, the dividend is received by the individual,

(2) if the share is held by a corporation, the dividend is received by the corporation while it is a private corporation, and is paid by another private corporation,

(3) if the share is held by a trust, the dividend is received by the trust or designated under section 666 by the trust in respect of a beneficiary and the beneficiary is a person described in the second paragraph, a partnership each of the members of which is, when the dividend is received, a person described in the second paragraph, or another trust or partnership if the trust establishes that the dividend is received by a person described in the second paragraph, or

(4) if the share is held by a partnership, the dividend is included in the income of a member of the partnership and the member is a person described in the second paragraph or the dividend is designated under section 666 by a member of the partnership that is a trust in respect of a beneficiary described in subparagraph 3.

Person referred to.

A person to whom subparagraphs 3 and 4 of subparagraph ii of subparagraph *d* of the first paragraph refer, in relation to a dividend, is

- (a) an individual other than a trust;
- (b) a private corporation when the corporation receives the dividend, if the dividend is paid by another private corporation; or
- (c) a trust that does not designate the dividend under section 666.

History: 1972, c. 23, s. 557; 1996, c. 39, s. 197; 1997, c. 3, s. 71; 2001, c. 7, s. 87; 2012, c. 8, s. 99.

Corresponding Federal Provision: 112(6) and (6.1).

Dividends received from a corporation not resident in Canada.

740. Where a corporation has in a taxation year received a taxable dividend from a corporation not resident in Canada that is not a foreign affiliate of the corporation and that carried on a business in Canada, through an establishment, throughout the period from 18 June 1971 to the time when the dividend was received, the receiving corporation may deduct in computing its income an amount equal to the part of the dividend determined in accordance with subsection 2 of section 112 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

History: 1972, c. 23, s. 558; 1972, c. 26, s. 56; 1975, c. 22, s. 202; 1997, c. 3, s. 71; 2015, c. 21, s. 264.

Corresponding Federal Provision: 112(2).

Restriction.

740.1. Sections 738 and 740 do not apply in respect of a dividend received by a specified financial institution on a share acquired in the ordinary course of carrying on its business and that is, at the time the dividend is received, a term preferred share.

Presumption.

For the purposes of the first paragraph, where a restricted financial institution received a dividend on a share of the capital stock of a mutual fund corporation or an investment corporation at any time after that mutual fund corporation or investment corporation has elected, pursuant to section 1106.1 or section 1118.1, not to be a restricted financial institution, the share is deemed to be a term preferred share acquired in the ordinary course of carrying on a business.

History: 1980, c. 13, s. 66; 1982, c. 5, s. 144; 1986, c. 19, s. 162; 1989, c. 5, s. 99; 1990, c. 59, s. 282; 1996, c. 39, s. 273; 1997, c. 3, s. 71; 2017, c. 29, s. 116.

Corresponding Federal Provision: 112(2.1).

Where no deduction permitted.

740.2. Subject to section 740.3, sections 738, 740 and 845 do not apply in respect of a dividend received by a particular corporation on a share of the capital stock of a corporation that was issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 where,

(a) at or immediately before the time the dividend was received, a person or partnership, other than the issuer of the share or an individual other than a trust, that is a specified financial institution or a specified person in relation to any such institution, that person or partnership referred to in section 740.3 as the “guarantor”, was obligated, either absolutely or contingently and either immediately or in the future, to effect any guarantee agreement, including any guarantee, covenant or agreement to purchase or repurchase the share and including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the particular corporation or any specified person in relation to it

i. to ensure that any loss that the particular corporation or a specified person in relation to it may sustain by reason of the ownership, holding or disposition of the share or any other property is limited, or

ii. to allow the particular corporation or a specified person in relation to it to derive earnings by reason of the ownership, holding or disposition of the share or any other property; and

(b) the guarantee agreement was given as part of a transaction or event or a series of transactions or events that included the issuance of the share.

History: 1980, c. 13, s. 66; 1982, c. 5, s. 144; 1990, c. 59, s. 283; 1997, c. 3, s. 71; 2004, c. 8, s. 143; 2017, c. 29, s. 117.

Corresponding Federal Provision: 112(2.2).

Exception.

740.3. Section 740.2 does not apply in respect of a dividend received by a particular corporation

(a) on a share that is at the time the dividend is received a share described in section 21.6.1;

(b) a taxable preferred share of a class of the capital stock of a corporation that is listed on a designated stock exchange, issued after 15 December 1987, where all the guarantee agreements described in section 740.2 are given by the corporation that issued the share, by one or more persons that are related to it, otherwise than because of a right referred to in paragraph *b* of section 20, or by that corporation and such persons, unless at the time the dividend is paid to the particular corporation, dividends in respect of more than 10% of the issued and outstanding shares to which the guarantee agreements described in section 740.2 apply are paid to the particular corporation or the particular corporation and specified persons in relation to it;

(c) on a grandfathered share or a taxable preferred share issued before 16 December 1987;

(d) on a prescribed share; or

(e) on a share

i. that was not acquired by the particular corporation in the ordinary course of its business,

ii. in respect of which the guarantee agreement, referred to in section 740.2, was not given in the ordinary course of the guarantor's business, and

iii. the corporation issuer of which is, at the time the dividend is paid, related, otherwise than because of a right referred to in paragraph *b* of section 20, to both the particular corporation and the guarantor.

History: 1980, c. 13, s. 66; 1982, c. 5, s. 144; 1984, c. 15, s. 170; 1987, c. 67, s. 151; 1989, c. 5, s. 100; 1990, c. 59, s. 284; 1997, c. 3, s. 71; 2001, c. 7, s. 88; 2004, c. 8, s. 144; 2010, c. 5, s. 58.

Corresponding Federal Provision: 112(2.21).

Special rules.

740.3.1. For the purposes of section 740.2, where the undertaking referred to therein in respect of a share was given at any particular time after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, otherwise than pursuant to a written arrangement to do so entered into before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, the share is deemed to have been issued at the particular time and the undertaking is deemed to have been given as part of a series of transactions that included the issuance of the share.

"specified person".

For the purposes of sections 740.2 and 740.3, the expression "specified person" has the meaning assigned by paragraph *f* of section 21.11.16.

History: 1990, c. 59, s. 285.

Corresponding Federal Provision: 112(2.22).

740.4. (Repealed).

History: 1984, c. 15, s. 171; 1990, c. 59, s. 286.

Where no deduction permitted.

740.4.1. No deduction may be made under section 738, 740 or 845 in computing the taxable income of a particular corporation in respect of a dividend received on a share of the capital stock of a corporation where there is, in respect of the share, a dividend rental arrangement of the particular corporation, a partnership of which the particular corporation is directly or indirectly a member or a trust under which the particular corporation is a beneficiary.

History: 1991, c. 25, s. 89; 1997, c. 3, s. 71; 2019, c. 14, s. 212.

Corresponding Federal Provision: 112(2.3).

Exception.

740.4.2. Section 740.4.1 does not apply in respect of a dividend received on a share where there is, in respect of the share, a dividend rental arrangement of a person or partnership (in this section and section 740.4.3 referred to as the "taxpayer") throughout a particular period during which the synthetic equity arrangement referred to in paragraph *c* of the definition of "dividend rental arrangement" in section 1 is in effect if

(a) the dividend rental arrangement is such an arrangement because of that paragraph *c*; and

(b) the taxpayer establishes that, throughout the particular period, no tax-indifferent investor or group of tax-indifferent investors, each member of which is affiliated with every other member, has all or substantially all of the risk of loss or opportunity for gain or profit in respect of the share because of the synthetic equity arrangement or a specified synthetic equity arrangement.

History: 2019, c. 14, s. 213.

Corresponding Federal Provision: 112(2.31).

Representations.

740.4.3. A taxpayer is considered to have satisfied the condition of paragraph *b* of section 740.4.2 in respect of a share if

(a) the taxpayer or the connected person referred to in paragraph *a* of the definition of "synthetic equity arrangement" in section 1 (in this section referred to as the "synthetic equity arrangement party") obtains accurate representations in writing from its counterparty, or from each member of a group comprised of all its counterparties each of which is affiliated with each other (each member of this group of counterparties being in this section referred to as an "affiliated counterparty"), in relation to the synthetic equity arrangement, that

i. the counterparty or affiliated counterparty is not a tax-indifferent investor and it does not reasonably expect to become a tax-indifferent investor during the particular period referred to in section 740.4.2, and

ii. the counterparty or affiliated counterparty has not eliminated and it does not reasonably expect to eliminate all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in section 740.4.2;

(b) the synthetic equity arrangement party obtains accurate representations in writing from its counterparty, or from each affiliated counterparty, in relation to the synthetic equity arrangement that the counterparty, or each affiliated counterparty,

i. is not a tax-indifferent investor and does not reasonably expect to become a tax-indifferent investor during the particular period referred to in section 740.4.2,

ii. has entered into one or more specified synthetic equity arrangements that have the effect of eliminating all or substantially all of its risk of loss and opportunity for gain or profit, in relation to the share, if

(1) in the case of a counterparty, that counterparty has entered into a specified synthetic equity arrangement with its own counterparty (a counterparty of a counterparty or of an affiliated counterparty being in this section referred to as a “specified counterparty”), or has entered into a specified synthetic equity arrangement with each member of a group of its own counterparties each member of which is affiliated with every other member (each member of this group of counterparties being in this section referred to as an “affiliated specified counterparty”), or

(2) in the case of an affiliated counterparty, each affiliated counterparty has entered into a specified synthetic equity arrangement with the same specified counterparty or with an affiliated specified counterparty that is part of the same group of affiliated specified counterparties, and

iii. has obtained accurate representations in writing from each of its own specified counterparties, or from each member of the group of affiliated specified counterparties referred to in subparagraphs 1 and 2 of subparagraph ii, that

(1) it is not a tax-indifferent investor and it does not reasonably expect to become a tax-indifferent investor during the particular period referred to in section 740.4.2, and

(2) it has not eliminated and it does not reasonably expect to eliminate all or substantially all of its risk of loss and opportunity for gain or profit in relation to the share during the particular period referred to in section 740.4.2;

(c) the synthetic equity arrangement party obtains accurate representations in writing from its counterparty, or from each affiliated counterparty, in relation to the synthetic equity arrangement that the counterparty, or each affiliated counterparty,

i. is not a tax-indifferent investor and does not reasonably expect to become a tax-indifferent investor during the particular period referred to in section 740.4.2,

ii. has entered into specified synthetic equity arrangements

(1) that have the effect of eliminating all or substantially all of its risk of loss and opportunity for gain or profit in relation to the share,

(2) where no single specified counterparty or group of affiliated specified counterparties has been provided with all

or substantially all of the risk of loss and opportunity for gain or profit in relation to the share, and

(3) where each specified counterparty or affiliated specified counterparty deals at arm’s length with each other (other than in the case of affiliated specified counterparties, within the same group, of affiliated specified counterparties), and

iii. has obtained accurate representations in writing from each of its specified counterparties, or from each of its affiliated specified counterparties, that

(1) it is a person resident in Canada and it does not reasonably expect to cease to be resident in Canada during the particular period referred to in section 740.4.2, and

(2) it has not eliminated and it does not reasonably expect to eliminate all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in section 740.4.2; or

(d) where a person or partnership is a party to a synthetic equity arrangement chain in respect of the share, the person or partnership

i. has obtained all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share under the synthetic equity arrangement chain,

ii. has entered into one or more specified synthetic equity arrangements that have the effect of eliminating all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share, and

iii. obtains accurate representations in writing of the type described in any of paragraphs *a* to *c*, as if it were a synthetic equity arrangement party, from each of its counterparties where each such counterparty deals at arm’s length with that person or partnership.

History: 2019, c. 14, s. 213.

Corresponding Federal Provision: 112(2.32).

End of particular period.

740.4.4. If, at a time during a particular period referred to in section 740.4.2, a counterparty, specified counterparty, affiliated counterparty or affiliated specified counterparty reasonably expects to become a tax-indifferent investor or, if it has provided a representation described in subparagraph ii of paragraph *a* of section 740.4.3 or subparagraph 2 of subparagraph iii of paragraphs *b* and *c* of that section in respect of a share, to eliminate all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share, the particular period for which it has provided a representation in respect of the share is deemed to end at that time.

History: 2019, c. 14, s. 213.

Corresponding Federal Provision: 112(2.33).

Interpretation.

740.4.5. In section 740.4.3, “counterparty”, “specified counterparty”, “affiliated counterparty” and “affiliated specified counterparty” refer only to a person or partnership that obtains all or any portion of the risk of loss or opportunity for gain or profit in respect of the share referred to in that section.

History: 2019, c. 14, s. 213.

Corresponding Federal Provision: 112(2.34).

Where no deduction permitted.

740.5. No deduction may be made under section 738, 740 or 845 in computing the taxable income of a particular corporation in respect of a dividend received on a share, in this section referred to as the “subject share”, other than an exempt share, of the capital stock of another corporation where

(a) any person or partnership was obligated, in any way whatever, to effect an undertaking, including any covenant or agreement to purchase or repurchase the subject share, under which an investor is entitled, either immediately or in the future, to receive or obtain any amount or benefit for the purpose of reducing the impact, in whole or in part, of any loss that an investor may sustain by virtue of the ownership, holding or disposition of the subject share, and any property is used, in whole or in part, either directly or indirectly in any manner whatever, to secure the undertaking; or

(b) the undertaking or right referred to in subparagraph i or ii was acquired by the issuer as part of a transaction or event or a series of transactions or events that included the issuance or acquisition of the subject share, or a share for which the subject share was substituted, and the consideration for which the subject share was issued or any other property received, either directly or indirectly, by the issuer from an investor, or any property substituted therefor, is or includes

i. an undertaking of an investor to make payments that are required to be included, in whole or in part, in computing the income of the issuer, other than an undertaking of a corporation that, immediately before the subject share was issued, would be related to the corporation that issued the subject share if this Act were read without reference to paragraph *b* of section 20; or

ii. any right to receive payments that are required to be included, in whole or in part, in computing the income of the issuer where that right is held on condition that it or property substituted therefor may revert or pass to an investor or a person or partnership to be determined by an investor.

History: 1989, c. 77, s. 84; 1997, c. 3, s. 71.

Corresponding Federal Provision: 112(2.4).

Application of s. 740.5.

740.6. Section 740.5 applies only in respect of a dividend on a share where, having regard to all the circumstances, it may reasonably be considered that the share was issued or acquired as part of a transaction or event or a series of transactions or events that enabled any corporation to earn investment income, or any income substituted therefor, and, as a result, the amount of its taxes payable under this Part for a taxation year is less than the amount that its taxes payable under this Part would be for the year if such investment income were the only income of the corporation for the year and all other taxation years.

History: 1989, c. 77, s. 84; 1997, c. 3, s. 71.

Corresponding Federal Provision: 112(2.5).

Definitions:

740.7. For the purposes of section 740.5 and this section, the expression,

“**exempt share**”;

(a) “exempt share” means

i. a prescribed share;

ii. a share of the capital stock of a corporation issued before 5:00 p.m. Eastern Standard Time, 27 November 1986, other than a share held at that time by the issuer, or by any person or partnership where the issuer may become entitled to receive any amount after that time by way of subscription proceeds or contribution of capital with respect to that share pursuant to an agreement made before that time;

iii. a share that was, at the time the dividend referred to in section 740.5 was received, a share described in section 21.6.1 during the applicable period referred to in that section;

“**issuer**”;

(b) “issuer” means the other corporation referred to in section 740.5, a person with whom that corporation does not deal at arm’s length and any partnership or trust of which that corporation, or a person with whom that corporation does not deal at arm’s length, is a member or beneficiary, but does not include the particular corporation referred to in that section;

“**investor**”.

(c) “investor” means the particular corporation referred to in section 740.5, a person with whom that corporation does not deal at arm’s length and any partnership or trust of which that corporation, or a person with whom that corporation does not deal at arm’s length, is a member or beneficiary, but does not include the other corporation referred to in that section.

History: 1989, c. 77, s. 84; 1995, c. 49, s. 168; 1997, c. 3, s. 71.

Corresponding Federal Provision: 112(2.6).

Change in agreement or condition.

740.8. For the purposes of the definition of the expression "exempt share" in paragraph *a* of section 740.7, where, at any time after 5:00 p.m. Eastern Standard Time, 27 November 1986, the terms or conditions of a share of the capital stock of a corporation have been changed and any agreement in respect of the share has been changed or entered into by the corporation, the share is deemed to have been issued at that time.

History: 1989, c. 77, s. 84; 1997, c. 3, s. 71.

Corresponding Federal Provision: 112(2.7).

Loss sustained by investor.

740.9. For the purposes of paragraph *a* of section 740.5, any loss that an investor may sustain by virtue of the ownership, holding or disposition of the subject share referred to in that paragraph is deemed to include any loss with respect to an obligation or share that was issued or acquired as part of a transaction or event or a series of transactions or events that included the issuance or acquisition of the subject share, or a share for which the subject share was substituted.

History: 1989, c. 77, s. 84.

Corresponding Federal Provision: 112(2.8).

Related corporations.

740.10. For the purposes of subparagraph *i* of paragraph *b* of section 740.5, where it may reasonably be considered, having regard to all the circumstances, that a corporation has become related to any other corporation for the purpose of avoiding any limitation upon the deduction of a dividend under section 738, 740 or 845, the corporation is deemed not to be related to the other corporation.

History: 1989, c. 77, s. 84; 1997, c. 3, s. 71.

Corresponding Federal Provision: 112(2.9).

Loss on share that is capital property.

741. Subject to sections 744.4 and 744.5, a taxpayer, other than a trust, shall subtract from the amount of any loss, determined without reference to this section, resulting from the disposition of a share that is capital property of the taxpayer, other than a share that is property of a partnership,

(a) where the taxpayer is an individual, the lesser of

i. the aggregate of all amounts each of which is a dividend received by the taxpayer on the share in respect of which an election was made under section 502 where section 502.0.1 does not deem the dividend to be a taxable dividend, and

ii. the amount of the loss, determined without reference to this section, reduced by the aggregate of all taxable dividends received by the taxpayer on the share; and

(b) where the taxpayer is a corporation, the aggregate of all amounts received by the taxpayer on the share each of which is

i. a taxable dividend, to the extent of the amount of the dividend that was deductible under sections 738 to 745 or section 845 in computing the taxpayer's taxable income for any taxation year,

ii. a dividend in respect of which an election was made under section 502 where section 502.0.1 does not deem the dividend to be a taxable dividend, or

iii. a life insurance capital dividend.

History: 1972, c. 23, s. 559; 1972, c. 26, s. 57; 1975, c. 22, s. 203; 1978, c. 26, s. 131; 1984, c. 15, s. 172; 1996, c. 39, s. 198; 1997, c. 3, s. 71; 2001, c. 7, s. 89.

Corresponding Federal Provision: 112(5).

Loss on share that is capital property – excluded dividends.

741.1. A qualified dividend is not to be included in the aggregate determined under subparagraph *i* of paragraph *a* of section 741 or paragraph *b* of that section where the taxpayer referred to in that section establishes that

(a) it was received when the taxpayer and persons with whom the taxpayer was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) it was received on a share that the taxpayer owned throughout the 365-day period that ended immediately before the disposition of the share by the taxpayer.

History: 2001, c. 7, s. 90; 2012, c. 8, s. 100.

Corresponding Federal Provision: 112(3.01).

Loss on share held by partnership.

741.2. Subject to sections 744.4 and 744.5, a taxpayer, other than a partnership or a mutual fund trust, who is a member of a partnership shall subtract from the taxpayer's share of any loss of the partnership, determined without reference to this section, resulting from the disposition of a share held by a particular partnership as capital property,

(a) where the taxpayer is an individual, the lesser of

i. the aggregate of all amounts each of which is a dividend received by the taxpayer on the share in respect of which an election was made under section 502 where section 502.0.1 does not deem the dividend to be a taxable dividend, and

ii. that share of the loss, determined without reference to this section, reduced by the aggregate of all taxable dividends received by the taxpayer on the share;

(b) where the taxpayer is a corporation, the aggregate of all amounts received by the taxpayer on the share each of which is

i. a taxable dividend, to the extent of the amount of the dividend that was deductible under sections 738 to 745 or section 845 in computing the taxpayer's taxable income for any taxation year,

ii. a dividend in respect of which an election was made under section 502 where section 502.0.1 does not deem the dividend to be a taxable dividend, or

iii. a life insurance capital dividend; and

(c) where the taxpayer is a trust, the aggregate of all amounts each of which is a taxable dividend or a life insurance capital dividend received on the share and designated under section 666 or 667 by the trust in respect of a beneficiary that was a corporation, partnership or trust.

History: 2001, c. 7, s. 90.

Corresponding Federal Provision: 112(3.1).

Loss on share held by partnership – excluded dividends.

741.3. A qualified dividend is not to be included in the aggregate determined under subparagraph i of paragraph *a* of section 741.2 or paragraph *b* or *c* of that section where the taxpayer referred to in that section establishes that

(a) it was received when the particular partnership referred to in section 741.2, the taxpayer and persons with whom the taxpayer was not dealing at arm's length did not hold in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) it was received on a share that the particular partnership referred to in section 741.2 held throughout the 365-day period that ended immediately before the disposition of the share by the particular partnership.

History: 2001, c. 7, s. 90; 2012, c. 8, s. 101.

Corresponding Federal Provision: 112(3.11).

Loss on share held by partnership - excluded dividends.

741.4. A taxable dividend received on a share and designated under section 666 by a particular trust in respect of a beneficiary that was a partnership or trust shall not be included in the aggregate determined under paragraph *c* of section 741.2 where the particular trust establishes that the dividend was received by an individual, other than a trust.

History: 2001, c. 7, s. 90.

Corresponding Federal Provision: 112(3.12).

Loss on share held by trust.

742. Subject to sections 744.4 and 744.5, a trust, other than a mutual fund trust, shall subtract from the amount of

any loss, determined without reference to this section, resulting from the disposition of a share of the capital stock of a corporation that is capital property of the trust, the aggregate of

(a) the amount by which the lesser of the following amounts exceeds the amount determined under the second paragraph:

i. the aggregate of all amounts each of which is a dividend received by the trust on the share in respect of which an election was made under section 502 where section 502.0.1 does not deem the dividend to be a taxable dividend, and

ii. the amount of the loss, determined without reference to this section, reduced by the aggregate determined in the third paragraph; and

(b) the aggregate of the following amounts each of which is received on the share and designated under section 666 or 667 by the trust in respect of a beneficiary that was a corporation, partnership or trust:

i. a taxable dividend, and

ii. a life insurance capital dividend.

Interpretation.

Where the trust referred to in the first paragraph is a succession that is the graduated rate estate of an individual, the share was acquired as a consequence of the individual's death and the disposition of the share occurs during the trust's first taxation year, the amount to which subparagraph *a* of the first paragraph refers is 1/2 of the lesser of

(a) the amount of the loss, determined without reference to this section, resulting from the disposition of the share; and

(b) the individual's capital gain from the disposition of the share immediately before the individual's death.

Interpretation.

The aggregate to which subparagraph ii of subparagraph *a* of the first paragraph refers in respect of the trust referred to in that paragraph corresponds to the aggregate of all amounts each of which is the amount of a taxable dividend

(a) received by the trust on the share referred to in the first paragraph;

(b) received on the share referred to in the first paragraph and designated under section 666 by the trust in respect of a beneficiary who is an individual, other than a trust; or

(c) received on the share referred to in the first paragraph and designated under section 666 by the trust in respect of a beneficiary that was a corporation, a partnership or another

trust, provided the dividend is a qualified dividend and the trust establishes that

i. it owned the share throughout the 365-day period that ended immediately before the disposition of the share by the trust, and

ii. the dividend was received while the trust, the beneficiary and persons not dealing at arm's length with the beneficiary owned in total less than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received.

History: 1972, c. 23, s. 560; 1975, c. 22, s. 204; 1984, c. 15, s. 172; 1996, c. 39, s. 199; 1997, c. 3, s. 71; 2001, c. 7, s. 91; 2003, c. 2, s. 209; 2012, c. 8, s. 102; 2017, c. 1, s. 186.

Corresponding Federal Provision: 112(3.2).

Loss on share held by trust.

742.1. Notwithstanding section 742, where a trust has at any time acquired a share of the capital stock of a corporation because of section 653, the trust shall subtract from the amount of any loss, determined without reference to section 742 or this section, resulting from a disposition after that time, the aggregate of

(a) the amount by which the lesser of the following amounts exceeds the amount determined under the second paragraph:

i. the aggregate of all amounts each of which is a dividend received after that time by the trust on the share in respect of which an election was made under section 502 where section 502.0.1 does not deem the dividend to be a taxable dividend,

ii. the amount of the loss determined without reference to section 742 or this section, reduced by the aggregate determined in the third paragraph; and

(b) the aggregate of all amounts each of which is a taxable dividend received on the share after that time and designated under section 666 by the trust in respect of a beneficiary that was a corporation, partnership or trust.

Interpretation.

The amount to which subparagraph *a* of the first paragraph refers in respect of a trust referred to in that paragraph is 1/2 of the lesser of

(a) the amount of the loss, determined without reference to section 742 or this section, resulting from the disposition of the share referred to in the first paragraph;

(b) the trust's capital gain from the disposition immediately before the time referred to in the first paragraph of the share referred to in that paragraph because of section 653.

Interpretation.

The aggregate to which subparagraph ii of subparagraph *a* of the first paragraph refers in respect of the trust referred to in the said paragraph corresponds to the aggregate of all amounts each of which is the amount of a taxable dividend

(a) received by the trust on the share referred to in the first paragraph after the time of acquisition;

(b) received on the share referred to in the first paragraph after the time of acquisition and designated under section 666 by the trust in respect of a beneficiary who is an individual, other than a trust; or

(c) received on the share referred to in the first paragraph after the time of acquisition and designated under section 666 by the trust in respect of a beneficiary that was a corporation, a partnership or another trust, provided the dividend is a qualified dividend and the trust establishes that

i. it owned the share throughout the 365-day period that ended immediately before the disposition of the share, and

ii. the dividend was received when the trust, the beneficiary and persons not dealing at arm's length with the beneficiary owned in total less than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received.

History: 2001, c. 7, s. 92 [amended by 2004, c. 8, s. 219]; 2003, c. 2, s. 210; 2012, c. 8, s. 103.

Corresponding Federal Provision: 112(3.3).

Loss on share held by trust – excluded dividends.

742.2. A qualified dividend received by a trust is not to be included under subparagraph i of subparagraph *a* or subparagraph ii of subparagraph *b* of the first paragraph of section 742 or subparagraph i of subparagraph *a* of the first paragraph of section 742.1 where the trust establishes that the dividend

(a) was received

i. in any case where the dividend was designated under section 666 or 667 by the trust, when the trust, the beneficiary and persons with whom the beneficiary was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received, or

ii. in any other case, when the trust and persons with whom the trust was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) was received on a share that the trust owned throughout the 365-day period that ended immediately before the disposition.

History: 2001, c. 7, s. 92 [amended by 2004, c. 8, s. 219]; 2012, c. 8, s. 104.

Corresponding Federal Provision: 112(3.31).

Loss on share held by trust – excluded dividends.

742.3. A qualified dividend that is a taxable dividend received on a share and designated under section 666 by a trust in respect of a beneficiary that was a corporation, partnership or trust is not to be included under subparagraph *b* of the first paragraph of section 742 or 742.1 where the trust establishes that the dividend was received by an individual (other than a trust), or

(a) was received when the trust, the beneficiary and persons with whom the beneficiary was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) was received on a share that the trust owned throughout the 365-day period that ended immediately before the disposition.

History: 2001, c. 7, s. 92 [amended by 2004, c. 8, s. 219]; 2012, c. 8, s. 105.

Corresponding Federal Provision: 112(3.32).

Loss on share that is not capital property.

743. Subject to sections 744.4 and 744.5, a taxpayer, other than a trust, shall subtract from the amount of any loss, determined without reference to this section, resulting from the disposition of a share of the capital stock of a corporation that is property, other than capital property, of the taxpayer,

(a) where the taxpayer is an individual and the corporation is resident in Canada, the aggregate of all dividends received by the individual on the share;

(b) where the taxpayer is a partnership, the aggregate of all dividends received by the partnership on the share; and

(c) where the taxpayer is a corporation, the aggregate of all amounts received by the corporation on the share each of which is

i. a taxable dividend, to the extent of the amount of the dividend that was deductible under this Title or section 845 in computing the corporation's taxable income for any taxation year, or

ii. a dividend, other than a taxable dividend.

History: 1972, c. 23, s. 561; 1975, c. 22, s. 205; 1978, c. 26, s. 132; 1985, c. 25, s. 126; 1987, c. 67, s. 152; 1993, c. 16, s. 279; 1995, c. 49, s. 169; 1996, c. 39, s. 200; 1997, c. 3, s. 71; 2001, c. 7, s. 93.

Corresponding Federal Provision: 112(4).

Loss on share that is not capital property – excluded dividends.

743.1. A qualified dividend is not to be included in the aggregate determined under any of paragraphs *a* to *c* of section 743 where the taxpayer referred to in that section establishes that

(a) it was received when the taxpayer and persons with whom the taxpayer was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) it was received on a share that the taxpayer owned throughout the 365-day period that ended immediately before the disposition of the share by the taxpayer.

History: 2001, c. 7, s. 94; 2012, c. 8, s. 106.

Corresponding Federal Provision: 112(4.01).

Fair market value of shares held as inventory.

744. For the purposes of sections 83 to 85.6, a shareholder who holds a share of the capital stock of a corporation shall, in computing the fair market value of the share at any time, add to that value

(a) where the shareholder is a corporation, the aggregate of all amounts received by the shareholder on the share before that time each of which is

i. a taxable dividend, to the extent of the amount of the dividend that was deductible under this Title or section 845 in computing the shareholder's taxable income for any taxation year, or

ii. a dividend, other than a taxable dividend;

(b) where the shareholder is a partnership, the aggregate of all amounts each of which is a dividend received by the shareholder on the share before that time; and

(c) where the shareholder is an individual and the corporation is resident in Canada, the aggregate of all amounts each of which is a dividend received by the shareholder on the share before that time, or, where the shareholder is a trust, the aggregate of all amounts each of which is a dividend that would have been so received if this Part were read without reference to section 666.

History: 1975, c. 22, s. 206; 1978, c. 26, s. 133; 1984, c. 15, s. 173; 1985, c. 25, s. 126; 1987, c. 67, s. 152; 1993, c. 16, s. 279; 1995, c. 49, s. 170; 1996, c. 39, s. 201; 1997, c. 3, s. 71; 2001, c. 7, s. 95.

Corresponding Federal Provision: 112(4.1).

Fair market value of shares held as inventory – excluded dividends.

744.0.1. A qualified dividend is not to be included in the aggregate determined under any of paragraphs *a* to *c* of section 744 where the shareholder referred to in that section establishes that

(a) it was received when the shareholder and persons with whom the shareholder was not dealing at arm's length did not hold in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) it was received on a share that the shareholder held throughout the 365-day period that ended at the time referred to in section 744.

History: 2001, c. 7, s. 96; 2012, c. 8, s. 107.

Corresponding Federal Provision: 112(4.11).

744.1. (Repealed).

History: 1984, c. 15, s. 173; 1993, c. 16, s. 279; 1995, c. 49, s. 171; 1996, c. 39, s. 202; 1997, c. 3, s. 71; 2001, c. 7, s. 97.

Loss on share held by trust.

744.2. Subject to sections 744.4 and 744.5, a trust shall subtract from the amount of any loss, determined without reference to this section, resulting from the disposition of a share that is property, other than capital property, of the trust, the aggregate of

(a) the aggregate of all amounts each of which is a dividend received by the trust on the share, to the extent that the amount was not designated under section 667 in respect of a beneficiary of the trust; and

(b) the aggregate of all amounts each of which is a dividend received on the share that was designated under section 666 or 667 by the trust in respect of a beneficiary of the trust.

History: 1984, c. 15, s. 173; 1996, c. 39, s. 203; 2001, c. 7, s. 98.

Corresponding Federal Provision: 112(4.2).

Loss on share held by trust – excluded dividends.

744.2.1. A qualified dividend is not to be included in the aggregate determined under paragraph *a* of section 744.2 where the trust referred to in that section establishes that

(a) it was received when the trust and persons with whom the trust was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) it was received on a share that the trust owned throughout the 365-day period that ended immediately before the disposition of the share by the trust.

History: 2001, c. 7, s. 99; 2012, c. 8, s. 108.

Corresponding Federal Provision: 112(4.21).

Loss on share held by trust – excluded dividends.

744.2.2. A qualified dividend is not to be included in the aggregate determined under paragraph *b* of section 744.2 where the trust referred to in that section establishes that

(a) it was received when the trust, the beneficiary and persons with whom the beneficiary was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) it was received on a share that the trust owned throughout the 365-day period that ended immediately before the disposition of the share by the trust.

History: 2001, c. 7, s. 99; 2012, c. 8, s. 109.

Corresponding Federal Provision: 112(4.22).

744.3. (Repealed).

History: 1984, c. 15, s. 173; 1997, c. 3, s. 71; 2001, c. 7, s. 100.

Stop-loss rules not applicable.

744.4. The rules set out in sections 741 to 743 and 744.2 do not apply in respect of the disposition of a share by a taxpayer in a taxation year that begins after 31 October 1994 where the share is a mark-to-market property for the year and the taxpayer is a financial institution in the year or where section 744.6 applies in respect of the disposition.

History: 1996, c. 39, s. 204; 2001, c. 7, s. 101.

Corresponding Federal Provision: 112(5.5).

Stop-loss rules restricted.

744.5. In determining whether any of sections 741 to 743 and 744.2 apply to reduce a loss of a taxpayer from the disposition of a share, this Part shall be read without reference to paragraph *b* of sections 741.1, 741.3, 742.2, 742.3, 743.1, 744.2.1 and 744.2.2 and subparagraph *i* of subparagraph *c* of the third paragraph of sections 742 and 742.1 where

(a) the disposition occurs, because of section 851.22.15, in a taxation year that includes 31 October 1994 or, because of paragraph *b* of section 851.22.23, after 30 October 1994; or

(b) the share was a mark-to-market property of the taxpayer for a taxation year that begins after 31 October 1994 in which the taxpayer was a financial institution.

History: 1996, c. 39, s. 204; 2001, c. 7, s. 102.

Corresponding Federal Provision: 112(5.5).

Disposition of a share.

744.6. A taxpayer who disposes of a share at a particular time in a taxation year is deemed to dispose of it for the

proceeds of disposition determined in the second paragraph where

(a) the taxpayer is a financial institution in the year, the share is a mark-to-market property for the year, and the taxpayer received either a dividend on the share at a time when the taxpayer and persons with whom the taxpayer was not dealing at arm's length held in total more than 5% of the issued shares of any class of the capital stock of the corporation that paid the dividend, or a dividend on the share paid under section 506; or

(b) the disposition is an actual disposition, the taxpayer did not hold the share throughout the 365-day period that ended immediately before the disposition, and the share was a mark-to-market property of the taxpayer for a taxation year that begins after 31 October 1994 and in which the taxpayer was a financial institution.

Proceeds of disposition of a share.

Subject to section 744.7, the proceeds of disposition referred to in the first paragraph are deemed to be the amount determined by the formula

$$A + B - (C - D).$$

Interpretation.

For the purposes of the formula in the second paragraph,

(a) A is the taxpayer's proceeds of disposition of the share determined without reference to this section;

(b) B is, where the taxpayer is deemed to have received a dividend under section 508, to the extent that that section refers to section 506, in respect of the share, the aggregate determined under subparagraph ii, or, in any other case, the lesser of

i. the loss from the disposition of the share that would be determined before the application of this section if the cost of the share to any taxpayer were determined without reference to

(1) sections 521 to 526 and 528, where the provisions of those sections apply because of subparagraph a of the second paragraph of section 832.3, and

(2) sections 546 and 559, subparagraph a of the second paragraph of section 832.3, paragraph b of section 851.22.15 and paragraph d of section 851.22.23, and

ii. the aggregate of all amounts each of which is

(1) where the taxpayer is a corporation, a taxable dividend received by the taxpayer on the share, to the extent of the amount of the dividend that was deductible under any of sections 738 to 745 and 845 in computing the taxpayer's taxable income for any taxation year,

(2) where the taxpayer is a partnership, a taxable dividend received by the taxpayer on the share, to the extent of the amount of the dividend that was deductible under any of sections 738 to 745, 845 and 1091 in computing the taxable income or taxable income earned in Canada for any taxation year of members of the partnership,

(3) where the taxpayer is a trust, an amount designated under section 666 in respect of a taxable dividend on the share, or

(4) a dividend, other than a taxable dividend, received by the taxpayer on the share;

(c) C is the aggregate of all amounts each of which is the amount by which

i. the taxpayer's proceeds of disposition on a deemed disposition of the share before the particular time were increased because of this section,

ii. where the taxpayer is a corporation or trust, a loss of the taxpayer on a deemed disposition of the share before the particular time was reduced because of section 741, 742, 743 or 744.2, or

iii. where the taxpayer is a partnership, a loss of a member of the partnership on a deemed disposition of the share before the particular time was reduced because of section 741.2 or 743; and

(d) D is the aggregate of all amounts each of which is the amount by which the taxpayer's proceeds of disposition on a deemed disposition of the share before the particular time were decreased because of this section.

History: 1996, c. 39, s. 204; 1997, c. 3, s. 71; 2001, c. 7, s. 103; 2012, c. 8, s. 110; 2015, c. 21, s. 265; 2020, c. 16, s. 100.

Corresponding Federal Provision: 112(5) and (5.2).

Section 744.6 – excluded dividends.

744.6.1. A dividend, other than a dividend received under section 508 to the extent that that section refers to section 506, is not to be included in the aggregate determined under subparagraph ii of subparagraph b of the third paragraph of section 744.6 in respect of a taxpayer referred to in that section unless

(a) the dividend was received when the taxpayer and persons with whom the taxpayer was not dealing at arm's length held in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received, or

(b) the share was not held by the taxpayer throughout the 365-day period that ended before the disposition of the share by the taxpayer.

History: 2001, c. 7, s. 104; 2012, c. 8, s. 111.

Corresponding Federal Provision: 112(5.21).

Adjustment not applicable.

744.7. For the purpose of determining the cost of a share to a taxpayer on a deemed reacquisition of the share after a deemed disposition of the share, the taxpayer's proceeds of disposition of the share shall be determined without reference to section 744.6.

History: 1996, c. 39, s. 204.

Corresponding Federal Provision: 112(5.3).

Deemed disposition.

744.8. Where a taxpayer disposes of a share at a particular time,

(a) for the purpose of determining whether section 744.6 applies to the disposition, the conditions in the first paragraph of that section shall be applied without reference to a deemed disposition and reacquisition of the share before that time; and

(b) any aggregate of amounts under the third paragraph of section 744.6 in respect of the disposition shall be determined from the time when the taxpayer actually acquired the share.

History: 1996, c. 39, s. 204.

Corresponding Federal Provision: 112(5.4).

Exchange of shares.

745. Subject to the second and third paragraphs, where a share, in this section referred to as the "new share", has been acquired in exchange for another share, in this section referred to as the "old share", in a transaction to which any of sections 301, 301.1 and 536 to 555.4 applies, for the purposes of any of sections 741 to 742.3 in respect of a disposition of the new share, the new share is deemed to be the same share as the old share.

Rules applicable.

For the purposes of the first paragraph, any dividend received on the old share is deemed for the purposes of sections 741 to 742.3 to have been received on the new share only to the extent of the proportion of the dividend that the shareholder's adjusted cost base of the new share immediately after the exchange is of the shareholder's adjusted cost base of all new shares, immediately after the exchange, acquired in exchange for the old share.

Rules applicable.

For the purposes of the first paragraph, the amount by which a loss from the disposition of the new share is reduced because of the application of this section shall not exceed the proportion of the shareholder's adjusted cost base of the old share immediately before the exchange that the shareholder's adjusted cost base of the new share immediately after the exchange is of the shareholder's adjusted cost base of all new

shares, immediately after the exchange, acquired in exchange for the old share.

History: 1975, c. 22, s. 206; 1978, c. 26, s. 133; 1984, c. 15, s. 173; 1995, c. 49, s. 172; 1997, c. 3, s. 71; 2001, c. 7, s. 105.

Corresponding Federal Provision: 112(7).

Synthetic disposition — holding period.

745.1. For the purposes of paragraph *b* of sections 741.1 and 741.3, subparagraph *i* of subparagraph *c* of the third paragraph of sections 742 and 742.1, paragraph *b* of sections 742.2, 742.3, 743.1, 744.0.1, 744.2.1 and 744.2.2, subparagraph *b* of the first paragraph of section 744.6, paragraph *b* of section 744.6.1 and section 745.2, where a synthetic disposition arrangement is entered into in respect of a property owned by a taxpayer and the synthetic disposition period of the arrangement is at least 30 days, the taxpayer is deemed not to own the property during the synthetic disposition period.

History: 2017, c. 1, s. 187.

Corresponding Federal Provision: 112(8).

Exception.

745.2. Section 745.1 does not apply in respect of a property owned by a taxpayer in respect of a synthetic disposition arrangement if the taxpayer owned the property throughout the 365-day period (determined without reference to this section) that ended immediately before the synthetic disposition period of the arrangement.

History: 2017, c. 1, s. 187.

Corresponding Federal Provision: 112(9).

Exception.

745.2.1. For the purposes of paragraph *b* of section 744.6.1, section 745.1 does not apply in respect of a particular dividend received on a share on which a taxpayer is deemed to have received a dividend under section 508, to the extent that section 508 refers to section 506, where the particular dividend is received during a synthetic disposition period of a synthetic disposition arrangement in respect of that share.

History: 2020, c. 16, s. 101.

Synthetic equity arrangements — ordering.

745.3. For the purposes of sections 741, 741.2, 743, 744 and 744.6, if a synthetic equity arrangement applies in respect of a particular number of shares that are identical properties (in this section referred to as "identical shares") and the particular number is less than the total number of such identical shares owned by a person or partnership at that time and in respect of which there is no other synthetic equity arrangement, the synthetic equity arrangement is deemed to apply to those identical shares in the order in which the person or partnership acquired them.

History: 2019, c. 14, s. 214.

Corresponding Federal Provision: 112(10).

Synthetic equity arrangements — disaggregation.

745.4. For the purposes of the definition of “synthetic equity arrangement” in section 1, paragraphs *c* and *d* of the definition of “dividend rental arrangement” in that section and sections 740.4.2, 740.4.3 and 745.3, an arrangement that reflects the fair market value of more than one type of identical share, within the meaning of section 745.3, is considered to be a separate arrangement with respect to each type of identical share the value of which the arrangement reflects.

History: 2019, c. 14, s. 214.

Corresponding Federal Provision: 248(42).

Dividend received from foreign affiliate.

746. A corporation resident in Canada which receives in a taxation year a dividend on a share that it owns of the capital stock of a foreign affiliate, may deduct from its income for the year in respect of that dividend:

(a) such portion of the dividend as is prescribed to be paid out of the exempt surplus of the affiliate;

(a.1) an amount equal to the total of

i. one-half of the portion of the dividend that is prescribed to have been paid out of the hybrid surplus of the affiliate, and

ii. the lesser of the amount determined under subparagraph i and the total of

(1) the product obtained when the foreign tax prescribed to be applicable to the portion of the dividend referred to in subparagraph i is multiplied by the amount by which the corporation’s tax factor for the year exceeds one-half, and

(2) the product obtained when the non-business-income tax, within the meaning of section 772.2, paid by the corporation and applicable to the portion of the dividend referred to in subparagraph i is multiplied by the corporation’s tax factor for the year;

(b) the product obtained when the amount by which the corporation’s tax factor for the year exceeds one is multiplied by the foreign tax prescribed to be applicable to the portion of the dividend prescribed to have been paid out of the taxable surplus of the affiliate, without exceeding that portion of the dividend;

(c) the lesser of the product obtained when the corporation’s tax factor for the year is multiplied by the non-business-income tax, within the meaning of section 772.2, paid by the corporation and applicable to the portion of the dividend prescribed to have been paid out of the taxable surplus of the affiliate, and the amount by which that

portion of the dividend exceeds the amount deductible in respect of the dividend under subparagraph *b*;

(d) such part of the dividend as is prescribed to be paid out of the pre-acquisition surplus of the affiliate.

Elections.

In addition, for the purposes of this section and sections 571 to 598, the corporation may make such elections as may be prescribed.

History: 1972, c. 23, s. 562; 1972, c. 26, s. 58; 1975, c. 22, s. 207; 1984, c. 15, s. 174; 1995, c. 63, s. 55; 1997, c. 3, s. 71; 2015, c. 21, s. 266.

Corresponding Federal Provision: 113(1).

Meaning of certain expressions in section 746.

747. For the purposes of section 746, “exempt surplus”, “hybrid surplus”, “pre-acquisition surplus”, “taxable surplus” and “tax factor” have the meaning assigned to those definitions by regulation.

History: 1975, c. 22, s. 208; 2015, c. 21, s. 267.

Corresponding Federal Provision: 95(1), 113(1)(a.1), 113(3) “relevant tax factor”.

Portion of dividend deemed to be paid out of exempt surplus.

748. In the case provided for in section 746, such portion of any dividend received between the taxation years 1971 and 1976 of the affiliate as exceeds the amount deductible under paragraph *d* of that section is deemed, for the purposes of paragraph *a* of that section, to be the portion of the dividend prescribed to have been paid out of the exempt surplus of the affiliate.

History: 1975, c. 22, s. 208; 1996, c. 39, s. 205.

Corresponding Federal Provision: 113(4).

Additional deductions in respect of a dividend received from a foreign affiliate.

749. Where, in the case referred to in section 746, the dividend is received by the corporation at a particular time in a taxation year ending after 31 December 1975 on a share it owned at the end of its taxation year 1975, it may deduct from its income for the year, in respect of the dividend, the lesser of the amount by which the dividend exceeds the deductions permitted in its respect for the year under sections 584 and 746 and the amount by which the adjusted cost base to the corporation of the share at the end of its taxation year 1975 exceeds the aggregate of

(a) (*paragraph repealed*);

(b) the amounts that the corporation may deduct under subparagraph *d* of the first paragraph of section 746 for a taxation year ending after 31 December 1975 in respect of the dividends received by it on the share after its taxation year 1975 but before that time;

(c) the amounts received by the corporation on the share after its 1975 taxation year but before that time

i. on a reduction, before 20 August 2011, of the paid-up capital of the foreign affiliate in respect of the share, or

ii. on a reduction, after 19 August 2011, of the paid-up capital of the foreign affiliate in respect of the share that is a qualifying return of capital, within the meaning of section 577.3, in respect of the share; and

(d) the amounts deducted under this section in respect of the dividends received by it on the share before that time.

History: 1975, c. 22, s. 208; 1977, c. 26, s. 82; 1980, c. 13, s. 67; 1997, c. 3, s. 71; 2015, c. 21, s. 268.

Corresponding Federal Provision: 113(2).

BOOK V COMPUTATION OF TAX

TITLE I TAX PAYABLE BY INDIVIDUALS

CHAPTER I GENERAL RULES

Tax payable under this Part.

749.1. In this Book, except for the purposes of sections 772.2 to 772.13.3, tax, whether referred to as tax payable under this Part or tax otherwise payable under this Part or referred to by any other similar expression, shall be computed as if this Part were read without reference to Book V.1.

History: 1988, c. 4, s. 59; 1989, c. 5, s. 101; 1990, c. 59, s. 287; 1995, c. 1, s. 70; 1995, c. 63, s. 56; 1997, c. 85, s. 117; 2001, c. 53, s. 110; 2012, c. 8, s. 112.

Corresponding Federal Provision: 117(1).

Rate of tax payable.

750. The tax payable under this Part by an individual on the individual's taxable income for a taxation year is equal to the aggregate of

(a) 15% of the lesser of \$42,705 and the individual's taxable income for that year;

(b) 20% of the amount by which the lesser of \$85,405 and the individual's taxable income for that year exceeds \$42,705;

(c) 24% of the amount by which the lesser of \$103,915 and the individual's taxable income for that year exceeds \$85,405; and

(d) 25.75% of the amount by which the individual's taxable income for that year exceeds \$103,915.

History: 1972, c. 23, s. 563; 1975, c. 22, s. 209; 1978, c. 26, s. 134; 1986, c. 15, s. 113; 1986, c. 72, s. 10; 1989, c. 5, s. 102; 1997, c. 85, s. 118; 2001, c. 51, s. 46; 2004, c. 21, s. 189; 2005, c. 1, s. 145; 2009, c. 5, s. 258; 2015, c. 21, s. 269; 2017, c. 29, s. 118.

Corresponding Federal Provision: 117(2).

Rules applicable for taxation years preceding 2017.

750.1. The percentage to which sections 752.0.0.1, 752.0.0.4 to 752.0.0.6, 752.0.1, 752.0.7.4, 752.0.11, 752.0.13.1, 752.0.13.1.1, 752.0.14, 752.0.18.15, 776.41.14 and 1015.3 refer, as they read in their application to a taxation year preceding the year 2017, is

(a) 22%, where the taxation year is the year 2000;

(b) 20.75%, where the taxation year is the year 2001; and

(c) 20%, where the taxation year is subsequent to the year 2001 and precedes the year 2017.

Rules applicable for taxation years 2017 and forward.

The percentage to which sections 752.0.0.1, 752.0.1, 752.0.7.4, 752.0.14, 776.41.14 and 1015.3 refer is 15% where the taxation year is the year 2017 or a subsequent year.

History: 2001, c. 51, s. 47; 2001, c. 53, s. 111; 2005, c. 1, s. 146; 2005, c. 23, s. 92; 2005, c. 38, s. 133; 2009, c. 5, s. 259; 2013, c. 10, s. 48; 2015, c. 21, s. 270; 2015, c. 24, s. 98; 2017, c. 29, s. 119.

Other rates applicable.

750.1.1. The percentage to which sections 768 and 770 refer is

(a) 24%, where the taxation year ends after 19 March 2012 and before 1 January 2013; or

(b) 25.75%, where the taxation year is the year 2013 or a subsequent year.

History: 2013, c. 10, s. 49; 2015, c. 21, s. 271.

Annual adjustment.

750.2. Each of the amounts referred to in the fourth paragraph 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 provided for 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.

Interpretation.

The amounts to which the first paragraph refers are

(a) the amounts of \$42,705, \$85,405 and \$103,915, wherever they are mentioned in section 750;

(b) the amount of \$14,890 mentioned in section 752.0.0.1;

(c) the amounts of \$2,861 and \$4,168 mentioned in section 752.0.1;

(d) the amount of \$33,755 mentioned in section 752.0.7.1;

(e) the amounts of \$1,707, \$2,107, \$2,782 and \$3,132, wherever they are mentioned in section 752.0.7.4;

(f) the amount of \$3,307 mentioned in section 752.0.14; and

(g) the amounts of \$10,222 and \$2,861, wherever they are mentioned in section 776.41.14.

History: 2001, c. 51, s. 47; 2005, c. 1, s. 147; 2005, c. 38, s. 134; 2009, c. 5, s. 260; 2009, c. 15, s. 134; 2015, c. 21, s. 272; 2017, c. 29, s. 120; 2020, c. 5, s. 214.

Corresponding Federal Provision: 117.1(1).

750.2.1. (Repealed).

History: 2004, c. 21, s. 190; 2005, c. 1, s. 148.

Rounding.

750.3. Where the amount that results from the adjustment provided for in section 750.2, in respect of an amount mentioned in subparagraph *a* or *d* of the fourth paragraph of that section, is not a multiple of \$5, it must be rounded to the nearest multiple of \$5 or, if it is equidistant from two such multiples, to the higher multiple.

Rounding.

Where the amount that results from the adjustment provided for in section 750.2, in respect of an amount mentioned in any of subparagraphs *b*, *c* and *e* to *g* of the fourth paragraph of that section, 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: 2001, c. 51, s. 47; 2004, c. 21, s. 191; 2005, c. 1, s. 149; 2017, c. 29, s. 121.

Corresponding Federal Provision: 117.1(3).

751. (Repealed).

History: 1972, c. 23, s. 564; 1973, c. 18, s. 24; 1982, c. 38, s. 12; 1982, c. 56, s. 15; 1988, c. 4, s. 60; 1998, c. 16, s. 184.

752. (Repealed).

History: 1972, c. 23, s. 565; 1973, c. 17, s. 87; 1978, c. 26, s. 135; 1986, c. 15, s. 114; 1989, c. 5, s. 103; 1991, c. 8, s. 42; 1992, c. 1, s. 54; 1993, c. 19, s. 50; 1993, c. 64, s. 66.