

1995, chapter 49  
**AN ACT TO AMEND THE TAXATION ACT AND  
OTHER FISCAL PROVISIONS**

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**Bill 88**

Introduced by Madam Pauline Marois, Minister of Revenue

Introduced 3 May 1995

Passage in principle 21 June 1995

Passage 5 December 1995

**Assented to 7 December 1995**

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**Coming into force: 7 December 1995**

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**Legislation amended:**

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

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

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

Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5)

Act respecting the Québec Pension Plan (R.S.Q., chapter R-9)

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

Act to again amend the Taxation Act and other fiscal legislation (1990, chapter 59)

Act to again amend the Taxation Act and other fiscal legislation (1991, chapter 25)

Act to amend the Taxation Act and other fiscal legislation (1993, chapter 16)

Act to amend the Taxation Act, the Act respecting the Québec sales tax and other fiscal provisions (1994, chapter 22)



## CHAPTER 49

### **An Act to amend the Taxation Act and other fiscal provisions**

*[Assented to 7 December 1995]*

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### TAXATION ACT

c. I-3, s. 1,  
am.

**1.** (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 4 of chapter 64 of the statutes of 1993, by section 15 of chapter 13 of the statutes of 1994, by section 41 of chapter 22 of the statutes of 1994 and by section 11 of chapter 1 of the statutes of 1995, is again amended

(1) by replacing the definition of “taxable Canadian property” by the following definition:

“taxable  
Canadian  
property”

“ “taxable Canadian property” has the meaning assigned by Part II and, for the purposes of sections 785.1 and 785.2, includes

(a) a Canadian resource property;

(b) a timber resource property;

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

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

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

(2) by replacing, in the French text of paragraph *a* of the definition of “Canada”, the words “hydrocarbures apparentés” by the words “hydrocarbures connexes”;

(3) by replacing the definition of “retirement income fund” by the following definition:

“retirement income fund”      “ “retirement income fund” has the meaning assigned by subsection 1 of section 146.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);”;

(4) by replacing the definition of “minerals” by the following definition which is to be reordered alphabetically:

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

(5) by replacing, in the French text, the definitions of “organisme de charité” and “organisme de charité enregistré” by the following definitions:

«organisme de bienfaisance»      “ «organisme de bienfaisance» signifie une oeuvre de bienfaisance ou une fondation de bienfaisance, au sens de l’article 985.1;

«organisme de bienfaisance enregistré»      “ «organisme de bienfaisance enregistré» à un moment quelconque signifie une oeuvre de bienfaisance, une fondation privée ou une fondation publique, au sens de l’article 985.1, qui est enregistrée à ce moment à titre d’oeuvre de bienfaisance, de fondation privée ou de fondation publique, au sens de cet article 985.1, auprès du ministre ou qui est réputée l’être conformément aux articles 985.5 à 985.5.2;”;

(6) by inserting, after the definition of “life insurance policy”, the following definition:

“life insurance policy in Canada”      “ “life insurance policy in Canada” has the meaning assigned by paragraph e.1 of section 835;”;

(7) by inserting, after the definition of “property”, the following definition:

“province”      “ “province” means a province of Canada and includes the Yukon Territory and the Northwest Territories;”;

(8) by replacing the definition of “private health services plan” by the following definition:

“private  
health ser-  
vices plan”

““private health services plan” means a contract of insurance in respect of medical expenses, hospital expenses or any combination of such expenses, or a medical care insurance plan or hospital care insurance plan or both a medical care and hospital care insurance plan, to the extent that the contract or plan applies to expenses described in section 752.0.11.1, except any such contract or plan established by or pursuant to a law of a province that establishes a health care insurance plan in respect of which the province receives contributions for insured health services provided under the plan pursuant to the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act (Revised Statutes of Canada, 1985, chapter F-8);”;

(9) by replacing paragraph *b* of the definition of “mineral resource” by the following paragraph:

“(b) calcium chloride, diamond, gypsum, halite, kaolin or sylvite;”.

(2) Paragraph 1 of subsection 1 has effect

(a) from the time referred to in paragraph *a* of subsection 2 of section 10, in respect of a corporation that is deemed, under that paragraph *a*, to have made an election and, in this event, paragraph *e* of the definition of “taxable Canadian property”, in section 1 of the Taxation Act, enacted by paragraph 1, shall be read as follows:

“(e) a life insurance policy issued or effected by an insurer on the life of a person resident in Canada at the time the policy was issued or effected;”;

(b) from 1 January 1993, in all other cases.

(3) Paragraphs 2, 3 and 5 of subsection 1 apply to taxation years ending after 30 November 1991.

(4) Paragraphs 4 and 9 of subsection 1 apply to taxation years beginning after 31 December 1984. However,

(a) where the definition of “mineral” in section 1 of the Taxation Act, enacted by paragraph 4 of subsection 1, applies to taxation years ending before 1 January 1988, it shall be read without reference to the word “kaolin,” and where it applies to taxation years ending before 1 December 1991, the French text thereof shall be read as if the reference therein to “hydrocarbures connexes” were a reference to “hydrocarbures apparentés”;

(b) where paragraph *b* of the definition of “mineral resource” in section 1 of the Taxation Act, enacted by paragraph 9 of subsection 1, applies

(1) to taxation years ending before 1 January 1988, that paragraph *b* shall be read as follows:

“(b) calcium chloride, gypsum, halite or sylvite;”;

(2) to taxation years ending after 31 December 1987 and before 1 January 1993, that paragraph *b* shall be read as follows:

“(b) calcium chloride, gypsum, halite, kaolin or sylvite;”.

(5) Paragraph 6 of subsection 1 has effect from 1 January 1993.

c. I-3,  
s. 2.1.1, am.

**2.** (1) Section 2.1.1 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

Partition of  
property

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

(2) Subsection 1 has effect from 14 July 1990.

c. I-3,  
s. 2.1.3,  
added

**3.** (1) The said Act is amended by inserting, after section 2.1.2, the following section:

Transfers  
after death

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

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

(b) transferred or assigned to the individual’s estate, or acquired by the individual’s estate, the property is deemed to have been so transferred, assigned or acquired, as the case may be, immediately before the time that is immediately before the death.”

(2) Subsection 1 applies in respect of deaths occurring after 30 June 1989. In this regard, notwithstanding sections 1010 to 1011 of the Taxation Act, such assessments and determinations as are necessary shall be made by the Minister of Revenue in respect of any taxation years to give effect to subsection 1 and the second and third paragraphs of section 1060.1 and section 1066.2 of the said Act shall apply thereto, with the necessary modifications.

c. I-3,  
s. 2.2.1, am.

**4.** (1) Section 2.2.1 of the said Act, enacted by section 44 of chapter 22 of the statutes of 1994 and amended by section 13 of chapter 1 of the statutes of 1995, is again amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

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

(2) Subsection 1 has effect from 1 January 1993.

c. I-3, s. 6.2,  
am.

**5.** (1) Section 6.2 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(c) subject to sections 779, 785.1 and 785.2 and paragraph *a* of section 999.1, and notwithstanding the definition of “taxation year” in section 1 and sections 5 and 6.1, where the taxation year of the corporation that would, but for this section, have been its last taxation year that ended before that time would, but for this paragraph, have ended within the 7-day period that ended immediately before that time, that taxation year is, except where control of the corporation was acquired by a person or group of persons within that period, deemed to end immediately before that time where the corporation so elects in its fiscal return under this Part for that taxation year; and”.

(2) Subsection 1 has effect

(a) from the time referred to in paragraph *a* of subsection 2 of section 10, in respect of a corporation that is deemed, under that paragraph *a*, to have made an election;

(b) from 1 January 1993, in all other cases.

c. I-3, s. 7.4,  
replaced

**6.** (1) Section 7.4 of the said Act is replaced by the following section:

“dis-  
claimer”

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

(2) Subsection 1 has effect from 15 June 1994. However, where the time granted to the taxpayer’s legal representative for making a written application to the Minister of Revenue under section 7.4 of the Taxation Act, enacted by subsection 1, in respect of a disclaimer or renunciation ends before 7 December 1995, the said section 7.4 shall be read as if the reference therein to “unless written application therefor has been made to the Minister by the taxpayer’s legal representative before the expiry of that period” were a reference to “unless written application therefor has been made to the Minister by the taxpayer’s legal representative before 6 March 1996”.

c. I-3,  
s. 7.11.1, re-  
placed

**7.** (1) Section 7.11.1 of the said Act, enacted by section 51 of chapter 22 of the statutes of 1994, is replaced by the following section:

Beneficial  
interest in a  
trust

**“7.11.1** For the purposes of this Part and the regulations, a person or partnership is beneficially interested in a particular trust if the person or partnership has any right, whether immediate or future, whether absolute or contingent or whether conditional on or subject to the exercise of any discretionary power by any person or persons, as a beneficiary under a trust to receive any of the income or capital of the particular trust either directly from the particular trust or indirectly through one or more other trusts.”

(2) Subsection 1 has effect from 1 January 1991.

c. I-3,  
s. 7.15,  
added

**8.** (1) The said Act is amended by inserting, after section 7.14, enacted by section 52 of chapter 22 of the statutes of 1994, the following section:

Union em-  
ployer

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

(2) Subsection 1 has effect from 9 October 1986. However, where section 7.15 of the Taxation Act, enacted by subsection 1, applies before 20 June 1991, the French text thereof shall be read as if the reference therein to “cotisation” were a reference to “contribution”.

c. 1-3, s. 8,  
am.

**9.** (1) Section 8 of the said Act, amended by section 6 of chapter 64 of the statutes of 1993, is again amended by replacing paragraph *f* by the following paragraph:

“(f) he was a child of, and dependent for support on, an individual described in paragraph *b*, *c* or *d* and his income for the year did not exceed the amount in dollars referred to in that portion of section 752.0.1 before paragraph *a*, that is used by him in computing his deduction under that section.”

(2) Subsection 1 applies from the taxation year 1993.

c. 1-3,  
s. 11.3,  
added

**10.** (1) The said Act is amended by inserting, before Chapter III of Title II of Book I of Part I, the following section:

Continued  
corporation

**“11.3** Where a corporation is at any time, in this section referred to as the “time of continuation”, granted articles of continuance or similar constitutional documents, the corporation is

(a) for the purpose of applying this Part, other than section 11, in respect of all times from the time of continuation in a particular jurisdiction until the time of continuation in a different jurisdiction, deemed to have been incorporated in the particular jurisdiction and not to have been incorporated in the other jurisdiction; and

(b) for the purpose of applying section 11 in respect of all times from the time of continuation in a particular jurisdiction until the time of continuation in a different jurisdiction, deemed to have been incorporated in the particular jurisdiction at the time of continuation in that jurisdiction and not to have been incorporated in the other jurisdiction.”



## (2) Subsection 1 applies

(a) in respect of a corporation that has made a valid election with the Minister of National Revenue, under paragraph *a* of subsection 4 of section 111 of the Act to amend the Income Tax Act, the Income Tax Application Rules, the Canada Pension Plan, the Canada Business Corporations Act, the Excise Tax Act, the Unemployment Insurance Act and certain related Acts (Statutes of Canada, 1994, chapter 21), and has effect from the time referred to in that paragraph *a* at which the corporation was granted articles of continuance or other similar documents. In such a case, the corporation shall notify the Minister of Revenue in writing, with supporting evidence, that it has made a valid election under this paragraph and shall be deemed, for the purposes of the second paragraph of section 1056.8 of the Taxation Act, to have made an election under a provision of this Act;

(b) in respect of a corporation that was, after 31 December 1992, granted articles of continuance or other similar constitutional documents in a jurisdiction, except where such a corporation has made a valid election with the Minister of National Revenue under subparagraph iii of paragraph *b* of subsection 4 of section 111 referred to in paragraph *a*.

c. I-3,  
s. 16.2, am.

**11.** Section 16.2 of the said Act is amended by striking out paragraphs *c* and *d*.

c. I-3,  
s. 21.3, re-  
placed

**12.** (1) Section 21.3 of the said Act, replaced by section 55 of chapter 22 of the statutes of 1994, is again replaced by the following section:

Control  
deemed not  
to be ac-  
quired

**“21.3** Control of a particular corporation is deemed not to have been acquired solely because of

(a) the acquisition at any time of shares of any corporation by a person who acquired the shares from another person to whom the person was related, otherwise than because of a right referred to in paragraph *b* of section 20, immediately before that time, a person who was related to the particular corporation, otherwise than because of a right referred to in that paragraph *b*, immediately before that time, a succession that acquired the shares because of the death of a person, or a person who acquired the shares from a succession that arose on the death of another person to whom the person was related; or

(b) the cancellation or redemption at any time of shares of the particular corporation or of another corporation controlling the particular corporation, where the person or each member of the group of persons that controls the corporation immediately after that time was related to the corporation, otherwise than because of a right referred to in paragraph *b* of section 20, immediately before that time.”

(2) Subsection 1 applies in respect of acquisitions, cancellations or redemptions occurring after 31 December 1992.

c. I-3,  
s. 21.4.3,  
French  
text, am.

**13.** (1) Section 21.4.3 of the said Act is amended by replacing, in the French text, the words “un intérêt important” by the words “une participation importante”.

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

c. I-3,  
s. 21.6.1,  
am.

**14.** (1) Section 21.6.1 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) as part of a proposal to, or an arrangement with, its creditors that had been approved by a competent court under the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3),”.

(2) Subsection 1 has effect from 30 November 1992.

c. I-3,  
s. 21.12, am.

**15.** (1) Section 21.12 of the said Act is amended by replacing subparagraph *i* of paragraph *c* by the following subparagraph:

“i. as part of a proposal to, or an arrangement with, the creditors of the particular corporation that had been approved by a competent court under the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3);”.

(2) Subsection 1 has effect from 30 November 1992.

c. I-3,  
s. 21.28, am.

**16.** (1) Section 21.28 of the said Act is amended by replacing, in paragraph *a* of the definition of “qualified security”, the words “clause A or B of subparagraph *ii* of paragraph *g* of subsection 1 of section 89” by the words “subparagraph *i* or *ii* of paragraph *b* of the definition of “public corporation” in subsection 1 of section 89”.

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

c. I-3, s. 23,  
am.

**17.** (1) Section 23 of the said Act is amended, in the second paragraph, by replacing the portion before paragraph *b* by the following:

Taxable in-  
come of a  
resident

“The taxable income, for a taxation year, of an individual referred to in the first paragraph who was resident in Québec on that day is equal to the amount by which the aggregate of the following amounts exceeds such of the deductions allowed by Book IV as can reasonably be considered applicable to a period referred to in subparagraph *a* :

(*a*) the individual’s income for any period in the year throughout which the individual was resident in Canada, computed as if that period were a whole taxation year, and”.

(2) Subsection 1 applies from the taxation year 1992. However, it shall not apply to the taxation year 1992 of an individual who has made an election under subsection 2 of section 18.

c. I-3, s. 24,  
replaced

**18.** (1) Section 24 of the said Act is replaced by the following section :

Computa-  
tion of tax-  
able income

“**24.** The taxable income of an individual contemplated in section 22 for a taxation year is obtained by adding to his income for the year any addition provided for in Book IV and by subtracting from such income any deduction permitted by that Book, except if that individual was resident in Canada only during part of that taxation year. In the latter case, his taxable income shall be computed in the manner indicated in section 23, whether he is an individual who became resident in Canada during the year or an individual who ceased to be resident in Canada during the year.”

(2) Subsection 1 applies from the taxation year 1992. However, it shall not apply to the taxation year 1992 of an individual who so elects by notifying the Minister of Revenue in writing on or before 4 June 1996.

c. I-3, s. 38,  
am.

**19.** (1) Section 38 of the said Act, amended by section 12 of chapter 64 of the statutes of 1993, is again amended by replacing the third paragraph by the following paragraph :

Benefits  
not in-  
cluded

“Nor is he required to include therein the value of benefits under a retirement compensation arrangement, an employee benefit plan, an employee trust or a salary deferral arrangement, except in the last case to the extent that the value of benefits is included under section 37 by reason of section 47.11, the value of benefits

related to the use of an automobile or the value of benefits derived from counselling services received by him or a person related to him concerning stress management or the use or consumption of tobacco, drugs or alcohol, other than a benefit attributable to an outlay or expense to which section 134 applies, or counselling services concerning his re-employment or retirement.”

(2) Subsection 1 applies from the taxation year 1993. However, where the third paragraph of section 38 of the Taxation Act, enacted by subsection 1, applies in respect of counselling services paid or provided by an employer before 21 May 1993, it shall be read as follows:

Benefits  
not in-  
cluded

“Nor is he required to include therein the value of benefits under a retirement compensation arrangement, an employee benefit plan, an employee trust or a salary deferral arrangement, except in the last case to the extent that the value of benefits is included under section 37 by reason of section 47.11, the value of benefits related to the use of an automobile or the value of benefits derived from counselling services in respect of his mental or physical health or that of a person related to him, other than a benefit attributable to an outlay or expense to which section 134 applies, or his re-employment or retirement.”

c. I-3,  
s. 40.1, am.

**20.** (1) Section 40.1 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) where the individual both receives an allowance in respect of that use and is reimbursed in whole or in part for expenses in respect of that use, except where the reimbursement is in respect of supplementary business insurance or toll or ferry charges and the amount of the allowance was determined without reference to those reimbursed expenses.”

(2) Subsection 1 applies from the taxation year 1993.

c. I-3,  
s. 41.1, re-  
pealed

**21.** (1) Section 41.1 of the said Act is repealed.

(2) Subsection 1 applies from the taxation year 1993.

c. I-3,  
ss. 41.1.1,  
41.1.2,  
added

**22.** (1) The said Act is amended by inserting, before section 41.2, the following sections:

Benefit re-  
lated to the  
operation of  
an automo-  
bile

“**41.1.1** Where a reasonable amount corresponding to the value of the right of use of an automobile is determined under sections 41 to 41.0.2 in computing the income of an individual for a taxation year

from an office or employment and an amount is paid or payable by the individual's employer or by a person related to the individual's employer, each of whom is referred to in this section as the "payor", in respect of the operation, otherwise than in connection with or in the course of the individual's office or employment, of the automobile for the period or periods in the year during which the automobile was made available to the individual or a person related to the individual, the individual shall include, in computing his income for the year from an office or employment, the amount determined by the formula

$$A - B.$$

Interpreta-  
tion

For the purposes of the formula in the first paragraph,

(a) A is

i. where the automobile is used primarily in the performance of the duties of the individual during the period or periods referred to in the first paragraph and the individual notifies the employer in writing before the end of the year of the individual's intention to have this subparagraph apply, one-half of the reasonable amount corresponding to the value of the right of use determined in respect of the automobile under sections 41 to 41.0.2 in computing the individual's income for the year, and

ii. in any other case, the amount equal to the product obtained when the amount prescribed for the year is multiplied by the total number of kilometres that the automobile is driven, otherwise than in connection with or in the course of the individual's office or employment, during the period or periods referred to in the first paragraph; and

(b) B is the aggregate of all amounts in respect of the operation of the automobile in the year paid in the year or within 45 days after the end of the year to the payor by the individual or by the person related to the individual.

Exception

This section does not apply where the aggregate of all amounts each of which is an amount referred to in the first paragraph, paid or payable by the payor, is paid, in the year or within 45 days after the end of the year, to the payor by the individual or by the person related to the individual.

Benefit related to the operation of an automobile

**“41.1.2** An individual is required to include, in computing his income for a taxation year from an office or employment, the value of a benefit in respect of the operation of an automobile, other than a benefit to which section 41.1.1 applies or would apply but for the third paragraph thereof, received or enjoyed by the individual in the year in respect of, in the course of or because of, the individual’s office or employment.”

(2) Subsection 1 applies from the taxation year 1993.

c. I-3,  
s. 41.2, am.

**23.** Section 41.2 of the said Act, amended by section 61 of chapter 22 of the statutes of 1994 and by section 17 of chapter 1 of the statutes of 1995, is again amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) the amount included in the amount referred to in subparagraph *a* in respect of the property or service that may reasonably be attributed to tax levied under an Act of the legislature of a province that is a prescribed tax for the purposes of section 154 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).”

c. I-3,  
s. 41.2.1,  
am.

**24.** (1) Section 41.2.1 of the said Act, enacted by section 62 of chapter 22 of the statutes of 1994 and amended by section 18 of chapter 1 of the statutes of 1995, is again amended by replacing subparagraph *c* of the second paragraph by the following subparagraph:

“(c) a benefit described in section 37.0.1.1.”

(2) Subsection 1 applies from the taxation year 1993.

c. I-3,  
s. 41.2.2, re-  
pealed

**25.** (1) Section 41.2.2 of the said Act, enacted by section 62 of chapter 22 of the statutes of 1994, is repealed.

(2) Subsection 1 applies from the taxation year 1993.

c. I-3,  
s. 41.3, am.

**26.** (1) Section 41.3 of the said Act, replaced by section 63 of chapter 22 of the statutes of 1994, is amended by replacing the portion before paragraph *a* by the following:

Determina-  
tion of the  
cost of a  
property or  
service

**“41.3** To the extent that an amount required to be included, under section 37 or 41, in computing the income of an individual for a taxation year is determined by reference to the cost to a person of any property or service, that cost shall, for the purposes of those

sections, except where section 37 relates to a benefit referred to in section 37.0.1.1, be determined without reference to”.

(2) Subsection 1 applies from the taxation year 1993.

c. I-3,  
s. 41.4,  
added

**27.** (1) The said Act is amended by inserting, after section 41.3, the following section:

Parking  
cost

**“41.4** For the purposes of this Division, the value of a benefit in respect of the use of a motor vehicle by an individual does not include the value of a benefit related to the parking of the vehicle.”

(2) Subsection 1 applies from the taxation year 1993.

c. I-3,  
s. 47.6, am.

**28.** (1) Section 47.6 of the said Act, amended by section 18 of chapter 64 of the statutes of 1993, is again amended by replacing, in the second paragraph, the words “or a prescribed fund or plan” by the words “or a prescribed arrangement”.

(2) Subsection 1 has effect from 1 January 1980.

c. I-3,  
s. 49.5, am.

**29.** (1) Section 49.5 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

Exchange  
of shares of  
Canadian  
corpora-  
tions

**“49.5** For the purposes of this Division and section 725.3, where a taxpayer disposes of or exchanges shares of a Canadian corporation that were acquired by the taxpayer under an agreement referred to in section 49.2, in this section referred to as the “exchanged shares”, the taxpayer receives no consideration for the disposition or exchange of the exchanged shares other than shares, in this section referred to as the “new shares”, of any of the corporations described in the second paragraph, and the total value of the new shares immediately after the disposition or exchange does not exceed the total value of the exchanged shares immediately before the disposition or exchange, the following rules apply:”.

(2) Subsection 1 applies from the taxation year 1992.

c. I-3,  
s. 70.1,  
added

**30.** (1) The said Act is amended by inserting, after section 70, the following section:

Profit shar-  
ing plan

**“70.1** An individual may deduct the amount that is deductible in computing his income for the year by reason of section 864.”

(2) Subsection 1 applies from the taxation year 1992.

c. I-3, s. 86,  
am.

**31.** (1) Section 86 of the said Act is amended by replacing subsection 2 by the following subsection:

Reference  
to a tax-  
ation year

“(2) Where an individual’s income for a taxation year includes income from a business the fiscal period of which does not coincide with the calendar year, any reference in respect of the business to the taxation year or the year shall, in this Title and in sections 487 to 487.0.4, be read as a reference to the fiscal period ending in the year, unless the context otherwise requires.”

(2) Subsection 1 applies from the taxation year 1988.

c. I-3, s. 87,  
am.

**32.** (1) Section 87 of the said Act, amended by section 64 of chapter 22 of the statutes of 1994 and by section 21 of chapter 1 of the statutes of 1995, is again amended

(1) by replacing, in the French text of paragraphs *i* and *i.1*, the words “mauvaises créances” by the words “créances irrécouvrables”;

(2) by replacing the portion of paragraph *n* before subparagraph *i* by the following:

income  
from a trust

“(n) any amount he must include in computing his income for the year under Title XII or section 1121.1, except”.

(2) Paragraph 1 of subsection 1 applies to taxation years ending after 30 November 1991.

(3) Paragraph 2 of subsection 1 applies from the taxation year 1988.

c. I-3, s. 92,  
am.

**33.** (1) Section 92 of the said Act, amended by section 66 of chapter 22 of the statutes 1994, is again amended by replacing the second paragraph by the following paragraph:

Exception

“However, the first paragraph does not apply to interest accrued, received or that became receivable in respect of a net income stabilization account, an income bond, an income debenture, a small business bond, an indexed debt obligation or a development bond.”

(2) Subsection 1 applies in respect of debt obligations issued after 16 October 1991.



c. I-3,  
s. 92.7, am.

**34.** (1) Section 92.7 of the said Act, amended by section 69 of chapter 22 of the statutes of 1994, is again amended by striking out the word “and” at the end of subparagraph viii.1 of paragraph *a* and by inserting thereafter the following subparagraph:

“viii.2 an indexed debt obligation, and”.

(2) Subsection 1 applies in respect of debt obligations issued after 16 October 1991.

c. I-3,  
s. 93.7, am.

**35.** (1) Section 93.7 of the said Act is amended by replacing, in subparagraph *f* of the first paragraph, the words “clause A of subparagraph ii of paragraph *g* of subsection 1 of section 89” by the words “subparagraph i of paragraph *b* of the definition of “public corporation” in subsection 1 of section 89”, and the words “clause B of the said subparagraph ii” by the words “subparagraph ii of that paragraph *b*”.

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

c. I-3,  
s. 93.13,  
added

**36.** (1) The said Act is amended by inserting, after section 93.12, the following section:

Consider-  
ation for de-  
preciable  
property

**“93.13** Where a person acquires a depreciable property for consideration that can reasonably be considered to include another property, the portion of the cost to the person of the depreciable property attributable to the other property is deemed not to exceed the fair market value of that other property.”

(2) Subsection 1 applies in respect of property acquired after 30 November 1992.

c. I-3, s. 99,  
am.

**37.** (1) Section 99 of the said Act, amended by section 73 of chapter 22 of the statutes of 1994, is again amended

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

Rules appli-  
cable

**“99.** Subject to section 450.10, for the purposes of this Division, Chapter III, sections 64 and 78.4 and any regulations made under paragraph *a* of section 130, the following rules apply:”;

(2) by replacing the portion of paragraph *d.1* before subparagraph i by the following:

depreciable  
property of  
a pre-  
scribed  
class

“(d.1) notwithstanding any other provision of this Part except section 450.10, where at any time a particular person or partnership has, in any manner whatever, acquired, otherwise than as a consequence of the death of the transferor, a depreciable property of a prescribed class, other than a timber resource property or a passenger vehicle in respect of which paragraph *d.3* or *d.4* or section 525.1 applies, from a transferor being a person or partnership with whom the particular person or partnership did not deal at arm’s length and the property was, immediately before the transfer, a capital property of the transferor, the following rules apply:”.

(2) Subsection 1 has effect from 1 January 1993. However, where the portion of section 99 of the Taxation Act before paragraph *a*, enacted by paragraph 1 of subsection 1, applies before 17 June 1994, it shall be read as follows:

Rules appli-  
cable

“**99.** Subject to section 450.10, for the purposes of this Division, sections 64, 78.4, 130.1, 142 and 149 and any regulations made under paragraph *a* of section 130, the following rules apply:”.

c. 1-3,  
s. 105.1,  
added

**38.** (1) The said Act is amended by inserting, after section 105, the following section:

Deemed  
residence in  
Canada

“**105.1** For the purposes of paragraph *a* of section 105, where an individual was resident in Canada at any time in a taxation year and throughout the preceding taxation year or the following taxation year, he is deemed to have been resident in Canada throughout the year.”

(2) Subsection 1 applies from the taxation year 1988.

c. 1-3,  
s. 112, am.

**39.** (1) Section 112 of the said Act, replaced by section 77 of chapter 22 of the statutes of 1994, is amended by replacing the second paragraph by the following paragraph:

Identical  
shares and  
rights

“For the purposes of subparagraph *c* of the first paragraph,

(*a*) where the voting rights attached to a particular class of common shares of the capital stock of a corporation differ from the voting rights attached to another class of common shares of the capital stock of the corporation and there are no other differences between the terms and conditions of the classes of shares that could cause the fair market value of a share of the particular class to differ materially from the fair market value of a share of the other class, the common shares of the particular class are deemed to be identical to those of the other class; and

(b) rights are not considered identical if the cost of acquiring the rights differs.”

(2) Subsection 1 applies in respect of benefits conferred after 19 December 1991.

c. I-3,  
s. 112.2, am.

**40.** Section 112.2 of the said Act, replaced by section 78 of chapter 22 of the statutes of 1994 and by section 23 of chapter 1 of the statutes of 1995, is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) the amount included in the amount referred to in subparagraph *a* in respect of the property or service, that may reasonably be attributed to tax levied under an Act of the legislature of a province that is a prescribed tax for the purposes of section 154 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).”

c. I-3,  
s. 117, re-  
placed

**41.** (1) Section 117 of the said Act is replaced by the following section:

Automobile  
benefit

**“117.** If a corporation has made, in the year, an automobile available to a shareholder, or a person related to the shareholder, the value of the benefit to be included in computing the income of the shareholder for the year under section 111 is, except when an amount has been included in computing the shareholder’s income under section 41 in respect of the automobile, computed on the assumption that Divisions I and II of Chapter II of Title II apply in respect of that benefit, with such modifications as the circumstances require, and as though the references therein to “the employer”, “an employer” or “his employer” were read as references to “the corporation”.”

(2) Subsection 1 applies from the taxation year 1993.

c. I-3,  
s. 119.2, am.

**42.** (1) Section 119.2 of the said Act, replaced by section 83 of chapter 22 of the statutes of 1994, is amended by replacing, in the definition of “qualifying debt obligation”, the portion before paragraph *a* by the following:

“qualifying  
debt obliga-  
tion”

““qualifying debt obligation” of a corporation at a particular time means an obligation that is a bond, debenture, bill, note, hypothec, mortgage or similar obligation issued between 25 February 1992 and 1 January 1995 and not more than five years before the particular time, the principal amount of which is not less than \$10,000 nor more than \$500,000, that is issued for a term of not more

than five years and, except in the event of a failure or default under the terms or conditions of the obligation, not less than one year, if the obligation is issued by the corporation”.

(2) Subsection 1 applies in respect of obligations issued after 31 December 1992. In addition, for the purposes of the definition of “development bond” in section 119.2 of the Taxation Act, a joint election made after 31 December 1992 and on or before 6 March 1996 in respect of an obligation issued after 31 December 1992 and before 1 January 1995 shall be deemed to have been made within 90 days after the day the obligation was issued.

c. I-3,  
s. 119.15,  
am.

**43.** (1) Section 119.15 of the said Act, replaced by section 90 of chapter 22 of the statutes of 1994, is amended by replacing, in the definition of “qualifying debt obligation”, the portion before paragraph *a* by the following:

“qualifying  
debt obliga-  
tion”

“ “qualifying debt obligation” of an individual or a partnership at a particular time means an obligation that is a bill, note, hypothec, mortgage or similar obligation issued between 25 February 1992 and 1 January 1995 and not more than five years before the particular time, the principal amount of which is not less than \$10,000 nor more than \$500,000, that is issued for a term of not more than five years and, except in the event of a failure or default under the terms or conditions of the obligation, not less than one year, if the proceeds from the issue of the obligation are used in Canada in a business the individual or partnership carried on immediately before the time of issue, and if the obligation is issued by the individual or partnership”.

(2) Subsection 1 applies in respect of obligations issued after 31 December 1992. In addition, for the purposes of the definition of “small business bond” in section 119.15 of the Taxation Act, a joint election made after 31 December 1992 and on or before 6 March 1996 in respect of an obligation issued after 31 December 1992 and before 1 January 1995 shall be deemed to have been made within 90 days after the day the obligation was issued.

c. I-3,  
s. 123, am.

**44.** (1) Section 123 of the said Act, amended by section 94 of chapter 22 of the statutes of 1994, is again amended by replacing the portion before paragraph *a* by the following:

Bond issued  
at discount

**“123.** Where a bond is issued at a discount, the first owner of the bond who is resident in Canada, who is not a person exempt, because of sections 980 to 998, from tax on part or on all of the

person's taxable income and of whom the bond is a capital property shall include, in computing his income for the taxation year in which he has become the owner of the bond, the amount by which the principal amount of the bond exceeds the amount for which the bond was issued,".

(2) Subsection 1 applies from the taxation year 1990.

*c. 1-3,  
s. 135.1, re-  
placed*

**45.** (1) Section 135.1 of the said Act is replaced by the following section:

*Employee  
benefit plan*

**"135.1** Paragraph *c* of section 135 does not apply in respect of a contribution made to an employee benefit plan, to the extent that

(a) the contribution

i. is made in respect of services performed by an employee who is not resident in Canada and is regularly employed in a country other than Canada, and

ii. cannot reasonably be regarded as having been made in respect of services performed or to be performed during a period when the employee is resident in Canada;

(b) when the custodian of the plan is not resident in Canada, the contribution

i. is made in respect of an employee who is not resident in Canada at the time the contribution is made, and

ii. cannot reasonably be regarded as having been made in respect of services performed or to be performed during a period when the employee is resident in Canada; or

(c) when the custodian of the plan is not resident in Canada, the contribution can reasonably be regarded as having been made in respect of services performed by an employee during a particular month, if the employee

i. was resident in Canada throughout no more than 60 of the 72 calendar months ending with the particular month, and

ii. became a member of the plan before the end of the month after the month in which he became resident in Canada.

Interpreta-  
tion

For the purposes of subparagraph *c* of the first paragraph, where the benefits provided in respect of an employee under a particular employee benefit plan are replaced by the benefits provided under another employee benefit plan, the other plan is deemed, in respect of the employee, to be the same plan as the particular plan.”

(2) Subsection 1 applies in respect of contributions made after 31 December 1992.

c. 1-3,  
s. 157, am.

**46.** (1) Section 157 of the said Act, amended by section 105 of chapter 22 of the statutes of 1994, is again amended

(1) by replacing paragraph *h.2* by the following paragraph:

disability-  
specific de-  
vice or  
equipment

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

(2) by replacing, in the French text of paragraph *n*, the words “hydrocarbures apparentés” by the words “hydrocarbures connexes”.

(2) Paragraph 1 of subsection 1 applies in respect of amounts paid after 25 February 1992.

(3) Paragraph 2 of subsection 1 applies to taxation years ending after 30 November 1991.

c. 1-3,  
s. 157.2.1,  
replaced

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

Outlay or  
expense

**“157.2.1** For the purposes of subparagraph ii of paragraph *o* of section 157, an outlay or expense does not include an outlay or expense that is in respect of the cost of property of the taxpayer or that is deductible under Divisions II to IV.1 of Chapter X of Title VI, except sections 360 and 361, or would be deductible if the amount so deductible by the taxpayer were not limited by reason of section 374 or 400, subparagraph ii of subparagraph *a* of the first paragraph of section 413 or subparagraph ii of paragraph *a* of section 418.7.”

(2) Subsection 1 applies to taxation years ending after 2 December 1992.

c. 1-3,  
s. 165.1, am.

**48.** Section 165.1 of the said Act is amended by replacing the portion before paragraph *a* by the following:

Cases  
where the  
taxpayer is  
a member  
of a part-  
nership

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

c. 1-3,  
s. 175.1.1,  
French  
text, am.

**49.** Section 175.1.1 of the said Act is amended, in the French text of the first paragraph,

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

Paiements  
pour  
réduction  
de taux  
d'intérêt ou  
à titre de  
pénalité ou  
de prime  
pour  
rembour-  
sement  
anticipé  
d'une dette

**“175.1.1** Lorsque, à un moment quelconque, un paiement est fait à une personne ou à une société par un contribuable dans le cadre de l'exploitation d'une entreprise ou relativement à un bien dont il tire un revenu, à l'égard d'un emprunt ou d'un montant à payer pour un bien acquis par lui, appelé « dette obligataire » dans le présent article, en contrepartie d'une réduction du taux d'intérêt qu'il doit payer sur la dette obligataire ou à titre de pénalité ou de prime qu'il doit payer en raison du remboursement par lui, avant échéance, de la totalité ou d'une partie du principal de la dette obligataire, le paiement, dans la mesure où l'on peut raisonnablement considérer qu'il se rapporte à un montant qui, si ce n'était de la réduction ou du remboursement, serait payé ou à payer par le contribuable à titre d'intérêt sur la dette obligataire pour une année d'imposition du contribuable qui se termine après ce moment, et dans la mesure où il n'excède pas la valeur à ce moment de ce montant, est réputé:

*a)* pour l'application de la présente partie, avoir été payé par le contribuable et reçu par la personne ou société à ce moment à titre d'intérêt sur la dette obligataire;

*b)* aux fins de calculer le revenu du contribuable à l'égard de l'entreprise ou du bien pour l'année, être payé ou à payer par le contribuable dans cette année à titre d'intérêt conformément à une obligation juridique de payer des intérêts.”;

(2) by replacing subparagraphs 1 and 2 of subparagraph ii of subparagraph *b* by the following subparagraphs:

“1° qui constitue un emprunt, sur l’emprunt utilisé dans l’année pour les fins auxquelles cet emprunt qui a été remboursé a été utilisé, sauf dans la mesure où l’emprunt a été utilisé par le contribuable pour acquérir un bien;

“2° qui constitue soit un emprunt utilisé pour acquérir un bien, soit un montant à payer pour un bien acquis par le contribuable, sur la dette obligataire dans la mesure où le bien ou un bien y substitué est utilisé par le contribuable dans l’année aux fins d’en tirer un revenu ou aux fins de gagner ou produire un revenu provenant d’une entreprise.”

c. 1-3,  
s. 175.2, am.

**50.** (1) Section 175.2 of the said Act, amended by section 113 of chapter 22 of the statutes of 1994, is again amended

(1) by replacing, in the French text, the portion before paragraph *a* by the following:

Montant  
non  
déductible

“**175.2** Malgré toute autre disposition de la présente partie, un contribuable ne peut déduire, dans le calcul de son revenu pour une année d’imposition, un montant en vertu des articles 147, 160, 163, 176, 176.4 ou 179 à l’égard d’un emprunt, ou d’un autre bien acquis par lui, relativement à une période après laquelle il utilise l’emprunt ou l’autre bien pour:”;

(2) by adding, after paragraph *d.1*, the following paragraph:

“(d.2) paying an amount to any account under a provincial pension plan prescribed by regulation for the purposes of paragraph *v* of section 60 of the Income Tax Act.”

(2) Paragraph 2 of subsection 1 applies from the taxation year 1993.

c. 1-3,  
ss. 175.2.2 -  
175.2.7,  
added

**51.** (1) The said Act is amended by inserting, after section 175.2.1, the following sections:

Borrowed  
money used  
to earn in-  
come from  
property

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



the excess, to the extent that it is outstanding after that time, is deemed to be borrowed money used by the taxpayer for the purpose of earning income from the property.

Interpreta-  
tion

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

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

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

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

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

Borrowed  
money used  
to earn in-  
come from a  
business

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

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

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

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

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

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

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

Deemed  
dispositions

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

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

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

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

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

(c) where the taxpayer is a trust, sections 653 to 656.3 do not apply.

Amount  
payable for  
property

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

Interest in  
a partner-  
ship

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

Refinancings

**“175.2.7** Where at any time a taxpayer uses borrowed money to repay money previously borrowed that was deemed by paragraph c of section 175.2.3 immediately before that time to be used for the purpose of earning income from a business, the following rules apply:

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

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

(2) Subsection 1 has effect from 1 January 1994.

c. I-3, Part  
I, Book III,  
Title III,  
Chap. III,  
Div. XIII,  
heading, re-  
placed

**52.** The heading of Division XIII of Chapter III of Title III of Book III of Part I of the said Act is replaced, in the English text, by the following heading:

“BORROWINGS”.

c. I-3,  
s. 176, re-  
placed

**53.** (1) Section 176 of the said Act is replaced by the following section:

Expenses  
re financing

**“176.** Subject to section 176.1, a taxpayer may deduct such part of an amount that is not otherwise deductible in computing the income of the taxpayer and that is an expense incurred by the taxpayer in the year or a preceding taxation year

(a) in the course of a borrowing of money used by the taxpayer for the purpose of earning income from a business or property, other than money used by the taxpayer for the purpose of acquiring property the income from which is exempt from tax;

(b) in the course of incurring indebtedness that is an amount payable for property acquired for the purpose of earning income therefrom or for the purpose of earning income from a business, other than property the income from which would be exempt from tax or property that is an interest in a life insurance policy; or

(c) in the course of a rescheduling or restructuring of a debt obligation of the taxpayer or an assumption of a debt obligation by the taxpayer, where

(1) the debt obligation is in respect of a borrowing described in paragraph *a* or in respect of an amount payable described in paragraph *b*, and

(2) in the case of a rescheduling or restructuring, the rescheduling or restructuring, as the case may be, provides for the modification of the terms or conditions of the debt obligation or the substitution or conversion of the debt obligation with or to another debt obligation or a share.

Restriction

The taxpayer may not, however, deduct any amount that is a payment described in the first paragraph of section 175.1.1 or any amount paid or payable as or on account of the principal amount of the indebtedness or as or on account of interest.”

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

c. 1-3,  
s. 176.2, am.

**54.** (1) Section 176.2 of the said Act is amended by replacing the first paragraph by the following paragraph:

Extinction  
of a debt  
obligation

**“176.2** For the purposes of sections 176, 176.1 and 176.3, where in a taxation year all debt obligations in respect of a borrowing of money described in subparagraph *a* of the first paragraph of section 176 or in respect of an amount payable described in subparagraph *b* of that first paragraph are settled or extinguished by the taxpayer, otherwise than in a transaction made as part of a series of borrowings or other transactions and repayments, for consideration that does not include any property described in the second paragraph, of the taxpayer or any person with whom the taxpayer does not deal at arm’s length or any partnership or trust of which the taxpayer or any person with whom the taxpayer does not deal at arm’s length is a member or beneficiary, section 176.1 shall be read without reference to the words “the lesser of” and to paragraph *a*.”

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

c. 1-3,  
s. 176.4, re-  
placed

**55.** (1) Section 176.4 of the said Act is replaced by the following section:

Premiums  
on life in-  
surance  
used as  
collateral

**“176.4** A taxpayer may deduct an amount payable by him, other than an amount referred to in section 176.5, as a registrar fee, transfer agent fee, standby charge, guarantee fee, filing fee, service fee or any similar fee, that may reasonably be considered to relate solely to the year and that is incurred by the taxpayer

(a) in the course of a borrowing of money to be used by the taxpayer for the purpose of earning income from a business or property, other than money used by the taxpayer for the purpose of acquiring property the income from which is exempt from tax;

(b) in the course of incurring indebtedness that is an amount payable for property acquired for the purpose of earning income therefrom or for the purpose of earning income from a business, other than property the income from which is exempt from tax or property that is an interest in a life insurance policy; or

(c) in the course of rescheduling or restructuring a debt obligation of the taxpayer or an assumption of a debt obligation by the taxpayer, where

(1) the debt obligation is in respect of a borrowing described in paragraph *a*, or in respect of an amount payable described in paragraph *b*, and

(2) in the case of a rescheduling or restructuring, the rescheduling or restructuring, as the case may be, provides for the modification of the terms or conditions of the debt obligation or the substitution or conversion of the debt obligation with or to another debt obligation or a share.”

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

c. I-3,  
s. 176.6, am.

**56.** Section 176.6 of the said Act is amended

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

Premium  
payable on  
a life insur-  
ance policy  
assigned as  
collateral  
for a bor-  
rowing

**“176.6** A taxpayer may deduct such portion of the lesser of the following amounts as may reasonably be considered to relate to the amount owing from time to time during the year by the taxpayer to a restricted financial institution under a borrowing from the institution:”;

(2) by replacing subparagraph *i* of paragraph *a* by the following subparagraph:

“i. an interest in the policy is assigned to the restricted financial institution in the course of the borrowing;”;

(3) by replacing, in the French text, subparagraphs ii and iii of paragraph *a* by the following subparagraphs:

“ii. l’intérêt à payer à l’égard du prêt est ou serait, en l’absence des articles 135.4, 164, 180 à 182 et 194 à 197, admissible en déduction dans le calcul du revenu du contribuable pour l’année;

“iii. la cession visée au sous-paragraphe i est exigée par l’institution financière véritable à titre de garantie sur le prêt;”.

c. I-3,  
s. 183, re-  
placed

**57.** (1) Section 183 of the said Act is replaced by the following section:

Borrowed  
money used  
to repay  
money pre-  
viously bor-  
rowed

“**183.** Subject to section 175.2.7, borrowed money used by a taxpayer to repay money previously borrowed or to pay an amount payable for property referred to in paragraph *b* of section 160 or 161 and previously acquired is deemed, for the purposes of this Division and sections 160, 175.2.2 and 175.2.3, to be used for the purposes for which the money previously borrowed was used or was deemed, under this section, to have been used, or to acquire property in respect of which the amount was so payable, as the case may be.”

(2) Subsection 1 applies in respect of expenses incurred after 31 December 1993.

c. I-3,  
s. 238, am.

**58.** (1) Section 238 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) is a deemed disposition under section 242 as it read before 1 January 1993, or any of sections 281, 283, 299 to 300, 436, 440, 444, 450, 450.6, 653, 785.1, 785.2, 832.1, 861, 862 and 999.1;”.

(2) Subsection 1 has effect

(a) from the time referred to in paragraph *a* of subsection 2 of section 10, in respect of a corporation that is deemed, under that paragraph *a*, to have made an election;

(b) from 1 January 1993, in all other cases.

c. I-3,  
s. 241.0.1,  
am.

**59.** (1) Section 241.0.1 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) the amount, if any, by which the amount of prescribed assistance that the taxpayer, or a person with whom the taxpayer was not dealing at arm’s length, received or is entitled to receive in respect of the share exceeds any loss otherwise determined from the disposition of the share or of the property substituted for the share before the particular time by the taxpayer or the person.”

(2) Subsection 1 applies from the taxation year 1991.

c. I-3,  
ss. 242 -  
247.1, re-  
pealed

**60.** (1) Sections 242 to 247.1 of the said Act are repealed.

(2) Subsection 1 has effect

(a) from the time referred to in paragraph *a* of subsection 2 of section 10, in respect of a corporation that is deemed, under that paragraph *a*, to have made an election;

(b) from 1 January 1993, in all other cases.

c. I-3,  
s. 255, am.

**61.** (1) Section 255 of the said Act, amended by section 123 of chapter 22 of the statutes of 1994, is again amended by replacing subparagraph iii of paragraph *l* by the following subparagraph:

“iii. does not exceed the aggregate of the following amounts, to the extent that those amounts are included in computing the loss:

(1) taxes, other than income or profits taxes or taxes imposed by reference to the transfer of the property, paid by the taxpayer in that year or payable by the taxpayer in respect of that year to a province or a Canadian municipality in respect of the property, and

(2) interest, paid by the taxpayer in that year or payable by the taxpayer in respect of that year, pursuant to a legal obligation to pay interest on borrowed money used to acquire the property or on any amount as consideration payable for the property;”.

(2) Subsection 1 applies from the taxation year 1988.

c. I-3,  
s. 264.1, am.

**62.** (1) Section 264.1 of the said Act is amended by replacing the words “paragraph *b* of subsection 6 of section 127.2” by the words “subsection 6 of section 127.2”.

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

c. I-3,  
s. 264.2, am. **63.** (1) Section 264.2 of the said Act is amended by replacing the words “paragraph *b* of subsection 2 of section 127.3” by the words “subsection 2 of section 127.3”.

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

c. I-3,  
s. 264.4, am. **64.** (1) Section 264.4 of the said Act is amended by adding the following paragraph:

Intangible  
property “However, where a particular amount was included under subparagraph ii of paragraph *a* of section 105 in computing the individual’s income for a taxation year that ended after 31 December 1987 and before 1 January 1990, the reference in subparagraph ii of subparagraph *b* of the first paragraph to “ $\frac{3}{2}$ ” shall, in respect of that portion of any amount deducted under Title VI.5 of Book IV in respect of the particular amount, be read as “ $\frac{4}{3}$ ”.”

(2) Subsection 1 applies from the taxation year 1988.

c. I-3,  
s. 264.5, am. **65.** (1) Section 264.5 of the said Act is amended by adding the following paragraph:

Intangible  
property “However, where a particular amount was included under subparagraph ii of paragraph *a* of section 105 in computing the trust’s income for a taxation year that ended after 31 December 1987 and before 1 January 1990, the reference in subparagraph ii of subparagraph *b* of the first paragraph to “ $\frac{3}{2}$ ” shall, in respect of that portion of any amount deducted under Title VI.5 of Book IV in respect of the particular amount, be read as “ $\frac{4}{3}$ ”.”

(2) Subsection 1 applies from the taxation year 1988.

c. I-3,  
s. 277.1, am. **66.** (1) Section 277.1 of the said Act, enacted by section 134 of chapter 22 of the statutes of 1994, is amended by replacing the portion before paragraph *a* by the following:

Disposition  
of a remain-  
der interest  
in immov-  
able prop-  
erty **“277.1** Notwithstanding any other provision of this Act, where at any time a taxpayer disposes of a remainder interest in immovable property, except as a result of a transaction to which section 459 would otherwise apply or by way of a gift to a donee described in the definition of “total charitable gifts” or “total Crown gifts” in section 752.0.10.1, to a person or partnership and retains a life estate



or an estate *pur autre vie*, in this Division called the “life estate”, in the property, the taxpayer is deemed”.

(2) Subsection 1 applies in respect of dispositions occurring after 20 December 1991.

c. I-3,  
s. 280, am.

**67.** (1) Section 280 of the said Act is amended by replacing paragraph *d* by the following paragraph:

“(d) the time at which the taxpayer is deemed, under sections 433 to 451 or paragraph *b* of section 785.2, to have disposed of the property; and”.

(2) Subsection 1 has effect

(a) from the time referred to in paragraph *a* of subsection 2 of section 10, in respect of a corporation that is deemed, under that paragraph *a*, to have made an election;

(b) from 1 January 1993, in all other cases.

c. I-3,  
s. 280.3, re-  
placed

**68.** (1) Section 280.3 of the said Act is replaced by the following section:

Deemed  
proceeds of  
disposition

**“280.3** For the purposes of this Title, where a taxpayer has disposed of a former business property that was in part a building and in part the land, or an interest therein, subjacent to, or immediately contiguous to and necessary for the use of, the building, the amount by which the proceeds of disposition of one such part determined without regard to this section exceed the adjusted cost base to the taxpayer of that part is, to the extent that the taxpayer so elects in his fiscal return filed under this Part for the year in which he acquired a replacement property for the former business property, deemed not to be proceeds of disposition of that part and to be proceeds of disposition of the other part.”

(2) Subsection 1 applies in respect of dispositions occurring after 21 December 1992.

c. I-3,  
s. 284, re-  
placed

**69.** (1) Section 284 of the said Act is replaced by the following section:

Election on  
change of  
use of prop-  
erty

**“284.** For the purposes of this Title and sections 93 to 104, where section 281, to the extent that it concerns property that commences to be used to gain income, or paragraph *b* of section 99 would otherwise apply for a taxation year in respect of any property

of a taxpayer, the taxpayer is deemed not to have begun to use the property for the purpose of gaining income if he so elects in respect of the property in his fiscal return for the year under this Part.

Rescinded  
election

However, if in his fiscal return under this Part for a subsequent taxation year the taxpayer rescinds his election in respect of the property, the taxpayer is deemed to have begun to so use the property on the first day of that subsequent year.”

(2) Subsection 1 applies from the taxation year 1992.

c. I-3,  
s. 301, am.

**70.** (1) Section 301 of the said Act is amended

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

Convertible  
property

**“301.** Where a share of the capital stock of a corporation is acquired by a taxpayer in exchange for a capital property of the taxpayer that is another share of the corporation or a capital property of the taxpayer that is a bond, debenture or note of the corporation which confers on the holder the right to make the exchange and no consideration other than that share is received by the taxpayer, the following rules apply:

(*a*) except for the purposes of section 157.6, the exchange is deemed not to be a disposition of property;”;

(2) by adding, after paragraph *c*, the following paragraph:

**“(d)** where the exchanged capital property is taxable Canadian property of the taxpayer, the share acquired by the taxpayer on the exchange is also deemed to be taxable Canadian property of the taxpayer.”

(2) Subsection 1 applies in respect of exchanges occurring after 21 December 1992 and reorganizations beginning after that date.

c. I-3,  
s. 301.2,  
added

**71.** (1) The said Act is amended by inserting, after section 301.1, the following section:

Application  
of sections  
301 and  
301.1

**“301.2** Sections 301 and 301.1 do not apply in respect of an exchange to which section 518, 529 or 541 applies.”

(2) Subsection 1 applies in respect of exchanges occurring after 21 December 1992 and reorganizations beginning after that date.

c. 1-3,  
s. 306.2,  
added

**72.** (1) The said Act is amended by inserting, after section 306.1, the following section :

Cost of  
shares on  
immigra-  
tion to  
Canada

**“306.2** Notwithstanding any other provision of this Part, where at any particular time a corporation becomes resident in Canada, the cost to any shareholder that is not at that time resident in Canada of any share of the capital stock of the corporation is deemed to be equal to the lesser of that cost otherwise determined and the paid-up capital in respect of the share immediately after that time.”

(2) Subsection 1 applies in respect of dispositions occurring after 31 December 1992.

c. 1-3,  
s. 308.3.1,  
added

**73.** (1) The said Act is amended by inserting, after section 308.3, the following section :

Application  
of section  
308.1

**“308.3.1** Notwithstanding section 308.3, section 308.1 applies to a dividend received by a corporation where the dividend is received as part of a series of transactions or events in which

(a) a person who is resident in a country other than Canada or a partnership any member of which is resident in a country other than Canada, such person or partnership being referred to in this section as the “foreign vendor”, disposes of property that is

i. a share of the capital stock of the particular corporation referred to in section 308.3 or of a transferee corporation in relation to the particular corporation that is taxable Canadian property of the foreign vendor or, where the foreign vendor is a partnership, would be taxable Canadian property of the foreign vendor if the foreign vendor were not resident in Canada, or

ii. property the fair market value of which, at any time during the course of the series of transactions or events, is derived principally from one or more shares which, if owned by the foreign vendor, would be shares described in subparagraph i; and

(b) the property disposed of by the foreign vendor or any other property acquired by any person or partnership in substitution for it is acquired by a person, other than the particular corporation, or partnership that, at any time during the course of the series of transactions or events, deals at arm’s length with the foreign vendor.”

(2) Subsection 1 applies in respect of dividends received after 4 May 1993, other than a dividend received as part of a series of transactions or events in which a foreign vendor was obliged on

4 May 1993 to dispose of property described in paragraph *a* of section 308.3.1 of the Taxation Act, enacted by subsection 1, under a written agreement entered into before 5 May 1993.

c. I-3,  
s. 310, re-  
placed

**74.** (1) Section 310 of the said Act, replaced by section 26 of chapter 64 of the statutes of 1993 and by section 138 of chapter 22 of the statutes of 1994, is again replaced by the following section:

Amounts in  
respect of  
an R.R.S.P.  
or R.R.I.F.

**“310.** The amounts a taxpayer is required to include in computing his income under section 309 include those in respect of a registered retirement savings plan or a registered retirement income fund, to the extent provided in Title IV of Book VII, and those provided for in sections 900, 935.4 to 935.6, 935.9, 935.10.1, 965.20, 965.49, 965.50, 968 and 968.1.”

(2) Subsection 1 applies from the taxation year 1993. However, for the period preceding 17 December 1993, section 310 of the Taxation Act, enacted by subsection 1, shall be read without reference to “900,”.

c. I-3,  
s. 311, am.

**75.** (1) Section 311 of the said Act is amended by replacing paragraphs *e* and *e.1* by the following paragraphs:

“(e) a prescribed benefit paid under a government assistance program, except to the extent otherwise required to be included in the taxpayer’s income;

“(e.1) a benefit paid under the Program for Older Worker Adjustment according to the terms of the agreement made following the approval obtained under Order in Council 1396-88 dated 14 September 1988;”.

(2) Subsection 1 applies in respect of benefits received after 31 October 1991.

c. I-3,  
s. 312, am.

**76.** (1) Section 312 of the said Act, amended by section 27 of chapter 64 of the statutes of 1993, by section 139 of chapter 22 of the statutes of 1994 and by section 32 of chapter 1 of the statutes of 1995, is again amended

(1) by striking out, in the French text of paragraphs *a*, *b.0.1* and *b.2*, the words “d’un arrêt,”;

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

annuity  
payment

“(c.2) any amount received out of or under, or as proceeds of disposition of, an annuity where the payment made for the acquisition of the annuity was deductible in computing the taxpayer’s income by virtue of paragraph *f* of section 339 or by virtue of section 923.3, as it read immediately before its repeal, or was made in circumstances to which subsection 21 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applied;”.

(2) Paragraph 1 of subsection 1 applies to taxation years ending after 30 November 1991. However, where paragraph 1 of subsection 1 refers to paragraph *b.0.1* of section 312 of the Taxation Act, it shall not apply before the taxation year 1993.

(3) Paragraph 2 of subsection 1 applies from the taxation year 1992.

c. 1-3,  
s. 316, re-  
placed

**77.** (1) Section 316 of the said Act, replaced by section 35 of chapter 1 of the statutes of 1995, is again replaced by the following section:

Transfer or  
assignment  
of rights to  
certain  
amounts

**“316.** A taxpayer who assigned or transferred before the end of a taxation year to a person with whom the taxpayer was not dealing at arm’s length at that time the right to an amount that would otherwise be included in computing the taxpayer’s income for the year shall include in computing the taxpayer’s income for that year the part of that amount that relates to the period in the year throughout which he was resident in Canada, unless the income is from property that the taxpayer also assigned or transferred or from the portion of a retirement pension partitioned under sections 158.3 to 158.8 of the Act respecting the Québec Pension Plan (chapter R-9) or any comparable provision of a similar plan, within the meaning of that Act.”

(2) Subsection 1 applies from the taxation year 1992. However, where section 316 of the Taxation Act, enacted by subsection 1, applies before 1 January 1994, it shall be read as follows:

Transfer or  
assignment  
of rights to  
certain  
amounts

**“316.** A taxpayer who assigned or transferred before the end of a taxation year to a person with whom the taxpayer was not dealing at arm’s length at that time the right to an amount that would otherwise be included in computing the taxpayer’s income for the year shall include in computing the taxpayer’s income for that year the part of that amount that relates to the period in the year throughout which he was resident in Canada, unless the income is from property that the taxpayer also assigned or transferred or from an assignment of any portion of a retirement pension partitioned

under section 65.1 of the Canada Pension Plan (Revised Statutes of Canada, 1985, chapter C-8) or any comparable provision of a provincial pension plan as defined in section 3 of that Act.”

c. I-3,  
s. 317.1,  
added

**78.** (1) The said Act is amended by inserting, after section 317, the following section:

Exception

**“317.1** A taxpayer shall not include, by virtue of section 317, an amount that he may not, by reason of subsection 21 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), include in computing his income for the purposes of that Act.”

(2) Subsection 1 applies in respect of transfers occurring after 31 December 1991.

c. I-3,  
s. 336, am.

**79.** (1) Section 336 of the said Act, amended by section 95 of chapter 15 of the statutes of 1993, by section 29 of chapter 64 of the statutes of 1993, by section 143 of chapter 22 of the statutes of 1994, by section 38 of chapter 1 of the statutes of 1995 and by section 91 of chapter 18 of the statutes of 1995, is again amended

(1) by striking out, in the French text of paragraphs *a*, *a.0.1* and *b.0.1* of subsection 1, the words “d’un arrêt,”;

(2) by replacing paragraph *d* of subsection 1 by the following paragraph:

overpay-  
ment of  
pension or  
benefits

“(d) an overpayment of an amount described in paragraph *a* of section 311, of a pension under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9), of a benefit under the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of that Act, of a benefit under the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1), of a benefit described in paragraph *e* or *e.1* of section 311, or of a training allowance under the National Training Act (Revised Statutes of Canada, 1985, chapter N-19), received by an individual and included in computing his income for the year or a preceding taxation year, up to the amount reimbursed by him in the year otherwise than under Part VII of the Unemployment Insurance Act;”;

(3) by striking out, in the French text of subsection 2, the words “un arrêt,”.

(2) Paragraphs 1 and 3 of subsection 1 apply to taxation years ending after 30 November 1991. However, where paragraph 1 of subsection 1 refers to paragraph *a.0.1* of subsection 1 of section 336 of the Taxation Act, it shall not apply before the taxation year 1993.

(3) Paragraph 2 of subsection 1 applies in respect of repayments made after 31 December 1990. However, where paragraph *d* of subsection 1 of section 336 of the Taxation Act, enacted by subsection 1, applies to a repayment made before 1 November 1991, it shall be read as follows:

overpay-  
ment of  
pension or  
benefits

“(d) an overpayment of a retiring allowance described in paragraph *a* of section 311, of a pension under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9), of a benefit under the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of that Act, of a benefit under the Labour Adjustment Benefits Act (Revised Statutes of Canada, 1985, chapter L-1) or under the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1), of a benefit under the Program for Older Worker Adjustment according to the terms of the agreement made following the approval obtained under Order in Council 1396-88 dated 14 September 1988, of an income assistant payment pursuant to an agreement under section 5 of the Department of Labour Act (Revised Statutes of Canada, 1985, chapter L-3), or of a training allowance under the National Training Act (Revised Statutes of Canada, 1985, chapter N-19), received by an individual and included in computing his income for the year or a preceding taxation year, up to the amount reimbursed by him in the year otherwise than under Part VII of the Unemployment Insurance Act;”.

c. 1-3,  
s. 359, am.

**30.** (1) Section 359 of the said Act is amended by replacing paragraphs *b* and *c* by the following paragraphs:

“mining  
business”

“(b) “mining business” means an activity described in subparagraph *a* or *a.1* of the first paragraph of section 363 with respect to minerals or in any of subparagraphs *b* to *e*, *f.1* or *g* of the first paragraph of that section, and a transaction concerning a property described in any of paragraphs *a* to *f* of section 370 that may reasonably be related to minerals;

“oil busi-  
ness”

“(c) “oil business” means an activity described in subparagraph *a* or *a.1* of the first paragraph of section 363, except with respect to minerals, or in subparagraph *f* of the first paragraph of that section, and a transaction concerning a property described in any of

paragraphs *a* to *f* of section 370, that may reasonably be related to petroleum or natural gas, and that is not contemplated in paragraph *b*,”.

(2) Subsection 1 applies from the taxation year 1993.

c. I-3,  
s. 359.1, am.

**81.** (1) Section 359.1 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) to renounce, before 1 March of the first calendar year beginning after that period, on the prescribed form to the person in respect of the share, an amount in respect of the Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses so incurred by it not exceeding the consideration received by the corporation for the share.”

(2) Subsection 1 applies in respect of shares issued under an agreement entered into after 28 February 1986.

c. I-3,  
s. 359.1.1,  
added

**82.** (1) The said Act is amended by inserting, after section 359.1, the following section:

Effective  
date of a re-  
nunciation

**“359.1.1** For the purposes of this Division, a renunciation made by a corporation under section 359.2, 359.2.1, 359.4 or 359.6 in respect of a share is effective on the date on which the renunciation is made by the corporation or on an earlier date set out in the form prescribed for the purposes of section 359.12.”

(2) Subsection 1 applies in respect of expenses incurred after 28 February 1986. However, where section 359.1.1 of the Taxation Act, enacted by subsection 1, applies in respect of expenses incurred before 3 December 1992, it shall be read without reference to “359.2.1,”.

c. I-3,  
s. 359.2, am.

**83.** (1) Section 359.2 of the said Act is amended

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

Flow-  
through  
share rules  
for first \$2  
million of  
Canadian  
develop-  
ment ex-  
penses

**“359.2** Where a person gave consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, during the period beginning on the day the agreement was entered into and ending 24 months after the end of the month that included that day, the corporation incurred Canadian exploration expenses, the corporation may, after it complies with section 359.10 in respect of the share and before 1 March of the first



calendar year beginning after that period, renounce to the person in respect of the share the amount by which those expenses incurred by it during that period and on or before the effective date of the renunciation exceed the aggregate of”;

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

“(a) the amount by which the consideration for the share exceeds the aggregate of other amounts renounced under this section or section 359.2.1, 359.4 or 359.6 by the corporation in respect of the share on or before the date on which the renunciation is made, or”;

(3) by striking out the third paragraph.

(2) Paragraphs 1 and 3 of subsection 1 apply in respect of expenses incurred after 28 February 1986.

(3) Paragraph 2 of subsection 1 applies in respect of expenses incurred after 2 December 1992.

**84.** (1) The said Act is amended by inserting, after section 359.2, the following sections:

c. 1-3,  
ss. 359.2.1,  
359.2.2,  
added

Flow-  
through  
share rules  
for first \$2  
million of  
Canadian  
develop-  
ment ex-  
penses

**“359.2.1** Where a person gave consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, during the period beginning on the later of 3 December 1992 and the particular day the agreement was entered into and ending 24 months after the end of the month that included that particular day, the corporation incurred Canadian development expenses described in paragraph *a* or *a.1* of section 408 or that would be described in paragraph *d* of that section if the words “expenses described in paragraphs *a* to *c*” in that paragraph were read as “expenses described in paragraph *a* or *a.1*”, the corporation may, after it complies with section 359.10 in respect of the share and before 1 March of the first calendar year beginning after that period, renounce to the person in respect of the share the amount by which those expenses incurred by it during that period and on or before the effective date of the renunciation exceed the aggregate of

(a) the assistance that it has received, is entitled to receive, or can reasonably be expected to receive at any time, and that can reasonably be related to those expenses or Canadian development activities to which those expenses relate, other than assistance that can reasonably be attributed to expenses referred to in paragraph *b*,

(b) any of those expenses that are prescribed Canadian exploration and development overhead expenses of the corporation, and

(c) all amounts that are renounced by the corporation on or before the day on which the renunciation is made by any other renunciation under this section or section 359.4 in respect of those expenses.

Flow-through share rules for first \$2 million of Canadian development expenses

**“359.2.2** A corporation is deemed not to have renounced any particular amount under section 359.2.1 in respect of a share where

(a) the particular amount exceeds the amount by which the consideration for the share exceeds the aggregate of other amounts renounced under section 359.2, 359.2.1, 359.4 or 359.6 by the corporation in respect of the share on or before the day on which the renunciation is made;

(b) the particular amount exceeds the amount by which the cumulative Canadian development expense of the corporation on the effective date of the renunciation, computed before taking into account any amounts renounced under section 359.2.1 by the corporation on the day on which the renunciation is made, exceeds the aggregate of all amounts renounced by the corporation under this section in respect of any other share on the day on which the renunciation is made, and effective on or before the effective date of the renunciation; or

(c) the particular amount relates to Canadian development expenses incurred by the corporation in a calendar year and the total amounts renounced, on or before the day on which the renunciation is made, under section 359.2.1 in respect of Canadian development expenses incurred by the corporation in that calendar year or by another corporation associated with the corporation at the time the other corporation incurred such expenses exceeds \$2,000,000.”

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

c. 1-3, s. 359.3, replaced

**85.** (1) Section 359.3 of the said Act is replaced by the following section:

Renunciation

**“359.3** Subject to sections 359.11 to 359.12.0.1, where a corporation renounces an amount to a person under section 359.2 or 359.2.1, the following rules apply:

(a) the Canadian exploration expenses or Canadian development expenses to which the amount relates are deemed to be Canadian exploration expenses incurred in that amount by the person on the effective date of the renunciation; and

(b) the Canadian exploration expenses or Canadian development expenses to which the amount relates are, except in respect of that renunciation, deemed on and after the effective date of the renunciation never to have been Canadian exploration expenses or Canadian development expenses incurred by the corporation.”

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

c. 1-3,  
s. 359.4, am.

**86.** (1) Section 359.4 of the said Act is amended

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

Canadian  
exploration  
expenses to  
flow-  
through  
shareholder

**“359.4** Where a person gave consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, during the period beginning on the day the agreement was entered into and ending 24 months after the end of the month that included that day, the corporation incurred Canadian development expenses, the corporation may, after it complies with section 359.10 in respect of the share and before 1 March of the first calendar year beginning after that period, renounce to the person in respect of the share the amount by which those expenses incurred by it during that period and on or before the effective date of the renunciation exceed the aggregate of”;

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

“(c) the aggregate of amounts that are renounced by the corporation on or before the date on which the renunciation is made by any other renunciation under this section or section 359.2.1 in respect of those expenses.”;

(3) by replacing subparagraph *a* of the second paragraph by the following subparagraph:

“(a) the amount by which the consideration for the share exceeds the aggregate of other amounts renounced by the corporation in respect of the share under this section or section 359.2, 359.2.1 or 359.6 on or before the date on which the renunciation is made, or”;

(4) by striking out the third paragraph.

(2) Paragraphs 1 and 4 of subsection 1 apply in respect of expenses incurred after 28 February 1986.

(3) Paragraphs 2 and 3 of subsection 1 apply in respect of expenses incurred after 2 December 1992.

c. I-3,  
s. 359.6, am.

**87.** (1) Section 359.6 of the said Act is amended

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

Canadian  
oil and gas  
property  
expenses to  
flow-  
through  
shareholder

**“359.6** Where a person gave consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, during the period beginning on the day the agreement was entered into and ending 24 months after the end of the month that included that day, the corporation incurred Canadian oil and gas property expenses, the corporation may, after it complies with section 359.10 in respect of the share and before 1 March of the first calendar year beginning after that period, renounce to the person in respect of the share the amount by which those expenses incurred by it during that period and on or before the effective date of the renunciation exceed the aggregate of”;

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

“(a) the amount by which the consideration for the share exceeds the aggregate of other amounts renounced by the corporation in respect of the share under this section or section 359.2, 359.2.1 or 359.4 on or before the day on which the renunciation is made, or”;

(3) by striking out the third paragraph.

(2) Paragraphs 1 and 3 of subsection 1 apply in respect of expenses incurred after 28 February 1986.

(3) Paragraph 2 of subsection 1 applies in respect of expenses incurred after 2 December 1992.

c. I-3,  
s. 359.8, am.

**88.** (1) Section 359.8 of the said Act is amended

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

Expenses in  
the first 60  
days of a  
year

**“359.8** Where a corporation that issues a flow-through share to a person under an agreement incurs, within 60 days after the end of a calendar year, Canadian exploration expenses or Canadian development expenses, the corporation is, for the purposes of section 359.2 or 359.2.1, as the case may be, deemed to have incurred the expenses on the effective date of the renunciation, provided that

(a) the expenses are expenses described in paragraph *a*, *b.1* or *c* of section 395 or in paragraph *a* or *a.1* of section 408,”;

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

“(d) within 90 days after the end of the year, the corporation renounces an amount in respect of the expenses to the person in respect of the share in accordance with section 359.2 or 359.2.1 and the effective date of the renunciation is the last day of the year.”

(2) Subsection 1 applies in respect of expenses incurred after 31 December 1992.

c. 1-3,  
s. 359.9, re-  
placed

**89.** (1) Section 359.9 of the said Act is replaced by the following section:

Restric-  
tions on re-  
nunciations

**“359.9** A corporation is deemed

(a) not to have renounced under section 359.2, 359.2.1, 359.4 or 359.6 any expenses that are deemed to have been incurred by it because of a renunciation under this Chapter by another corporation that is not related to it;

(b) not to have renounced under section 359.2.1 to a corporation, trust or partnership any Canadian development expenses if, in respect of the renunciation, it has a prohibited relationship with the corporation, trust or partnership and if the expenses are not expenses renounced to another corporation that renounces under section 359.2 any Canadian exploration expense deemed to have been incurred by it because of the renunciation under section 359.2.1;

(c) not to have renounced under section 359.2.1 any Canadian development expenses deemed to have been incurred by it because of a renunciation under section 359.4; and

(d) not to have renounced under section 359.2 to a corporation, trust or partnership any Canadian exploration expenses that are deemed to have been incurred by it because of a renunciation under section 359.2.1 if, in respect of the renunciation under section 359.2,

it has a prohibited relationship with the corporation, trust or partnership and if the expenses are not expenses ultimately renounced by another corporation under section 359.2 to an individual, other than a trust, or to a corporation, trust or partnership with which that other corporation does not have, in respect of that ultimate renunciation, a prohibited relationship.”

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

c. 1-3,  
s. 359.9.1,  
added

**90.** (1) The said Act is amended by inserting, after section 359.9, the following section:

Prohibited  
relationship

**“359.9.1** For the purposes of section 359.9, where a corporation, in paragraph *b* referred to as the “shareholder corporation”, trust or partnership gave consideration under a particular agreement for the issue of a flow-through share of a particular corporation, the particular corporation has, in respect of a renunciation under section 359.2 or 359.2.1 in respect of the share, a prohibited relationship

(*a*) with the trust if, at any time after the particular agreement was entered into and before the share is issued to the trust, the particular corporation or any corporation related to it is beneficially interested in the trust;

(*b*) with the shareholder corporation if, immediately before the particular agreement was entered into, the shareholder corporation was related to the particular corporation; or

(*c*) with the partnership if any part of the amount renounced would, but for section 359.12, be included, because of paragraph *d* of section 395, in the Canadian exploration expense of

i. the particular corporation, or

ii. any other corporation that, at any time after the particular agreement was entered into and before that part of the amount renounced would, but for this paragraph, be incurred, would, if flow-through shares issued by the particular corporation under agreements entered into at the same time as or after the time the particular agreement was entered into were disregarded, be related to the particular corporation.”

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

c. I-3,  
s. 359.11,  
am.

**91.** (1) Section 359.11 of the said Act is amended by replacing the first paragraph by the following paragraph:

Prescribed  
form

**“359.11** Where, in a fiscal period of a partnership, an expense is or, but for this section, would be incurred by the partnership as a consequence of a renunciation of an amount under section 359.2, 359.2.1, 359.4 or 359.6, the partnership shall, on or before the last day of the third month following the end of that fiscal period, file with the Minister the prescribed form indicating the share of the expense attributable to each member of the partnership at the end of that fiscal period.”

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

c. I-3,  
s. 359.12,  
am.

**92.** (1) Section 359.12 of the said Act is amended by replacing the first paragraph by the following paragraph:

Prescribed  
form

**“359.12** Where a corporation renounces an amount in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses under section 359.2, 359.2.1, 359.4 or 359.6, the corporation shall file the prescribed form in respect of the renunciation with the Minister before the end of the first month following the month in which the renunciation is made.”

(2) Subsection 1 applies in respect of renunciations made after 2 December 1992.

c. I-3,  
s. 359.12.1.1,  
added

**93.** (1) The said Act is amended by inserting, after section 359.12.1, the following section:

Late renun-  
ciation

**“359.12.1.1** Where a corporation renounces an amount under section 359.2, 359.2.1, 359.4 or 359.6 after the period during which the corporation would, but for this section, be entitled to renounce the amount, the amount is deemed, except for the purposes of this section and sections 359.12 and 359.12.2, to have been renounced at the end of the period if

(a) the corporation renounces the amount on or before the day that is 90 days after the end of that period, or after the day that is 90 days after the end of that period where, in the opinion of the Minister, the circumstances are such that it would be just and equitable that the amount be renounced; and

(b) the corporation pays to the Minister the penalty payable under section 359.12.2 in respect of the renunciation on or before the day that is 90 days after the day of the renunciation.”

(2) Subsection 1 applies in respect of renunciations made after 28 February 1993. However, where section 359.12.1.1 of the Taxation Act, enacted by subsection 1, applies in respect of renunciations relating to periods that end before 7 December 1995, it shall be read by replacing, in paragraph *a*, the words “the end of that period” by “7 December 1995” and, in paragraph *b*, the words “the day of the renunciation” by “the later of the day of the renunciation and 7 December 1995”.

c. I-3,  
s. 359.12.2,  
am.

**94.** (1) Section 359.12.2 of the said Act is amended

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

Penalty

**“359.12.2** For the purposes of sections 359.12.1 and 359.12.1.1, the penalty in respect of the late filing of a document referred to in any of sections 359.10 to 359.12.0.1, or in respect of a renunciation referred to in section 359.12.1.1, is equal to the lesser of \$15,000 and”;

(2) by adding, after paragraph *b*, the following paragraph:

“(c) where the penalty is in respect of a renunciation referred to in section 359.12.1.1, the greater of \$100 and 0.25% of the amount of the renunciation.”

(2) Subsection 1 applies in respect of renunciations made after 28 February 1993.

c. I-3,  
s. 359.13,  
replaced

**95.** (1) Section 359.13 of the said Act is replaced by the following section:

Restriction  
on a renun-  
ciation

**“359.13** A corporation may renounce an amount under section 359.2, 359.2.1, 359.4 or 359.6 in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses incurred by it only to the extent that, but for the renunciation, it would be entitled to claim a deduction in respect of the expenses in computing its income for the purposes of this Part.”

(2) Subsection 1 applies in respect of renunciations made after 2 December 1992.



c. I-3,  
s. 359.14,  
am.

**96.** (1) Section 359.14 of the said Act is amended by replacing the portion before paragraph *a* by the following:

Provisions  
applicable

**“359.14** Where a corporation has renounced an amount under section 359.2, 359.2.1, 359.4 or 359.6, sections 38 to 40.1 of the Act respecting the Ministère du Revenu (chapter M-31) apply, adapted as required and without restricting their generality, for the purpose of permitting the Minister to verify or ascertain”.

(2) Subsection 1 has effect from 3 December 1992.

c. I-3,  
s. 359.15,  
am.

**97.** (1) Section 359.15 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

Adjustment  
in a renun-  
ciation

**“359.15** Where the aggregate of all amounts that a corporation purports to renounce to persons under section 359.2, 359.2.1, 359.4 or 359.6 in respect of expenses incurred by it in any period ending on the effective date of the purported renunciation exceeds the total amount of those expenses in respect of which it may renounce amounts under that section, the corporation shall”.

(2) Subsection 1 applies in respect of renunciations made after 2 December 1992.

c. I-3,  
s. 359.19,  
am.

**98.** (1) Section 359.19 of the said Act is amended by replacing the portion before paragraph *a* by the following:

Renuncia-  
tion by a  
member of  
a partner-  
ship

**“359.19** Notwithstanding sections 359.2, 359.2.1, 359.4 and 359.6, a corporation is not entitled to renounce an amount under any of the said sections at any time to another person where at that time the corporation”.

(2) Subsection 1 applies in respect of renunciations of outlays made or expenses incurred after 2 December 1992.

c. I-3,  
s. 363, re-  
placed

**99.** (1) Section 363 of the said Act is replaced by the following section:

Develop-  
ment corpo-  
ration

**“363.** A development corporation is, for the purposes of this Chapter, a corporation whose principal business is any of, or a combination of,

(*a*) the production, refining or marketing of petroleum, petroleum products or natural gas,

- (a.1) exploring or drilling for petroleum or natural gas,
- (b) mining or exploring for minerals,
- (c) the processing of mineral ores for the purpose of recovering metals or minerals from the ores,
- (d) the processing or marketing of metals or minerals that were recovered from mineral ores and that include metals or minerals recovered from mineral ores processed by the corporation,
- (e) the fabrication of metals,
- (f) the operation of a pipeline for the transmission of oil or gas,
- (f.1) the production or marketing of calcium chloride, sodium chloride, gypsum, kaolin or potash, and
- (g) the manufacturing of products, where the manufacturing involves the processing of calcium chloride, sodium chloride, gypsum, kaolin or potash.

Interpreta-  
tion

A development corporation is also, for the purposes of this Chapter, a corporation all or substantially all of the assets of which are shares of the capital stock or indebtedness of one or more development corporations that are related to the corporation otherwise than because of a right referred to in paragraph *b* of section 20.”

(2) Subsection 1 applies from the taxation year 1993. However, it shall not apply

(a) to the taxation years 1993 to 1996 of a corporation if the corporation so elects by notifying the Minister of Revenue in writing before the end of the sixth month following the month in which this Act is assented to;

(b) in respect of transactions and events that occurred before the taxation year 1993.

c. 1-3,  
s. 395, am.

**100.** (1) Section 395 of the said Act is amended

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

“(a) any expense including an expense for a geological, geophysical or geochemical survey, other than an expense incurred

in drilling or completing an oil or gas well or in building a temporary access road to, or preparing a site in respect of, any such well, incurred by the taxpayer for the purpose of determining the existence, location, extent or quality of an accumulation of petroleum or natural gas, other than a mineral resource, in Canada;”;

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

“i. it is determined that the well is the first well capable of production in commercial quantities from an accumulation of petroleum or natural gas not previously known to exist, other than a mineral resource, or”;

(3) by replacing subparagraph iv of paragraph *b.1* by the following subparagraph:

“iv. the certificate referred to in subparagraph iv of paragraph *d* of the definition of “Canadian exploration expenses” in subsection 6 of section 66.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in respect of a well has been filed with the Minister, in respect of the well, on or before the day that is six months after the end of the taxation year of the taxpayer in which the drilling of the well was commenced;”.

(2) Paragraph 3 of subsection 1 applies to taxation years ending after 30 November 1991.

c. 1-3,  
s. 399, am.

**101.** (1) Section 399 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) all amounts deducted, or required to be deducted, in computing his income for a taxation year ending before that time in respect of such expenses;”.

(2) Subsection 1 applies to taxation years ending after 2 December 1992.

c. 1-3,  
s. 399.6, am.

**102.** (1) Section 399.6 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(c) that was renounced by him under section 359.2.1, 359.4 or 417;”.

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

c. 1-3,  
s. 400, re-  
placed

**103.** (1) Section 400 of the said Act is replaced by the following section:

Deduction  
by a devel-  
opment cor-  
poration

**“400.** A development corporation may deduct, in computing its income for a taxation year, any amount not exceeding the lesser of

(a) the aggregate of

i. the amount by which its cumulative Canadian exploration expenses at the end of the year exceed the amount, designated by it for the year for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) under subsection 14.1 of section 66 of that Act, and

ii. the amount by which the aggregate determined under subparagraph i of paragraph *a* of section 418.31.1 in respect of the corporation for the year exceeds the amount that would be determined in respect of the corporation for the year under paragraph *d* of section 330 if the aggregate last referred to in that paragraph *d* were not taken into account; and

(b) the amount by which the amount that would be its income for the year if no deduction, other than a prescribed deduction, were allowed under this section and sections 360 and 361 exceeds the aggregate of all amounts each of which is an amount deducted by the corporation under sections 738 to 749 in computing its taxable income for the year.”

(2) Subsection 1 applies to taxation years ending after 2 December 1992.

c. 1-3,  
s. 406, am.

**104.** (1) Section 406 of the said Act is amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) of all amounts deducted or required to be deducted in respect of those expenses under section 400 in computing the income of the joint exploration corporation for any taxation year preceding the particular taxation year; and”.

(2) Subsection 1 applies to taxation years ending after 2 December 1992.

c. 1-3,  
s. 412, am.

**105.** (1) Section 412 of the said Act is amended

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

“ii. the amount by which the amount determined under the first paragraph of section 412.1 exceeds the amount determined under the second paragraph of that section;”;

(2) by striking out subparagraph iii of paragraph *b*;

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

“(g) the amount by which the aggregate of all amounts determined under section 418.12 in respect of a taxation year of the taxpayer ending at or before that time, in this paragraph referred to as the “relevant time”, exceeds the aggregate of all amounts each of which is the least of

i. the amount that would be determined under the second paragraph of section 418.19, at a time, in this paragraph referred to as the “particular time”, that is the end of the latest taxation year of the taxpayer ending at or before the relevant time, in respect of the taxpayer as a corporation referred to in that section 418.19 in respect of a disposition, in this paragraph referred to as the “original disposition”, of Canadian resource property by a person who is an original owner of the property because of the original disposition, if

(1) where the taxpayer has disposed of all or part of the property in circumstances in which section 418.19 applied, that section continued to apply to the taxpayer in respect of the original disposition as if each of the subsequent corporations contemplated in that section 418.19 were the same person as the taxpayer, and

(2) each designation made under subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 in respect of an amount that became receivable before the particular time were made before the particular time;

ii. the amount by which the aggregate of all amounts each of which became receivable at or before the particular time and before 1 January 1993 by the taxpayer and is included in computing the amount determined under subparagraph *b* of the second paragraph of section 418.21 in respect of the original disposition exceeds the amount by which

(1) where the taxpayer disposed of all or part of the property before the particular time in circumstances in which section 418.21 applied, the amount that would be determined at the particular time under subparagraph *a* of the second paragraph of section 418.21 in respect of the original disposition if that subparagraph continued to apply to the taxpayer in respect of the original disposition as if each of the subsequent corporations contemplated in that section 418.21 were the same person as the taxpayer or, in any other case, the amount determined at the particular time under subparagraph *a* of the second paragraph of section 418.21 in respect of the original disposition, exceeds

(2) the amount that would be determined at the particular time under subparagraph *b* of the second paragraph of section 418.21 in respect of the original disposition if that subparagraph were read without reference to the words “or by the corporation” or “or the corporation”, wherever they appear therein, and if amounts that became receivable after 31 December 1992 were not taken into account; and

iii. nil, where

(1) after the original disposition and at or before the particular time, the taxpayer disposed of all or part of the property in circumstances in which section 418.19 applied, otherwise than by way of an amalgamation or merger or solely because of the application of paragraph *a* of section 418.26, and

(2) the winding-up of the taxpayer began at or before the relevant time or the taxpayer’s disposition referred to in subparagraph 1, other than a disposition under an agreement in writing entered into before 22 December 1992, occurred after 21 December 1992;”.

(2) Paragraphs 1 and 2 of subsection 1 apply to taxation years ending after 17 February 1987.

(3) Paragraph 3 of subsection 1 applies to taxation years ending after 21 December 1992. However, it shall apply in respect of a taxpayer to taxation years ending after 17 February 1987 where the taxpayer so elects by notifying the Minister of Revenue in writing before the end of the sixth month after the end of the taxpayer’s taxation year that includes the day on which this Act is assented to.

c. 1-3,  
s. 412.1,  
added

**106.** (1) The said Act is amended by inserting, after section 412, the following section:

Computa-  
tion

**“412.1** The first amount referred to in subparagraph ii of paragraph *b* of section 412 is the aggregate of all amounts each of which would be determined under the second paragraph of section 418.19, immediately before the time, in this section referred to as the “relevant time”, when such proceeds of disposition became receivable, in respect of the taxpayer and an original owner of the property, or of any other property acquired by the taxpayer with the property in circumstances in which section 418.19 applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time, if

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

(b) each designation made under subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 in respect of an amount that became receivable before the relevant time were made before the relevant time.

Computa-  
tion

The second amount referred to in subparagraph ii of paragraph *b* of section 412 is the total of

(a) all amounts that would be determined under the second paragraph of section 418.19 at the relevant time in respect of the taxpayer and an original owner of the property or of any other property acquired by the taxpayer with the property in circumstances in which section 418.19 applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time, if

i. amounts that became receivable after the relevant time and amounts described in subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 that became receivable at the relevant time were not taken into account, and

ii. each designation made under subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 in respect of an amount that became receivable at or before the relevant time were made before the relevant time; and

(b) such portion of the amount otherwise determined under subparagraph ii of paragraph *b* of section 412 as was otherwise applied to reduce the amount otherwise determined under that paragraph.”

(2) Subsection 1 applies to taxation years ending after 17 February 1987.

c. 1-3,  
s. 418.6, am.

**107.** (1) Section 418.6 of the said Act is amended, in paragraph *b*,

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

“(b) of any amount which in respect of the disposition by the taxpayer before that time of property referred to in paragraph *a*, *c* or *d* of section 370 or in paragraph *f* of section 370 in respect of property referred to in paragraph *a*, *c* or *d* of that section is equal to the amount by which”;

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

“ii. the total of the amount determined under section 418.6.1 and the amount determined under section 418.6.2;”;

(3) by striking out subparagraph *iii*.

(2) Paragraph 1 of subsection 1 applies in respect of dispositions occurring in taxation years beginning after 31 December 1984.

(3) Paragraphs 2 and 3 of subsection 1 apply to taxation years ending after 17 February 1987.

c. 1-3,  
ss. 418.6.1,  
418.6.2,  
added

**108.** (1) The said Act is amended by inserting, after section 418.6, the following sections:

Compu-  
tation

**“418.6.1** The first amount referred to in subparagraph *ii* of paragraph *b* of section 418.6 is the amount by which the aggregate of all amounts that would be determined under the second paragraph of section 418.21, immediately before the time, in this section and in section 418.6.2 referred to as the “relevant time”, when such proceeds of disposition became receivable, in respect of the taxpayer and an original owner of the property, or of any other property acquired by the taxpayer with the property in circumstances in which section 418.21 applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time, exceeds the amount described in the second paragraph, if

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



(b) each designation made under subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 in respect of an amount that became receivable before the relevant time were made before the relevant time; and

(c) the second paragraph of section 418.21 were read without reference to “10% of”.

Computation

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

(a) all amounts that would be determined under the second paragraph of section 418.21 at the relevant time in respect of the taxpayer and an original owner of the property, or of any other property acquired by the taxpayer with the property in circumstances in which section 418.21 applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time, if

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

ii. each designation made under subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 in respect of an amount that became receivable at or before the relevant time were made before the relevant time, and

iii. the second paragraph of section 418.21 were read without reference to “10% of”; and

(b) such portion of the amount determined under this section as was otherwise applied to reduce the amount otherwise determined under paragraph *b* of section 418.6.

Computation

**“418.6.2** The second amount referred to in subparagraph ii of paragraph *b* of section 418.6 is the amount by which the aggregate of all amounts that would be determined under the second paragraph of section 418.19, immediately before the relevant time, in respect of the taxpayer and an original owner of the property, or of any other property acquired by the taxpayer with the property in circumstances in which section 418.19 applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time, exceeds the amount described in the second paragraph, if

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

(b) each designation made under subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 in respect of an amount that became receivable before the relevant time were made before the relevant time.

Computation

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

(a) all amounts that would be determined under the second paragraph of section 418.19 at the relevant time in respect of the taxpayer and an original owner of the property, or of any other property acquired by the taxpayer with the property in circumstances in which section 418.21 applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time, if

i. amounts that became receivable after the relevant time and amounts described in subparagraph i of subparagraph *b* of the second paragraph of section 418.19 that became receivable at the relevant time were not taken into account, and

ii. each designation made under subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 in respect of an amount that became receivable at or before the relevant time were made before the relevant time; and

(b) such portion of the amount otherwise determined under this section as was otherwise applied to reduce the amount otherwise determined under paragraph *b* of section 418.6.”

(2) Subsection 1 applies to taxation years ending after 17 February 1987.

c. 1-3,  
s. 418.12,  
replaced

**109.** (1) Section 418.12 of the said Act is replaced by the following section:

Determination

**“418.12** For the purposes of subparagraph *a* of the second paragraph of section 358, as it applies in respect of dispositions occurring before 13 November 1981, paragraph *g* of section 412 and paragraph *b* of section 418.5, the amount determined under this section for a taxation year in respect of a taxpayer is equal to the amount by which the aggregate of all amounts deducted under section 418.6 in computing the taxpayer’s cumulative Canadian oil

and gas property expense at the end of the year exceeds the total of all amounts included under section 418.5 in computing the taxpayer's cumulative Canadian oil and gas property expense at the end of the year and the aggregate determined under subparagraph i of paragraph c of section 418.31.1 in respect of the taxpayer for the year."

(2) Subsection 1 applies to taxation years ending after 17 February 1987.

c. I-3,  
s. 418.17,  
am.

**110.** (1) Section 418.17 of the said Act is amended by replacing subparagraph 2 of subparagraph ii of subparagraph a of the third paragraph by the following subparagraph:

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

(2) Subsection 1 applies to taxation years ending after 17 February 1987.

c. I-3,  
s. 418.18,  
am.

**111.** (1) Section 418.18 of the said Act is amended by replacing subparagraph b of the second paragraph by the following subparagraph:

"(b) deducted or required to be deducted under section 400 or 401 in computing the income of the original owner for any taxation year, or designated by the original owner for any taxation year for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) pursuant to subsection 14.1 of section 66 of that Act."

(2) Subsection 1 applies to taxation years ending after 2 December 1992.

c. I-3,  
s. 418.19,  
am.

**112.** (1) Section 418.19 of the said Act is amended

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

“(b) the aggregate of

i. all amounts each of which is a particular amount, reduced by the portion thereof described in the fourth paragraph, that became receivable by a predecessor owner of the particular property or the corporation in the year or a preceding taxation year and that

(1) was included by the predecessor owner or the corporation in computing an amount determined under subparagraph i of paragraph *b* of section 412 at the end of the year, and

(2) can reasonably be regarded as attributable to the disposition of a property, in the fourth paragraph referred to as a “relevant mining property”, that is the particular property or another Canadian resource property that was acquired from the original owner with the particular property by the corporation or a predecessor owner of the particular property, and

ii. all amounts each of which is a particular amount, reduced by the portion thereof described in the fifth paragraph, that became receivable by a predecessor owner of the particular property or the corporation after 31 December 1992 and in the year or a preceding taxation year and that

(1) is designated in respect of the original owner by the predecessor owner or the corporation, as the case may be, on the prescribed form filed with the Minister within six months after the end of the taxation year in which the particular amount became receivable,

(2) was included by the predecessor owner or the corporation in computing an amount determined under subparagraph i of paragraph *b* of section 418.6 at the end of the year, and

(3) can reasonably be regarded as attributable to the disposition of a property, in the fifth paragraph referred to as a “relevant oil and gas property”, that is the particular property or another Canadian resource property that was acquired from the original owner with the particular property by the corporation or a predecessor owner of the particular property.”;

(2) by adding, after the third paragraph, the following paragraphs:

“The particular amount mentioned in subparagraph i of subparagraph *b* of the second paragraph shall be reduced by the

Reduction  
of the par-  
ticular  
amount

portion thereof that can reasonably be considered to result in a reduction of the amount otherwise determined under that paragraph in respect of another original owner of a relevant mining property who is not a predecessor owner of a relevant mining property or who became a predecessor owner of a relevant mining property before the original owner became a predecessor owner of a relevant mining property.

Reduction  
of the par-  
ticular  
amount

The particular amount mentioned in subparagraph ii of subparagraph *b* of the second paragraph shall be reduced by the portion thereof that can reasonably be considered to result in a reduction of the amount otherwise determined under the second paragraph of section 418.21 in respect of the original owner or under the second paragraph, or the second paragraph of section 418.21, in respect of another original owner of a relevant oil and gas property who is not a predecessor owner of a relevant oil and gas property or who became a predecessor owner of a relevant oil and gas property before the original owner became a predecessor owner of a relevant oil and gas property.”

(2) Subsection 1 applies to taxation years ending after 17 February 1987. However, a designation referred to in subparagraph 1 of subparagraph ii of subparagraph *b* of the second paragraph of section 418.19 of the Taxation Act, enacted by paragraph 1 of subsection 1, that is made by a taxpayer who so notifies the Minister of Revenue in writing before the end of the sixth month that begins after the end of the taxpayer’s taxation year that includes the day on which this Act is assented to shall be deemed to have been made in accordance with subparagraph 1 of that subparagraph ii.

c. 1-3,  
s. 418.21,  
am.

**113.** (1) Section 418.21 of the said Act is amended

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

“(b) the aggregate of all amounts each of which is a particular amount, reduced by the portion thereof described in the fourth paragraph, that became receivable by a predecessor owner of the particular property or the corporation in the year or a preceding taxation year and that

i. was included by the predecessor owner or the corporation in computing an amount determined under subparagraph i of paragraph *b* of section 418.6 at the end of the year, and

ii. can reasonably be regarded as attributable to the disposition of a property, in the fourth paragraph referred to as a “relevant oil and gas property”, that is the particular property or another Canadian resource property that was acquired from the original owner with the particular property by the corporation or a predecessor owner of the particular property.”;

(2) by adding, after the third paragraph, the following paragraph:

Reduction  
of the par-  
ticular  
amount

“The particular amount mentioned in subparagraph *b* of the second paragraph shall be reduced by the portion thereof that can reasonably be considered to result in a reduction of the amount otherwise determined under the second paragraph, or the second paragraph of section 418.19, in respect of another original owner of a relevant oil and gas property who is not a predecessor owner of a relevant oil and gas property or who became a predecessor owner of a relevant oil and gas property before the original owner became a predecessor owner of a relevant oil and gas property.”

(2) Subsection 1 applies to taxation years ending after 17 February 1987.

c. 1-3,  
s. 418.26,  
am.

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

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

Change of  
control

**“418.26** Where, at any time after 12 November 1981, control of a corporation has been acquired by a person or group of persons, or a corporation ceases to be exempt from tax under this Part on its taxable income, for the purposes of the provisions of the Act respecting the application of the Taxation Act (1972, chapter 24) and of this Part, other than sections 359.2, 359.2.1, 359.2.2, 359.4, 359.6 and 359.13, relating to deductions in respect of drilling and exploration expenses, prospecting, exploration and development expenses, Canadian exploration and development expenses, foreign exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses, in this section referred to as “resource expenses”, incurred by the corporation before that time, the following rules apply:”;

(2) by replacing, in the French text, the words “frais miniers” by the words “frais relatifs à des ressources” in paragraph *c*, in subparagraph *i* of paragraph *e* and in the portion of paragraph *f* before subparagraph *i*;

(3) by replacing the words “particular corporation” wherever they occur in the portion of paragraph *e* before subparagraph ii, in the portion of paragraph *f* before subparagraph i and in paragraph *g* by the words “particular person”.

(2) Paragraphs 1 and 2 of subsection 1 apply to taxation years ending after 2 December 1992.

(3) Paragraph 3 of subsection 1 applies in respect of amalgamations occurring after 21 December 1992.

c. I-3,  
s. 418.31,  
am.

**115.** (1) Section 418.31 of the said Act is amended

(1) by replacing the portion of paragraph *b.1* before subparagraph i by the following:

“(b.1) for the purposes of the second paragraph of section 418.18, the cumulative Canadian exploration expense of the original owner determined immediately after the disposition that was deducted under section 400 or 401 in computing the original owner’s income for the year is deemed to be equal to the lesser of”;

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

“(b.2) any amount, other than the amount determined under paragraph *b.1*, that was deducted under section 400 or 401 by the original owner for the year or a subsequent taxation year is deemed, for the purposes of the second paragraph of section 418.18, not to be in respect of the cumulative Canadian exploration expense of the original owner determined immediately after the disposition;”;

(3) by striking out, in paragraphs *c.2* and *d.2*, the words “for greater certainty,”.

(2) Subsection 1 applies to taxation years ending after 2 December 1992.

c. I-3,  
ss. 418.33,  
418.34, re-  
placed

**116.** (1) Sections 418.33 and 418.34 of the said Act are replaced by the following sections:

Presump-  
tion upon  
the disposi-  
tion of for-  
eign re-  
source  
properties  
by the  
original  
owner

**“418.33** Where in a taxation year a predecessor owner of Canadian resource properties disposes of Canadian resource properties to a corporation in circumstances in which any of sections 418.16, 418.18, 418.19 and 418.21 or section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24), to the extent that section 86.4 of the Regulation respecting the

application of the Taxation Act (1972) (R.R.Q., 1981, chapter I-4, r.2) refers to subsection 25 of section 29 of the Income Tax Act Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement) applies,

(a) for the purpose of applying any of those sections to the predecessor owner in respect of its acquisition of any Canadian resource property owned by it immediately before the disposition, it is deemed, after the disposition, never to have acquired any such properties except for the purpose of determining the following amounts:

i. an amount deductible under section 418.16 or 418.18 for the year,

ii. where the predecessor owner and the corporation dealt with each other at arm's length at the time of the disposition or the disposition was by way of an amalgamation or merger, an amount deductible under section 418.19 or 418.21 for the year; and

iii. the amount under paragraph *b* of section 412, subparagraph i or ii of paragraph *g* of that section or paragraph *b* of section 418.6; and

(b) where the corporation or another corporation acquires any of the properties on or after the disposition in circumstances in which section 418.19 or 418.21 applies, amounts that become receivable by the predecessor owner after the disposition in respect of Canadian resource properties retained by it at the time of the disposition are deemed, for the purpose of applying section 418.19 or 418.21 to the corporation or the other corporation in respect of the acquisition, not to have become receivable by the predecessor owner.

Presump-  
tion upon  
the disposi-  
tion of for-  
eign re-  
source  
properties  
by a prede-  
cessor  
owner

**“418.34** Where after 5 June 1987 a predecessor owner of foreign resource properties disposes of all or substantially all of its foreign resource properties to a corporation in circumstances in which section 418.17 applies, for the purpose of applying that section to the predecessor owner in respect of its acquisition of any of those properties, or other foreign resource properties retained by it at the time of the disposition which were acquired by it in circumstances in which that section 418.17 applied, it is deemed, after the disposition, never to have acquired the properties.”

(2) Subsection 1, where it replaces section 418.33 of the Taxation Act, applies in respect of dispositions occurring in taxation years ending after 17 February 1987, and where it replaces section 418.34 of that Act, it applies to taxation years ending after that date.



c. I-3,  
s. 424, am.

**117.** (1) Section 424 of the said Act is amended by replacing subsection 1 by the following subsection:

Share-  
holder ap-  
propria-  
tions

**“424.** (1) Where at any time property of a corporation is appropriated in any manner to or for the benefit of a shareholder of the corporation gratuitously or for consideration that is less than the property’s fair market value and a sale of the property at its fair market value would have contributed to increase the corporation’s income or to reduce a loss of the corporation, the corporation is deemed, at that time, to have disposed of the property and to have received proceeds of disposition therefor equal to its fair market value at that time.”

(2) Subsection 1 applies in respect of appropriations occurring after 21 December 1992.

c. I-3,  
s. 432, re-  
placed

**118.** (1) Section 432 of the said Act is replaced by the following section:

Exception

**“432.** For the purposes of this Division, a right or property does not include intangible capital property, land included in the inventory of a business, a Canadian resource property, a foreign resource property or an interest in a life insurance policy, other than an annuity contract of a taxpayer where the payment made by him for its acquisition was deductible in computing his income because of paragraph *f* of section 339, or was made in circumstances in which subsection 21 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applied.”

(2) Subsection 1 applies from the taxation year 1992.

c. I-3,  
ss. 433, 434,  
replaced

**119.** (1) Sections 433 and 434 of the said Act are replaced by the following sections:

Property  
deemed dis-  
posed of at  
its fair mar-  
ket value

**“433.** For the purposes of paragraph *a* of section 330 and subparagraph *i* of paragraph *b* of each of sections 412 and 418.6, an individual who dies is deemed to have, immediately before his death, disposed of each property owned by him, to the disposition of which the said paragraph or either of the said subparagraphs applies, and received proceeds of disposition therefor equal to its fair market value immediately before the death.

Land in in-  
ventory  
deemed dis-  
posed of at  
death

**“434.** An individual who dies is deemed to have, immediately before his death, disposed of each property that was land included in the inventory of a business of the individual and received proceeds of disposition therefor equal to its fair market value immediately before the death.”

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

c. I-3,  
s. 435, re-  
placed

**120.** (1) Section 435 of the said Act, amended by section 161 of chapter 22 of the statutes of 1994, is replaced by the following section:

Special pro-  
visions

**“435.** Notwithstanding sections 433 and 434, where any property referred to therein was owned by an individual who was resident in Canada immediately before his death and, on or after and as a consequence of the death, that property is transferred or assigned to the spouse of the individual or to a trust described in section 440, if it can be shown within the period ending 36 months after the death of the individual or, where written application therefor has been made to the Minister by the individual’s legal representative before the expiry of that period, within such longer period as the Minister considers reasonable, that the property vested indefeasibly in the spouse or trust,

(a) in the case of a Canadian resource property or a foreign resource property to which section 433 applies, the individual is deemed to have, immediately before his death, disposed of the property and received proceeds of disposition therefor equal to such amount as is specified by the individual’s legal representative in the individual’s fiscal return filed under paragraph *c* of subsection 2 of section 1000, to the extent that the amount does not exceed the fair market value of the property immediately before the death, and the spouse or the trust is deemed to have acquired the property at the time of the death at a cost equal to the amount included in computing the income of the individual under paragraph *a* of section 330 or, as the case may be, in the amount referred to in subparagraph *i* of paragraph *b* of section 412 or 418.6 in respect of the property;

(b) in the case of a property to which section 434 applies, the individual is deemed to have, immediately before his death, disposed of the property and received proceeds of disposition therefor equal to its cost amount to the individual immediately before the death, and the spouse or the trust is deemed to have acquired the property at the time of the death at a cost equal to those proceeds.”

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

c. I-3,  
s. 436, re-  
placed

**121.** (1) Section 436 of the said Act, replaced by section 163 of chapter 22 of the statutes of 1994, is again replaced by the following section:

Capital  
property of  
a deceased  
taxpayer

**“436.** An individual who dies is deemed to have, immediately before his death, disposed of each capital property of the individual and received proceeds of disposition therefor equal to the fair market value of the property immediately before the death, and any person who acquires the property as a consequence of the death is deemed to have acquired it at the time of the death at a cost equal to its fair market value immediately before the death.”

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

c. I-3,  
s. 437, am.

**122.** (1) Section 437 of the said Act, amended by section 164 of chapter 22 of the statutes of 1994, is again amended by replacing the portion of paragraph *b* before subparagraph *i* by the following:

“(b) the person is deemed, in respect of the intangible capital property, to have acquired a capital property at the time of the death of the individual at a cost equal to the proceeds of disposition determined under paragraph *a*, except where the person continues to carry on the business of the individual, in which case the person is deemed to have, at the time of the individual’s death, acquired an intangible capital property and disbursed therefor an intangible capital amount equal to the aggregate of”.

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

c. I-3,  
s. 438.1, re-  
pealed

**123.** (1) Section 438.1 of the said Act is repealed.

(2) Subsection 1 applies in respect of deaths occurring after 30 June 1989.

c. I-3,  
s. 439, re-  
placed

**124.** (1) Section 439 of the said Act, amended by section 168 of chapter 22 of the statutes of 1994, is replaced by the following section:

Case where  
the capital  
cost to the  
deceased  
exceeds the  
cost to the  
person ac-  
quiring the  
property

**“439.** For the purposes of sections 93 to 104, Chapter III of Title III and any regulations made under paragraph *a* of section 130 or section 130.1, where depreciable property of a prescribed class of a deceased individual is deemed under section 436 to be acquired by a person, except where the individual’s proceeds of disposition of the property under section 436 are redetermined under sections 93.1 to 93.3, and the capital cost to the individual of the property exceeds the amount determined under section 436 to be the cost to the person of the property, the following rules apply:

(a) the capital cost to the person of the property is deemed to be equal to the capital cost to the individual of the property; and

(b) the excess is deemed to have been allowed to the person as depreciation in respect of the property for the taxation years that ended before the acquisition.”

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

c. I-3,  
s. 439.1,  
added

**125.** (1) The said Act is amended by inserting, after section 439, the following section:

Disposition  
of a build-  
ing and con-  
tiguous  
land

**“439.1** Notwithstanding section 436, where property of a deceased individual is deemed under section 436 to be acquired by a person and the individual’s proceeds of disposition of the property under section 436 are redetermined under sections 93.1 to 93.3, the following rules apply:

(a) for the purposes of sections 93 to 104, Chapter III of Title III and any regulations made under paragraph *a* of section 130 or section 130.1, where the property was depreciable property of a prescribed class and the amount that was the capital cost to the individual of the property exceeds the amount so redetermined under sections 93.1 to 93.3,

i. the capital cost to the person of the property is deemed to be equal to the capital cost to the individual of the property, and

ii. the excess is deemed to have been allowed to the person as depreciation in respect of the property for the taxation years that ended before the acquisition; and

(b) where the property is land, other than land to which paragraph *a* applies, the cost to the person of the property is deemed to be equal to the amount that was the individual’s proceeds of disposition of the property as redetermined under sections 93.1 to 93.3.”

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

c. I-3,  
s. 440, am.

**126.** (1) Section 440 of the said Act, amended by section 169 of chapter 22 of the statutes of 1994, is again amended, in the first paragraph,

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

“(a) subject to subparagraph *a.1*, the individual is deemed to have, immediately before his death, disposed of the property and received proceeds of disposition therefor equal to the following amount, and the spouse or the trust is deemed to have acquired the property at the time of the death at a cost equal to those proceeds:

i. where the property was depreciable property of a prescribed class, the lesser of the capital cost and the cost amount to the individual of the property immediately before his death, and

ii. in any other case, the adjusted cost base of the property to the individual immediately before his death;”;

(2) by replacing subparagraph ii of subparagraph *a.1* by the following subparagraph:

“ii. the spouse or the trust is deemed to have acquired the property at the time of the death at a cost equal to its cost to the individual, and”.

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

c. 1-3,  
s. 444, am.

**127.** (1) Section 444 of the said Act, amended by section 174 of chapter 22 of the statutes of 1994, is again amended

(1) by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) the individual is deemed to have, immediately before his death, disposed of the property and received proceeds of disposition therefor equal to the following amount, and the child is deemed to have acquired the property at the time of the death at a cost equal to those proceeds:

i. where the property was depreciable property of a prescribed class, the lesser of the capital cost and the cost amount to the individual of the property immediately before his death, and

ii. where the property is land, other than land to which subparagraph i applies, or a share of the capital stock of a family farm corporation, the adjusted cost base of the property to the individual immediately before his death;”;

(2) by replacing subparagraph ii of subparagraph a.1 of the first paragraph by the following subparagraph:

“ii. the child is deemed to have acquired the property at the time of the death at a cost equal to the cost to the individual of the property, and”;

(3) by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) for the purposes of sections 93 to 104, Chapter III of Title III and any regulations made under paragraph *a* of section 130 or section 130.1, where depreciable property of a prescribed class of the individual is deemed under subparagraph *a* to be acquired by the child as a consequence of the individual’s death, except where the individual’s proceeds of disposition of the property under subparagraph *a* are redetermined under sections 93.1 to 93.3, and the capital cost to the individual of the property exceeds the amount determined under subparagraph *a* to be the cost to the child of the property, the following rules apply:

i. the capital cost to the child of the property is deemed to be equal to the capital cost to the individual of the property, and

ii. the excess is deemed to have been allowed to the child as depreciation in respect of the property for the taxation years that ended before the acquisition;”;

(4) by adding, after subparagraph *b* of the first paragraph, the following subparagraph:

“(c) notwithstanding subparagraph *a*, where property of an individual is deemed under subparagraph *a* to be acquired by the child as a consequence of the individual’s death, and the individual’s proceeds of disposition of the property under subparagraph *a* are redetermined under sections 93.1 to 93.3, the following rules apply:

i. for the purposes of sections 93 to 104, Chapter III of Title III and any regulations made under paragraph *a* of section 130 or section 130.1, where the property was depreciable property of a prescribed class and the capital cost to the individual of the property exceeds the amount so redetermined under sections 93.1 to 93.3,

(1) the capital cost to the child of the property is deemed to be equal to the capital cost to the individual of the property, and

(2) the excess is deemed to have been allowed to the child as depreciation in respect of the property for the taxation years that ended before the acquisition, and

ii. where the property is land, other than land to which subparagraph i applies, the cost to the child of the property is deemed to be equal to the amount that was the individual's proceeds of disposition of the property as redetermined under sections 93.1 to 93.3.”;

(5) by replacing subparagraphs *a* and *b* of the second paragraph by the following subparagraphs:

“(a) the first paragraph applies without reference to subparagraphs *a* and *a.1* thereof, and as if the references to subparagraph *a* in subparagraphs *b* and *c* of that paragraph were read as references to subparagraph *b* of this paragraph; and

“(b) the individual is deemed to have, immediately before his death, disposed of the property referred to in the first paragraph and received proceeds of disposition therefor equal to such amount as the individual's legal representative elects in respect of the property, in accordance with section 450.5, in the individual's fiscal return under this Part for the year in which the individual died, and the child is deemed to have acquired the property at the time of the death at a cost equal to those proceeds.”

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

c. I-3,  
s. 450, am.

**128.** (1) Section 450 of the said Act, amended by section 177 of chapter 22 of the statutes of 1994, is again amended

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

“(b) the trust is deemed to have, immediately before the spouse's death, disposed of the property and received proceeds of disposition therefor equal to the following amount, and the child is deemed to have acquired the property at the time of the death at a cost equal to those proceeds:

i. where the property was depreciable property of a prescribed class, the lesser of the capital cost and the cost amount to the trust of the property immediately before the spouse's death, and

ii. where the property is land, other than land to which subparagraph i applies, or a share of the capital stock of a family farm corporation, the adjusted cost base to the trust of the property immediately before the spouse's death;"

(2) by replacing subparagraph ii of subparagraph *b.1* of the first paragraph by the following subparagraph:

"ii. the child is deemed to have acquired the property at the time of the spouse's death at a cost equal to the cost to the trust of the property, and";

(3) by replacing subparagraph *c* of the first paragraph by the following subparagraph:

"(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 section 130.1, where depreciable property of a prescribed class of the trust is deemed under subparagraph *b* to be acquired by the child as a consequence of the spouse's death, except where the trust's proceeds of disposition of the property under subparagraph *b* are redetermined under sections 93.1 to 93.3, and the capital cost to the trust of the property exceeds the amount determined under subparagraph *b* to be the cost to the child of the property, the following rules apply:

i. the capital cost to the child of the property is deemed to be equal to the capital cost to the trust of the property, and

ii. the excess is deemed to have been allowed to the child as depreciation in respect of the property for the taxation years that ended before the acquisition; and";

(4) by adding, after subparagraph *c* of the first paragraph, the following subparagraph:

"(d) notwithstanding subparagraph *b*, where property of the trust is deemed under subparagraph *b* to be acquired by the child as a consequence of the spouse's death, and the trust's proceeds of disposition of the property under subparagraph *b* are redetermined under sections 93.1 to 93.3, the following rules apply:

i. for the purposes of sections 93 to 104, Chapter III of Title III and any regulations made under paragraph *a* of section 130 or section 130.1, where the property was depreciable property of a prescribed class and the capital cost to the trust of the property exceeds the amount so redetermined under sections 93.1 to 93.3,



(1) the capital cost to the child of the property is deemed to be equal to the capital cost to the trust of the property, and

(2) the excess is deemed to have been allowed to the child as depreciation in respect of the property for the taxation years that ended before the acquisition, and

ii. where the property is land, other than land to which subparagraph i applies, the cost to the child of the property is deemed to be equal to the trust's proceeds of disposition of the property as redetermined under sections 93.1 to 93.3.”;

(5) by replacing the second paragraph by the following paragraph:

Election by  
the trust

“However, if the trust referred to in the first paragraph so elects in its fiscal return under this Part for its taxation year in which the spouse died, the following rules apply:

(a) the first paragraph applies without reference to subparagraphs *b* and *b.1* thereof, and as if the references to subparagraph *b* in subparagraphs *c* and *d* of that paragraph were read as references to subparagraph *b* of this paragraph; and

(b) the trust is deemed to have, immediately before the spouse's death, disposed of the property referred to in the first paragraph and received proceeds of disposition therefor equal to such amount as the trust elects in respect of the property, in accordance with section 450.5, in the trust's fiscal return under this Part for the year in which the spouse died, and the child is deemed to have acquired the property at the time of the death at a cost equal to those proceeds.”

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

c. 1-3,  
s. 450.5, am.

**129.** (1) Section 450.5 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) where

i. the property is depreciable property of a prescribed class, the lesser of the capital cost and the cost amount to the individual of the property immediately before his death or to the trust immediately before the spouse's death, as the case may be;

ii. the property is land, other than land to which subparagraph i applies, or a share of the capital stock of a family farm corporation, or an interest in a family farm partnership, the adjusted cost base to the individual of the property immediately before his death or to the trust immediately before the spouse's death, as the case may be."

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

c. 1-3,  
ss. 450.10,  
450.11,  
added

**130.** (1) The said Act is amended by inserting, after section 450.9, the following sections:

Capital cost  
of certain  
depreciable  
property

**"450.10** For the purposes of Divisions I to III and, where a provision of either of those Divisions, other than this section, applies, for the purposes of sections 93 to 104 and Chapter III of Title III, but not for the purposes of any regulations made under paragraph *a* of section 130, the capital cost to an individual, or to a trust to which section 450 applies, of depreciable property of a prescribed class disposed of immediately before the death of the individual or, as the case may be, of the spouse referred to in that section 450, shall, in respect of property that was not disposed of by the individual or the trust before that time, be the amount that it would be, if

(a) paragraph *b* of section 99 were read without reference to "the lesser of the following amounts" in the portion before subparagraph i thereof and without reference to subparagraph ii thereof;

(b) subparagraph i of paragraph *d* of section 99 were read as follows:

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

(c) section 99 were read without reference to paragraph *d.1* thereof.

Order of  
disposal of  
depreciable  
property

**"450.11** Where two or more depreciable properties of a prescribed class are disposed of at the same time as a consequence of an individual's death, Divisions I to III and paragraph *a* of the definition of "cost amount" in section 1 apply as if each property so

disposed of were separately disposed of in the order designated by the individual's legal representative or, in the case of a trust referred to in section 450, by the trust and, where the taxpayer's legal representative or the trust, as the case may be, does not designate an order, in the order designated by the Minister."

(2) Subsection 1 applies in respect of dispositions or acquisitions occurring after 31 December 1992.

c. I-3,  
s. 490,  
French  
text, am.

**131.** (1) Section 490 of the said Act is amended by replacing, in the French text, the words "d'une entreprise d'utilité publique ou d'un service public" by the words "d'une entreprise de service public".

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

c. I-3,  
s. 491, am.

**132.** (1) Section 491 of the said Act is amended by replacing paragraph *e* by the following paragraph:

"(e) compensation received under the regulations made under section 9 of the Aeronautics Act (Revised Statutes of Canada, 1985, chapter A-2), an amount received under the "Gallantry Awards Order" made by the Government of Canada, or a pension payment, an allowance or compensation that is received under the Pension Act (Revised Statutes of Canada, 1985, chapter P-6), the Merchant Navy Veteran and Civilian War-related Benefits Act (Revised Statutes of Canada, 1985, chapter C-31) or the War Veterans Allowance Act (Revised Statutes of Canada, 1985, chapter W-3); or".

(2) Subsection 1 has effect from 1 July 1992.

c. I-3,  
s. 492.2, re-  
pealed

**133.** Section 492.2 of the said Act, enacted by section 38 of chapter 64 of the statutes of 1993, is repealed.

c. I-3,  
s. 502.0.2,  
am.

**134.** (1) Section 502.0.2 of the said Act is amended by replacing, in paragraph *a*, the words "subparagraph ii of paragraph *b* of subsection 1 of section 89" by the words "paragraph *b* of the definition of "capital dividend account" in subsection 1 of section 89", and the words "subparagraph iv of paragraph *b* of subsection 1 of section 89" by the words "paragraph *d* of the definition of "capital dividend account" in subsection 1 of section 89".

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

c. I-3,  
s. 502.0.3,  
am.

**135.** (1) Section 502.0.3 of the said Act is amended by replacing the words “subparagraph iv of paragraph *b* of subsection 1 of section 89” by the words “paragraph *d* of the definition of “capital dividend account” in subsection 1 of section 89”.

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

c. I-3,  
s. 502.0.4,  
am.

**136.** (1) Section 502.0.4 of the said Act is amended by replacing, in paragraph *a*, the words “subparagraph ii of paragraph *b* of subsection 1” by the words “paragraph *b* of the definition of “capital dividend account” in subsection 1”, wherever they appear.

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

c. I-3,  
s. 504, am.

**137.** (1) Section 504 of the said Act is amended by replacing subparagraph iii of paragraph *f* of subsection 2 by the following subparagraph:

“iii. from a transaction by which the paid-up capital in respect of that class of shares or in respect of shares of another class for which shares of that class were substituted was reduced by the corporation, to the extent of the reduction in paid-up capital that resulted from the transaction.”

(2) Subsection 1 applies in respect of transactions occurring after 13 July 1990. However, where subparagraph iii of paragraph *f* of subsection 2 of section 504 of the Taxation Act, enacted by subsection 1, applies in respect of transactions occurring before 21 December 1992, the English text thereof shall be read as follows:

“iii. from the reduction by the corporation of the paid-up capital in respect of that class of shares or in respect of shares of another class for which shares of that class were substituted.”

c. I-3,  
s. 504.2,  
added

**138.** (1) The said Act is amended by inserting, after section 504.1, the following section:

Computa-  
tion of con-  
tributed  
surplus

**“504.2** For the purposes of subparagraph ii of paragraph *f* of subsection 2 of section 504, where the property acquired by the corporation consists of shares of any class of the capital stock of another corporation resident in Canada, in this section referred to as the “particular corporation”, and, immediately after the acquisition, the particular corporation is connected, within the meaning of the

regulations, with the corporation, the contributed surplus of the corporation that arose on the acquisition is deemed to be the lesser of

(a) the amount added to the contributed surplus of the corporation on the acquisition, and

(b) the amount by which the paid-up capital in respect of the shares at the time of the acquisition exceeded the fair market value of any consideration given by the corporation for the shares.”

(2) Subsection 1 applies in respect of transactions occurring after 20 December 1992.

c. I-3,  
s. 524.0.1,  
am.

**139.** (1) Section 524.0.1 of the said Act, enacted by section 197 of chapter 22 of the statutes of 1994, is amended

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

$$\frac{(A \times B) - 2[(D + E) - (F + G)]}{C};$$

(2) by adding, after subparagraph *c* of the second paragraph, the following subparagraphs:

“(d) D is the amount that would be included under section 105 in computing the taxpayer’s income as a result of the disposition if paragraph *b* of that section were read as follows:

“(b) in any other case, the excess shall be included in computing the taxpayer’s income from that business for the year.”;

“(e) E is the amount that would be deemed under section 105 to be a taxable capital gain of the taxpayer as a result of the disposition if subparagraph ii of paragraph *a* of that section were read as follows:

“ii. the amount by which the excess exceeds the amount determined under subparagraph i is deemed to be a taxable capital gain of the taxpayer from a disposition of capital property by him in the year and, for the purposes of Title VI.5 of Book IV, that property is deemed to have been disposed of by him in the year.”;

“(f) F is the amount included under section 105 in computing the taxpayer’s income as a result of the disposition; and

“(g) G is the amount deemed under section 105 to be a taxable capital gain of the taxpayer as a result of the disposition.”

(2) Subsection 1 applies in respect of dispositions of property to a corporation after the beginning of its first taxation year that begins after 30 June 1988.

c. 1-3,  
s. 535, am.

**140.** (1) Section 535 of the said Act is amended, in paragraph *b*,

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

“(b) the taxpayer must add, in computing the adjusted cost base of all shares of any class of the capital stock of the corporation mentioned therein owned by the taxpayer immediately after the disposition, the proportion that the fair market value, immediately after the disposition, of all shares of that class owned by him is of the fair market value, immediately after the disposition, of all shares of the capital stock of the corporation then owned by him, of the amount by which the cost amount to the taxpayer immediately before the disposition of the property disposed of exceeds

i. in the case of capital property, the aggregate of the proceeds of disposition of the property and, where the property disposed of by the taxpayer is a share of the capital stock of a corporation, the aggregate of all amounts each of which is an amount that, but for section 239 and paragraph *a*, would be deducted”;

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

“ii. in the case of an intangible capital property, the excess determined under subparagraph *ii* of paragraph *b* of section 107 in respect of the taxpayer as a result of the disposition of the property.”

(2) Subsection 1 applies, in the case of a corporation, in respect of dispositions by it of property occurring after the beginning of its first taxation year that begins after 30 June 1988 and, in any other case, in respect of dispositions of property in respect of a business occurring after the beginning of the first fiscal period, that begins after 31 December 1987, of the business. However, where subparagraph *i* of paragraph *b* of section 535 of the Taxation Act, as amended by paragraph 1 of subsection 1, applies in respect of dispositions occurring before 14 July 1990, it shall be read as follows:

“i. in the case of capital property, the proceeds of the disposition, and”.

c. 1-3,  
s. 536, am.

**141.** (1) Section 536 of the said Act, amended by section 198 of chapter 22 of the statutes of 1994, is again amended by replacing subparagraph *a* of the second paragraph by the following subparagraph:

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

(2) Subsection 1 applies in respect of exchanges of shares occurring after 21 December 1992.

c. 1-3,  
s. 541, re-  
placed

**142.** (1) Section 541 of the said Act is replaced by the following section:

Application

“**541.** This Chapter applies where at a particular time after 6 May 1974, in the course of a reorganization of the capital of a corporation, a taxpayer disposes to the corporation of capital property that is shares of a particular class of the capital stock of the corporation that are then owned by him for consideration receivable by him from the corporation that includes another share of such capital stock, except where section 518 or 529 applies.”

(2) Subsection 1 applies in respect of reorganizations beginning after 21 December 1992.

c. 1-3,  
s. 544, am.

**143.** (1) Section 544 of the said Act, amended by section 199 of chapter 22 of the statutes of 1994, is again amended

(1) by replacing subsection 4 by the following subsection:

“(4) Where there has been an amalgamation of a corporation and one or more of its subsidiary wholly-owned corporations or two or more corporations each of which is a subsidiary wholly-owned corporation of the same person, the new corporation is deemed, for the purposes of sections 85 to 91 and 95 to 98 of the Act respecting the application of the Taxation Act (1972, chapter 24) and sections 332.1, 332.2, 359.1 to 359.17, 362 to 418.36, 419.1 to 419.4 and 419.6, to be the same corporation as, and a continuation of, each predecessor corporation, except that this subsection shall in no respect affect the determination of any predecessor corporation’s fiscal period, taxable income or tax payable.”;

(2) by replacing subsection 5 by the following subsection:

“(5) For the purposes of subsections 3 and 4, this subsection and the second paragraph of section 547.1, and notwithstanding section 1, “subsidiary wholly-owned corporation” of a particular person means a corporation all the issued and outstanding shares of the capital stock of which are owned by

(a) the particular person;

(b) a corporation that is a subsidiary wholly-owned corporation of the particular person; or

(c) any combination of persons each of which is a person described in paragraph *a* or *b*.”

(2) Subsection 1 applies in respect of amalgamations occurring after 21 December 1992.

c. 1-3,  
s. 550.7, am.

**144.** (1) Section 550.7 of the said Act is amended by replacing the portion before subparagraph *a* of the first paragraph by the following:

Flow-  
through  
shares

**“550.7** Where there has been an amalgamation of two or more corporations each of which is a development corporation, within the meaning of section 363, or a corporation that at no time carried on business and a predecessor corporation entered into an agreement with a person, at a particular time, under which the corporation issued or agreed to issue, for consideration given by the person, a share that was a flow-through share or that would have been a flow-through share if it had been issued, the following rules apply for the purposes of section 359.8 and for the purpose of renouncing an amount under section 359.2, 359.2.1, 359.4 or 359.6 in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses that would, but for the renunciation, be incurred by the new corporation after the amalgamation:”.

(2) Subsection 1 applies in respect of amalgamations occurring after 2 December 1992.

c. 1-3,  
s. 560.2, am.

**145.** (1) Section 560.2 of the said Act, amended by section 205 of chapter 22 of the statutes of 1994, is again amended by replacing the second paragraph by the following paragraph:



Control ac-  
quired by  
succession  
or will

“However, where a person or a group of persons has acquired, at any time, control of a corporation by succession or will, that person or group of persons is deemed, at that time and at any time before that time, for the purposes of the first paragraph and of paragraph *b* of section 739 where it applies to the first paragraph, to have dealt at arm’s length with the person who bequeathed the shares, or from whom the shares were inherited, and with each other person who is related to that person.”

(2) Subsection 1 applies in respect of windings-up beginning after 20 December 1991.

c. I-3, Part  
I, Book III,  
Title IX,  
Chap. IX.1,  
repealed

**146.** (1) Chapter IX.1 of Title IX of Book III of Part I of the said Act is repealed.

(2) Subsection 1 has effect

(*a*) in respect of a corporation that is deemed, under paragraph *a* of subsection 2 of section 10, to have made an election, from the time referred to in that paragraph *a*;

(*b*) in respect of a corporation that has made a valid election under paragraph *b* of subsection 2 of section 10, from the time after the corporation is granted articles of continuance or other similar constitutional documents in respect of which the election has been made;

(*c*) in all other cases, from 1 January 1993.

c. I-3, Part  
I, Book III,  
Title IX,  
Chap. X,  
heading,  
replaced

**147.** (1) The heading of Chapter X of Title IX of Book III of Part I of the said Act is replaced by the following heading:

“DEFINITIONS AND GENERAL PROVISIONS”.

(2) Subsection 1 has effect from 15 June 1994.

c. I-3,  
s. 570.1,  
added

**148.** (1) The said Act is amended by inserting, after section 570, the following section:

Application  
of para-  
graph *c* of  
section 570

**“570.1** For the purposes of paragraph *c* of section 570, a corporation formed at any time by the amalgamation or merger of, or by a plan of arrangement or other corporate reorganization in respect of, two or more corporations is a Canadian corporation because it is resident in Canada at that time and was incorporated in Canada only if

(a) that reorganization took place under the laws of Canada or a province, and

(b) each of those corporations was, immediately before that time, a Canadian corporation.

Exception

The first paragraph does not apply in respect of a reorganization occurring as a result of the acquisition of property of one corporation by another corporation, pursuant to the purchase of the property by the other corporation or as a result of the distribution of the property to the other corporation on the winding-up of the corporation.”

(2) Subsection 1 has effect from 15 June 1994.

c. 1-3,  
ss. 605.1,  
605.2,  
added

Foreign  
partner-  
ships

**149.** (1) The said Act is amended by inserting, after section 605, the following sections:

**“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, ii.2 and iv to vi.1 of paragraph *e* of section 93 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;

(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; and

(d) where  $\frac{4}{3}$  of the eligible intangible capital amount in respect of a business carried on at the particular time outside Canada by the partnership exceeds the total of the fair market value of each intangible capital property in respect of the business at that time, the partnership is deemed to have, immediately after that time, disposed of intangible capital property in respect of the business for proceeds equal to the excess and to have received those proceeds.

Foreign  
partner-  
ships

**“605.2** For the purposes of section 605.1, where it can reasonably be considered that one of the main reasons that there is a member of the partnership who is resident in Canada is to avoid the application of that section, the member is deemed not to be resident in Canada.”

(2) Subsection 1 applies to a partnership where a person or another partnership becomes a member of the partnership after 21 December 1992, or where a member of the partnership becomes resident in Canada after 30 August 1993. However, where section 605.1 of the Taxation Act, enacted by subsection 1, applies before 1 May 1994, it shall be read without reference to paragraph *d*.

c. I-3,  
s. 635, am.

**150.** (1) Section 635 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(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”.

(2) Subsection 1 applies from the taxation year 1988.

c. I-3,  
s. 640, am.

**151.** (1) Section 640 of the said Act is amended by replacing the first paragraph by the following paragraph:

Residual in-  
terest in a  
partnership

**“640.** Subject to sections 428 to 451, 785.1 and 785.2 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.”

(2) Subsection 1 has effect

(a) from the time referred to in paragraph *a* of subsection 2 of section 10, in respect of a corporation that is deemed, under that paragraph *a*, to have made an election;

(b) from 1 January 1993, in all other cases.

c. I-3,  
s. 656, am.

**152.** (1) Section 656 of the said Act, replaced by section 227 of chapter 22 of the statutes of 1994, is amended by replacing paragraphs *a* and *b* by the following paragraphs:

“(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.”

(2) Subsection 1 applies to days determined under section 653 of the Taxation Act that are after 31 December 1992.

c. I-3,  
s. 668.4, am.

**153.** (1) Section 668.4 of the said Act, amended by section 235 of chapter 22 of the statutes of 1994, is again amended

(1) by replacing the definition of “eligible immovable property gain” by the following definition:

“eligible im-  
movable  
property  
gain”

““eligible immovable property gain” of a trust has the meaning that would be assigned by the definition of that expression in the first paragraph of section 726.6.1 if the reference in that definition to “non-qualifying immovable property” were read as “non-qualifying immovable property as defined in section 668.4”;;”;

(2) by replacing paragraphs *a* and *b* of the definition of “eligible taxable capital gains” by the following paragraphs:

“(a) its annual gains limit for the year, within the meaning that would be assigned by subparagraph *b* of the first paragraph of section 726.6 if the reference in that subparagraph *b* to “non-qualifying immovable property” were read as “non-qualifying immovable property as defined in section 668.4”, and

“(b) the amount by which its cumulative gains limit at the end of the year, within the meaning that would be assigned by subparagraph *c* of the first paragraph of section 726.6 if, where that subparagraph *c* refers to subparagraph *i* of subparagraph *b* of the first paragraph of that section, the reference in that subparagraph *i* to “non-qualifying immovable property” were read as “non-qualifying immovable property as defined in section 668.4”, exceeds the aggregate of all amounts designated under sections 668.1 and 668.2 by the trust in respect of beneficiaries in taxation years before that year;”;

(3) by replacing the definition of “eligible immovable property loss” by the following definition:

“eligible im-  
movable  
property  
loss”

““eligible immovable property loss” of a trust has the meaning that would be assigned by the definition of that expression in the first paragraph of section 726.6.1 if the reference in that definition to “non-qualifying immovable property” were read as “non-qualifying immovable property as defined in section 668.4”.”

(2) Paragraphs 1 and 3 of subsection 1 and paragraph 2 of that subsection, where it replaces paragraph *a* of the definition of “eligible taxable capital gains” in section 668.4 of the Taxation Act, apply from the taxation year 1992.

(3) Paragraph 2 of subsection 1, where it replaces paragraph *b* of the definition of “eligible taxable capital gains” in section 668.4 of the Taxation Act, applies from the taxation year 1985. However, where it applies to taxation years preceding the taxation year 1992, that paragraph *b*, enacted by paragraph 2 of subsection 1, shall be read as follows:

“(b) the amount by which its cumulative gains limit at the end of the year, within the meaning of subparagraph *c* of the first paragraph of section 726.6, if that subparagraph were read without reference to subparagraph 3 of its subparagraph ii, exceeds the aggregate of all amounts designated under sections 668.1 and 668.2 by the trust in respect of a beneficiary in a taxation year before that year.”

c. I-3,  
s. 677, am.

**154.** (1) Section 677 of the said Act is amended by replacing the portion of the second paragraph before subparagraph *a* by the following:

“testamen-  
tary trust”

“For the purposes of this Chapter, “testamentary trust” in a taxation year means a trust or succession that arose upon and in consequence of the death of an individual, including a trust referred to in section 7.4.1, but does not include”.

(2) Subsection 1 applies from the taxation year 1990.

c. I-3,  
s. 682, re-  
placed

**155.** (1) Section 682 of the said Act is replaced by the following section:

Annual pay-  
ment of the  
tax payable

“**682.** Instead of making the payments required by sections 1025, 1026 and 1026.0.1, the testamentary trust shall pay to the Minister, within 90 days after the end of each taxation year, the tax payable under this Part by it for the year.”

(2) Subsection 1 applies from the taxation year 1994.

c. I-3,  
s. 686, am.

**156.** (1) Section 686 of the said Act is amended by replacing subsection 3 by the following subsection:

Capital loss

“(3) Where at any time a corporation disposes of all or part of the capital interest in a trust that is not a prescribed trust, its capital loss from the disposition is deemed to be the amount of its loss otherwise determined minus the amount by which the aggregate of all amounts each of which was received by the trust before that time and, where the trust is a unit trust, after 31 December 1987, and designated by it under section 666 or 667 in respect of the corporation exceeds such portion of the amounts thus received as can reasonably be considered to have resulted in a reduction under this subsection of its capital loss otherwise determined from the disposition before that time of an interest in the trust.”

(2) Subsection 1 applies from the taxation year 1988.

c. I-3,  
s. 690, am.

**157.** (1) Section 690 of the said Act is amended

(1) by replacing subparagraph ii of subparagraph *a* of the first paragraph by the following subparagraph:

“ii. all amounts each of which is the cost amount to the trust, immediately before the transfer, of each such other property;”;

(2) by striking out subparagraph iii of subparagraph *a* of the first paragraph;

(3) by replacing subparagraph ii of subparagraph *a* of the second paragraph by the following subparagraph:

“ii. all amounts each of which is the cost amount to the trust, immediately before that time, of each other property;”;

(4) by striking out subparagraph iii of subparagraph *a* of the second paragraph.

(2) Subsection 1 has effect from 14 July 1990.

c. I-3,  
s. 725, am.

**158.** (1) Section 725 of the said Act, amended by section 53 of chapter 64 of the statutes of 1993, is again amended

(1) by striking the word “or” at the end of paragraph *b*;

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

“(c) a social assistance payment based on a means, needs or income test and included in computing his income either by reason of section 311.1 or by reason of section 317 as a supplement or spouse’s allowance received under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9) or any similar payment made under a provincial law; or”.

(2) Subsection 1 applies from the taxation year 1991.

c. I-3,  
s. 725.2, am.

**159.** (1) Section 725.2 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) the amount that the individual is required to pay to acquire the share under the agreement, determined without reference to any change in the value of a currency of a country other than Canada relative to Canadian currency during the period between the time the agreement was made and the time the share was acquired, is

equal to or greater than the amount by which the fair market value of the share at the time the agreement was made exceeds the amount paid by the individual to acquire the right to acquire the share, or, where the rights under the agreement were acquired by the individual as a result of one or more dispositions of rights to which section 49.4 applied, the amount payable by the individual to acquire the old share under the exchanged option, determined without reference to any change in the value of a currency of a country other than Canada relative to Canadian currency during the period between the time the agreement was made and the time the share was acquired, that was disposed of in consideration for the new option in the first such disposition was equal to or greater than the amount by which the fair market value of the old share at the time the agreement in respect of the exchanged option was made exceeds the amount paid by the individual to acquire the right to acquire the old share;”.

(2) Subsection 1 applies from the taxation year 1992.

c. I-3,  
s. 726.4.10,  
am.

**160.** (1) Section 726.4.10 of the said Act, amended by section 55 of chapter 64 of the statutes of 1993 and by section 54 of chapter 1 of the statutes of 1995, is again amended by replacing subparagraphs i and ii of paragraph *a* by the following subparagraphs:

“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 but not after 31 December 1996, and which are

(1) Canadian exploration expenses that would be described in paragraph *a* or *c* of section 395 if the reference in those paragraphs 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*, *c* and *c.1*” were replaced by a reference to “expenses that would be described in paragraph *a* or *c*, if the reference in those paragraphs 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 *a* or *c*, if the reference in those paragraphs to “Canada”, wherever it appears, were a reference to “Québec””, 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;”.

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

c. 1-3,  
s. 726.4.12,  
am.

**161.** (1) Section 726.4.12 of the said Act, amended by section 56 of chapter 64 of the statutes of 1993 and by section 55 of chapter 1 of the statutes of 1995, is again amended by replacing paragraph *b* by the following paragraph:

“(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 and not later than 31 December 1996, pursuant to section 359.2 or 359.2.1, as the case may be, in respect of a share;”.

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

c. 1-3,  
s. 726.4.13,  
replaced

**162.** (1) Section 726.4.13 of the said Act is replaced by the following section:

Assistance  
in respect  
of included  
expenses

**“726.4.13** Where an expense incurred before a particular 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.”

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

c. I-3,  
s. 726.4.15,  
am.

**163.** (1) Section 726.4.15 of the said Act is amended by replacing the portion before paragraph *a* by the following:

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:”.

(2) Subsection 1 applies in respect of expenses incurred after 2 December 1992.

c. I-3,  
s. 726.6, am.

**164.** (1) Section 726.6 of the said Act, amended by section 247 of chapter 22 of the statutes of 1994, is again amended, in the first paragraph,

(1) by replacing, in the French text, subparagraph 1 of subparagraph *i* of subparagraph *a.2* by the following subparagraph:

“1° les articles 147, 160, 163, 176, 176.4 ou 178, à l’égard d’un emprunt que le particulier a utilisé soit pour faire un paiement en contrepartie d’un contrat de rente d’étalement, soit pour payer une prime en vertu d’un régime enregistré d’épargne-retraite, soit pour verser un montant à un régime de pension agréé ou à un régime de participation différée aux bénéfices, ou qui a été utilisé pour acquérir un bien que le particulier a utilisé à ces fins;”;

(2) by replacing subparagraph 2 of subparagraph *i* of subparagraph *a.2* by the following subparagraph:

“(2) section 177, the first paragraph of section 360 or section 371, 401, 413, 414 or 418.7;”;

(3) by replacing subparagraph iv of subparagraph *a.2* by the following subparagraph:

“iv. 50% of the aggregate of all amounts each of which is an amount deducted under section 371, 401, 413, 414 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”;

(4) by replacing subparagraphs i and ii of subparagraph *c* by the following subparagraphs:

“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;”.

(2) Paragraphs 2 and 3 of subsection 1 apply from the taxation year 1992.

(3) Paragraph 4 of subsection 1 applies from the taxation year 1985. In this regard, notwithstanding sections 1010 to 1011 of the Taxation Act, such assessments and determinations as are necessary may be made by the Minister of Revenue in respect of any taxation years to give effect to paragraph 4 and the second and third paragraphs of section 1060.1 and section 1066.2 of the said Act shall apply thereto, with the necessary modifications.

c. I-3,  
s. 726.6.1,  
am.

**165.** (1) Section 726.6.1 of the said Act, amended by section 248 of chapter 22 of the statutes of 1994, is again amended

(1) by replacing paragraphs *b* to *d* of the definition of “non-qualifying immovable property” in the first paragraph by the following paragraphs:

“(b) a share of the capital stock of a corporation, other than a qualified small business corporation share of the individual or a share of the capital stock of a family farm corporation of the individual, the fair market value of which is derived principally from immovable property, other than immovable property that was used throughout that part of the 24-month period preceding the time of the disposition during which it was owned by the corporation or by persons described in any of subparagraphs 1 to 6 of subparagraph ii of paragraph *a*, or throughout all or substantially all of the time in the period preceding the time of the disposition during which it was owned by the corporation or by such persons, principally in a qualified business carried on by the corporation or by such persons, but not including a share of the capital stock of a corporation the fair market value of which is derived principally from immovable property owned by another corporation, a partnership or a trust, or any combination thereof, the shares of the capital stock of which, or the interests in which, as the case may be, would, if they were disposed of by the individual at the time of the disposition, not be non-qualifying immovable property of the individual;

“(c) an interest in a partnership, other than an interest in a family farm partnership of the individual, the fair market value of which is derived principally from immovable property, other than immovable property that was used throughout that part of the 24-month period preceding the time of the disposition during which it was property of the partnership or persons described in any of subparagraphs 1 to 6 of subparagraph ii of paragraph *a*, or throughout all or substantially all of the time in the period preceding the time of the disposition during which it was property of the partnership or such persons, principally in a qualified business carried on by one or more persons as members of the partnership or by persons described in any of those subparagraphs 1 to 6, but not including an interest in a partnership the fair market value of which is derived principally from immovable property owned by another partnership, a corporation or a trust, or any combination thereof, the shares of the capital stock of which, or the interests in which, as the case may be, would, if they were disposed of by the individual at the time of the disposition, not be non-qualifying immovable property of the individual;

“(d) an interest in a trust the fair market value of which is derived principally from immovable property, other than immovable property that was used throughout that part of the 24-month period preceding the time of the disposition during which it was owned by the trust or persons described in any of subparagraphs 1 to 6 of subparagraph ii of paragraph *a*, or throughout all or substantially all of the time in the period preceding the time of the disposition during which it was owned by the trust or such persons, principally in a qualified business carried on by the trust or by such persons, but not including an interest in a trust the fair market value of which is derived principally from immovable property owned by another trust, a corporation or a partnership, or any combination thereof, the shares of the capital stock of which, or the interests in which, as the case may be, would, if they were disposed of by the individual at the time of the disposition, not be non-qualifying immovable property of the individual; or”;

(2) by replacing, in the French text of subparagraph ii of subparagraph *f* of the second paragraph, the word “charité” by the word “bienfaisance”.

(2) Paragraph 1 of subsection 1 applies from the taxation year 1992.

(3) Paragraph 2 of subsection 1 applies to taxation years ending after 30 November 1991.

c. 1-3,  
s. 726.6.2,  
am.

**166.** (1) Section 726.6.2 of the said Act is amended

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

Special  
rules

**“726.6.2** For the purposes of the definition of “small business corporation” in section 1, of subparagraph *a* 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 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 *b* of the definition of “share of the capital stock of a family farm corporation” in that first paragraph, or paragraphs *a* to *d* 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 date 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.

Interpreta-  
tion

The assets referred to in subparagraph ii of subparagraph *a* of the first paragraph are”;

(2) by adding, after the second paragraph, the following paragraphs:

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 paragraph *b* 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 is connected is a qualified small business corporation share or a share of the capital stock of a family farm corporation and in determining whether the other corporation is a small business corporation.”

(2) Subsection 1 applies in respect of dispositions occurring after 31 December 1991. In addition, where the portion of the first paragraph of section 726.6.2 of the Taxation Act before subparagraph *a*, replaced by subsection 1, applies in respect of dispositions occurring after 17 June 1987 and before 1 January 1992, the English text thereof shall be read as if the reference therein to “qualified small business corporation” were a reference to “small business corporation”.

c. I-3,  
s. 737.14,  
am.

**167.** (1) Section 737.14 of the said Act, amended by section 66 of chapter 1 of the statutes of 1995, is again amended by replacing, in the English text of the second paragraph, the words “in respect of that international financial centre” by the words “in respect of the international banking centre business”.

(2) Subsection 1 applies to taxation years beginning after 2 May 1991.

c. I-3,  
s. 740.7, am.

**168.** (1) Section 740.7 of the said Act is amended by adding, after subparagraph ii of paragraph *a*, the following subparagraph:

“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;”.

(2) Subsection 1 has effect from 22 December 1992.

c. I-3,  
s. 743, am.

**169.** (1) Section 743 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) where the taxpayer is a corporation, the aggregate of all amounts each of which is a taxable dividend on the share received by the taxpayer, to the extent of the amount thereof that was deductible in computing the taxpayer’s taxable income or taxable income earned in Canada for any taxation year by reason of sections 738 to 745 or section 845 or 1091, or a dividend, other than a taxable dividend or a dividend deemed under section 1106 or 1116 to be a capital gains dividend on the share received by the taxpayer;”.

(2) Subsection 1 applies in respect of the determination of losses arising in taxation years ending after 31 December 1989. It shall also apply in respect of the determination of losses arising in a taxpayer's taxation year ending after 31 December 1984 and before 1 January 1990 where the taxpayer has notified the Minister of Revenue in writing, with supporting evidence, in accordance with subsection 2 of section 279 of the Act to amend the Taxation Act and other fiscal legislation (1993, chapter 16), that the taxpayer has made a valid election with the Minister of National Revenue, under paragraph *b* of subsection 6 of section 84 of the Act to amend the Income Tax Act, the Canada Pension Plan, the Cultural Property Export and Import Act, the Income Tax Conventions Interpretation Act, the Tax Court of Canada Act, the Unemployment Insurance Act, the Canada-Newfoundland Atlantic Accord Implementation Act, the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and certain related Acts (Statutes of Canada, 1991, chapter 49), concerning the application of subsection 4 of section 112 of the Income Tax Act (Statutes of Canada) in respect of the determination of any loss arising in any such taxation year, in which case, notwithstanding section 1010 of the Taxation Act and for the sole purpose of giving effect to the election, such assessments of tax, interest and penalties as are necessary shall be made by the Minister of Revenue and the second and third paragraphs of section 1060.1 and section 1066.2 of the said Act shall apply thereto, with the necessary modifications.

c. I-3,  
s. 744, am.

**170.** (1) Section 744 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) where the holder of the share is a corporation, the aggregate of all amounts each of which is a taxable dividend on the share received before that time by the holder, to the extent of the amount thereof that was deductible in computing the holder's taxable income or taxable income earned in Canada for any taxation year by reason of this Title or section 845 or 1091, or a dividend, other than a taxable dividend or a dividend deemed under section 1106 or 1116 to be a capital gains dividend on the share received before that time by the holder,”.

(2) Subsection 1 applies to taxation years ending after 31 December 1989. It shall also apply to a taxpayer's taxation year ending after 31 December 1984 and before 1 January 1990 where the taxpayer has notified the Minister of Revenue in writing, with supporting evidence, in accordance with subsection 3 of section 279 of the Act to amend the Taxation Act and other fiscal legislation (1993, chapter 16), that the taxpayer has made a valid election with



the Minister of National Revenue, under paragraph *b* of subsection 7 of section 84 of the Act to amend the Income Tax Act, the Canada Pension Plan, the Cultural Property Export and Import Act, the Income Tax Conventions Interpretation Act, the Tax Court of Canada Act, the Unemployment Insurance Act, the Canada-Newfoundland Atlantic Accord Implementation Act, the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and certain related Acts (Statutes of Canada, 1991, chapter 49), concerning the application of subsection 4.1 of section 112 of the Income Tax Act (Statutes of Canada) to any such taxation year, in which case, notwithstanding section 1010 of the Taxation Act and for the sole purpose of giving effect to the election, such assessments of tax, interest and penalties as are necessary shall be made by the Minister of Revenue and the second and third paragraphs of section 1060.1 and section 1066.2 of the said Act shall apply thereto, with the necessary modifications.

c. I-3,  
s. 744.1, am.

**171.** (1) Section 744.1 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) where the taxpayer is a corporation, the aggregate of all amounts each of which is a taxable dividend on the share received by the taxpayer, to the extent of the amount thereof that was deductible in computing the taxpayer’s taxable income or taxable income earned in Canada for any taxation year by reason of sections 738 to 745, 845 or 1091, or a dividend, other than a taxable dividend or a dividend deemed under section 1106 or 1116 to be a capital gains dividend on the share received by the taxpayer, and”.

(2) Subsection 1 applies in respect of the determination of losses arising in taxation years ending after 31 December 1989. It shall also apply in respect of the determination of losses arising in a taxpayer’s taxation year ending after 31 December 1984 and before 1 January 1990 where the taxpayer has notified the Minister of Revenue in writing, with supporting evidence, in accordance with subsection 2 of section 279 of the Act to amend the Taxation Act and other fiscal legislation (1993, chapter 16), that the taxpayer has made a valid election with the Minister of National Revenue under paragraph *b* of subsection 6 of section 84 of the Act to amend the Income Tax Act, the Canada Pension Plan, the Cultural Property Export and Import Act, the Income Tax Conventions Interpretation Act, the Tax Court of Canada Act, the Unemployment Insurance Act, the Canada-Newfoundland Atlantic Accord Implementation Act, the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and certain related Acts (Statutes of Canada, 1991, chapter 49), concerning the application of subsection 4.2 of section 112 of the

Income Tax Act (Statutes of Canada) in respect of the determination of losses arising in any such taxation year, in which case, notwithstanding section 1010 of the Taxation Act and for the sole purpose of giving effect to the election, such assessments of tax, interest and penalties as are necessary shall be made by the Minister of Revenue and the second and third paragraphs of section 1060.1 and section 1066.2 of the said Act shall apply thereto, with the necessary modifications.

c. I-3,  
s. 745, am.

**172.** (1) Section 745 of the said Act is amended

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

“(b) the amount determined by the formula

$$\frac{A \times B}{C} .”;$$

(2) by adding, after the second paragraph, the following paragraph:

Interpreta-  
tion

“For the purposes of the formula in subparagraph *b* of the second paragraph,

(a) A is the aggregate of all amounts each of which is the amount determined in respect of a share exchanged by the acquirer at the time referred to in the first paragraph equal to the lesser of

i. the aggregate of all amounts each of which is received or designated by the acquirer in respect of a taxable dividend, a capital dividend or a life insurance capital dividend on the exchanged share, and

ii. the adjusted cost base to the acquirer of the exchanged share immediately before that time;

(b) B is the adjusted cost base to the acquirer of the acquired share immediately after the exchange; and

(c) C is the adjusted cost base to the acquirer of all acquired shares immediately after the exchange.”

(2) Subsection 1 applies in respect of losses arising in taxation years subsequent to 1991.

c. I-3,  
s. 752.0.10.1,  
French  
text, am.

**173.** (1) Section 752.0.10.1 of the said Act, enacted by section 67 of chapter 64 of the statutes of 1993 and amended by section 350 of chapter 22 of the statutes of 1994 and by section 73 of chapter 1 of the statutes of 1995, is again amended, in the French text,

(1) by inserting, after the definition of “total des dons à l’État”, the following definition:

«total des  
dons de  
bienfaisance»

“ «total des dons de bienfaisance» d’un particulier pour une année d’imposition signifie l’ensemble des montants dont chacun représente la juste valeur marchande d’un don, autre qu’un don dont la juste valeur marchande est incluse dans le total des dons à l’État, le total des dons de biens admissibles ou le total des dons de biens culturels du particulier pour l’année ou aurait été ainsi incluse pour une année d’imposition antérieure si le présent chapitre s’était appliqué à cette année antérieure, que le particulier a fait au cours de l’année ou au cours de l’une des cinq années d’imposition précédentes à l’une des entités suivantes si les conditions prévues à l’article 752.0.10.2 sont remplies à l’égard de ce montant:

- a) un organisme de bienfaisance enregistré;
- b) une association canadienne de sport amateur prescrite;
- c) un organisme artistique reconnu par le ministre sur recommandation du ministre de la Culture et des Communications;
- d) une corporation de logement résidant au Canada et exonérée d’impôt en vertu du paragraphe b de l’article 995;
- e) une municipalité canadienne;
- f) l’Organisation des Nations unies ou ses organismes;
- g) une université étrangère prescrite qui compte ordinairement, parmi ses élèves, des élèves venant du Canada;
- h) une oeuvre de bienfaisance étrangère à laquelle Sa Majesté du chef du Canada ou d’une province a fait un don au cours de l’année d’imposition du particulier ou au cours des 12 mois qui ont précédé cette année;”;

(2) by replacing, in paragraph a of the definition of “total des dons de biens admissibles”, the word “charité” by the word “bienfaisance”;

(3) by striking out the definition “total des dons de charité”.

(2) Paragraphs 1 and 3 of subsection 1 apply from the taxation year 1993. However, where the definition of “total des dons de bienfaisance” in section 752.0.10.1 of the Taxation Act, enacted by subsection 1, applies

(a) in respect of gifts made after 13 May 1994, the portion of that definition before paragraph *a* shall be read without reference to the words “, le total des dons de biens admissibles”;

(b) before 17 June 1994, paragraph *c* of that definition shall be read without reference to the words “et des Communications”, and paragraph *g* of that definition shall be read as if the references therein to “élèves” were references to “étudiants”.

(3) Paragraph 2 of subsection 1 applies in respect of gifts made after 12 May 1994.

c. 1-3,  
s. 752.0.24,  
am.

**174.** (1) Section 752.0.24 of the said Act, amended by section 78 of chapter 64 of the statutes of 1993, is again amended, in the first paragraph,

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

Individual  
resident in  
Canada for  
part of the  
year

**“752.0.24** Where an individual is resident in Canada only during part of a taxation year, the following rules apply for the purpose of computing his tax payable under this Part for the year:”;

(2) by replacing subparagraph *i* of subparagraph *a* by the following subparagraph:

“i. such amount deductible under sections 752.0.8, 752.0.9, 752.0.10.6, 752.0.11 to 752.0.13.4 and 752.0.18.1 as can reasonably be considered wholly applicable to any period in the year throughout which the individual is resident in Canada, computed as if that period were a whole taxation year, and”.

(2) Subsection 1, subject to subsection 3, applies from the taxation year 1992. However, it shall not apply to the taxation year 1992 of an individual who has made an election under subsection 2 of section 18.

(3) Where subparagraph i of subparagraph a of the first paragraph of section 752.0.24 of the Taxation Act, enacted by subsection 1, applies to the taxation year 1992, it shall be read as follows:

“i. such amount deductible under sections 752.0.8, 752.0.9 and 752.0.11 to 752.0.13.1.1 as can reasonably be considered wholly applicable to any period in the year throughout which the individual is resident in Canada, computed as if that period were a whole taxation year, and”.

c. 1-3,  
s. 776.1.0.1,  
added

**175.** (1) The said Act is amended by inserting, before section 776.1.1, the following section:

“qualifying  
trust”

**“776.1.0.1** In section 776.1.1, “qualifying trust” in respect of an individual means a trust governed by a registered retirement savings plan where

(a) the individual makes contributions to the trust and those contributions, and no other funds, can reasonably be considered to have been used by the trust to purchase a share described in section 776.1.1, and

(b) the annuitant under the plan is the individual or a spouse of the individual.”

(2) Subsection 1 applies from the taxation year 1992.

c. 1-3,  
s. 776.1.1,  
replaced

**176.** (1) Section 776.1.1 of the said Act is replaced by the following section:

Shares of  
the Fonds  
de  
solidarité  
des  
travailleurs  
du Québec

**“776.1.1** An individual who is not a dealer acting as an intermediary or as firm underwriter may deduct from his tax otherwise payable for a taxation year under this Part, computed without reference to sections 752.1 to 752.5, 20% of the amount he pays, or that is paid by a qualifying trust in respect of the individual, in the year or within the following 60 days, to such extent as he did not deduct it for a preceding taxation year, for the purchase, as first purchaser, of a class “A” share issued by the corporation governed by the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (chapter F-3.2.1).”

(2) Subsection 1 applies from the taxation year 1992.

c. I-3,  
s. 777, re-  
placed

**177.** (1) Section 777 of the said Act is replaced by the following section:

“estate of  
the bank-  
rupt”,  
“bank-  
ruptcy” and  
“bankrupt”

**“777.** In this Chapter, “estate of the bankrupt” and “bankruptcy” have the meanings assigned by the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3), and “bankrupt” means a corporation or an individual in bankruptcy.”

(2) Subsection 1 has effect from 30 November 1992.

c. I-3,  
s. 779, re-  
placed

**178.** (1) Section 779 of the said Act, replaced by section 276 of chapter 22 of the statutes of 1994 and by section 92 of chapter 1 of the statutes of 1995, is again replaced by the following section:

Taxation  
year of a  
bankrupt

**“779.** Except for the purposes of Title VII of Book V, sections 935.4, 935.9 and 935.10.1 and Division II.13 of Chapter III.1 of Title III of Book IX, the taxation year of the bankrupt is deemed to commence on the date of the bankruptcy and the current taxation year is deemed to end on the day before such date.”

(2) Subsection 1 applies from the taxation year 1993. However, where section 779 of the Taxation Act, enacted by subsection 1, applies to the taxation year 1993, it shall be read as follows:

Taxation  
year of a  
bankrupt

**“779.** Except for the purposes of Title VII of Book V, sections 935.4, 935.9 and 935.10.1, the taxation year of the bankrupt is deemed to commence on the date of the bankruptcy and the current taxation year is deemed to end on the day before such date.”

c. I-3,  
ss. 785.1 -  
785.3,  
added

**179.** (1) The said Act is amended by inserting, after section 785, the following:

#### “TITLE I.1

##### “CHANGE OF RESIDENCE

Taxpayers  
who become  
resident in  
Canada

**“785.1** For the purposes of this Part, where at a particular time a taxpayer becomes resident in Canada, the following rules apply:

(a) where the taxpayer is a corporation or a trust,

i. the taxpayer’s taxation year that would otherwise include the particular time is deemed to have ended immediately before the particular time and a new taxation year of the taxpayer is deemed to have begun at the particular time, and

ii. for the purpose of determining the taxpayer's fiscal period after the particular time, the taxpayer is deemed not to have established a fiscal period before the particular time;

(b) the taxpayer is deemed to have disposed, at the time, in this section referred to as the "time of disposition", that is immediately before the time that is immediately before the particular time, of each property then owned by the taxpayer for proceeds equal to the fair market value of the property at the time of disposition, other than

i. property that would be taxable Canadian property if the taxpayer had been resident in Canada at no time in the taxpayer's last taxation year that began before the particular time,

ii. property that is described in the inventory of a business carried on by the taxpayer in Canada at the time of disposition,

iii. intangible capital property in respect of a business carried on by the taxpayer in Canada at the time of disposition,

iv. property in respect of which the taxpayer elected under the first paragraph of section 243, as it read in its application before 1 January 1993, or subparagraph ii of paragraph *b* of section 785.2, in respect of the last preceding time the taxpayer ceased to be resident in Canada, and

v. a right under an agreement to acquire shares of the capital stock of a corporation where sections 48 to 58 would apply if the taxpayer disposed of the right to a person with whom the taxpayer was dealing at arm's length;

(c) the taxpayer is deemed to have acquired at the particular time each property deemed by paragraph *b* to have been disposed of by the taxpayer, at a cost equal to the proceeds of disposition of the property; and

(d) where the taxpayer was, immediately before the particular time, a foreign affiliate of another taxpayer that is resident in Canada,

i. the taxpayer is deemed to have been a controlled foreign affiliate, within the meaning assigned by section 572, of the other taxpayer immediately before the particular time, and

ii. such amount as is prescribed shall be included in the foreign accrual property income, within the meaning assigned by section 579, of the taxpayer for the taxpayer's taxation year ending immediately before the particular time.

Taxpayers  
who cease  
to be resi-  
dent in  
Canada

**“785.2** For the purposes of this Part, where a taxpayer ceases to be resident in Canada at a particular time, the following rules apply:

(a) where the taxpayer is a corporation or a trust,

i. the taxpayer's taxation year that would otherwise include the particular time is deemed to have ended immediately before the particular time and a new taxation year of the taxpayer is deemed to have begun at the particular time, and

ii. for the purpose of determining the taxpayer's fiscal period after the particular time, the taxpayer is deemed not to have established a fiscal period before the particular time;

(b) the taxpayer is deemed to have disposed, at the time, in this paragraph and paragraph *d* referred to as the “time of disposition”, that is immediately before the time that is immediately before the particular time, of each property then owned by the taxpayer for proceeds equal to the fair market value of the property at the time of disposition, which proceeds are deemed to have been received by the taxpayer at the time of disposition, other than

i. where the taxpayer is an individual,

(1) prescribed property or property that would be taxable Canadian property if the taxpayer had been resident in Canada at no time in the taxpayer's last taxation year that began before the particular time, and

(2) property that is described in the inventory of a business carried on by the taxpayer in Canada at the particular time,

ii. where the taxpayer is an individual other than a trust, capital property not described in subparagraph 1 or 2 of subparagraph i in respect of which, on or before the date on or before which the taxpayer is required to file a fiscal return under this Part for the taxation year in which the taxpayer ceased to be resident in Canada, the taxpayer elects in prescribed manner and furnishes to the Minister security acceptable to the Minister for the payment of the tax that would otherwise be payable by the taxpayer under this Part for the year,



iii. where the taxpayer is an individual other than a trust and was, during the 10 years preceding the particular time, resident in Canada for a period or periods totalling 60 months or less, property that was owned by the taxpayer at the time the taxpayer last became resident in Canada, or acquired by the taxpayer by succession or will after the taxpayer last became resident in Canada, and

iv. a right under an agreement to acquire shares of the capital stock of a corporation where sections 48 to 58 would apply if the taxpayer disposed of the right to a person with whom the taxpayer was dealing at arm's length;

(c) the taxpayer is deemed to have reacquired, at the particular time, each property deemed by paragraph *b* to have been disposed of by the taxpayer, at a cost equal to the proceeds of disposition of the property;

(d) notwithstanding paragraphs *b* and *c*, where a taxpayer who is an individual other than a trust so elects in prescribed manner, on or before the date on or before which the taxpayer is required to file a fiscal return under this Part for the taxation year that includes the particular time, in respect of any property described in subparagraph 1 or 2 of subparagraph *i* of paragraph *b*, except prescribed property for the purposes of that subparagraph 1, the taxpayer is deemed to have disposed of the property at the time of disposition for proceeds equal to its fair market value at that time and to have reacquired the property at that time at a cost equal to those proceeds;

(e) capital property in respect of which a taxpayer elects under subparagraph *ii* of paragraph *b* is deemed to be taxable Canadian property of the taxpayer from the particular time until the earlier of

- i. the time when the taxpayer disposes of the property, and
  - ii. the time when the taxpayer next becomes resident in Canada;
- and

(f) where the taxpayer elects under subparagraph *ii* of paragraph *b* or paragraph *d*,

- i. the taxpayer's income for the taxation year that includes the particular time is deemed to be the greater of that income otherwise determined and the lesser of

(1) that income determined without reference to this section, and

(2) that income determined without reference to subparagraph ii of paragraph *b* and paragraph *d*, and

ii. the amount of each of the taxpayer's non-capital loss, net capital loss, restricted farm loss, farm loss and limited partnership loss for the taxation year that includes the particular time is deemed to be the lesser of that amount otherwise determined and the greater of

(1) that amount determined without reference to this section, and

(2) that amount determined without reference to subparagraph ii of paragraph *b* and paragraph *d*.

Cross-border  
mergers

**“785.3** Where a corporation formed at a particular time by the amalgamation or merger of, or by a plan of arrangement or other corporate reorganization in respect of, two or more corporations, each of which is referred to in this section as a “predecessor”, is

(*a*) resident in Canada at the particular time, a predecessor that was not immediately before the particular time resident in Canada is deemed to have become resident in Canada immediately before that time; or

(*b*) not resident in Canada at the particular time, a predecessor that was immediately before that time resident in Canada is deemed to have ceased to be resident in Canada immediately before that time.

Exception

The first paragraph does not apply to reorganizations occurring because of the acquisition of property of one corporation by another corporation, pursuant to the purchase of the property by the other corporation or because of the distribution of the property to the other corporation on the winding-up of the corporation.”

(2) Subsection 1 has effect

(*a*) from the time referred to in paragraph *a* of subsection 2 of section 10, in respect of a corporation that is deemed under that paragraph *a* to have made an election;

(b) from 1 January 1993, in all other cases.

c. I-3,  
s. 800, am.

**180.** Section 800 of the said Act is amended by replacing the first paragraph by the following paragraph:

Allocations  
in propor-  
tion to loans

**“800.** A credit union may, in computing its income for a taxation year, deduct the aggregate of the payments it makes to its members in the year or within twelve months thereafter, as bonus interest payments or pursuant to allocations in proportion to the loans made to its members.”

c. I-3,  
s. 801, re-  
placed

**181.** (1) Section 801 of the said Act is replaced by the following section:

Payments  
in respect  
of shares

**“801.** Notwithstanding any other provision of this Part, a payment received or receivable by a member of a credit union in respect of a share of the capital stock of the credit union is deemed, where the share is not listed on a prescribed stock exchange, to have been received or to be receivable from the credit union as interest except if the payment is made or is to be made as or on account of a reduction of the paid-up capital, redemption, acquisition or cancellation of the share by the credit union, to the extent of the paid-up capital of that share. Such payment as interest is deductible in computing the income of the credit union.”

(2) Subsection 1 applies in respect of transactions occurring after 21 December 1992.

c. I-3,  
s. 802, re-  
placed

**182.** (1) Section 802 of the said Act, replaced by section 277 of chapter 22 of the statutes of 1994, is again replaced by the following section:

Deemed in-  
terest not a  
dividend

**“802.** Notwithstanding any other provision of this Part, an amount that is deemed under section 801 to be received or receivable as interest is deemed not to be received or receivable as a dividend.”

(2) Subsection 1 applies in respect of transactions occurring after 21 December 1992.

c. I-3,  
s. 806.1, am.

**183.** (1) Section 806.1 of the said Act is amended by replacing the portion before paragraph *a* by the following:

Presump-  
tion as to  
subsidiary

**“806.1** For the purposes of this Title, except paragraph *b* of section 804 where paragraph *a* of subsection 1 of section 771 refers to it, the second paragraph of section 808, subparagraphs *i* and *ii* of paragraph *c* of section 810 and paragraph *a* of section 815, a subsidiary

wholly-owned corporation of a particular corporation described in section 804 is deemed to be a deposit insurance corporation, and any member institution of the particular corporation is deemed to be a member institution of the subsidiary, where all or substantially all of the property of the subsidiary has at all times since the subsidiary was incorporated consisted of”.

(2) Subsection 1 applies from the taxation year 1992.

c. I-3,  
s. 832.10,  
added

**184.** (1) The said Act is amended by inserting, after section 832.9, the following:

#### “CHAPTER II.1

##### “CONVERSION OF INSURANCE CORPORATIONS INTO MUTUAL CORPORATIONS

Conversion  
of insurance  
corpora-  
tions into  
mutual cor-  
porations

**“832.10** Where an insurance corporation that is a Canadian corporation applies an amount in payment for shares of the corporation purchased or otherwise acquired by it under a mutualization proposal under Division III of Part VI of the Insurance Companies Act (Statutes of Canada, 1991, chapter 47) or, where the corporation is incorporated under the laws of a province, under a law of that province that provides for the conversion of the corporation into a mutual corporation by the purchase of its shares in accordance with that law,

(a) sections 111 to 119.1 do not apply to require the inclusion, in computing the income of a shareholder of the corporation, of any part of that amount; and

(b) no part of that amount is deemed, for the purposes of sections 846 to 850, to have been paid to shareholders or, for the purposes of sections 504 to 510.1 and 517, to have been received as a dividend.”

(2) Subsection 1 has effect from 1 June 1992.

c. I-3,  
s. 834, re-  
pealed

**185.** (1) Section 834 of the said Act is repealed.

(2) Subsection 1 has effect from 1 June 1992.

c. I-3,  
s. 835, am.

**186.** (1) Section 835 of the said Act is amended by inserting, after paragraph *e*, the following paragraph:

“life insur-  
ance policy  
in Canada”

“(e.1) “life insurance policy in Canada” means a life insurance policy issued or effected by an insurer on the life of a person resident in Canada at the time the policy was issued or effected;”.

(2) Subsection 1 has effect from 1 January 1993.

c. I-3,  
s. 850, am.

**187.** (1) Section 850 of the said Act, amended by section 93 of chapter 1 of the statutes of 1995, is again amended by replacing paragraph *b* by the following paragraph:

“(b) the aggregate of

i. the taxes payable under this Part by the insurer, except those which, but for section 846, would not have been payable,

ii. all amounts determined under paragraph *a* of clause F of the definition of “surplus funds derived from operations” in subsection 12 of section 138 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) in respect of the Government of Canada and the government of a province other than Québec, and

iii. the taxes payable under Parts I.3 and VI of the Income Tax Act by the insurer;”.

(2) Subsection 1 applies from the taxation year 1992.

c. I-3,  
s. 851.27.1,  
added

**188.** (1) The said Act is amended by inserting, after section 851.27, the following section:

Application  
of sections  
119.2 to  
119.11

“**851.27.1** Sections 119.2 to 119.11 apply to a congregation or one of the business agencies of the congregation that is a corporation as if, except for the purposes of paragraph *a* of section 119.4 and of section 119.5 other than paragraphs *a* and *c* thereof, the property of the congregation and that of its business agencies were not deemed to be the property of an *inter vivos* trust and as if the congregation and its business agencies were not deemed to act and to have always acted as agents of the trust in respect of their business or other activities.”

(2) Subsection 1 applies from the taxation year 1992.

c. I-3,  
ss. 852, 853,  
replaced

**189.** (1) Sections 852 and 853 of the said Act are replaced by the following sections:

“profit  
sharing  
plan”

“**852.** In this Title, “profit sharing plan” at a particular time means an arrangement

(a) under which payments computed by reference to an employer’s profits from the employer’s business, the profits from the business of a corporation with which the employer does not deal

at arm's length or the profits from the business of the employer and of any such corporation, are required to be made by the employer to a trustee under the arrangement for the benefit of employees of the employer or of a corporation with which the employer does not deal at arm's length; and

(b) in respect of which the trustee has, since the later of the beginning of the arrangement and the end of 1949, allocated, either contingently or absolutely, to those employees

i. in each year that ended at or before the particular time, all amounts received in the year by the trustee from the employer or from a corporation with which the employer does not deal at arm's length,

ii. in each year ending at or before the particular time, all profits for the year from the property of the trust, determined without regard to any capital gain made by the trust or capital loss sustained by it at any time after 31 December 1955,

iii. in each year that ended after 31 December 1971 and at or before the particular time, all capital gains and capital losses of the trust for the year,

iv. in each year that ended after 31 December 1971, before 1 January 1993 and at or before the particular time, 100/15 of the aggregate of all amounts each of which is deemed by section 864 to have been paid on account of tax under this Part in respect of an employee because the employee ceased to be a beneficiary under the plan in the year, and

v. in each year that ended after 31 December 1991 and at or before the particular time, the aggregate of all amounts each of which is an amount that an employee is entitled to deduct under section 864 in computing his income because the employee ceased to be a beneficiary under the plan in the year.

Payments  
out of prof-  
its

**“853.** For the purposes of section 852, where the terms of an arrangement under which an employer makes payments to a trustee specifically provide that the payments shall be made out of profits, the arrangement is deemed, if the employer so elects in prescribed manner, to be an arrangement under which payments computed by reference to the employer's profits are required.”

(2) Subsection 1 applies from the taxation year 1992. In addition, where an amount was paid to a person before 1 January 1993 without first having been allocated to the person, it shall be deemed for the purposes of section 852 of the Taxation Act, enacted by subsection 1, to have been allocated to that person.

c. I-3,  
s. 855, re-  
placed

**190.** (1) Section 855 of the said Act is replaced by the following section:

No tax  
while trust  
governed  
by plan

**“855.** No tax is payable under this Part by a trust for a taxation year throughout which the trust is governed by a profit sharing plan.”

(2) Subsection 1 applies from the taxation year 1993.

c. I-3,  
s. 859, re-  
placed

**191.** (1) Section 859 of the said Act is replaced by the following section:

Allocation  
contingent  
or absolute  
taxable

**“859.** An employee who is a beneficiary under a profit sharing plan must include in computing his income for a taxation year each amount that is allocated to him, contingently or absolutely, by the trustee under the plan at any time in the year, except in the case of an allocation in respect of an amount described in any of subparagraphs *a* to *d* of the first paragraph of section 857 or a dividend received by the trust from a taxable Canadian corporation.”

(2) Subsection 1 applies from the taxation year 1992. However, it shall not apply to the taxation year 1992 of a taxpayer who makes the election provided for in subsection 2 of section 193.

c. I-3,  
s. 864, re-  
placed

**192.** (1) Section 864 of the said Act is replaced by the following section:

Employee  
ceasing to  
be a benefi-  
ciary

**“864.** Where a person ceases at any time in a taxation year to be a beneficiary under a profit sharing plan and does not again become a beneficiary under the plan after that time and in the year, the person may deduct in computing his income for the year the amount determined by the formula

$$A - B - \frac{C}{4} - D.$$

Interpreta-  
tion

For the purposes of the formula in the first paragraph,

(a) A is the aggregate of all amounts each of which is an amount included in computing the person's income for the year or a preceding taxation year, other than an amount received before that time under the plan or an amount under the plan that the person is entitled at that time to receive, because of an allocation, other than an allocation to which section 860 applies, to the person made contingently under the plan before that time;

(b) B is the portion of the amount that is included in the aggregate determined under subparagraph *a* because of subsection 2 of section 497;

(c) C is the aggregate of all taxable dividends deemed to be received by the person because of an allocation under section 863 in respect of the plan; and

(d) D is the aggregate of all amounts deductible under this section in computing the person's income for a preceding taxation year because the person ceased to be a beneficiary under the plan in a preceding taxation year."

(2) Subsection 1 applies from the taxation year 1992. However, it shall not apply to the taxation year 1992 of a taxpayer who so elects by notifying the Minister of Revenue in writing before the end of the sixth month after the month in which this Act is assented to.

c. I-3,  
s. 869, re-  
pealed

**193.** (1) Section 869 of the said Act is repealed.

(2) Subsection 1 applies from the taxation year 1992. However, it shall not apply to the taxation year 1992 of a taxpayer who so elects by notifying the Minister of Revenue in writing before the end of the sixth month after the month in which this Act is assented to.

c. I-3,  
s. 890.0.3,  
am.

**194.** Section 890.0.3 of the said Act is amended by replacing, in the English text, the words "by this Act" by the words "by that Act".

c. I-3,  
s. 890.6, re-  
placed

**195.** (1) Section 890.6 of the said Act is replaced by the following section:



Residents'  
arrange-  
ment

**“890.6** For the purposes of this Part, where a resident’s contribution has been made under a plan or arrangement, in this section referred to as the “plan”, the following rules apply:

(a) the plan is deemed, in respect of its application to all resident’s contributions made under the plan and all property that can reasonably be considered to be derived from those contributions, to be a separate arrangement, in this section referred to as the “residents’ arrangement”, independent of the plan in respect of its application to all other contributions and property that can reasonably be considered to derive from those other contributions;

(b) the residents’ arrangement is deemed to be a retirement compensation arrangement; and

(c) each person and partnership to whom a contribution is made under the residents’ arrangement is deemed to be a custodian of the residents’ arrangement.”

(2) Subsection 1 has effect from 9 October 1986. However, where section 890.6 of the Taxation Act, enacted by subsection 1, applies before 20 June 1991, the French text thereof shall be read as if the references therein to “cotisation” and “cotisations” were references to “contribution” and “contributions”, respectively.

c. I-3,  
s. 890.6.1,  
added

**196.** (1) The said Act is amended by inserting, after section 890.6, the following section:

Resident’s  
contribu-  
tion

**“890.6.1** For the purposes of section 890.6, “resident’s contribution” means such part of a contribution made under a plan or arrangement, in this section referred to as the “plan”, at a time when the plan would, but for subparagraph *l* of the second paragraph of section 890.1, be a retirement compensation arrangement as

(a) is not a prescribed contribution; and

(b) can reasonably be considered to have been made in respect of services rendered by an individual to an employer in a period

i. throughout which the individual was resident in Canada and rendered services to the employer that were primarily services rendered in Canada or services rendered in connection with a business carried on by the employer in Canada, or a combination of such services, and

ii. at the beginning of which the individual had been resident in Canada throughout at least 60 of the 72 preceding calendar months, where the individual was not resident in Canada at any time before the period and became a member of the plan before the end of the month after the month in which the individual became resident in Canada.

Application

For the purposes of subparagraph *b* of the first paragraph, where benefits provided to an individual under a particular plan or arrangement are replaced by benefits under another plan or arrangement, the other plan or arrangement is deemed, in respect of the individual, to be the same plan or arrangement as the particular plan or arrangement.”

(2) Subsection 1 has effect from 9 October 1986. However, where section 890.6.1 of the Taxation Act, enacted by subsection 1, applies before 20 June 1991, the French text thereof shall be read as if the references therein to “cotisation” were references to “contribution”.

c. I-3,  
s. 905.1, am.

**197.** (1) Section 905.1 of the said Act is amended

(1) by replacing, in subparagraph ii of paragraph *a* and paragraphs *b* and *c*, the words “paragraph *j* of subsection 1 of section 146” by the words “the definition of “retirement savings plan” in subsection 1 of section 146”;

(2) by replacing, in paragraph *e*, the words “paragraph *f* of subsection 1 of section 146” by the words “subsection 1 of section 146”.

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

c. I-3,  
s. 908, re-  
placed

**198.** (1) Section 908 of the said Act, amended by section 96 of chapter 64 of the statutes of 1993, is replaced by the following section:

“refund of  
premiums”

**“908.** In this Title, “refund of premiums” means

(*a*) any amount paid to a spouse of the annuitant out of or under a registered retirement savings plan of the annuitant, where the annuitant died before the date provided for the first payment of benefits and that amount was paid as a consequence of the death, or

(b) if the annuitant had no spouse at the time of his death, any amount paid out of or under a registered retirement savings plan of the annuitant after the death to a child or grandchild of the annuitant, who was, at the time of the death, financially dependent on the annuitant for support.

“retirement  
income”

In this Title, “retirement income” has the meaning assigned by subsection 1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

Presump-  
tion

For the purposes of subparagraph *b* of the first paragraph, it is presumed that a child or grandchild was not financially dependent on the annuitant at the time of the annuitant’s death if the income of the child or grandchild for the taxation year immediately preceding the taxation year in which the annuitant died exceeded the amount used under paragraph *c* of subsection 1 of section 118 of the Income Tax Act for that preceding year.”

(2) Subsection 1, where it enacts the first and third paragraphs of section 908 of the Taxation Act, applies in respect of deaths occurring after 31 December 1992.

(3) Subsection 1, where it enacts the second paragraph of section 908 of the Taxation Act, applies to taxation years ending after 30 November 1991.

c. 1-3,  
s. 915.2, re-  
placed

**199.** (1) Section 915.2 of the said Act is replaced by the following section:

Effect of  
death  
where per-  
son other  
than spouse  
becomes  
entitled

**“915.2** Where the annuitant under a registered retirement savings plan dies after 29 June 1978 and the date provided by the plan for the first payment of benefits is after 29 June 1978, the annuitant is deemed to have received, immediately before death, as a benefit out of or under a registered retirement savings plan, an amount equal to the amount by which the fair market value of all the property of the plan at the time of death exceeds, where the annuitant died after the date provided by the plan for the first payment of benefits, the fair market value at the time of the death of the portion of the property that, as a consequence of the death, becomes receivable by a person who was the annuitant’s spouse immediately before the death, or would become so receivable should that person survive throughout the entire period for which a guaranteed term annuity is provided for under the plan.

Deduction      However, the annuitant contemplated in the first paragraph may deduct from the amount he is deemed to have received under that paragraph an amount not exceeding the amount determined by the formula

$$A \times [1 - \frac{(B + C - D)}{(B + C)}].$$

Interpretation      For the purposes of the formula in the second paragraph,

(a) A is the aggregate of all refunds of premiums in respect of the plan;

(b) B is the fair market value of the property of the plan at the particular time that is the later of the end of the first calendar year that begins after the death of the annuitant and the time immediately after the last time that any refund of premiums in respect of the plan is paid out of or under the plan;

(c) C is the aggregate of all amounts paid out of or under the plan after the death of the annuitant and before the particular time; and

(d) D is the lesser of the fair market value of the property of the plan at the time of the annuitant's death and the aggregate of all amounts determined in respect of the plan under paragraphs b and c."

(2) Subsection 1 applies in respect of deaths occurring after 31 December 1992.

c. 1-3,  
s. 917.1, re-  
placed

**200.** (1) Section 917.1 of the said Act is replaced by the following section:

Credited or  
added  
amount  
deemed not  
received

**"917.1** Where, at any particular time, an amount is credited or added to a deposit with a depositary referred to in subparagraph iii of paragraph b of the definition of "retirement savings plan" in subsection 1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as interest or other income in respect of the deposit and the deposit is, at that time, a registered retirement savings plan the annuitant under which was alive during the calendar year in which the amount is credited or added or during the preceding calendar year, the amount is deemed not to be received by the annuitant or any other person solely because of the crediting or adding."

(2) Subsection 1 applies to taxation years ending after 30 November 1991. However, where section 917.1 of the Taxation Act, enacted by subsection 1, applies in respect of deaths occurring before 1 January 1993, it shall be read as follows:

Credited or  
added  
amount  
deemed not  
received

**“917.1** Where, at any particular time, an amount is credited or added to a deposit with a depositary referred to in subparagraph iii of paragraph *b* of the definition of “retirement savings plan” in subsection 1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as interest or other income in respect of the deposit and the deposit is, at that time, a registered retirement savings plan the annuitant under which was alive during the year in which the amount is credited or added, the amount is deemed not to be received by the annuitant solely because of the crediting or adding.”

c. I-3,  
s. 920, am.

**201.** Section 920 of the said Act is amended

(1) by replacing, in the French text, subsection 1 by the following subsection:

Exception à  
l'exonération  
d'impôt  
d'une  
fiducie

**“920. 1.** Malgré l'article 919, une fiducie qui y est visée doit payer un impôt en vertu de la présente partie sur son revenu imposable pour une année d'imposition si elle contracte un emprunt dans l'année ou a, depuis le 18 juin 1971, contracté un emprunt qu'elle n'a pas remboursé avant le début de l'année.”;

(2) by replacing, in the English text, subsection 2 by the following subsection:

Application

**“(2)** The rule provided for in subsection 1 does not apply in the case of borrowed money used in carrying on a business.”

c. I-3,  
ss. 921,  
921.1, re-  
placed

**202.** (1) Sections 921 and 921.1 of the said Act are replaced by the following sections:

Other ex-  
ception  
from tax  
exemption

**“921.** Where section 920 does not apply, a trust governed by a registered retirement savings plan that carries on a business in a taxation year must, notwithstanding section 919, pay tax under this Part on the amount by which the amount that its taxable income for the year would be if it had no incomes or losses from sources other than that business, exceeds such portion of the taxable income as can reasonably be considered to be income from, or from the disposition of, qualified investments within the meaning of subsection 1 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

Other ex-  
ception  
from tax  
exemption

**“921.1** Notwithstanding section 919, a trust governed by a registered retirement savings plan must pay tax under this Part on its taxable income for each taxation year after the year following the year in which the last annuitant under the plan died.”

(2) Subsection 1 applies from the taxation year 1993.

c. 1-3,  
s. 935.1, am.

**203.** (1) Section 935.1 of the said Act, enacted by section 290 of chapter 22 of the statutes of 1994, is amended

(1) by inserting, after the definition of “benefit” in the first paragraph, the following definition:

“completion  
date”

““completion date”, in respect of an amount received by an individual, means

(a) where the amount was received before 2 March 1993, 1 October 1993, and

(b) in any other case, 1 October 1994;”;

(2) by replacing paragraph *a* of the definition of “eligible amount” in the first paragraph by the following paragraph:

“(a) the amount is received after 25 February 1992 and before 2 March 1994 pursuant to the written request of the individual on the prescribed form on which the individual sets out the location of a qualifying home that the individual has begun, or intends not later than one year after its acquisition by the individual to begin, using as a principal place of residence,”;

(3) by replacing paragraph *c* of the definition of “eligible amount” in the first paragraph by the following paragraph:

“(c) the individual acquires the qualifying home, or replacement property for the qualifying home, after 25 February 1992 and before the completion date in respect of the amount,”;

(4) in the definition of “eligible amount” in the first paragraph, by striking out the word “and” at the end of paragraph *e*, by adding the word “and” at the end of paragraph *f* and by adding the following paragraph:

“(g) if the particular time is after 1 March 1993, neither the individual, nor another individual who was, at any time after 25 February 1992 and before the particular time, a spouse of the individual, received an eligible amount before 2 March 1993;”;

(5) by replacing paragraph *b* of the definition of “excluded premium” in the first paragraph by the following paragraph:

“(b) was an amount transferred directly from a registered retirement savings plan, registered pension plan, registered retirement income fund, deferred profit sharing plan or a provincial pension plan prescribed for the purposes of paragraph *v* of section 60 of the Income Tax Act, or”;

(6) by replacing subparagraphs *i* and *ii* of paragraph *b* of the definition of “excluded withdrawal” in the first paragraph by the following subparagraphs:

“i. the individual died before the end of the calendar year that includes the completion date in respect of the amount and was resident in Canada throughout the period beginning immediately after the amount was received and ending at the time of the death, or

“ii. the amount is repaid before the end of the calendar year described in subparagraph *i* to a registered retirement savings plan in respect of which the person is the issuer, or, where the individual was not resident in Canada at the time the individual filed a fiscal return under this Part for the taxation year in which the amount was received by the individual, before the earlier of the end of the calendar year described in subparagraph *i* and the day on which the individual filed that return, and the issuer is notified of the repayment on the prescribed form submitted to the issuer at the time the repayment is made;”;

(7) by replacing the third paragraph by the following paragraph:

Application

“Where an amount would, if subparagraph 1 of subparagraph *ii* of subparagraph *c* of the first paragraph of section 935.2 were read without reference to the words “, acquires the qualifying home or a replacement property for the qualifying home before the day that is one year after the completion date,”, be an eligible amount, subparagraph *ii* of paragraph *b* of the definition of “excluded withdrawal” in the first paragraph applies in respect of the amount as if the first reference therein to “described in subparagraph *i*” were read as “following the calendar year described in subparagraph *i*”.”

(2) Subsection 1 applies from the taxation year 1992.

c. 1-3,  
s. 935.2, am.

**204.** (1) Section 935.2 of the said Act, enacted by section 290 of chapter 22 of the statutes of 1994, is amended

(1) by replacing the portion of subparagraph *c* of the first paragraph before subparagraph *ii* by the following:

“(c) except for the purposes of this paragraph, an individual is deemed to have acquired, before the completion date in respect of the amount, a qualifying home in respect of which the individual withdrew an amount described in paragraph *a* of the definition of “eligible amount” in the first paragraph of section 935.1 where

i. neither a qualifying home nor a replacement property for the qualifying home has been acquired by the individual before that completion date, and”;

(2) by replacing subparagraph 1 of subparagraph *ii* of subparagraph *c* of the first paragraph by the following subparagraph:

“(1) the individual is obliged under the terms of a written agreement in effect on that completion date to acquire the qualifying home, or a replacement property for the qualifying home, on or after that day, acquires the qualifying home or a replacement property for the qualifying home before the day that is one year after that completion date, and is resident in Canada throughout the period beginning on that completion date and ending on the earlier of 1 October in the first calendar year beginning after that date and the earliest of any day on which the individual acquires the qualifying home or a replacement property for the qualifying home, or”;

(3) in the first paragraph, by striking out the word “and” at the end of subparagraph *b* and by adding after subparagraph *c* the following subparagraphs:

“(d) where an individual or a spouse of the individual receives an eligible amount before 2 March 1993, at a particular time after 1 March 1993 and before 1 April 1993 the individual receives another amount that would, if the reference to “1 March 1993” in paragraph *g* of the definition of “eligible amount” in the first paragraph of section 935.1 were read as “31 March 1993”, be an eligible amount, and the written request described in paragraph *a* of the said definition of “eligible amount” pursuant to which the other amount was received was made before 2 March 1993, except for the purposes of paragraphs *a* to *f* of the said definition of “eligible amount” and the purposes of this paragraph,



i. the other amount is deemed to have been received by the individual on 1 March 1993 and not at the particular time, and

ii. any premium paid by the individual or the individual's spouse after 1 March 1993 and before the particular time under a registered retirement savings plan is deemed to have been paid on 1 March 1993; and

“(e) where at a particular time after 1 March 1994 and before 1 April 1994, an individual receives an amount that would, if the reference to “2 March 1994” in paragraph *a* of the definition of “eligible amount” in the first paragraph of section 935.1 were read as “1 April 1994”, be an eligible amount, and the written request described in paragraph *a* of the said definition of “eligible amount” pursuant to which the amount was received was made before 2 March 1994, except for the purposes of paragraphs *b* to *g* of the said definition of “eligible amount” and the purposes of this paragraph,

i. that amount is deemed to have been received by the individual on 1 March 1994 and not at the particular time, and

ii. any premium paid by the individual or the individual's spouse after 1 March 1994 and before the particular time under a registered retirement savings plan is deemed to have been paid on 1 March 1994.”;

(4) by replacing the second paragraph by the following paragraph:

Interpreta-  
tion

“The period to which subparagraph 2 of subparagraph ii of subparagraph *c* of the first paragraph refers is the period beginning at the time the individual first withdrew an amount described in paragraph *a* of the definition of “eligible amount” in the first paragraph of section 935.1 and ending before the completion date in respect of the amount, in respect of the qualifying home.”

(2) Subsection 1 applies from the taxation year 1992.

c. 1-3,  
s. 935.4, am.

**205.** (1) Section 935.4 of the said Act, enacted by section 290 of chapter 22 of the statutes of 1994, is amended

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

Where a  
proportion  
of an eli-  
gible  
amount is  
not repaid

**“935.4** An individual shall include in computing the income of the individual for a particular taxation year ending after 31 December 1994 the amount determined by the formula

$$\frac{(A - B - C) - E.}{(15 - D)};$$

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

“*i.* where the particular year is the taxation year 1995, an amount equal to zero, and”;

(3) by replacing subparagraph *d* of the second paragraph by the following subparagraph:

“(d) *D* is the lesser of 14 and the number of taxation years of the individual ending in the period beginning on 1 January 1995 and ending at the beginning of the particular year; and”;

(4) by replacing subparagraph *i* of subparagraph *e* of the second paragraph by the following subparagraph:

“*i.* where the particular year is the taxation year 1995, the aggregate of all amounts each of which is an amount designated by the individual under section 935.3 for the particular year or any of the three preceding taxation years, and”.

(2) Subsection 1 applies from the taxation year 1992.

c. 1-3,  
s. 935.7, am.

**206.** (1) Section 935.7 of the said Act, enacted by section 290 of chapter 22 of the statutes of 1994, is amended by replacing paragraph *b* by the following paragraph:

“(b) except for the purposes of sections 935.9 and 935.10.1, the spouse is deemed to have received an eligible amount at the time of the individual’s death equal to the amount that would, but for this section, be determined in respect of the individual under section 935.6.”

(2) Subsection 1 applies from the taxation year 1992.

c. 1-3, Part  
I, Book VII,  
Title IV.1,  
Chap. III,  
heading, re-  
placed

**207.** (1) The heading of Chapter III of Title IV.1 of Book VII of Part I of the said Act, enacted by section 290 of chapter 22 of the statutes of 1994, is replaced by the following heading:

“AMOUNTS TO BE INCLUDED FOR  
THE TAXATION YEARS 1992 AND 1993”.

(2) Subsection 1 applies from the taxation year 1992.

c. 1-3,  
s. 935.9, am.

**208.** (1) Section 935.9 of the said Act, enacted by section 290 of chapter 22 of the statutes of 1994, is amended

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

“(a) the net premium balance for the year of the individual, and”;

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

“i. all eligible amounts received by the individual before 2 March 1993, and”;

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

“(2) the amount by which the aggregate of all eligible amounts received before 2 March 1993 by the individual’s spouse exceeds the net premium balance for the year of the individual’s spouse.”

(2) Subsection 1 applies from the taxation year 1992.

c. 1-3,  
s. 935.10,  
am.

**209.** (1) Section 935.10 of the said Act, enacted by section 290 of chapter 22 of the statutes of 1994, is amended by replacing the portion before paragraph *a* by the following:

Net pre-  
mium bal-  
ance for  
1992

**“935.10** In section 935.9, the net premium balance for the taxation year 1992 of an individual is the amount by which”.

(2) Subsection 1 applies from the taxation year 1992.

c. 1-3,  
ss. 935.10.1,  
935.10.2,  
added

**210.** (1) The said Act is amended by inserting, after section 935.10, enacted by section 290 of chapter 22 of the statutes of 1994, the following sections:

Income in-  
clusion for  
1993

**“935.10.1** There shall be included in computing the income for the taxation year 1993 of an individual who was resident in Canada at the end of that year an amount equal to the lesser of

(a) the net premium balance for the year of the individual, and

(b) the aggregate of

i. all eligible amounts received after 1 March 1993 and before 2 March 1994 by the individual, and

ii. the lesser of

(1) the aggregate of all premiums, other than excluded premiums in respect of the individual, paid by the individual after 2 December 1992 and before 2 March 1994 under a registered retirement savings plan under which the individual's spouse is the annuitant, and

(2) the amount by which the aggregate of all eligible amounts received after 1 March 1993 and before 2 March 1994 by the individual's spouse exceeds the net premium balance for the year of the individual's spouse.

Net pre-  
mium bal-  
ance for  
1993

**“935.10.2** In section 935.10.1, the net premium balance for the taxation year 1993 of an individual is the amount by which

(a) the aggregate of all premiums, other than excluded premiums in respect of the individual, paid by the individual after 2 December 1992 and before 2 March 1994 under a registered retirement savings plan under which the individual or the individual's spouse is the annuitant, exceeds

(b) the aggregate of all amounts each of which is an amount received by the individual or the individual's spouse after 2 December 1992 and before 1 January 1995 and included under section 929 or 931.1 in computing the individual's income for the taxation year 1992, 1993 or 1994, other than an amount in respect of which an amount is deductible under paragraph *b* of section 924.1 in computing the income of the individual or in respect of premiums paid by the individual after 1 March 1994.”

(2) Subsection 1 applies from the taxation year 1992.

c. 1-3,  
s. 935.11,  
replaced

**211.** (1) Section 935.11 of the said Act, enacted by section 290 of chapter 22 of the statutes of 1994, is replaced by the following section:

Assess-  
ments

**“935.11** Notwithstanding sections 1010 to 1011, the Minister shall make such assessments, reassessments or additional assessments of tax, interest and penalties as are necessary to give effect to sections 935.9 and 935.10.1.”

(2) Subsection 1 applies from the taxation year 1992.

c. I-3,  
s. 958, am.

**212.** (1) Section 958 of the said Act is amended by replacing, in paragraph *a*, the words “subparagraph i, ii, iv, vii or ix of paragraph *e* of section 204” by the words “paragraph *a*, *b*, *d*, *f* or *h* of the definition of “qualified investment” in section 204”, and the words “subparagraph ii of paragraph *g* of subsection 1 of section 146” by the words “paragraph *b* of the definition of “qualified investment” in subsection 1 of section 146”.

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

c. I-3,  
s. 961.1.5,  
am.

**213.** (1) Section 961.1.5 of the said Act, amended by section 291 of chapter 22 of the statutes of 1994, is again amended

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

“carrier”

“(b) “carrier” of a retirement income fund has the meaning assigned by subsection 1 of section 146.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);”;

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

“designated  
benefit”

“(c.1) “designated benefit” of an individual in respect of a registered retirement income fund means the aggregate of

i. such amounts paid out of or under the fund after the death of the last annuitant thereunder to the legal representative of that annuitant

(1) as would, had they been paid under the fund to the individual, have been refunds of premiums within the meaning assigned by the first paragraph of section 908, if the fund were a registered retirement savings plan under which the date provided for the first payment of benefits was subsequent to the death, and

(2) as are designated jointly by the legal representative and the individual on the prescribed form filed with the Minister; and

ii. amounts paid out of or under the fund after the death of the last annuitant thereunder to the individual that would be refunds of premiums within the meaning assigned by the first paragraph of section 908 had the fund been a registered retirement savings plan under which the date provided for the first payment of benefits was subsequent to the death;”;

(3) by replacing subparagraphs i to iii of paragraph *d* by the following subparagraphs:

“i. the first individual to whom the carrier has undertaken to make the payments described in the definition of “retirement income fund” in subsection 1 of section 146.3 of the Income Tax Act out of or under the fund, where the first individual is alive at that time;

“ii. after the death of the first individual, a spouse, in this subparagraph referred to as the “surviving spouse”, of the first individual to whom the carrier has undertaken to make payments described in the definition of “retirement income fund” in subsection 1 of section 146.3 of the Income Tax Act out of or under the fund after the death of the first individual, where the surviving spouse is alive at that time and the undertaking was made pursuant to an election described in the said definition of the first individual or with the consent of the legal representative of the first individual; and

“iii. after the death of the surviving spouse, another spouse of the surviving spouse to whom the carrier has undertaken, with the consent of the legal representative of the surviving spouse, to make payments described in the definition of “retirement income fund” in subsection 1 of section 146.3 of the Income Tax Act out of or under the fund after the death of the surviving spouse, where that other spouse is alive at that time.”

(2) Paragraphs 1 and 3 of subsection 1 apply to taxation years ending after 30 November 1991.

(3) Paragraph 2 of subsection 1 applies in respect of deaths occurring after 31 December 1992.

c. 1-3,  
ss. 961.8,  
961.8.1, re-  
placed

**214.** (1) Sections 961.8 and 961.8.1 of the said Act are replaced by the following sections:

Designated  
benefit  
deemed re-  
ceived

**“961.8** A designated benefit of an individual in respect of a registered retirement income fund that is received by the legal representative of the last annuitant under the fund is deemed to be received by the individual out of or under the fund at the time it is received by the legal representative and, except for the purposes of paragraph c.1 of section 961.1.5, not to be received out of or under the fund by any other person.

Credited or  
added  
amount  
deemed not  
received

**“961.8.1** Where, at any particular time, an amount is credited or added to a deposit with a depository referred to in paragraph *d* of the definition of “carrier” in subsection 1 of section 146.3 of the

Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as interest or other income in respect of the deposit and the deposit is, at that time, a registered retirement income fund the annuitant under which was alive during the calendar year in which the amount is credited or added or during the preceding calendar year, the amount is deemed not to be received by the annuitant or any other person solely because of the crediting or adding.”

(2) Subsection 1 applies to taxation years ending after 30 November 1991. However, where section 961.8.1 of the Taxation Act, enacted by subsection 1, applies in respect of deaths occurring before 1 January 1993, it shall be read as follows:

Credited or  
added  
amount  
deemed not  
received

**“961.3.1** Where, at a particular time, an amount is credited or added to a deposit with a depositary referred to in paragraph *d* of the definition of “carrier” in subsection 1 of section 146.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) as interest or other income in respect of the deposit and the deposit is, at that time, a registered retirement income fund the annuitant under which is alive during the year in which the amount is credited or added, the amount is deemed not to be received by the annuitant solely because of the crediting or adding.”

c. I-3,  
s. 961.13,  
French  
text, am.

**215.** Section 961.13 of the said Act is amended by replacing, in the French text, paragraph *a* by the following paragraph:

“*a*) si elle contracte un emprunt dans l’année ou a contracté un emprunt qu’elle n’a pas remboursé avant le début de l’année; ou”.

c. I-3,  
s. 961.14,  
replaced

**216.** (1) Section 961.14 of the said Act is replaced by the following section:

Exception

**“961.14** Where section 961.13 does not apply, a trust governed by a registered retirement income fund that carries on a business in a taxation year shall, notwithstanding section 961.12, pay tax under this Part on the amount by which the amount that its taxable income for the year would be if it had no incomes or losses from sources other than that business, exceeds such portion of the taxable income as can reasonably be considered to be income from, or from the disposition of, qualified investments within the meaning of subsection 1 of section 146.3 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).”

(2) Subsection 1 applies from the taxation year 1993.

c. 1-3,  
s. 961.16.1,  
replaced

**217.** (1) Section 961.16.1 of the said Act is replaced by the following section:

Exception

**“961.16.1** Notwithstanding sections 961.12 to 961.16, a trust governed by a registered retirement income fund shall pay tax under this Part on its taxable income for each taxation year after the year following the year in which the last annuitant under the fund died.”

(2) Subsection 1 applies from the taxation year 1993.

c. 1-3,  
s. 961.17.1,  
replaced

**218.** (1) Section 961.17.1 of the said Act is replaced by the following section:

Death of  
the last an-  
nuitant

**“961.17.1** Where the last annuitant under a registered retirement income fund dies, that annuitant is deemed to have received, immediately before death, an amount out of or under a registered retirement income fund equal to the fair market value of the property of the fund at the time of the death.

Deduction

However, the annuitant referred to in the first paragraph may deduct from the amount he is deemed to have received under that paragraph an amount not exceeding the amount determined by the formula

$$A \times [1 - \frac{(B + C - D)}{(B + C)}].$$

Interpreta-  
tion

For the purposes of the formula in the second paragraph,

(a) A is the aggregate of all designated benefits of individuals in respect of the fund;

(b) B is the fair market value of the property of the fund at the particular time that is the later of the end of the first calendar year beginning after the death of the annuitant and the time immediately after the last time that any designated benefit in respect of the fund is received by an individual;

(c) C is the aggregate of all amounts paid out of or under the fund after the death of the last annuitant and before the particular time; and



(d) D is the lesser of the fair market value of the property of the fund at the time of the death of the last annuitant thereunder and the aggregate of all amounts determined in respect of the fund under paragraphs *b* and *c*.”

(2) Subsection 1 applies in respect of deaths occurring after 31 December 1992.

c. I-3, Part  
I, Book VII,  
Title V.2,  
replaced

**219.** (1) Title V.2 of Book VII of Part I of the said Act is replaced by the following Title:

“TITLE V.2

“ELECTION IN RESPECT OF A SHARE OF THE CAPITAL STOCK  
OF A QUALIFIED CORPORATION OR OF A UNIT  
IN A QUALIFIED TRUST

Definitions

**“961.23** In this Title,

“qualified  
corpora-  
tion”

“qualified corporation” at any time means a corporation described in paragraph c.2 of section 998 where, at that time, all the issued and outstanding shares of the capital stock of the corporation are identical to each other or held by one person;

“qualified  
trust”

“qualified trust” has the meaning assigned by subsection 5 of section 259 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement).

Propor-  
tional hold-  
ings in trust  
property

**“961.24** For the purposes of sections 921.2, 926, 933, 961.15, 961.19 and 961.20, where, at any particular time, a taxpayer which is a trust governed by a registered retirement savings plan or a registered retirement income fund acquires, holds or disposes of a unit in a qualified trust, the qualified trust may, to the extent that it has made a valid election, in respect of a period, under subsection 1 of section 259 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), elect in prescribed manner, in respect of that period, to have the following rules apply:

(a) the taxpayer is deemed not to acquire, hold or dispose of at that time, as the case may be, the unit;

(b) where the taxpayer holds the unit at that time, the taxpayer is deemed to hold at that time that proportion, referred to in this

section as the “specified portion”, of each property, in this section referred to as a “relevant property”, held by the qualified trust at that time that one or, where the unit is a fraction of a whole unit, that fraction, is of the number of units of the qualified trust outstanding at that time;

(c) the cost amount to the taxpayer at that time of the specified portion of a relevant property is deemed to be equal to the specified portion of the cost amount at that time to the qualified trust of the relevant property;

(d) where that time is the later of the time the qualified trust acquires the relevant property and the time the taxpayer acquires the unit, the taxpayer is deemed to acquire the specified portion of a relevant property at that time;

(e) where that time is the time the specified portion of a relevant property is deemed under paragraph *d* to have been acquired, the fair market value of the specified portion of the relevant property at that time is deemed to be the specified portion of the fair market value of the relevant property at the time of its acquisition by the qualified trust;

(f) where that time is the time immediately before the time the qualified trust disposes of a particular relevant property, the taxpayer is deemed to dispose of, immediately after that time, the specified portion of the particular relevant property for proceeds equal to the specified portion of the proceeds of disposition to the qualified trust of the particular relevant property;

(g) where that time is the time immediately before the time the taxpayer disposes of the unit, the taxpayer is deemed to dispose of, immediately after that time, the specified portion of each relevant property for proceeds equal to the specified portion of the fair market value of that relevant property at that time; and

(h) where the taxpayer is deemed because of this section to have acquired a portion of a relevant property as a consequence of the acquisition of the unit by the taxpayer and the acquisition of the relevant property by the qualified trust, and subsequently to have disposed of the specified portion of the relevant property, the specified portion of the relevant property is, for the purpose of determining the consequences under this Act of the disposition and without affecting the proceeds of disposition of the specified portion of the relevant property, deemed to be the portion of the relevant property the taxpayer is deemed to have acquired.

Proportional holdings in trust property

**“961.24.1** For the purposes of sections 950, 954 and 957, where, at any time, a taxpayer which is a trust governed by a registered home ownership savings plan acquires, holds or disposes of a unit in a qualified trust, the qualified trust may elect in prescribed form, in respect of the period determined in section 961.24.3, to have the rules provided in paragraphs *a* to *h* of section 961.24 apply.

Qualified corporation

**“961.24.2** Sections 961.24 and 961.24.1 apply in respect of an election made by a qualified corporation as if

(a) the references to “in a qualified trust” were read as “of the capital stock of a qualified corporation”;

(b) the references to “unit” and “units” were read as “share” and “shares”, respectively; and

(c) the references to “qualified trust” were read as “qualified corporation”.

Election

**“961.24.3** The election by a qualified trust or a qualified corporation under section 961.24.1 shall apply for the period beginning 15 months before the day of filing thereof, or on such later time as is designated in the election, and ending at such time as the election is revoked by the qualified trust or the qualified corporation filing with the Minister a notice of revocation, or at such earlier time within the 15-month period before the day on which the notice of revocation is filed with the Minister as is designated in the notice of revocation.

Requirement to provide information

**“961.24.4** Where a qualified trust or a qualified corporation elects under section 961.24 or 961.24.1,

(a) it shall, not more than 30 days after making the election, notify each person who, before the election is made and during the period for which the election is made, held a unit in the qualified trust or a share of the capital stock of the qualified corporation, as the case may be, of the election; and

(b) where any person who holds a unit in the qualified trust or a share of the capital stock of the qualified corporation during the period for which the election is made makes a written request to the qualified trust or the qualified corporation for information that is necessary for the purpose of determining the consequences under this Part of the election for that person, the qualified trust or the qualified corporation, as the case may be, shall provide the person with that information not more than 30 days after the receipt of the request.”

(2) Subsection 1 applies, subject to subsection 3, in respect of periods occurring after 31 December 1985. However, where Title V.2 of Book VII of Part I of the Taxation Act, enacted by subsection 1, applies in respect of a period occurring before 1 January 1992, it shall be read without reference to

(a) the definition “qualified corporation” in section 961.23;

(b) section 961.24.2;

(c) the words “or a qualified corporation” and “or the qualified corporation” in section 961.24.3.

(3) Subsection 1, where it enacts section 961.24.4 of the Taxation Act, applies in respect of elections made after 21 December 1992.

c. I-3,  
s. 965.11,  
am.

**220.** (1) Section 965.11 of the said Act, amended by section 112 of chapter 64 of the statutes of 1993, is again amended by replacing paragraph *c* by the following paragraph:

“(c) promissory notes or other debt securities obtained in the ordinary course of its business and held by a bank, a body governed by the Insurance Companies Act (Statutes of Canada, 1991, chapter 47) or by the Act respecting insurance (chapter A-32), a corporation holding a licence or otherwise authorized by the laws of Canada or a province to offer its services there as a trustee, or any other corporation whose principal business is the lending of money or the purchasing of debts;”.

(2) Subsection 1 has effect from 1 June 1992.

c. I-3,  
s. 968, am.

**221.** (1) Section 968 of the said Act, amended by section 306 of chapter 22 of the statutes of 1994, is again amended by replacing the second paragraph by the following paragraph:

Life insur-  
ance policy

“For the purposes of the first paragraph, a life insurance policy does not include a policy that is, or is issued pursuant to, a registered pension plan, a registered retirement savings plan, a deferred profit sharing plan, a registered retirement income fund, an income-averaging annuity, or an annuity contract where the cost of the annuity contract is deductible by the holder under paragraph *f* of section 339 in computing his income or where the holder acquired the annuity contract in circumstances to which subsection 21 of section 146 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) applied.”

(2) Subsection 1 applies in respect of dispositions occurring after 31 August 1992.

c. I-3,  
s. 985.6, am.

**222.** (1) Section 985.6 of the said Act is amended

(1) by replacing, in the French text, the portion before paragraph *a* by the following:

Révocation  
de l'enre-  
gistrement  
d'une  
oeuvre de  
bienfaisance

**“985.6** Le ministre peut, de la manière prévue aux articles 1064 et 1065, révoquer l'enregistrement d'une oeuvre de bienfaisance dans le cas où :”;

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

“(b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts that are at least equal to the aggregate of the amounts that would be determined for the year under paragraphs *a* and *a.1* of section 985.9 in respect of the organization if it were a charitable foundation.”

(2) Paragraph 1 of subsection 1 applies to taxation years ending after 30 November 1991.

(3) Paragraph 2 of subsection 1 applies to taxation years beginning after 31 December 1992. In addition, where paragraph *b* of section 985.6 of the Taxation Act, replaced by the said paragraph 2, applies to taxation years ending after 30 November 1991, the French text thereof shall be read as if the references therein to “activités charitables” and “fondation de charité” were references to “activités de bienfaisance” and “fondation de bienfaisance”, respectively.

c. I-3,  
s. 985.9, am.

**223.** (1) Section 985.9 of the said Act, amended by section 123 of chapter 64 of the statutes of 1993, is again amended

(1) by replacing, in the French text, the portion before paragraph *a* by the following:

Valeur du  
montant  
visé au  
paragraphe  
*a.1* de  
l'article  
985.1

**“985.9** Le montant visé au paragraphe *a.1* de l'article 985.1 pour une année d'imposition à l'égard d'une fondation de bienfaisance est l'ensemble :”;

(2) by inserting, after paragraph *a*, the following paragraph:

“(a.1) 80% of the aggregate of all amounts each of which is the amount of a gift received by the foundation in a preceding taxation year, to the extent that the amount of the gift is expended in the year and was excluded from the disbursement quota of the foundation because of paragraph *a* of section 985.9.1 for a taxation year that begins after 31 December 1993, or because of paragraph *b* of the said section 985.9.1;”;

(3) by replacing, in the French text, paragraphs *b* and *c* by the following paragraphs:

“*b*) dans le cas d’une fondation privée, de l’ensemble des montants, autres qu’un don désigné, qu’elle a reçus dans son année d’imposition précédente d’un organisme de bienfaisance enregistré;

“*c*) dans le cas d’une fondation publique, de 80 % de l’ensemble des montants, autres qu’un don désigné, qu’elle a reçus dans son année d’imposition précédente d’un organisme de bienfaisance enregistré;”.

(2) Paragraphs 1 and 3 of subsection 1 apply to taxation years ending after 30 November 1991.

(3) Paragraph 2 of subsection 1 applies to taxation years beginning after 31 December 1992.

c. 1-3,  
s. 985.9.2,  
am.

**224.** (1) Section 985.9.2 of the said Act is amended

(1) by replacing, in the French text, the portion before paragraph *b* by the following:

Fondation  
de  
bienfaisance

“**985.9.2** Pour l’application du paragraphe *d* de l’article 985.9, le montant pour une année d’imposition à l’égard d’une fondation de bienfaisance est égal à la proportion, représentée par le rapport entre le nombre de jours compris dans cette année et 365, de 4,5 % de l’excédent:

*a*) du montant prescrit pour l’année à l’égard des biens, autres qu’un bien prescrit, ou de la partie de tels biens dont la fondation était propriétaire à un moment quelconque au cours des 24 mois précédents et qui n’étaient pas utilisés directement à des activités de bienfaisance ou à l’administration; sur”;

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

“(b) the aggregate of the amount determined under paragraph *b* of section 985.9 in respect of the foundation for the year and 5/4 of the aggregate of the amounts determined under paragraphs *a*, *a.1* and *c* of the said section 985.9 in respect of the foundation for the year.”

(2) Paragraph 1 of subsection 1 applies to taxation years ending after 30 November 1991.

(3) Paragraph 2 of subsection 1 applies to taxation years beginning after 31 December 1992.

c. 1-3,  
s. 985.15,  
replaced

**225.** (1) Section 985.15 of the said Act is replaced by the following section:

Accumula-  
tion of  
property  
for a par-  
ticular pur-  
pose

**“985.15** A registered charity may, with the approval of the Minister, accumulate property for a particular purpose, on such terms and conditions, and over such period of time, as specified in the approval; any property so accumulated, including any income related thereto, is deemed to have been expended on charitable activities carried on by the charity in the taxation year in which it was so accumulated and not to have been expended in any other taxation year.”

(2) Subsection 1 applies to taxation years beginning after 31 December 1992. In addition, where section 985.15 of the Taxation Act, replaced by subsection 1, applies to taxation years ending after 30 November 1991, the French text thereof shall be read as if the references therein to “organisme de charité” and “activités charitables” were references to “organisme de bienfaisance” and “activités de bienfaisance”, respectively.

c. 1-3,  
s. 985.21,  
am.

**226.** (1) Section 985.21 of the said Act is amended

(1) by replacing, in the French text, the portion before paragraph *b* by the following:

Dépenses  
excédentaires

**“985.21** Les dépenses excédentaires visées à l'article 985.20 sont l'excédent de l'ensemble des montants dépensés dans l'année par l'organisme de bienfaisance pour des activités de bienfaisance qu'il a exercées lui-même ou des dons à un donataire reconnu, sur:

*a)* dans le cas d'une fondation de bienfaisance, son contingent des versements pour l'année;”;

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

“(b) in the case of a charitable organization, the aggregate of the amounts that would be determined for the year under paragraphs *a* and *a.1* of section 985.9 in respect of the organization if it were a charitable foundation.”

(2) Paragraph 1 of subsection 1 applies to taxation years ending after 30 November 1991.

(3) Paragraph 2 of subsection 1 applies to taxation years beginning after 31 December 1992. In addition, where paragraph *b* of section 985.21 of the Taxation Act, replaced by paragraph 2 of subsection 1, applies to taxation years ending after 30 November 1991, the French text thereof shall be read as if the references therein to “oeuvre de charité” and “fondation de charité” were references to “oeuvre de bienfaisance” and “fondation de bienfaisance”, respectively.

c. I-3,  
s. 999.1, am.

**227.** (1) Section 999.1 of the said Act, amended by section 312 of chapter 22 of the statutes of 1994, is again amended by replacing paragraph *a.1* by the following paragraph:

“(a.1) for the purpose of computing the corporation’s income for its first taxation year ending after that time, the corporation is deemed to have deducted under Chapter III of Title III of Book III and Chapters II and III of Title V of Book VI in computing its income for its taxation year ending immediately before that time, the greatest amount that could have been claimed or deducted for that year as a reserve under those provisions;”.

(2) Subsection 1 applies from the taxation year 1992.

c. I-3,  
s. 1015, am.

**228.** (1) Section 1015 of the said Act, amended by section 110 of chapter 1 of the statutes of 1995, is again amended

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

“(n) a prescribed benefit under a government assistance program,”;

(2) by striking out paragraph *n.1*.

(2) Subsection 1 applies in respect of payments made after 31 October 1991.



c. 1-3,  
s. 1031, am.

**229.** (1) Section 1031 of the said Act, amended by section 164 of chapter 1 of the statutes of 1995, is again amended by replacing the first and second paragraphs by the following paragraphs:

Election by  
a taxpayer  
ceasing to  
reside in  
Canada

**“1031.** Notwithstanding any other provision of a fiscal law and subject to the second paragraph, an individual to whom section 785.2 applies who must pay for a taxation year tax exceeding that which would be payable in the absence of the said section may, if he furnishes to the Minister security acceptable to the Minister, elect, in prescribed form on or before the day on or before which the individual is required to file a fiscal return for the taxation year in which the individual ceased to be resident in Canada, to pay all or any portion of such excess in equal annual instalments as specified in the election by the individual.

Application

For the purposes of the first paragraph,

(a) the number of equal annual instalments provided in the election is deemed to be the lesser of 6 and such other number as is specified in the election by the individual;

(b) the first instalment shall be paid on or before the day on or before which the taxpayer is required to file a fiscal return for the taxation year in which he ceased to be resident in Canada, and each subsequent instalment shall be paid on or before the anniversary of that day in the years following that year.”

(2) Subsection 1 applies in respect of changes in residence occurring after 31 December 1992. However, where the first paragraph of section 1031 of the Taxation Act, enacted by subsection 1, applies in respect of a notice of assessment issued before 1 July 1994, it shall be read as if the reference therein to “Notwithstanding any other provision of a fiscal law” were a reference to “Notwithstanding any other provision of this Part”.

c. 1-3,  
s. 1038, am.

**230.** (1) Section 1038 of the said Act, amended by section 172 of chapter 64 of the statutes of 1993 and by section 171 of chapter 1 of the statutes of 1995, is again amended

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

Payments  
deemed  
owed

“For the purposes of this section and section 1040, any individual required to make a payment for a particular taxation year under section 1026 is deemed to have been liable to make payments based on a method described in the said section 1026, whichever method

gives rise to the least total amount required to be paid for the particular year on or before each of the dates referred to in the latter paragraph, computed by reference to”;

(2) by replacing the portion of the fourth paragraph before subparagraph *a* by the following:

Payments  
deemed  
owed

“For the purposes of this section and section 1040, any corporation required to make a payment for a taxation year under section 1027 is deemed to have been liable to make payments based on a method described in subparagraph *a* of the first paragraph of the said section 1027, whichever method gives rise to the least total amount required to be paid for the year on or before each of the dates referred to in the latter subparagraph, computed by reference to”.

(2) Subsection 1 applies from the taxation year 1992.

c. I-3,  
s. 1049.0.1,  
replaced

**231.** Section 1049.0.1 of the said Act is replaced by the following section:

False state-  
ments or  
omissions

**“1049.0.1** Every person who, knowingly or under circumstances amounting to gross negligence, makes, or acquiesces or participates in the making of, a false statement or omission in any renunciation that is effective as of a particular date and that is made under section 359.2, 359.2.1, 359.4, 359.6, 381, 406, 417 or 418.13 is liable to a penalty of 25% of the amount by which the amount set out in the renunciation in respect of Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses exceeds the amount in respect of Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses, as the case may be, that the corporation was entitled under the section to renounce as of that particular date.”

c. I-3,  
s. 1090, am.

**232.** (1) Section 1090 of the said Act, amended by section 334 of chapter 22 of the statutes of 1994 and by section 182 of chapter 1 of the statutes of 1995, is again amended by replacing subparagraph *k* of the first paragraph by the following subparagraph:

“(k) the amount that, under section 968 or 968.1, would be included in computing his income in respect of an interest in a life insurance policy in Canada if he had been resident in Canada throughout the year;”.

(2) Subsection 1 has effect from 1 January 1993.

c. I-3,  
s. 1092, am.

**233.** (1) Section 1092 of the said Act, amended by section 185 of chapter 64 of the statutes of 1993 and by section 350 of chapter 22 of the statutes of 1994, is again amended

(1) by replacing, in the French text, the portion of paragraph *b* before subparagraph *i* by the following:

“*b*) a un revenu, pour l’application du paragraphe *g* de chacun des articles 1089 et 1090, égal à l’ensemble:”;

(2) by adding the word “and” at the end of subparagraph *ii* of paragraph *b*;

(3) by striking out the word “and” at the end of subparagraph *iii* of paragraph *b*.

(2) Subsection 1 applies from the taxation year 1993.

c. I-3,  
s. 1108, am.

**234.** (1) Section 1108 of the said Act, amended by section 340 of chapter 22 of the statutes of 1994, is again amended, in subparagraph *e* of the first paragraph,

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

“non-quali-  
fying im-  
movable  
property”

“(e) “non-qualifying immovable property” of a particular corporation or a trust, other than a personal trust, means property disposed of by the particular corporation or the trust after 29 February 1992 that at the time of its disposition is”;

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

“ii. a share of the capital stock of a corporation, the fair market value of which is derived principally from immovable property, other than immovable property that was used throughout that part of the 24-month period immediately preceding that time while it was owned by the corporation or a corporation related to the corporation, or throughout all or substantially all of the period preceding that time during which it was owned by the corporation or a corporation related to the corporation, principally in a qualified business carried on by the corporation or a corporation related to it, but not including a share of the capital stock of a corporation the fair market value of which is derived principally from immovable property owned by another corporation the shares of the capital stock of which would, if owned by the particular corporation or the trust, not be non-qualifying immovable property of the particular corporation or the trust,”.

(2) Subsection 1 applies from the taxation year 1992.

c. I-3,  
ss. 1129.46 -  
1129.50,  
added

**235.** (1) The said Act is amended by inserting, after section 1129.45, enacted by section 191 of chapter 1 of the statutes of 1995, the following:

“PART III.11

“ADDITIONAL TAX FOR MANUFACTURERS  
OF TOBACCO PRODUCTS

Definitions

“**1129.46** In this Part, unless the context indicates otherwise,

“corpora-  
tion”

“corporation” has the meaning assigned by section 1;

“establish-  
ment”

“establishment” has the meaning assigned by section 1;

“Minister”

“Minister” means the Minister of Revenue;

“taxation  
year”

“taxation year” has the meaning assigned by section 1.

Additional  
tax

“**1129.47** Every corporation having an establishment in Québec at any time in a taxation year shall pay a tax for that year equal to the product obtained by multiplying the amount determined under section 1129.48 in respect of the corporation for the year by the proportion that

(a) the number of days in the year that are after 8 February 1994 and before 9 February 1997, is of

(b) the number of days in the year.

Amount of  
the tax

“**1129.48** The amount referred to in section 1129.47 in respect of a corporation for a taxation year is equal to the lesser of

(a) the tax payable by the corporation for its taxation year 1993 under Part IV, and

(b) the amount determined in respect of the corporation for the year by the formula

$$A \times B.$$

Interpreta-  
tion

For the purposes of the formula in subparagraph *b* of the first paragraph,

(a) A is the amount that would be determined in respect of the corporation for the year under the definition of “Part I tax on tobacco manufacturing profits” in subsection 2 of section 182 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), if the reference therein to “21%” were read as “4.45%”; and

(b) B is the ratio between the business carried on by the corporation in Québec in the year and the total business carried on by the corporation in Canada or in Québec and elsewhere in the year, as determined by regulation.

Time of  
payment

**“1129.49** Every corporation shall pay to the Minister, on or before the later of 6 January 1996 and the last day of the second month after the end of its taxation year, its tax payable under this Part for the year.

Provisions  
applicable

**“1129.50** Except where inconsistent with this Part, the first paragraph of section 549, section 564 where it refers to the first paragraph of section 549, sections 1000 to 1024 and sections 1037 to 1079.16 apply to this Part, with the necessary modifications.”

(2) Subsection 1 applies to taxation years ending after 8 February 1994. However, where section 1129.50 of the Taxation Act, enacted by subsection 1, applies in respect of notices of assessment issued before 1 July 1994, the reference therein to sections 1037 to 1079.16 shall be read as a reference to sections 1030 to 1079.16.

c. I-3, ter-  
minology  
changes

**236.** (1) The said Act, amended by chapters 15, 51 and 64 of the statutes of 1993, by chapters 13, 14, 16 and 22 of the statutes of 1994 and by chapters 1, 18 and 36 of the statutes of 1995, is again amended

(1) by replacing, in the French text, the words “hydrocarbures apparentés” by the words “hydrocarbures connexes” in subparagraphs i, ii and iv of subparagraph *b* of the first paragraph of section 89, in subparagraphs i, ii and iv of paragraph *b* of subsection 1 of section 144, in paragraphs *a* and *b* of section 370, in section 375, in paragraph *b* of section 399.7, in subparagraphs *a* and *f* of the second paragraph of section 418.15, and in the portion of section 425 before paragraph *a*;

(2) by replacing, in the French text, the words “mauvaises créances” by the words “créances irrécouvrables” in paragraph *a* of section 141, in section 264.6, in the heading of Division XII of Chapter

IV of Title IV of Book III of Part I, and in subparagraph 7 of subparagraph iii of subparagraph *b* of the first paragraph of section 308.6;

(3) by replacing, in the French text, the words “mauvaise créance” by the words “créance irrécouvrable” wherever they occur in section 142, in the portion of section 142.1 before paragraph *a*, in subparagraphs 1 and 2 of subparagraph i of paragraph *a* of section 142.1, in the heading of Division III.3 of Chapter IV of Title IV of Book III of Part I, in the first paragraph of section 299, in the portion of section 300 before paragraph *a*, in paragraph *d* of section 398, in paragraph *c* of sections 411 and 418.5, and in the first paragraph of section 736.0.3.1;

(4) by replacing, in the French text, the words “dépenses en immobilisations” by the words “dépenses en capital” in paragraph *a* of section 223, in sections 726.4.41 and 726.4.46, in subparagraph *a* of the first paragraph of sections 726.4.48 to 726.4.50, and in the first paragraph of section 1029.8.7.2;

(5) by replacing, in the French text, the word “charité” by the word “bienfaisance” wherever it occurs in subparagraph *c* of the second paragraph of section 274.0.1, in paragraph *b* of section 421.2, in subsection 2 of section 497, in subparagraph i of paragraph *b* and paragraph *c* of section 660, in the heading of Title V of Book IV of Part I, in paragraphs *c*, *i* and *k* of section 710, in sections 752.0.10.3 and 752.0.10.5, in paragraph *c* of section 752.0.10.6, in sections 752.0.10.12 and 752.0.10.13, in paragraph *f* of section 851.23, in the portion of section 851.33 before subparagraph *a* of the first paragraph, in the heading of Chapter III.1 of Title I of Book VIII of Part I, in paragraphs *a* to *g* of section 985.1, in the portion of section 985.1.1 before subparagraph *b* of the first paragraph, in the second paragraph of section 985.1.1, in the portion of section 985.2 before paragraph *a*, in paragraph *c* of section 985.2, in paragraph *b* of section 985.2.1, in sections 985.2.2, 985.3 and 985.4.3, in section 985.5 except where it refers, in paragraph *a* of subsection 2, to an “oeuvre de charité canadienne prescrite”, in the first paragraph of section 985.5.2, in paragraph *c* of section 985.7, in section 985.8.1, in paragraphs *a* and *c* of section 985.9.1, in the portion of section 985.9.3 before paragraph *a*, in paragraph *a* of section 985.9.4, in the portion of section 985.14 before paragraph *a*, in paragraphs *c* and *d* of section 985.14, in sections 985.16, 985.17, 985.20, 985.22 and 985.23, in the portion of section 985.25 before paragraph *a*, in section 996, in paragraph *b* of section 998, in subsection 1 of section 1000, in the portion of section 1063 before paragraph *a*, in subparagraphs *a* and *a.1* of the first paragraph and in the third paragraph of section 1069, and in the third paragraph of section 1143;

(6) by striking out, in the French text, the words “d’un arrêt,” or “de l’arrêt,” as the case may be, wherever they occur in sections 312.1 and 313.0.1, in the portion of section 313.0.5 before paragraph *b*, in sections 336.0.1 and 336.1, in the portion of section 336.4 before paragraph *b*, in subparagraph *i* of paragraph *a* of section 462.0.1, in section 913, in subparagraph *b* of the second paragraph of section 961.17, in paragraph *b* of section 965.0.9, and in the first paragraph of section 1034.0.1;

(7) by striking out, in the French text, the words “un arrêt,” in the first paragraph of section 313, in the portion of section 313.0.5 before paragraph *a*, and in the portion of section 336.4 before paragraph *a*;

(8) by replacing, in the French text, the words “et que l’arrêt,” by the words “et que” in sections 313.0.1 and 336.1;

(9) by replacing, in the French text, the word “charitable” or “charitables”, as the case may be, by the words “de bienfaisance” wherever it occurs in section 752.0.10.5, in paragraph *c* of subsection 3 of section 797, in paragraph *d* of section 985.1, in subparagraph *a* of the first paragraph of section 985.1.2, in the portion of section 985.2 before paragraph *a*, in the portion of section 985.2.1 before paragraph *a*, in section 985.2.2, in the portion of section 985.2.3 before paragraph *b*, in the portion of section 985.2.4 before paragraph *b*, in section 985.3, in paragraphs *b* and *d* of section 985.7, in paragraph *b* of section 985.8, and in sections 985.8.1 and 985.20;

(10) by replacing, in the French text, the words “dépense en immobilisations” or “dépense en immobilisation”, as the case may be, by the words “dépense en capital” in subparagraph *iii* of paragraph *g.1* of section 1029.8.1, in paragraphs *c* and *d* of section 1029.8.5.1, in the portion of paragraph *g* of section 1029.8.5.1 before subparagraph *i*, in paragraph *h* of section 1029.8.5.1, in paragraph *iii* of the definition of “dépense de frais généraux” in section 1029.8.9.1, in paragraphs *c* and *d* of section 1029.8.15.1, in the portion of paragraph *g* of section 1029.8.15.1 before subparagraph *i*, and in paragraph *h* of section 1029.8.15.1;

(11) by replacing “1030” by “1034” in section 1086.4;

(12) by replacing “1030” by “1037” in sections 1086.7, 1129.4, 1129.12, 1129.15, 1129.27, 1129.37, 1129.41, 1129.45 and 1145, in the first paragraph of section 1159.7, and in sections 1173.4, 1175 and 1185.

(2) Paragraphs 1 to 10 of subsection 1 apply to taxation years ending after 30 November 1991. However,

(a) where paragraph 5 of subsection 1 refers to paragraph *k* of section 710 of the Taxation Act, it shall not apply to taxation years ending before 13 May 1994, and where it refers to sections 752.0.10.3, 752.0.10.5, 752.0.10.6, 752.0.10.12, 752.0.10.13 and 851.33 and to paragraph *b* of section 985.1 of that Act, it shall not apply to taxation years preceding the taxation year 1993; and

(b) where paragraph 10 of subsection 1 refers to sections 1029.8.1 and 1029.8.9.1 of the Taxation Act, it shall not apply to taxation years ending before 21 May 1993.

(3) Paragraphs 11 and 12 of subsection 1 apply in respect of notices of assessment issued after 30 June 1994. However, where paragraph 12 refers to section 1129.37 of the Taxation Act, it shall not apply in respect of notices of assessment issued before 31 January 1995.

Effect

**237.** Notwithstanding any other provision of the said Act or of this Act, no provision of this Act shall operate to modify the amount of interest payable by a life insurance corporation under the Taxation Act in respect of a period, or part of a period, that is before 15 March 1993.

#### ACT RESPECTING THE APPLICATION OF THE TAXATION ACT

c. I-4, s. 5.1,  
added

**238.** (1) The Act respecting the application of the Taxation Act (R.S.Q., chapter I-4) is amended by inserting, after section 5, the following section:

References

**“5.1** In this Act and the regulations, in the Taxation Act (chapter I-3) and the regulations made thereunder, and in any Act amending those Acts and any regulation amending those regulations, a reference to the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), to the Income Tax Application Rules (Revised Statutes of Canada, 1985, chapter 2, 5th Supplement) or to a provision of those Acts, is, where the reference applies prior to the date in the dates of application listed in section 71 or 73 of the Income Tax Application Rules that applies in the circumstances, deemed to be a reference to the Income Tax Act (Statutes of Canada), to the Income Tax Application Rules, 1971 (Statutes of Canada), or to the corresponding provision of those Acts.”



(2) Subsection 1 has effect from 1 December 1991.

ACT RESPECTING THE MINISTÈRE DU REVENU

c. M-31,  
s. 14.7,  
French  
text, am.

**239.** (1) Section 14.7 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by striking out, in the French text, the words “d’un arrêt,”.

(2) Subsection 1 applies to taxation years ending after 30 November 1991.

c. M-31,  
s. 20, am.

**240.** (1) Section 20 of the said Act, amended by section 39 of chapter 79 of the statutes of 1993, is again amended by replacing the second paragraph by the following paragraph:

Separate  
fund

“Any such amount must be kept by the person who deducted, withheld or collected it, distinctly and separately from the person’s own funds, for payment to Her Majesty in right of Québec in the manner and at the time provided under a fiscal law. An amount equal to the amount thus deducted, withheld or collected must be considered to form a separate fund not forming part of the property of that person, whether or not the amount has in fact been held separately from the patrimony of that person or from that person’s own funds.”

(2) Subsection 1 has effect from 15 June 1994.

c. M-31,  
s. 24.0.1,  
am.

**241.** (1) Section 24.0.1 of the said Act, amended by section 11 of chapter 46 of the statutes of 1994, by sections 204 and 362 of chapter 1 of the statutes of 1995 and by section 48 of chapter 43 of the statutes of 1995, is again amended

(1) by replacing, in the English text, the portion of the first paragraph before subparagraph *a* by the following:

Solidary  
debtors

**“24.0.1** Where a corporation has omitted to remit to the Minister an amount referred to in section 24 or to deduct, withhold or collect an amount that it was required to deduct, withhold or collect under a fiscal law, or to pay an amount it was required to pay as an employer under the Act respecting the Québec Pension Plan (chapter R-9), the Act respecting labour standards (chapter N-1.1) or the Act to foster the development of manpower training (1995, chapter 43), its directors in office on the date of the omission shall become solidary debtors with the corporation for that amount and for interest and penalties related thereto in the following cases:”;

(2) by replacing, in subparagraph *b* of the first paragraph, the words “Bankruptcy Act” by the words “Bankruptcy and Insolvency Act”.

(2) Paragraph 1 of subsection 1 has effect from 1 January 1994. However, where the portion of the first paragraph of the English text of section 24.0.1 of the Act respecting the Ministère du Revenu before subparagraph *a*, enacted by subsection 1, applies

(a) before 21 December 1994, that portion shall be read as follows:

Solidary  
debtors

“**24.0.1** Where a corporation has omitted to remit to the Minister an amount referred to in section 24 or to deduct, withhold or collect an amount that it was required to deduct, withhold or collect under a fiscal law, or to pay its employer’s contribution under the Act respecting the Québec Pension Plan (chapter R-9), its directors in office on the date of the omission shall become solidary debtors with the corporation for that amount and for interest and penalties related thereto in the following cases:”;

(b) after 20 December 1994 and before 22 June 1995, that portion shall be read as follows:

Solidary  
debtors

“**24.0.1** Where a corporation has omitted to remit to the Minister an amount referred to in section 24 or to deduct, withhold or collect an amount that it was required to deduct, withhold or collect under a fiscal law, or to pay an amount it was required to pay as an employer under the Act respecting the Québec Pension Plan (chapter R-9) or the Act respecting labour standards (chapter N-1.1), its directors in office on the date of the omission shall become solidary debtors with the corporation for that amount and for interest and penalties related thereto in the following cases:”.

(3) Paragraph 2 of subsection 1 has effect from 30 November 1992.

c. M-31,  
s. 34, am.

**242.** (1) Section 34 of the said Act is amended, in subsection 2,

(1) by replacing, in the French text of the first paragraph, the word “charité” by the word “bienfaisance”;

(2) by adding, after the second paragraph, the following paragraph:

Keeping

“The registers and books shall be kept in such manner that the information contained in them will enable the Minister to determine whether there are any grounds for the revocation of the registration under section 1063 of the Taxation Act (chapter I-3).”

(2) Paragraph 1 of subsection 1 applies to taxation years ending after 30 November 1991.

ACT RESPECTING THE RÉGIE DE  
L'ASSURANCE-MALADIE DU QUÉBEC

c. R-5,  
s. 34.1.4,  
am.

**243.** (1) Section 34.1.4 of the Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5), enacted by section 222 of chapter 64 of the statutes of 1993 and amended by section 358 of chapter 22 of the statutes of 1994 and section 219 of chapter 1 of the statutes of 1995, is again amended by replacing subparagraph 1 of subparagraph iv of paragraph *a* by the following subparagraph:

“(1) section 310 of the said Act, to the extent that section 310 refers to section 931.1, 935.10.1, 965.20 or 965.49 of the said Act;”.

(2) Subsection 1 applies from the year 1993.

c. R-5,  
s. 34.1.7,  
am.

**244.** (1) Section 34.1.7 of the said Act, enacted by section 222 of chapter 64 of the statutes of 1993 and replaced by section 220 of chapter 1 of the statutes of 1995, is amended by replacing “1030” by “1034”.

(2) Subsection 1 applies in respect of notices of assessment issued after 30 June 1994.

ACT RESPECTING THE QUÉBEC PENSION PLAN

c. R-9, s. 76,  
am.

**245.** (1) Section 76 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9), amended by section 13 of chapter 15 of the statutes of 1993 and section 227 of chapter 64 of the statutes of 1993, and replaced by section 226 of chapter 1 of the statutes of 1995, is again amended by replacing “1030” by “1037”.

(2) Subsection 1 applies in respect of notices of assessment issued after 30 June 1994.

## ACT RESPECTING THE QUÉBEC SALES TAX

c. T-0.1,  
s. 1, French  
text, am.

**246.** (1) Section 1 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), amended by section 364 of chapter 22 of the statutes of 1994, by section 23 of chapter 23 of the statutes of 1994 and by section 247 of chapter 1 of the statutes of 1995, is again amended by replacing, in the French text of the definition of “organisme de bienfaisance”, the word “charité” by the word “bienfaisance”.

(2) Subsection 1 has effect from 1 July 1992.

ACT TO AGAIN AMEND THE TAXATION ACT AND  
OTHER FISCAL LEGISLATION

1990, c. 59,  
s. 92, am.

**247.** (1) Section 92 of the Act to again amend the Taxation Act and other fiscal legislation (1990, chapter 59) is amended by replacing, in the portion of subsection 2 before paragraph 1, “1 January 1992” by “1 January 1993”.

(2) Subsection 1 has effect from 14 December 1990.

ACT TO AGAIN AMEND THE TAXATION ACT AND  
OTHER FISCAL LEGISLATION

1991, c. 25,  
s. 5, am.

**248.** (1) Section 5 of the Act to again amend the Taxation Act and other fiscal legislation (1991, chapter 25), amended by section 374 of chapter 16 of the statutes of 1993, is again amended by replacing, in the portion of subsection 3 before section 21.33 of the Taxation Act, enacted by subsection 3, “1 January 1993” by “1 July 1994”.

(2) Subsection 1 has effect from 20 June 1991.

ACT TO AMEND THE TAXATION ACT  
AND OTHER FISCAL LEGISLATION

1993, c. 16,  
s. 256, am.

**249.** (1) Section 256 of the Act to amend the Taxation Act and other fiscal legislation (1993, chapter 16) is amended

(1) by replacing subsection 2 by the following subsection:

“(2) This section applies from the taxation year 1991.”;

(2) by striking out subsection 3.

(2) Subsection 1 has effect from 15 June 1993.

ACT TO AMEND THE TAXATION ACT,  
THE ACT RESPECTING THE QUÉBEC SALES TAX  
AND OTHER FISCAL PROVISIONS

1994, c. 22,  
s. 41, am.

**250.** (1) Section 41 of the Act to amend the Taxation Act, the Act respecting the Québec sales tax and other fiscal provisions (1994, chapter 22) is amended by replacing the portion of subsection 3 before paragraph *d* of the definition of “cost amount” in section 1 of the Taxation Act, enacted by subsection 3, by the following:

“(3) Paragraph 4 of subsection 1, where it replaces paragraph *d* of the definition of “cost amount” in section 1 of the Taxation Act, applies, in the case of a corporation, to taxation years of the corporation commencing after 30 June 1988 and, in any other case, to fiscal periods commencing after 31 December 1987. However, for the period preceding 14 July 1990, paragraph *d* of that definition, enacted by paragraph 4 of subsection 1, shall be read as follows:”.

(2) Subsection 1 has effect from 17 June 1994.

1994, c. 22,  
s. 247, am.

**251.** (1) Section 247 of the said Act is amended

(1) by replacing the portion of subsection 3 before subparagraph 2 of subparagraph *i* of subparagraph *b* of the first paragraph of section 726.6 of the Taxation Act, enacted by that subsection 3, by the following:

“(3) Paragraph 4 of subsection 1 applies from the taxation year 1985. In this regard, notwithstanding sections 1010 to 1011 of the Taxation Act, such assessments and determinations as are necessary may be made by the Minister of Revenue in respect of any taxation years to give effect to paragraph 4 and the second and third paragraphs of section 1060.1 and section 1066.2 of the said Act shall apply thereto, with the necessary modifications. However, where subparagraph 2 of subparagraph *i* of subparagraph *b* of the first paragraph of section 726.6 of the Taxation Act, enacted by paragraph 4 of subsection 1, applies to the taxation years 1985 to 1991, it shall be read as follows.”;

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

“(4) Paragraph 5 of subsection 1 applies from the taxation year 1988.”

(2) Subsection 1 has effect from 17 June 1994.

Coming into  
force

**252.** This Act comes into force on 7 December 1995.