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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 58

## **An Act to again amend the Taxation Act and other fiscal legislation**

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### **Introduction**

**Introduced by  
Mr Raymond Savoie  
Minister of Revenue**

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## EXPLANATORY NOTES

*The principal object of this bill is to bring the fiscal legislation of Québec into harmony with that of Canada. To that end, it gives effect to the measures of harmonization contained mainly in the Budget Speeches delivered by the Minister of Finance of Québec on 26 April 1990 and 2 May 1991, the Minister's Statement of 19 December 1990 and Information Bulletin 91-2 published by the Ministère des Finances on 5 July 1991.*

*Firstly, this bill amends the Taxation Act mainly to introduce amendments similar to those introduced into the Income Tax Act of Canada by federal Bills C-18 (S.C., 1991, chapter 49) and C-35 (S.C., 1992, chapter 1), assented to on 17 December 1991 and 28 February 1992, respectively.*

*These amendments regard the following matters in particular:*

- (1) the introduction of a presumption of existence of a trust in respect of usufructs, rights of use or habitation, and substitutions;*
- (2) the tax treatment applicable to the partition of property held in co-ownership;*
- (3) the non-taxation of certain employment benefits provided to disabled persons;*
- (4) the deductibility of home office expenses in computing income from employment;*
- (5) foreign retirement arrangements;*
- (6) the introduction of rules relating to property available for use;*
- (7) the introduction of rules permitting entitlement to the \$500 000 capital gains exemption in respect of capital gains accrued*

*on a qualified small business corporation share, when the small business corporation makes a public share issue and thus becomes a public corporation;*

*(8) the deductibility of certain amounts paid to reduce the rate of interest payable on a debt obligation, or as a penalty or bonus on the repayment of a debt obligation before its maturity or a premium under a life insurance policy assigned to a financial institution, at its request, as collateral for a borrowing;*

*(9) the tax treatment of a retroactive disability pension payment under the Québec or Canada Pension Plan or of a retroactive labour adjustment benefit payment;*

*(10) registered national arts service organizations and their members;*

*(11) the determination, by the Canadian Cultural Property Export Review Board, of the value of gifts of cultural property;*

*(12) the deductibility of the value of gifts by artists of their works which qualify as cultural property;*

*(13) the deduction in respect of individuals residing in remote areas;*

*(14) the broadening of the definition of medical expenses allowing a tax credit;*

*(15) the rules relating to the registration of education savings plans;*

*(16) the introduction of rules allowing, in certain circumstances, the extension of the time for making an election, or allowing an election to be amended or revoked;*

*(17) the restriction, in respect of certain assessments, of the matters which can be objected to or appealed from;*

*(18) various technical amendments, including concordance and terminological amendments.*

*Secondly, this bill amends the Act respecting the application of the Taxation Act in order to preserve certain benefits attaching to shares of the capital stock of a corporation or to certain titles of indebtedness held by a taxpayer on 31 December 1971.*

*Thirdly, this bill amends the Act respecting the Ministère du Revenu to introduce amendments concerning, namely, the notice of*

*distribution of property under the control of a person responsible for the distribution, and the demand for payment of all the duties, interest and penalties owed to the Minister by a person who has left Québec.*

*Lastly, it amends various other Acts having amended the Taxation Act, mainly to change the dates of effect of a number of sections of those Acts.*

**ACTS AMENDED BY THIS BILL:**

- (1) Taxation Act (R.S.Q., chapter I-3);
- (2) Act respecting the application of the Taxation Act (R.S.Q., chapter I-4);
- (3) Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- (4) Act to again amend the Taxation Act and other fiscal legislation (1988, chapter 18);
- (5) Act to again amend the Taxation Act and other fiscal legislation (1990, chapter 59);
- (6) Act to again amend the Taxation Act and other fiscal legislation (1991, chapter 25);
- (7) Act to amend the Taxation Act and other fiscal legislation (1992, chapter 1).



## Bill 58

### **An Act to again amend the Taxation Act and other fiscal legislation**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 6 of chapter 1 of the statutes of 1992 and section 570 of chapter (*insert here the chapter number of Bill 38*) of the statutes of (*insert here the year in which Bill 38 is assented to*), is again amended

(1) by replacing the definition of “share” by the following definition:

“ “share” means a share or fraction thereof of the capital stock of a corporation and, except for the purposes of Title VI.1 of Book VII, “share of the capital stock of a corporation” includes a share of the capital of a prescribed cooperative and a share of the capital of a savings and credit union;

(2) by striking out the definition of “taxable RFI share”;

(3) by replacing that part of the definition of “former business property” preceding paragraph *b* by the following:

“ “former business property” of a taxpayer means a capital property of the taxpayer that was used by the taxpayer or a person related to the taxpayer primarily for the purpose of gaining or producing income from a business and that was immovable property or an interest therein of the taxpayer, but does not include

(a) immovable property owned by the taxpayer, whether jointly with another person or otherwise, and used by the taxpayer in the taxation year to which the expression “former business property” is being applied principally for the purpose of gaining or producing gross

revenue that is rent, other than property either leased by the taxpayer to a person related to the taxpayer and used by that related person principally for any other purpose, or leased by the taxpayer or the related person to a lessee, in the ordinary course of a business of the taxpayer or the related person of selling goods or rendering services, under a contract by which the lessee undertakes to use the property to carry on the business of selling or promoting the sale of the goods or services of the taxpayer or the related person,”;

(4) by replacing the definition of “automobile” by the following definition:

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

(a) an ambulance,

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

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

(d) a motor vehicle of a type commonly called a van or pick-up truck or a similar vehicle

i. that has a seating capacity for not more than the driver and 2 passengers and that, in the taxation year in which it is acquired, is used primarily for the transportation of goods or equipment in the course of gaining or producing income, or

ii. the use of which, in the taxation year in which it is acquired, is all or substantially all for the transportation of goods, equipment or passengers in the course of gaining or producing income;”;

(5) by inserting, after the definition of “automobile”, the following definition:

“ “bank” means a bank to which the Bank Act (Statutes of Canada) applies;”;

(6) by replacing paragraph *b* of the definition of “taxable Québec property” by the following paragraph:

“(b) a timber resource property situated in Québec, including at any particular time an interest therein and an option in respect thereof,”;

(7) by striking out the word “and” at the end of paragraph *c* of the definition of “taxable Québec property”;

(8) by replacing the semicolon at the end of paragraph *d* of the definition of “taxable Québec property” by a coma and the word “and”;

(9) by adding, after paragraph *d* of the definition of “taxable Québec property”, the following paragraph:

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

(10) by replacing that part of the definition of “small business corporation” preceding paragraph *b* by the following:

““small business corporation” at any particular time means, subject to section 726.6.2, a Canadian-controlled private corporation all or substantially all of the fair market value of the assets of which is attributable to assets that are, at that time,

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

(11) by replacing paragraph *c* of the definition of “small business corporation” by the following paragraph:

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

(12) by replacing paragraph *a* of the definition of “cost amount” by the following paragraph:

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

“(b) subject to section 284, where a taxpayer begins at a particular time to use property to gain income, he is deemed, if he had formerly acquired such property for other purposes, to have acquired such property at that time at a capital cost to him equal to the fair market value of the property at that time;”;

“i. where the proportion of the use made of the property to gain income has increased at a particular time, the taxpayer is deemed to have acquired at that time depreciable property of that class at a capital cost equal to that 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 made of it,” ”;

(13) by replacing paragraph *d* of the definition of “cost amount” by the following paragraph:

“(d) in the case of intangible capital property of the taxpayer in respect of a business, the amount that would, but for section 106.1, be that proportion of the eligible intangible capital amount of the taxpayer in respect of such business at that time that the fair market value at that time of the intangible capital property is of the fair market value at that time of all of the intangible capital property of the taxpayer in respect of the business;”;

(14) by replacing the definitions of the words “dividend” and “stock dividend” by the following definitions, respectively:

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

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

(15) by replacing the definition of “borrowed money” by the following definition:

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

(16) by replacing paragraph *a* of the definition of “specified financial institution” by the following paragraph:

“(a) a bank;”;

(17) by replacing paragraph *g* of the definition of “specified financial institution” by the following paragraph:

“(g) a corporation related to a corporation described in any of paragraphs *a* to *f* and, for the purposes of this paragraph, where it may reasonably be considered, having regard to all the circumstances, that one of the main reasons for the separate existence of two or more corporations in a taxation year is to limit or avoid the application of section 740.1, sections 740.2 to 740.3.1 or section 845, those corporations are deemed to be related to each other and to each other corporation to which any such corporation is related;”;

(18) by replacing paragraph *a* of the definition of “restricted financial institution” by the following paragraph:

“(a) a bank;”;

(19) by replacing the definition of “inventory” by the following definition:

“ “inventory” means a description of property the cost or value of which is relevant in computing a taxpayer’s income from a business for a taxation year or would have been so relevant if the income from the business had not been computed in accordance with the cash method and, with respect to a farming business, includes all of the livestock held in the course of carrying on the business;”;

(20) by inserting, after the definition of “foreign resource property”, the following definition:

“ “foreign retirement arrangement” means a prescribed plan or arrangement;”;

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

“ “cash method” has the meaning assigned by section 194;”;

(22) by replacing that part of paragraph *a* of the definition of “amount” preceding subparagraph *i* by the following:

“(a) in any case where section 187.2 or 187.3 of the Income Tax Act (Statutes of Canada) or any of sections 21.4.3, 21.10, 21.10.1, 70.1, 740.2 to 740.3.1 and 740.5 applies to a stock dividend, the amount of the stock dividend is equal to the greater of”;

(23) by inserting, after the definition of “registered education savings plan”, the following definition:

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

(24) by replacing paragraph *b* of the definition of “home relocation loan” by the following paragraph:

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

(25) by replacing paragraph *b* of the definition of “gross revenue” by the following paragraph:

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

(2) Paragraphs 1 and 20 of subsection 1 have effect from 1 January 1989.

(3) Paragraph 2 of subsection 1 has effect from 19 June 1987.

(4) Paragraphs 3 and 7 to 9 of subsection 1 apply in respect of dispositions of property occurring after 13 July 1990.

(5) Paragraph 4 of subsection 1 applies to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987 in respect of automobiles acquired after 17 June 1987 otherwise than pursuant to an obligation in writing entered into before 18 June 1987 or leased under a lease entered into, extended or renewed after 17 June 1987.

(6) Paragraphs 5, 15, 16 and 18 of subsection 1 have effect from 28 February 1992.

(7) Paragraphs 6 and 20 of subsection 1 apply from the taxation year 1990.

(8) Paragraph 10 of subsection 1, where it enacts that part of the definition of “small business corporation” in section 1 of the Taxation Act preceding paragraph *a* thereof, has effect from 18 June 1987. However, for the period from 18 June 1987 to 13 September 1988, that

part of the said definition of “small business corporation” shall read as follows:

“ “small business corporation” at any particular time means, subject to section 726.6.2, a Canadian-controlled private corporation all or substantially all of the assets of which are, at that time,”.

(9) Paragraph 10 of subsection 1, where it enacts paragraph *a* of the definition of “small business corporation” in section 1 of the Taxation Act, and paragraph 11 of subsection 1 apply from the taxation year 1988.

(10) Paragraph 12 of subsection 1 has effect from 23 May 1985.

(11) Paragraph 13 of subsection 1 has effect from 1 January 1988. However, for the period before 14 July 1990, paragraph *d* of the definition of “cost amount” in section 1 of the Taxation Act, enacted by the said paragraph 13, shall read as follows:

“(d) in the case of intangible capital property of the taxpayer in respect of a business, the amount that would, but for section 106.1, be the eligible intangible capital amount of the taxpayer in respect of such business at that time;”.

(12) Paragraph 14 of subsection 1, where it enacts the definition of “dividend” in section 1 of the Taxation Act, applies in respect of stock dividends paid to a corporation or to a mutual fund trust after 31 December 1990. It also applies in respect of stock dividends so paid after 23 May 1985 and before 1 January 1991 where the corporation or trust, as the case may be, notifies the Minister of Revenue in writing, with supporting evidence, that it has made a valid election with the Minister of National Revenue under subsection 20 of section 192 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 (S.C., 1991, chapter 49), concerning the application of the definition of “dividend” in subsection 1 of section 248 of the Income Tax Act (Statutes of Canada), 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 such modifications as the circumstances require.

(13) Paragraph 14 of subsection 1, where it enacts the definition of “stock dividend” in section 1 of the Taxation Act, has effect from 17 December 1991.

(14) Paragraphs 17 and 23 of subsection 1 have effect from 14 July 1990.

(15) Paragraph 19 of subsection 1 applies to fiscal periods commencing after 31 December 1988.

(16) Paragraph 22 of subsection 1 applies in respect of dividends paid after 18 June 1987.

(17) Paragraph 24 of subsection 1 applies from the taxation year 1985.

(18) Paragraph 25 of subsection 1 applies in respect of life insurance policies last acquired after 31 December 1989.

**2.** (1) The said Act is amended by inserting, after section 1.5, the following section:

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

(2) This section has effect from 1 January 1990.

**3.** (1) The said Act is amended by inserting, after section 2.1, the following sections:

“**2.1.1** For the purposes of this Part and subject to sections 2.1, 2.1.2, 438.1 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:

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

(b) each such person who has an interest in the property immediately after that time is deemed not to have acquired at that



time that proportion of the interest that the fair market value of that person's interest in the property immediately before that time is of the fair market value of that person's interest in the property immediately after that time;

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

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

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

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

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

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

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

For the purposes of this section,

(a) subdivisions of a building or of a parcel of land that are established in the course of, or in contemplation of, a partition and

that are jointly owned by the same persons who jointly owned the building or the parcel of land, or by their assignee, shall be regarded as one property, and

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

(2) This section has effect from 14 July 1990. However, section 2.1.1 of the Taxation Act, enacted by this section, does not apply in respect of a partition made after 13 July 1990 and before 1 January 1992

(a) pursuant to the terms of an agreement in writing entered into on or before 13 July 1990, or

(b) in accordance with a confirmation in writing from the Ministère du Revenu du Québec or the Department of National Revenue as to the tax consequences of that partition, where the confirmation is in respect of a written request received by such department on or before 13 July 1990.

**4.** (1) Section 2.2 of the said Act is replaced by the following section:

**“2.2** For the purposes of section 2.1, paragraphs *a* and *b* of section 312, sections 313 to 313.0.5, paragraphs *a* and *b* of subsection 1 and subsection 2 of section 336, sections 336.1 to 336.4, 454, 456.1 and 913, subparagraph *b* of the second paragraph of section 961.17 and sections 965.0.9, 965.0.11, 971.2 and 971.3, the expressions “spouse” and “former spouse” include a spouse or former spouse who is a party to an annulled or annulable marriage.”

(2) This section has effect from 1 January 1990. However, section 2.2 of the Taxation Act, enacted by this section, shall read

(a) as if a reference to paragraph *d* of section 339 of the said Act were added thereto where that paragraph *d* applies to the taxation year 1990 in respect of amounts paid after 6 June 1990;

(b) as if a reference to subparagraph *d* of the second paragraph of section 961.6 of the said Act were added thereto where that subparagraph *d* applies before 1 January 1991.

**5.** (1) Section 6.2 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

**“6.2** Where, at any time, control of a corporation, other than a corporation that is a foreign affiliate of a taxpayer resident in Canada and that did not carry on a business in Canada at any time in its last taxation year commencing before that time, has been acquired by a person or group of persons, the following rules apply for the purposes of this Part:”.

(2) This section applies in respect of acquisitions of control occurring after 13 July 1990.

**6.** (1) The said Act is amended by inserting, after section 7.8, the following sections:

**“7.9** In this Part and the regulations, the following rules apply:

(a) a usufruct is deemed to be a trust, established by will where the usufruct was so established, and property subject to a usufruct is deemed to have been transferred to the trust and to be held in trust and not otherwise;

(b) a right of use or habitation is deemed to be a trust, established by will where the right was so established, and property subject to such a right is deemed to have been transferred to the trust and to be held in trust and not otherwise;

(c) a substitution is deemed to be a trust, established by will where the substitution was so established, and property subject to a substitution is deemed to have been transferred to the trust and to be held in trust and not otherwise;

(d) property referred to in paragraphs *a* to *c* is deemed to have been transferred on the death of the testator and as a consequence thereof where the usufruct, the right of use or habitation or the substitution, as the case may be, was established by will.

**“7.10** In this Part and the regulations, an arrangement other than a trust is deemed to be a trust and property subject to rights and obligations under the arrangement is deemed to be held in trust and not otherwise, if the arrangement meets the following conditions:

(a) it is established by or pursuant to a written contract that is governed by the laws of Québec and in which it is provided that, for the purposes of this Part, the arrangement is considered to be a trust;

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

**“7.11** In this Part and the regulations, a person who has a right, whether immediate or future and whether absolute or contingent, to receive all or any part of the income or the capital in respect of property referred to in section 7.9 or 7.10 is deemed to be beneficially interested in the trust referred to in that section.

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

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

(2) This section, where it enacts sections 7.9 to 7.11 of the Taxation Act, has effect, subject to subsection 3,

(a) from 1 January 1991 in respect of property that became subject to a usufruct, a right of use or habitation or a substitution after 31 December 1990;

(b) from 1 January 1990 in respect of property that became subject to a usufruct, a right of use or habitation or a substitution after 31 December 1989 and before 1 January 1991, where the persons who hold interests in the property notify the Minister of Revenue in writing, with supporting evidence, that they have jointly made a valid election with the Minister of National Revenue under paragraph *c* of subsection 35 of section 192 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 (S.C., 1991, chapter 49), concerning the application of subsection 3 of section 248 of the Income Tax Act (Statutes of Canada) in respect of the property, 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 such modifications as the circumstances require.

(3) Notwithstanding subsection 2, this section, where it enacts sections 7.9 to 7.11 of the Taxation Act, applies from the taxation year 1989 in respect of property that became subject to an arrangement referred to in section 7.10 of the said Act in the taxation year 1989 or any subsequent taxation year.

(4) This section, where it enacts section 7.13 of the Taxation Act, applies to taxation years commencing after 31 December 1987.

**7.** (1) The said Act is amended by inserting, after section 11.1, the following section:

**“11.2** For the purposes of this Part, a corporation that is incorporated or otherwise formed under the laws of a country other than Canada or of a state, province or other political subdivision of such a country is deemed to be resident in that country throughout a taxation year and not to be resident in Canada at any time in the year, where

(a) the corporation's principal business in the year consists of the operation of ships that are used primarily in transporting persons or goods in international traffic, determined on the assumption that the corporation is not resident in Canada and that, in the case of a voyage from Canada to a place outside Canada, any port or other place on the Great Lakes or St. Lawrence River is in Canada;

(b) all or substantially all of the corporation's gross revenue for the year is from the operation of ships in transporting persons or goods in such international traffic; and

(c) the corporation has not been granted articles of continuance in Canada before the end of the year.”

(2) This section applies to taxation years commencing after 28 February 1991.

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

“(b) a person who has a right under a contract or otherwise, either immediately or in the future and either absolutely or contingently,

i. to, or to acquire, shares of the capital stock of a corporation or to control the voting rights of such shares, is, except where the right is not exercisable at that time because the exercise thereof is contingent on the death, bankruptcy or permanent disability of an

individual, deemed to have the same position in relation to the control of the corporation as if that person owned the shares at that time, or

ii. to cause a corporation to redeem, acquire or cancel any shares of its capital stock owned by other shareholders of the corporation is, except where the right is not exercisable at that time because the exercise thereof is contingent on the death, bankruptcy or permanent disability of an individual, deemed to have the same position in relation to the control of the corporation as if the shares were so redeemed, acquired or cancelled by the corporation at that time; and”.

(2) This section has effect from 14 July 1990.

**9.** (1) Section 21.1 of the said Act is amended by replacing the first paragraph by the following paragraph:

**“21.1** Sections 21.2 and 21.3 apply in respect of the control of a corporation for the purposes of sections 6.2, 93.4, 222 to 230.0.0.2, 384, 384.4 and 384.5, 418.26 to 418.30, 518.2, 547.1, 564.2 to 564.4.2 and 727 to 737.”

(2) This section, where it adds in section 21.1 of the Taxation Act, enacted thereby, a reference to section 518.2 of the said Act, applies in respect of dispositions occurring after 31 December 1984.

**10.** (1) Section 21.3 of the said Act is replaced by the following section:

**“21.3** A person is deemed not to have acquired control of a particular corporation, or of any corporation controlled by it, by reason of the redemption, acquisition or cancellation of shares of the particular corporation if that person was, immediately before the share redemption, acquisition or cancellation, related, otherwise than by reason of a right referred to in paragraph *b* of section 20, to the particular corporation, acquired the shares by way of a distribution of the property from the estate of a person to whom he was related, is testamentary executor, trustee or administrator of an estate who acquires the shares by virtue of the death of another person or is a new corporation resulting from an amalgamation, within the meaning of section 544, in respect of which each of the predecessor corporations was related, otherwise than by reason of a right referred to in paragraph *b* of section 20, to the particular corporation immediately before the amalgamation.”

(2) This section applies in respect of redemptions, acquisitions or cancellations of shares occurring after 31 December 1989.

However, where a person so elects in the manner prescribed in subsection 3, section 21.3 of the Taxation Act, enacted by this section, shall read as follows:

**“21.3** A person is deemed not to have acquired control of a particular corporation, or of any corporation controlled by it, by reason of the redemption or cancellation after 13 July 1990 or the acquisition of shares of the particular corporation if that person was, immediately before the share redemption, cancellation or acquisition, related, otherwise than by reason of a right referred to in paragraph *b* of section 20, to the particular corporation, acquired the shares by way of a distribution of the property from the estate of a person to whom he was related, is testamentary executor, trustee or administrator of an estate who acquires the shares by virtue of the death of another person or is a new corporation resulting from an amalgamation, within the meaning of section 544, in respect of which each of the predecessor corporations was related, otherwise than by reason of a right referred to in paragraph *b* of section 20, to the particular corporation immediately before the amalgamation.”

(3) The election referred to in subsection 2 may be made by a person by notifying the Minister of Revenue in writing, with supporting evidence, that the person has made a valid election with the Minister of National Revenue under subsection 8 of section 198 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 (S.C., 1991, chapter 49), concerning the application of paragraph *a* of subsection 7 of section 256 of the Income Tax Act (Statutes of Canada), 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 such modifications as the circumstances require.

**11.** (1) Section 21.5 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(c) it is issued after 16 November 1978 and, under its terms or conditions, an agreement in respect of the share or a modification of such terms or conditions or such agreement, either in the case of a share issued after 16 November 1978 and before 13 November 1981,

or after 12 November 1981 and before 1 January 1983 pursuant to an agreement in writing to do so made before 13 November 1981, the share is convertible, directly or indirectly, into debt or into a share that would, if issued, be a term preferred share, and in any other case, the share is convertible or exchangeable, unless it is convertible into or exchangeable for a consideration described in section 21.5.5, or one of the provisions described in section 21.5.2, 21.5.3 or 21.5.4 applies.”

(2) This section has effect from 19 June 1987.

**12.** (1) Section 21.5.2 of the said Act is amended by replacing paragraphs *a* and *b* by the following paragraphs:

“(a) the owner thereof may, within 10 years after the date of issue, cause the share to be redeemed, acquired or cancelled, otherwise than by reason only of a right to convert or exchange the share, or cause its paid-up capital to be reduced,

“(b) the issuing corporation or any person with whom it is not dealing at arm’s length is or may be required to redeem, acquire or cancel, in whole or in part, the share or to reduce its paid-up capital, otherwise than pursuant to a requirement of the corporation to redeem, acquire or cancel, annually, not more than 5 % of the issued and fully paid shares of that class, or unless the owner may cause the share to be redeemed, acquired or cancelled by reason only of a right to convert or exchange the share, or”.

(2) This section has effect from 19 June 1987.

**13.** (1) Section 21.5.3 of the said Act is amended by replacing paragraphs *a* and *b* by the following paragraphs:

“(a) the owner thereof may, within 10 years after the date of issue, cause the share to be redeemed, acquired or cancelled, otherwise than by reason only of a right to convert or exchange the share, or cause its paid-up capital to be reduced,

“(b) a person is or may be required to redeem, acquire or cancel, in whole or in part, the share or to reduce its paid-up capital, within 10 years after the date of issue,

i. otherwise than pursuant to a requirement of the issuing corporation to redeem, acquire or cancel annually not more than 5 % of the issued and fully paid shares of that class and, where the requirement was agreed to after 21 April 1980, it provides that such redemption, acquisition or cancellation be in proportion to the number of shares of the class or of the series of the class registered in the name of each shareholder, or



ii. unless the requirement to redeem, acquire or cancel the share arises by reason only of a right to convert or exchange the share, or”.

(2) This section has effect from 19 June 1987.

**14.** (1) Chapter VI.3 of Title II of Book I of Part I of the said Act is repealed.

(2) This section has effect from 19 June 1987.

**15.** (1) Section 21.11.20 of the said Act is amended

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

“ii. a debt obligation of a corporation that was issued before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, or issued after that time pursuant to an agreement in writing entered into before that time, or after that time and before 1 January 1988 as part of a distribution to the public made in accordance with the terms of a final prospectus, preliminary prospectus, registration statement, offering memorandum or notice filed before that time with a public authority pursuant to and in accordance with the securities legislation of the jurisdiction in which the debt obligation is distributed, or”;

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

“(d) a share of a class of the capital stock of a Canadian corporation listed on a prescribed stock exchange that was issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 upon the exercise of a right listed on a prescribed stock exchange in Canada that was issued before that time, that was issued after that time pursuant to an agreement in writing entered into before that time or that was issued after that time and before 1 January 1988 as part of a distribution to the public made in accordance with the terms of a final prospectus, preliminary prospectus, registration statement, offering memorandum or notice filed before that time with a public authority pursuant to and in accordance with the securities legislation of the jurisdiction in which the right is distributed, where all or substantially all the terms and conditions of the right and the share were established in writing before that time.”

(2) This section applies in respect of shares issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 and of shares deemed, under the Taxation Act as amended by this Act, to have been issued after that time.

**16.** (1) Sections 21.20.3 and 21.20.4 of the said Act are replaced by the following sections:

**“21.20.3** Shares of the capital stock of a corporation that are owned at any time by a child under 18 years of age are deemed, for the purposes of determining if the corporation is associated at that time with another corporation that is controlled, directly or indirectly in any manner whatever, by the father or the mother of the child or by a group of persons of which the father or mother is a member, to be owned at that time by the father or the mother, as the case may be, unless, having regard to all the circumstances, it may reasonably be considered that the child manages the business and affairs of the corporation without a significant degree of influence by his father or mother.

**“21.20.4** For the purposes of determining if a corporation is associated with any other corporation with which it is not otherwise associated, where a person or any partnership in which the person has an interest has a right at any time under a contract or otherwise, either immediately or in the future and either absolutely or contingently,

(a) to, or to acquire, shares of the capital stock of a corporation, or to control the voting rights of such shares, the person or partnership is, except where the right cannot be exercised at that time because the exercise thereof is contingent on the death, bankruptcy or permanent disability of an individual, deemed to own the shares at that time and the shares are deemed to be issued and outstanding at that time; or

(b) to cause a corporation to redeem, acquire or cancel any shares of its capital stock owned by other shareholders of a corporation, the person or partnership is, except where the right cannot be exercised at that time because the exercise thereof is contingent on the death, bankruptcy or permanent disability of an individual, deemed at that time to have had the same position in relation to control of the corporation and ownership of shares of the capital stock of the corporation as if the shares were redeemed, acquired or cancelled by the corporation.”

(2) This section applies, for the purposes of determining whether two or more corporations are associated with each other,

(a) from the taxation year 1989 where

i. the taxation years of all the corporations commenced after 1988,

ii. at least one of the corporations was incorporated, or was formed as a result of an amalgamation, after 10 February 1988,

iii. at least one of the corporations acquired after 10 February 1988 from a person with whom it did not deal at arm's length all or substantially all of the assets used by it in its business, or

iv. the taxation year 1989 of at least one of the corporations did not end on approximately the same calendar date in 1989 as the calendar date in 1987 on which the taxation year 1987, if any, of that corporation ended; and

(b) in any other case, from the taxation year 1990.

**17.** (1) Section 21.28 of the said Act is amended by replacing paragraph *c* of the definition of "securities lending arrangement" by the following paragraph:

"(c) where the qualified security is a share of the capital stock of a corporation, the borrower is obligated to pay to the lender, as compensation for each dividend paid on the security that would have been received by the borrower if the borrower had held the security throughout the period beginning after the particular time and ending at the time an identical security is transferred or returned to the lender, an amount equal to that dividend, and".

(2) This section applies in respect of transfers, loans or payments made after 26 April 1989.

**18.** (1) Section 21.37 of the French text of the said Act is replaced by the following section:

**"21.37** Aux fins de la présente partie, lorsqu'un montant est ajouté, à un moment donné, dans le calcul de la taxe nette d'un contribuable en vertu de la partie IX de la Loi sur la taxe d'accise (Statuts du Canada) à l'égard d'un crédit de taxe sur les intrants qui est relatif à un bien ou à un service et qui a déjà été déduit dans le calcul de la taxe nette du contribuable, ce montant est réputé être un montant d'aide remboursé au moment donné à l'égard du bien ou du service conformément à une obligation juridique de rembourser en totalité ou en partie ce montant d'aide."

(2) This section has effect from 1 January 1991.

**19.** (1) Section 23 of the said Act is amended

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

"If the individual was resident in Québec on that day and has not, during some other part of the taxation year, been resident in Canada or been employed or carried on business in Canada, his taxable income for the taxation year is equal to the amount by which the aggregate of the following amounts exceeds the deductions allowed by Book IV which may reasonably be considered attributable to a period referred to in subparagraph *a*:

(*a*) his income for any period of the year during which he was resident in Canada, or was carrying on business or was employed in Canada, computed as if such period were a whole taxation year, and

(*b*) the amount which would be his taxable income earned in Canada contemplated in section 1091 for any period of the year other than that mentioned in subparagraph *a* if he had not been resident in Canada at any time in the year, computed as if such period were a whole taxation year and, for the purposes of such computation, an individual who ceased to be resident in Canada during the year under the circumstances mentioned in section 1093 is deemed to have ceased to be resident in Canada during a previous year under the same circumstances.";

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

."Notwithstanding the foregoing, the aggregate of the deductions allowed by Book IV which are referred to in the second paragraph and the deductions mentioned in section 1091, in respect of the individual for the year, shall not exceed the aggregate of the amounts that would have been deductible in computing his taxable income for the year had the individual been resident in Canada throughout that year."

(2) This section applies from the taxation year 1988.

**20.** (1) Section 27 of the said Act, replaced by section 13 of chapter 1 of the statutes of 1992, is amended by replacing the first paragraph by the following paragraph:

**"27.** Any corporation not contemplated in section 22 and not resident in Canada that disposes in a taxation year of taxable Québec property shall pay a tax at the rate established in subsection 1 of section 771 on the amounts described in paragraphs *d*, *e*, *f*, *h* and *l* of section 1089 that are applicable thereto and on the amount by which the aggregate of its taxable capital gains exceeds the aggregate of its allowable capital losses from the disposition of such property."

(2) This section applies, subject to subsection 3, from the taxation year 1990 in respect of dispositions occurring after 20 February 1990, except dispositions occurring after 20 February 1990 pursuant to agreements in writing entered into before 21 February 1990.

(3) Where this section applies to taxation years

(a) ending after 26 April 1990 and before 1 September 1991, the first paragraph of section 27 of the Taxation Act, enacted by this section, shall read as follows:

**“27.** Any corporation not contemplated in section 22 and not resident in Canada that disposes in a taxation year of taxable Québec property shall pay a tax at the rate established in subsection 1 of section 771 and in sections 771.0.1.1 and 771.0.1.2 on the amounts described in paragraphs *d*, *e*, *f*, *h* and *l* of section 1089 that are applicable thereto and on the amount by which the aggregate of its taxable capital gains exceeds the aggregate of its allowable capital losses from the disposition of such property.”;

(b) ending before 27 April 1990, the said first paragraph shall read as follows:

**“27.** Any corporation not contemplated in section 22 and not resident in Canada that disposes in a taxation year of taxable Québec property shall pay a tax at the rate established in subsection 1 of section 771 and in sections 771.0.1 and 771.0.1.1 on the amounts described in paragraphs *d*, *e*, *f*, *h* and *l* of section 1089 that are applicable thereto and on the amount by which the aggregate of its taxable capital gains exceeds the aggregate of its allowable capital losses from the disposition of such property.”

**21.** (1) The said Act is amended by inserting, after section 28, the following section:

**“28.1** Where the amount determined under paragraph *c* of section 28 for a taxation year in respect of a taxpayer is negative, the taxpayer is deemed to have income for the year in an amount equal to zero.”

(2) This section applies from the taxation year 1990.

**22.** (1) Section 30 of the said Act is replaced by the following section:

**“30.** A taxpayer who has already included or deducted an amount directly or indirectly in computing his income for a taxation

year is not required to include such amount again, or authorized, as the case may be, to deduct it again, either directly or indirectly, unless this Part expressly obliges or authorizes him to do so, or contains words that necessarily imply such obligation or authorization.”

(2) This section applies from the taxation year 1990.

**23.** (1) Section 38 of the said Act is amended by replacing the third paragraph by the following paragraph:

“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 unless they are related to its operation, 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.”

(2) This section applies from the taxation year 1986. However, where the third paragraph of section 38 of the Taxation Act, enacted by this section, applies to the taxation years 1986 and 1987, it shall read as follows:

“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, or the value of benefits related to the use of an automobile unless they are related to its operation and are not insurance or registration costs of an automobile contemplated in section 41.”

**24.** (1) Section 40 of the said Act is amended by replacing paragraphs *a* to *c* by the following paragraphs:

“(a) reasonable allowances for travelling expenses he receives from his employer regarding any period while his employment is connected with the selling of property or the negotiating of contracts for his employer,

“(b) reasonable allowances for travelling expenses, other than allowances for the use of a motor vehicle, he receives from his employer as an employee, other than an employee referred to in paragraph *a*, for travelling away from the municipality or the

metropolitan area, as the case may be, where the employer's establishment at which the employee ordinarily works or with which he is ordinarily connected is located, in the performance of his duties, or

“(c) reasonable allowances for the use of a motor vehicle he receives from his employer as an employee, other than an employee referred to in paragraph *a*, for travelling in the performance of his duties.”

(2) This section applies from the taxation year 1990.

**25.** (1) Section 40.1 of the said Act is amended

(1) by replacing that part preceding paragraph *a* by the following:

“**40.1** For the purposes of paragraph *e* of section 39 and paragraphs *a* and *c* of section 40, an allowance received in the year by the individual referred to therein for the use of a motor vehicle in connection with or in the course of his office or employment is deemed not to be a reasonable allowance”;

(2) 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 parking, toll or ferry charges and the amount of the allowance was determined without reference to those reimbursed expenses.”

(2) Paragraph 1 of subsection 1 applies from the taxation year 1990.

(3) Paragraph 2 of subsection 1 applies from the taxation year 1988. However, it does not apply to the taxation years 1988 and 1989 of an individual who so elects by notifying the Minister of Revenue in writing.

**26.** (1) Section 42 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

“**42.** Notwithstanding sections 36 and 37, an individual who is not entitled to the deduction provided for in section 79.1 is not required to include, in computing his income for a taxation year from an office or employment, an amount received or enjoyed by him by

reason of or in the course of his office or employment that is the value of, or an allowance, not in excess of a reasonable amount, in respect of expenses incurred by him”.

(2) This section applies from the taxation year 1989.

**27.** (1) The said Act is amended by inserting, after section 42, the following section:

**“42.0.1** Notwithstanding sections 36 and 37, in computing the income of an individual for a taxation year from an office or employment, the individual is not required to include any amount received or enjoyed by the individual by reason or in the course of the individual’s office or employment that is the value of a benefit, or an allowance, not in excess of a reasonable amount, in respect of expenses incurred by the individual for

(a) the transportation of the individual between the individual’s ordinary place of residence and the individual’s work location, including parking near that location, if the individual is blind or is a person in respect of whom an amount is deductible, or would but for paragraph *d* of section 752.0.14 be deductible, by reason of the individual’s mobility impairment, by reason of section 752.0.14 or 752.0.15 in computing an individual’s tax payable under this Part for the year; or

(b) an attendant to assist the individual in the performance of the individual’s duties if the individual is a person in respect of whom an amount is deductible, or would but for paragraph *d* of section 752.0.14 be deductible, by reason of section 752.0.14 or 752.0.15 in computing an individual’s tax payable under this Part for the year.”

(2) This section applies from the taxation year 1991.

**28.** (1) Section 49 of the said Act, replaced by section 15 of chapter 1 of the statutes of 1992, is again replaced by the following section:

**“49.** Subject to section 49.2, an employee acquiring a share under the agreement contemplated in section 48 is deemed to receive by reason of his office or employment, in the taxation year in which he acquires the share, a benefit equal to the amount by which the value of the share at the time he acquires it exceeds the aggregate of the amount paid or to be paid by him to the corporation for the share and the amount paid by him to acquire the right to acquire the share.”

(2) This section applies from the taxation year 1988. However, where section 49 of the Taxation Act, enacted by this section, applies



in respect of shares acquired after 31 December 1987 and before 3 May 1991, the reference therein to “section 49.2” shall read as a reference to “sections 49.1 and 49.2”.

**29.** (1) Section 49.4 of the said Act is replaced by the following section:

**“49.4** For the purposes of this division and section 725.2, where a taxpayer disposes of rights under an agreement referred to in section 48 to acquire shares of the capital stock of the particular corporation that made the agreement or of a corporation with which the particular corporation does not deal at arm’s length, which rights and shares are referred to in this section and section 725.2 as the “exchanged option” and the “old shares”, respectively, the taxpayer receives no consideration for the disposition of the exchanged option other than rights under an agreement with any of the corporations described in the second paragraph to acquire shares of the capital stock of any such corporation or of the capital stock of a corporation with which any such corporation does not deal at arm’s length, which rights and shares are referred to in this section and section 725.2 as the “new option” and the “new shares”, respectively, and the amount by which the total value of the new shares immediately after the disposition exceeds the total amount payable by the taxpayer to acquire the new shares under the new option does not exceed the amount by which the total value of the old shares immediately before the disposition exceeds the amount payable by the taxpayer to acquire the old shares under the exchanged option, the following rules apply:

(a) the taxpayer is deemed not to have disposed of the exchanged option and not to have acquired the new option,

(b) the new option is deemed to be the same option as, and a continuation of, the exchanged option, and

(c) the corporation described in subparagraph *b*, *c* or *d* of the second paragraph, as the case may be, is deemed to be the same corporation as, and a continuation of, the particular corporation.

The corporations referred to in the first paragraph are the following:

(a) the particular corporation referred to therein,

(b) a corporation with which that particular corporation does not deal at arm’s length immediately after the disposition of the exchanged option,

(c) a corporation formed on the amalgamation or merger of that particular corporation and one or more other corporations, and

(d) a corporation with which the corporation referred to in subparagraph c does not deal at arm's length immediately after the disposition of the exchanged option."

(2) This section applies from the taxation year 1988. However, where a taxpayer so elects by notifying the Minister of Revenue in writing, this section does not apply in respect of dispositions by the taxpayer occurring before 14 July 1990.

**30.** (1) Section 49.5 of the said Act, amended by section 18 of chapter 1 of the statutes of 1992, is replaced by the following section:

**"49.5** For the purposes of sections 49.2 and 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 48, 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:

(a) the taxpayer is deemed not to have disposed of or exchanged the exchanged shares and not to have acquired the new shares,

(b) the new shares are deemed to be the same shares as, and a continuation of, the exchanged shares,

(c) the corporation that issued the new shares is deemed to be the same corporation as, and a continuation of, the corporation that issued the exchanged shares, and

(d) where the exchanged shares were issued under an agreement, the new shares are deemed to have been issued under that agreement.

The corporations referred to in the first paragraph are the following:

(a) the Canadian corporation referred to therein,

(b) a corporation with which that Canadian corporation does not deal at arm's length immediately after the disposition or exchange of the exchanged shares,

(c) a corporation formed on the amalgamation or merger of that Canadian corporation and one or more other corporations, and

(d) a corporation with which the corporation referred to in subparagraph *c* does not deal at arm's length immediately after the disposition or exchange of the exchanged shares."

(2) This section applies, subject to subsection 3, from the taxation year 1988. However, where a taxpayer so elects by notifying the Minister of Revenue in writing, this section does not apply in respect of dispositions by the taxpayer occurring before 14 July 1990.

(3) Where this section applies in respect of shares received in exchange for shares acquired after 31 December 1987 and before 3 May 1991 pursuant to an agreement referred to in section 48 of the Taxation Act, the reference in that part of section 49.5 of the said Act, enacted by this section, preceding subparagraph *a* of the first paragraph to "49.2 and 725.3" shall read as a reference to "49.1, 49.2, 725.2 and 725.3".

**31.** (1) Sections 50 to 52 of the said Act are replaced by the following sections:

**"50.** An employee transferring or disposing of rights provided by the agreement contemplated in section 48 in respect of shares to a person with whom he is dealing at arm's length, is deemed to receive by reason of his office or employment, in the taxation year in which he makes such transfer or disposition, a benefit equal to the amount by which the value of the consideration for the transfer or disposition exceeds the amount paid by the employee to acquire those rights.

**"51.** If rights of the employee under the agreement contemplated in section 48 have, by one or more transactions between persons not dealing at arm's length, become vested in a person exercising the employee's right to acquire shares under the agreement, the employee is deemed, subject to the second paragraph, to receive by reason of his office or employment, in the taxation year in which that person acquired the shares, a benefit equal to the amount by which the value of the shares at the time that person acquired them exceeds the aggregate of the amount paid or to be paid by that person to the corporation for the shares and the amount paid by the employee to acquire the right to acquire the shares.

Where the employee was deceased at the time the person acquired the shares, the benefit is deemed to have been received by that person, in the taxation year in which that person acquired the shares, as income from the duties of an office or employment performed by that person in that year in the country in which the employee primarily performed the duties of the employee's office or employment.

**“52.** If rights of the employee under the agreement contemplated in section 48 have, by one or more transactions between persons not dealing at arm's length, become vested in a particular person who transfers or disposes of the rights to another person with whom the particular person is dealing at arm's length, the employee is deemed, subject to the second paragraph, to receive by reason of his office or employment, in the taxation year in which the particular person made the transfer or disposition, a benefit equal to the amount by which the value of the consideration for the transfer or disposition exceeds the amount paid by the employee to acquire those rights.

Where the employee was deceased at the time the other person acquired the employee's rights, the benefit is deemed to have been received by the particular person, in the taxation year in which the particular person transferred or disposed of the employee's rights, as income from the duties of an office or employment performed by the particular person in that year in the country in which the employee primarily performed the duties of the employee's office or employment.”

(2) This section applies from the taxation year 1988.

**32.** (1) The said Act is amended by inserting, after section 52, the following section:

**“52.1** Where an employee owned, immediately before his death, a right to acquire shares under the agreement contemplated in section 48, the employee is deemed to have received by reason of his office or employment, in the taxation year in which he died, a benefit equal to the amount by which the value of the right immediately after his death exceeds the amount paid by him to acquire the right, and sections 50 to 52 do not apply.”

(2) This section applies in respect of deaths occurring after 13 July 1990.

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

**“58.** For the purposes of this division, except section 53, and of sections 725.2 and 725.3, where a corporation has entered into an arrangement under which shares of the corporation or of a corporation with which it does not deal at arm’s length are sold or issued by either corporation to a trustee to be held by the trustee in trust for sale to an employee of the corporation or of a corporation with which it does not deal at arm’s length, any rights of the employee under the arrangement in respect of those shares, any shares acquired thereunder by the employee or by a person in whom those rights have become vested, and any amounts paid or agreed to be paid to the trustee for any shares acquired thereunder by the employee or any such person, are deemed to be, respectively, rights under, shares acquired under, and amounts paid or agreed to be paid to the corporation for shares acquired under, an agreement contemplated in section 48.”

(2) This section applies from the taxation year 1988.

**34.** (1) Section 62 of the said Act is amended by replacing subsection 3 by the following subsection:

“(3) The deduction under this section must not exceed the sum of the commissions and other similar amounts, fixed by reference to the volume of the sales made or the contracts negotiated, that the individual receives in the year, and shall only be made to the extent to which the amounts expended are not

(a) outlays, losses or replacements of capital or payments on account of capital, except amounts described in section 64,

(b) outlays or expenses that, under section 134, would not be deductible in computing the individual’s income for the year if the office or employment were a business carried on by him, or

(c) amounts the payment of which reduced the amount that would otherwise be included in computing the individual’s income for the year under section 41.”

(2) This section applies from the taxation year 1990.

**35.** (1) The said Act is amended by inserting, after section 62, the following sections:

**“62.1** Notwithstanding section 62, no amount may be deducted in computing an individual’s income for a taxation year from an office or employment in respect of any part, in this section and sections 62.2 and 62.3 referred to as the “work space”, of the self-contained

domestic establishment in which the individual resides, except to the extent that the work space is either

(a) the place where the individual principally performs the duties of the office or employment, or

(b) used

i. exclusively during the period in respect of which the amount relates for the purpose of earning income from the office or employment, and

ii. on a regular and continuous basis for meeting customers or other persons in the ordinary course of performing the duties of the office or employment.

**“62.2** Where the conditions set out in paragraph *a* or *b* of section 62.1 are met in respect of the work space described in that section, the amount in respect of the work space that may be deducted in computing the individual’s income for a taxation year from the office or employment shall not exceed the individual’s income for the year from the office or employment, computed without reference to any deduction in respect of the work space.

**“62.3** Any amount in respect of a work space that was, by reason only of section 62.2, not deductible in computing the individual’s income for the preceding taxation year from an office or employment is deemed to be an amount in respect of a work space that is otherwise deductible and that, subject to section 62.2, may be deducted in computing the individual’s income for the taxation year from the office or employment.”

(2) This section applies from the taxation year 1991.

**36.** (1) Section 63 of the said Act is replaced by the following section:

**“63.** An individual may deduct amounts expended by him in the year, other than motor vehicle expenses, for travelling in the course of his duties, if he is required to perform all or part of them away from his employer’s place of business or in different places and if he is required, under his contract of employment, to pay the travelling expenses he incurs in the performance of his duties.

An individual shall not claim a deduction under this section if he receives an allowance for travelling expenses that he is not required

to include in computing his income for the year by reason of paragraph *e* of section 39 or paragraph *a* or *b* of section 40, or if he claims any deduction for the year under section 62, 65.1, 66 or 67.”

(2) This section applies from the taxation year 1988.

**37.** (1) The said Act is amended by inserting, after section 63, the following section:

**“63.1** An individual may deduct amounts expended by him in the year in respect of motor vehicle expenses incurred for travelling in the course of his duties, if he is required to carry on all or part of the duties away from his employer’s place of business or in different places and is required, under his contract of employment, to pay motor vehicle expenses he incurs in the performance of his duties.

An individual shall not claim a deduction under this section if he receives an allowance for the use of a motor vehicle that he is not required to include in computing his income for the year by reason of section 39 or 40, or if he claims a deduction for the year under section 62.”

(2) This section applies from the taxation year 1988.

**38.** (1) Section 64 of the said Act is amended by replacing the first paragraph by the following paragraph:

**“64.** An individual entitled, in the year, to a deduction under section 62, 63 or 63.1 may also deduct any interest paid by him in the year on a loan made or an amount payable for the purchase of a motor vehicle used by him in the performance of his duties as well as such part of the capital cost of such a motor vehicle as regulations allow.”

(2) This section applies from the taxation year 1988.

**39.** (1) Section 64.3 of the said Act is replaced by the following section:

**“64.3** No amount may be deducted in the year by an individual under section 62, 63 or 63.1, unless the individual submits to the Minister with his fiscal return for the year under this Part a prescribed form signed by his employer certifying that the conditions set out in that section were met in the year in respect of the individual.”

(2) This section applies from the taxation year 1988.

**40.** (1) The said Act is amended by inserting, after section 77, the following section:

**“77.1** Where, in a taxation year, an employee is deemed by reason of section 53 to have disposed of a share held by a trust, the trust disposed of the share to the corporation that issued the share, the disposition occurred as a result of the employee not meeting the conditions necessary for title to the share to vest in the employee, and the amount paid by the corporation to acquire the share from the trust or to redeem or cancel the share did not exceed the amount paid to the corporation for the share, the following rules apply:

(a) there may be deducted in computing the employee’s income for the year from an office or employment the amount by which the amount of the benefit deemed by section 49 to have been received by the employee in the year or a preceding taxation year in respect of the share exceeds any amount deducted under section 725.2 or 725.3 in computing the employee’s taxable income for the year or a preceding taxation year in respect of that benefit, and

(b) notwithstanding any other provision of this Part, any gain or loss of the employee otherwise determined from the disposition of the share is deemed to be nil, and Division I of Chapter III of Title IX of Book III does not apply to deem a dividend to have been received in respect of the disposition.”

(2) This section applies from the taxation year 1988.

**41.** (1) Section 78 of the said Act is amended

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

“Notwithstanding the foregoing, no such amounts may be deducted in the year by the individual unless he submits to the Minister, with his fiscal return for the year under this Part, a prescribed form signed by his employer certifying that the conditions set out in the first paragraph were met in the year in respect of the individual.”;

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

“The rules set forth in sections 62.1 to 62.3 apply, with such modifications as the circumstances require, for the purpose of computing the amount that may be deducted by an individual under this section in respect of any part, in those sections referred to as the “work space”, of a self-contained domestic establishment in which the individual resides.”



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

(3) Paragraph 2 of subsection 1 applies from the taxation year 1991.

**42.** (1) Section 79.1 of the said Act is replaced by the following section:

**“79.1** An individual who is resident in Québec in a taxation year, except an individual contemplated in section 79.1.1, and who has performed substantially all the duties of his employment outside Canada throughout a period of not less than 30 consecutive days that commenced in the year or a preceding year may deduct, in computing his income for the year from that employment, the amounts provided for in section 79.2, if he is employed throughout that period by a specified employer and if such duties are in connection with a contract under which the specified employer carries on business outside Canada with respect to prospecting for or exploitation of petroleum, natural gas, minerals or other similar resources, or in respect of business connected with a farming, construction, installation or engineering activity or any prescribed activity, or for the purpose of obtaining such a contract for the specified employer.”

(2) This section applies from the taxation year 1985.

**43.** (1) Section 79.2 of the said Act is amended by replacing paragraphs *a* and *b* by the following paragraphs:

“(a) the amount obtained by multiplying the out-of-Canada living allowance received by the individual in the year by the ratio between his net allowance and his total out-of-Canada living allowance related to his employment;

“(b) the amount obtained by multiplying the net income received by the individual in the year and that part of the out-of-Canada living allowance received by him in the year and which exceeds the amount computed under paragraph *a* by the ratio between the number of consecutive periods of 30 full days, not exceeding 12, worked outside Canada by the individual during that period in his employment, and 12.”

(2) This section applies from the taxation year 1985.

**44.** (1) Section 79.3 of the said Act is amended by replacing paragraphs *b* and *c* by the following paragraphs:

“(b) “net allowance” means that part of the out-of-Canada living allowance of an individual which does not exceed one-half of his net income;

“(c) “net income” means the income of an individual from his employment outside Canada, computed without taking into account any out-of-Canada living allowance related to that employment and before any deduction under this chapter.”

(2) This section applies from the taxation year 1985.

**45.** (1) Section 83.1 of the said Act is replaced by the following section:

**“83.1** For the purposes of section 83, the cost to a taxpayer of land that is described in the inventory of a business carried on by the taxpayer shall include the amount of each expense described in the first paragraph of section 164 in respect of that land for which no deduction is permitted to the taxpayer or to another person in respect of whom the taxpayer was a person, corporation or partnership described in subparagraph ii of paragraph c of section 165 where that amount was not included in or added to the cost to that other person of any property otherwise than by reason of paragraph e.1 of section 255 or subparagraph xi of paragraph i of the said section 255.”

(2) This section applies from the taxation year 1988.

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

**“84.1** Where property described in the inventory of a business of a taxpayer at the end of a taxation year is valued in accordance with a method provided for under sections 83 to 85.6, that method shall, subject to section 85.5, be used in the valuation of property described in the inventory of that business at the end of the following taxation year for the purpose of computing the taxpayer’s income from that business unless the taxpayer, with the concurrence of the Minister and on such terms and conditions as are specified by the Minister, adopts another method provided for under those sections.”

(2) This section applies in respect of computations of income from the taxation year 1990.

**47.** (1) Section 89 of the said Act is amended by replacing subparagraph ii of subparagraph b of the first paragraph by the following subparagraph:

“ii. to any stage that is not beyond the prime metal stage or its equivalent, of metal, minerals other than iron or petroleum or related hydrocarbons, or coal from a mineral resource;”.

(2) This section applies in respect of amounts that become receivable after 13 July 1990.

**48.** (1) Section 92.5 of the said Act is replaced by the following section:

**“92.5** For the purposes of sections 92, 92.1, 92.7, 157.6 and 167, where a taxpayer acquires an interest in a prescribed debt obligation, interest on the obligation, computed in prescribed manner, is deemed to accrue to the taxpayer in each taxation year during which the taxpayer holds the interest.”

(2) This section applies in respect of investment contracts last acquired after 31 December 1989.

**49.** (1) Section 92.7 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) “investment contract”, in relation to a taxpayer, means any debt obligation other than

i. a salary deferral arrangement or a plan or arrangement that, but for any of paragraphs *a*, *b* and *d* to *l* of section 47.16, would be a salary deferral arrangement,

ii. a retirement compensation arrangement or a plan or arrangement that, but for any of subparagraphs *a*, *b*, *d* and *f* to *n* of the second paragraph of section 890.1, would be a retirement compensation arrangement,

iii. an employee benefit plan or a plan or arrangement that, but for the second paragraph of section 47.6, would be an employee benefit plan,

iv. a foreign retirement arrangement,

v. an income bond or debenture,

vi. a development bond,

vii. a small business bond,

viii. an obligation in respect of which the taxpayer has, otherwise than by reason of section 92.1, at periodic intervals of not more than

one year included, in computing his income throughout the period in which he held an interest in the obligation, the income accrued thereon for such intervals, or

ix. a prescribed contract;”.

(2) This section applies, subject to subsections 3 and 4, from the taxation year 1985.

(3) In its application to the taxation year 1985, paragraph *a* of section 92.7 of the Taxation Act, enacted by subsection 1, shall read without reference to subparagraphs i, ii and iv thereof and, where it applies to the taxation years 1986 to 1989, it shall read without reference to subparagraph iv thereof.

(4) Where subparagraph viii of paragraph *a* of section 92.7 of the Taxation Act, enacted by subsection 1, applies in respect of debt obligations acquired before 1 January 1990, the reference in that subparagraph to “not more than one year” shall read as a reference to “not more than three years”.

**50.** (1) Section 92.9 of the said Act is repealed.

(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.

**51.** (1) Section 92.11 of the said Act is amended

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

**“92.11** Where in a taxation year a taxpayer holds an interest in a life insurance policy last acquired after 31 December 1989, on any anniversary day of the policy, the taxpayer shall include in computing his income for the year the amount by which the accumulating fund on that day, as determined in prescribed manner, in respect of the interest in the policy exceeds the adjusted cost basis to the taxpayer of the interest in the policy on that day.”;

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

“(c) an annuity contract received, as proceeds from a life insurance policy that was not an annuity contract and that was last acquired before 2 December 1982, by the policyholder under the terms and conditions of the policy.”

(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.

**52.** (1) Section 92.13 of the said Act is replaced by the following section:

**“92.13** Where in a taxation year section 92.11 applies with respect to a taxpayer’s interest in an annuity contract, or would apply if the contract had an anniversary day in the year at the time when the taxpayer held the interest, and at the end of the year the aggregate determined under section 976.1 in respect of the interest exceeds the aggregate determined under section 976 in respect of the interest, the taxpayer shall include the excess in computing his income for the year.”

(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.

**53.** (1) Section 92.16 of the said Act is replaced by the following section:

**“92.16** For the purposes of sections 92.11 to 92.19, where the first premium under an annuity contract last acquired by a taxpayer before 1 January 1990 was not fixed before that date and was paid after 31 December 1989 by or on behalf of the taxpayer, the premium is deemed to have been paid to acquire, at the time the premium was paid, an interest in a separate annuity contract issued at that time, to the extent that the amount of the premium was not fixed before 1 January 1990, and each subsequent premium paid under the contract is deemed to have been paid under the separate contract, to the extent that the amount of that subsequent premium was not fixed before 1 January 1990.

The first paragraph does not apply in respect of an annuity contract described in subparagraph *b* of the second paragraph of section 92.9 or to which section 92.9 or 92.12 applies, as that subparagraph and those sections read in their application to life insurance policies last acquired before 1 January 1990, or to which section 92 applies.”

(2) This section applies in respect of premiums paid after 31 December 1989.

**54.** (1) Section 92.19 of the said Act is amended

(1) by replacing that part preceding paragraph *a* by the following:

**“92.19** For the purposes of sections 92.11 to 92.19, 160 and 161, paragraph *c* of section 312 and sections 966 to 977.1,”;

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

“(b) “anniversary day” of a life insurance policy means the day that is one year after the day immediately preceding the day on which the policy was issued and each day that occurs at each successive one-year interval after the anniversary day determined firstly under this paragraph.”

(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.

**55.** (1) Section 93 of the said Act, amended by section 23 of chapter 1 of the statutes of 1992, is again amended by replacing paragraphs *b* and *c* by the following paragraphs:

“(b) “total depreciation” allowed to a taxpayer before any time for property of a prescribed class means the aggregate of all amounts each of which is an amount deducted by the taxpayer by reason of paragraph *a* of section 130 in respect of property of that class or an amount deducted under section 130.1, or that would have been so deducted but for the fifth paragraph of section 130.1, in computing his income for the taxation years ending before that time;

“(c) “depreciable property” of a taxpayer as of any time in a taxation year means property acquired by the taxpayer in respect of which he has been allowed, or would, if he owned the property at the end of the year and if this Part were read without reference to section 93.6, be entitled to, a deduction under paragraph *a* of section 130 in computing his income for that taxation year or a previous taxation year;”.

(2) This section, where it replaces paragraph *b* of section 93 of the Taxation Act, applies to taxation years commencing after 13 July 1990 and, where it replaces paragraph *c* of the said section 93, applies in respect of property acquired after 31 December 1989.

**56.** (1) The said Act is amended by inserting, after section 93.5, the following sections:

**“93.6** In applying paragraph *e* of section 93 for the purposes of paragraph *a* of section 130 and any regulations made under that paragraph *a*, in computing a taxpayer’s income for a taxation year from a business or property, no amount shall be included in calculating the undepreciated capital cost to the taxpayer of depreciable property of a prescribed class in respect of the capital cost to the taxpayer of a property of that class, other than prescribed property or property that is a certified production within the meaning of the regulations

made under paragraph *a* of section 130, before the time at which the property is considered to have become available for use by the taxpayer.

**“93.7** For the purposes of section 93.6 and subject to section 93.9, property, other than a building or part thereof, acquired by a taxpayer shall be considered to have become available for use by the taxpayer at the time that is the earliest of

(a) the time at which the property is first used by the taxpayer for the purpose of earning income,

(b) the time that is immediately after the commencement of the first taxation year of the taxpayer commencing more than 357 days after the end of the taxation year of the taxpayer in which the property was acquired by the taxpayer,

(c) the time that is immediately before the disposition of the property by the taxpayer,

(d) the time at which the property has been delivered or made available to the taxpayer and is capable, either alone or in combination with other property within the possession of the taxpayer at that time, of producing a commercially saleable product or performing a commercially saleable service, including an intermediate product or service that is used or consumed, or is to be used or consumed, by the taxpayer in producing or providing any such product or service,

(e) in the case of property acquired by the taxpayer for the prevention, reduction or elimination of air or water pollution created by operations carried on by the taxpayer or that would be created by such operations if the property had not been acquired, the time at which the property is installed and capable of performing the function for which it was acquired,

(f) in the case of property acquired by a corporation a class of shares of the capital stock of which is listed on a prescribed stock exchange, a corporation that is a public corporation by reason of an election made under clause A of subparagraph ii of paragraph *g* of subsection 1 of section 89 of the Income Tax Act (Statutes of Canada) or a designation made by the Minister of National Revenue in a notice to the corporation under clause B of the said subparagraph ii, or a subsidiary wholly-owned corporation of any such corporation, the end of the taxation year for which depreciation in respect of the property is first deducted in computing the earnings of the corporation in accordance with generally accepted accounting principles and for the purpose of the financial statements of the corporation for the year presented to its shareholders,

(g) in the case of property acquired by the taxpayer in the course of carrying on a business of farming or fishing, the time at which the property has been delivered to the taxpayer and is capable of performing the function for which it was acquired,

(h) in the case of property of a taxpayer that is a motor vehicle, trailer, trolleybus, aircraft or vessel for which one or more permits, certificates or licences evidencing that the property may be operated by the taxpayer in accordance with any laws regulating the use of such property are required to be obtained, the time at which all such permits, certificates or licences have been obtained,

(i) in the case of property that is a spare part intended to replace a part of another property of the taxpayer if required due to the breakdown of that other property, the time at which that other property became available for use by the taxpayer,

(j) in the case of a concrete gravity base structure and topside modules intended to be used at an oil production facility in a commercial discovery area, within the meaning assigned by the Canada Petroleum Resources Act (Statutes of Canada), on which the drilling of the first well that indicated the discovery commenced before 5 March 1982, in a prescribed offshore region, the time at which the gravity base structure deballasts and lifts the assembled topside modules, and

(k) where the property is, within the meaning of subsection 3 of section 96, a replacement for a former property described in paragraph *a* of subsection 1 of that section that was acquired before 1 January 1990 or that had become available for use at or before the time at which the replacement property is acquired, the time at which the replacement property is acquired.

For the purposes of subparagraph *f* of the first paragraph, where the depreciation referred to therein in respect of property is calculated by reference to a proportion of the cost of the property, only that portion of the property shall be considered to have become available for use at the end of the taxation year referred to in that subparagraph.

**“93.8** For the purposes of section 93.6 and subject to section 93.9, property that is a building or part thereof of a taxpayer shall be considered to have become available for use by the taxpayer at the time that is the earliest of

(a) the time at which all or substantially all of the building is first used for the purpose for which it was acquired,



- (b) the time at which the construction of the building is complete,
- (c) the time that is immediately after the commencement of the first taxation year of the taxpayer commencing more than 357 days after the end of the taxation year of the taxpayer in which the property was acquired by the taxpayer,
- (d) the time that is immediately before the disposition of the property by the taxpayer, and
- (e) where the property is, within the meaning of subsection 3 of section 96, a replacement for a former property described in paragraph *a* of subsection 1 of that section that was acquired before 1 January 1990 or that had become available for use at or before the time at which the replacement property is acquired, the time at which the replacement property is acquired.

For the purposes of this section, a renovation, alteration or addition to a particular building shall be considered to be a building separate from the particular building.

**“93.9** For the purposes of section 93.6, where a taxpayer has acquired property, other than a building that is used or is to be used by the taxpayer principally for the purpose of gaining or producing gross revenue that is rent, in the taxpayer’s first taxation year, in this section referred to as the “particular year”, commencing more than 357 days after the end of the taxpayer’s taxation year in which the taxpayer first acquired property after 31 December 1989 that is part of a project of the taxpayer, or in a taxation year subsequent to the particular year, and at the end of any taxation year, in this section referred to as the “inclusion year”, of the taxpayer, the property may reasonably be considered to be part of the project and has not otherwise become available for use, if the taxpayer so elects in prescribed form filed with the taxpayer’s fiscal return under this Part for the particular year, that particular portion of the property the capital cost of which does not exceed the amount determined under the second paragraph is deemed to have become available for use immediately before the end of the inclusion year.

The amount referred to in the first paragraph is equal to the amount by which the aggregate of all amounts each of which is the capital cost to the taxpayer of a depreciable property, other than a building that is used or is to be used by the taxpayer principally for the purpose of gaining or producing gross revenue that is rent, that is part of the project referred to in the first paragraph, that was acquired by the taxpayer after 31 December 1989 and before the end of the taxpayer’s last taxation year ending more than 357 days before

the commencement of the inclusion year and that has not become available for use at or before the end of the inclusion year, except where the property has first become available for use before the end of the inclusion year by reason of subparagraph *b* of the first paragraph of section 93.7, subparagraph *c* of the first paragraph of section 93.8 or this section, exceeds the aggregate of all amounts each of which is the capital cost to the taxpayer of a depreciable property, other than the particular portion of the property, that is part of the project to the extent that the property is considered, by reason of this section, to have become available for use before the end of the inclusion year.

**“93.10** For the purposes of section 93.6 and notwithstanding sections 93.7 to 93.9, property of a taxpayer is deemed to have become available for use by the taxpayer at the time at which the property was acquired by the taxpayer where

(a) the property was acquired from a person with whom the taxpayer was, at that time, not dealing at arm’s length, otherwise than by reason of a right referred to in paragraph *b* of section 20, or in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, section 308.1 would not apply to the dividend by reason of the application of section 308.3; and

(b) the property had become available for use by the person from whom it was acquired, determined without reference to subparagraph *c* of the first paragraph of section 93.7 and subparagraph *d* of the first paragraph of section 93.8, before that time.

**“93.11** For the purposes of subparagraph *b* of the first paragraph of section 93.7, subparagraph *c* of the first paragraph of section 93.8 and section 93.9, where a property of a taxpayer was acquired from a person, the taxpayer is deemed to have acquired the property at the time it was acquired by the person, where

(a) the taxpayer was, at the time the taxpayer acquired the property, not dealing at arm’s length with the person, otherwise than by reason of a right referred to in paragraph *b* of section 20, or

(b) the property was acquired in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, section 308.1 would not apply to the dividend by reason of the application of section 308.3.

**“93.12** Where a taxpayer has leased property that is depreciable property of a person with whom the taxpayer does not deal at arm’s length, the amount determined under the second paragraph is deemed to be the cost to the taxpayer of a property

included in Class 13 in Schedule B to the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1) and not to be an amount paid or payable for the use of, or the right to use, the property.

The amount referred to in the first paragraph is equal to the amount by which the aggregate of any amounts paid or payable by the taxpayer for the use of, or the right to use, the property in a particular taxation year and before the time at which the property would have been considered to have become available for use by the taxpayer if the taxpayer had acquired the property, and that, but for this section, would be deductible in computing the taxpayer's income for any taxation year exceeds the aggregate of any amounts received or receivable by the taxpayer for the use of, or the right to use, the property in the particular taxation year and before that time and that are included in the income of the taxpayer for any taxation year."

(2) This section, where it enacts sections 93.6 to 93.9 of the Taxation Act, applies in respect of property acquired by a taxpayer after 31 December 1989, other than property acquired either from a person with whom the taxpayer was not dealing at arm's length, otherwise than by reason of a right referred to in paragraph *b* of section 20 of the said Act, at the time the property was acquired, or in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, section 308.1 of the said Act would not apply to the dividend by reason of the application of section 308.3 of the said Act, where the property was depreciable property of the person from whom it was acquired and was owned by that person before 1 January 1990.

(3) This section, where it enacts sections 93.10 and 93.11 of the Taxation Act, applies in respect of property acquired after 31 December 1989.

(4) This section, where it enacts section 93.12 of the Taxation Act, applies in respect of depreciable property of a person referred to in the said section 93.12 that was acquired by that person after 31 December 1989.

**57.** (1) Section 96 of the said Act is amended by replacing paragraphs *a* to *c* of subsection 3 by the following paragraphs:

"(a) that was acquired by the taxpayer for a use similar to the use to which the taxpayer or a person related to the taxpayer put the former property;

"(b) where the former property was used by the taxpayer or a person related to the taxpayer for the purpose of gaining or producing

income from a business, that was acquired by the taxpayer either for the purpose of gaining or producing income from that or a similar business, or for use by a person related to the taxpayer for such a purpose; and

“(c) where the former property was taxable Canadian property, or would have been taxable Canadian property if the taxpayer had been not resident in Canada throughout the year in which the former property was disposed of and the former property had been used in a business carried on by the taxpayer, that is taxable Canadian property, or would be taxable Canadian property if the taxpayer had been not resident in Canada throughout the year in which the depreciable property was acquired and the depreciable property were used in a business carried on by the taxpayer.”

(2) This section, where it replaces paragraphs *a* and *b* of subsection 3 of section 96 of the Taxation Act, applies in respect of dispositions of former properties occurring after 13 July 1990.

(3) This section, where it replaces paragraph *c* of subsection 3 of section 96 of the Taxation Act, applies in respect of property acquired as a replacement for a former property disposed of after 2 April 1990, other than a former property disposed of pursuant to an agreement in writing entered into before 3 April 1990 or pursuant to a written notice of an intention to take the property under statutory authority given before 3 April 1990 or for the sale price of the property sold to a person by whom such a notice was given before 3 April 1990.

**58.** (1) Section 99 of the said Act is amended

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

“(a) where a taxpayer, having acquired property to gain income, begins at a later time to use it for some other purpose, he is deemed to have disposed of it at that time for proceeds of disposition equal to its fair market value and to have reacquired it immediately thereafter at a cost equal to that fair market value;”;

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

“ii. the aggregate of its cost to him at that time determined without reference to this paragraph, paragraph *a* and subparagraph ii of paragraph *d*, and  $\frac{3}{4}$  of the amount by which the fair market value of the property at that time exceeds the aggregate of the cost to him of the property at that time determined without reference to this paragraph, paragraph *a* and subparagraph ii of paragraph *d*, and  $\frac{4}{3}$

of the amount deducted by him under Title VI.5 of Book IV in respect of the amount by which the fair market value of the property at that time exceeds the cost to him of the property at that time determined without reference to this paragraph, paragraph *a* and subparagraph ii of paragraph *d*;"

(3) by replacing subparagraph i of paragraph *d* by the following subparagraph:

"i. where the proportion of the use made of the property to gain income has increased at a particular time, the taxpayer is deemed to have acquired at that time depreciable property of that class at a capital cost equal to the aggregate of the proportion of the lesser of its fair market value at that time, and its cost to him at that time determined without reference to this subparagraph, subparagraph ii and paragraph *a* that the amount of the increase in the use regularly made by him of the property to gain income is of the whole of the use regularly made of it, and 3/4 of the amount by which the amount deemed under section 283 to be his proceeds of disposition of the property in respect of the change in the use made of the property exceed the aggregate of that proportion of the cost to him of the property at that time determined without reference to this subparagraph, subparagraph ii and paragraph *a*, that the amount of the increase in the use regularly made by him of the property to gain income is of the whole of the use regularly made of the property, and 4/3 of the amount deducted by him under Title VI.5 of Book IV in respect of the amount by which the amount deemed under section 283 to be his proceeds of disposition of the property in respect of the change in the use made of the property exceeds that proportion of the cost to him of the property at that time determined without reference to this subparagraph, subparagraph ii and paragraph *a* that the amount of the increase in the use regularly made by him of the property to gain income is of the whole of the use regularly made of the property;"

(4) by replacing that part of paragraph *d.1* preceding subparagraph i by the following:

"(*d.1*) notwithstanding any other provision of this Part, 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 passenger vehicle in respect of which paragraph *d.3* or *d.4* or section 525.1 applies or a timber resource property, 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 a capital property of the transferor, the following rules apply:"

(5) by replacing that part of paragraph *d.2* preceding subparagraph *i* by the following:

“(d.2) where a corporation is deemed by subparagraph *c* of the second paragraph of section 736 or paragraph *b* of section 999.1 to have disposed of and reacquired depreciable property other than a timber resource property, the capital cost to the corporation of the property at the time of the reacquisition is deemed to be the amount that is equal to the aggregate of”;

(6) by replacing that part of paragraph *d.4* preceding subparagraph *i* by the following:

“(d.4) notwithstanding paragraph *d.3*, where a passenger vehicle is acquired at any time by a taxpayer from a person with whom the taxpayer does not deal at arm’s length and this paragraph, paragraph *d.3* or section 525.1 applies to the person in respect of that passenger vehicle, the capital cost thereof to the taxpayer is deemed to be equal to the least of the following amounts:”.

(2) Paragraph 1 of subsection 1 applies in respect of changes in use of property occurring after 22 May 1985. However, where paragraph *a* of section 99 of the Taxation Act, enacted by the said paragraph 1, applies in respect of changes in use of property occurring before 1 May 1988, it shall read as follows:

“(a) where a taxpayer, having acquired property to gain income therefrom or from a business, begins at a later time to use it for some other purpose, he is deemed to have disposed of it at that time for proceeds of disposition equal to its fair market value and to have reacquired it immediately thereafter at a cost equal to that fair market value;”.

(3) Paragraphs 2 and 3 of subsection 1 apply in respect of changes in the use of property occurring after 22 May 1985. However, where subparagraph *ii* of paragraph *b* and subparagraph *i* of paragraph *d* of section 99 of the Taxation Act, enacted by the said paragraphs 2 and 3, apply in respect of changes in the use of property by

(a) a person or partnership in taxation years or fiscal periods ending before 1 January 1988, the references therein to “ $\frac{3}{4}$ ” and “ $\frac{4}{3}$  of” shall read as references to “ $\frac{1}{2}$ ” and “2 times”, respectively,

(b) an individual or a partnership in taxation years or fiscal periods ending after 31 December 1987 and before 1 January 1990, the references therein to “ $\frac{3}{4}$ ” and “ $\frac{4}{3}$ ” shall read as references to “ $\frac{2}{3}$ ” and “ $\frac{3}{2}$ ”, respectively,

(c) a corporation in taxation years ending after 31 December 1987 and commencing before 1 January 1990 throughout which the corporation was a Canadian-controlled private corporation, the reference therein to “ $\frac{3}{4}$ ” shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of

i. that proportion of  $\frac{1}{2}$  that the number of days in the year that are before 1 January 1988 is of the number of days in the year,

ii. that proportion of  $\frac{2}{3}$  that the number of days in the year that are after 31 December 1987 and before 1 January 1990 is of the number of days in the year, and

iii. that proportion of  $\frac{3}{4}$  that the number of days in the year that are after 31 December 1989 is of the number of days in the year, and

(d) a corporation in taxation years ending after 31 December 1987 and commencing before 1 January 1990, where throughout the year the corporation is not a Canadian-controlled private corporation, the reference therein to “ $\frac{3}{4}$ ” shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of

i. that proportion of  $\frac{1}{2}$  that the number of days in the year that are before 1 July 1988 is of the number of days in the year,

ii. that proportion of  $\frac{2}{3}$  that the number of days in the year that are after 30 June 1988 and before 1 January 1990 is of the number of days in the year, and

iii. that proportion of  $\frac{3}{4}$  that the number of days in the year that are after 31 December 1989 is of the number of days in the year.

(4) Paragraphs 4 and 5 of subsection 1 apply in respect of property acquired after 22 May 1985.

(5) Paragraph 6 of subsection 1 applies to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987.

**59.** (1) Section 101.6 of the French text of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) toute partie du montant ainsi reçu par lui qu’il a remboursée, conformément à une obligation juridique de rembourser ce montant en totalité ou en partie, à l’égard du bien et avant qu’il ne l’aliène, dans la mesure où l’on peut raisonnablement considérer le montant ainsi

remboursé comme étant relatif au montant choisi en vertu du présent article à l'égard du bien.”

(2) This section has effect from 1 February 1990.

**60.** (1) Section 104.1 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**104.1** Where an amount is included under section 94 in computing the income of a taxpayer, other than a partnership, for a taxation year in respect of depreciable property of a prescribed class and an amount was deducted under section 156.1 in respect of that property in computing the taxpayer's income from a business for a preceding taxation year, an amount equal to the product obtained by multiplying the aggregate of the amounts determined under section 156.2 or 156.3, as the case may be, in respect of the property for a preceding taxation year by the amount determined according to the following formula, shall be included in computing the taxpayer's income from a business for the year:

$$\frac{A}{B} \times \frac{C}{D}.”$$

(2) This section applies from the taxation year 1988.

**61.** (1) The said Act is amended by inserting, after section 104.1, the following section:

“**104.1.1** Where an amount is included under section 94 in computing the income of a partnership for a taxation year in respect of depreciable property of a prescribed class and an amount was deducted under section 156.1 in respect of that property in computing the partnership's income from a business for a preceding taxation year, there shall be included in computing the income from a business of any taxpayer, other than a partnership, who may reasonably be considered to be entitled for a particular taxation year, whether directly or indirectly by means of another partnership, to a share of the income of the partnership for the year, or, as the case may be, could reasonably be considered to be so entitled for the particular year to a share of the income of the partnership for the year if the partnership had income for the year, the amount determined by the formula

$$A \times \frac{B}{C}.$$

For the purposes of the formula set forth in the first paragraph,



(a) A is the amount that may reasonably be considered to be the taxpayer's share of an amount equal to the product obtained by multiplying the aggregate of the amounts determined under section 156.2 or 156.3, as the case may be, in respect of the property referred to in the first paragraph for a preceding taxation year by the quotient obtained by dividing the amount included under section 94 in computing the income of the partnership for the year in respect of the property by the total depreciation, within the meaning of paragraph *b* of section 93, allowed to the partnership in respect of the property,

(b) B is

i. where the taxpayer is an individual, the aggregate of the income earned in Québec and elsewhere by the individual in the particular year, and

ii. where the taxpayer is a corporation, the aggregate of the business carried on in Québec and elsewhere by the corporation in the particular year,

(c) C is

i. where the taxpayer is an individual, the income earned in Québec by the individual in the particular year, and

ii. where the taxpayer is a corporation, the business carried on in Québec by the corporation in the particular year."

(2) This section applies from the taxation year 1988.

**62.** (1) Section 104.2 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

**"104.2** For the purposes of sections 104.1 and 104.1.1,".

(2) This section applies from the taxation year 1988.

**63.** (1) Section 104.3 of the said Act is replaced by the following section:

**"104.3** For the purposes of this division, where at any time a taxpayer has, in any manner whatever, acquired depreciable property of a prescribed class from a transferor, any of sections 7.6, 99, 439, 444, 450, 455, 462, 527, 565, 617, 624, 630, 688, 690.1 to 690.3 and 832.4 applied in respect of the acquisition, the property was, immediately before its acquisition by the taxpayer, a capital property of the transferor and an amount was deducted under section 156.1 in respect of the property in computing the income of the transferor for any

taxation year, the taxpayer is deemed to have deducted under section 156.1 in respect of the property in computing his income from a business for the taxation years preceding the taxation year in which he acquired the property, an amount equal to the amount so allowed as a deduction under such section 156.1 in respect of the property in computing the income of the transferor.”

(2) This section applies from the taxation year 1988.

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

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

“ii. the amount by which the excess exceeds the aggregate of the amount determined under subparagraph i and 1/2 of the amount determined under subparagraph 2 of subparagraph i of paragraph *b* of section 107 in respect of the business 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;”;

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

“(b) in any other case, the amount by which the excess exceeds 1/2 of the amount determined under subparagraph 2 of subparagraph i of paragraph *b* of section 107 in respect of the business shall be included in computing the taxpayer’s income from that business for the year.”

(2) This section applies, in the case of a corporation, to taxation years commencing after 30 June 1988 and, in any other case, to fiscal periods commencing after 31 December 1987.

**65.** (1) Section 106.1 of the said Act is replaced by the following section:

“**106.1** Notwithstanding any other provision of this Part, where at any time a particular person or partnership has, directly or indirectly, in any manner whatever, acquired an intangible capital property in respect of a business from a transferor being a person or partnership with whom the person or partnership did not deal at arm’s length, and the property that was disposed of was an intangible capital property of the transferor, other than property acquired by the particular person or partnership as a consequence of the death of the transferor, the intangible capital amount of the particular person or partnership in respect of the business is deemed, in respect of that acquisition, to be equal to 4/3 of the amount by which

(a) the amount determined under subparagraph ii of paragraph *b* of section 107 by the transferor in respect of the disposition of the property exceeds

(b) the aggregate of all amounts each of which is an amount that may reasonably be considered to have been claimed as a deduction under Title VI.5 of Book IV by any person with whom the particular person or partnership was not dealing at arm's length in respect of the disposition of the property by the transferor, or any other disposition of the property before that time.

Notwithstanding the foregoing, where the particular person or partnership has disposed of the property after that time, the amount which is deemed under the first paragraph to be the intangible capital amount of the particular person or partnership in respect of the property shall be determined at any time after the disposition as if the amount determined under subparagraph *b* of the first paragraph in respect of the property were the lesser of

(a) the amount otherwise so determined, and

(b) the amount by which the amount determined under subparagraph *a* of the first paragraph in respect of the disposition of the property by the transferor exceeds the amount determined under subparagraph ii of paragraph *b* of section 107 in respect of the disposition of the property by the particular person or partnership."

(2) This section applies in respect of acquisitions of property occurring after 31 December 1987. However, where section 106.1 of the Taxation Act, enacted by this section, applies in respect of acquisitions of property by a taxpayer after 31 December 1987 but before the adjustment time, within the meaning of the said Act, of the taxpayer in respect of the business in which the property is used, the reference therein to "4/3 of" shall read as a reference to "two times".

**66.** (1) Section 107 is amended

(1) by striking out the word "exceeds" at the end of subparagraph iv of paragraph *a*;

(2) by adding, after subparagraph iv of paragraph *a*, the following subparagraph:

"v. where the aggregate determined under subparagraph ii exceeds zero, 1/2 of the amount determined under subparagraph 2 of subparagraph i of paragraph *b* in respect of the business, exceeds".

(2) This section applies, in the case of a corporation, to taxation years commencing after 30 June 1988 and, in any other case, to fiscal periods commencing after 31 December 1987.

**67.** (1) Section 110.1 of the said Act is amended by replacing paragraph *c* of subsection 2 by the following paragraph:

“(c) where the former property was used by the taxpayer in a business carried on in Canada, acquired for use by the taxpayer in a business carried on by the taxpayer in Canada.”

(2) This section applies in respect of property acquired as a replacement for a former property disposed of after 2 April 1990, other than a former property disposed of pursuant to an agreement in writing entered into before 3 April 1990 or pursuant to a written notice of an intention to take the property under statutory authority given before 3 April 1990 or for the sale price of the property sold to a person by whom such a notice was given before 3 April 1990.

**68.** (1) Section 112 of the said Act is replaced by the following section:

“**112.** Section 111 does not apply if the amount or value mentioned therein is deemed to be a dividend under Chapter III of Title IX or if it arises out of the reduction of the paid-up capital of a corporation, the acquisition, cancellation or redemption by it of shares of its capital stock or the winding-up, discontinuance or reorganization of its business, a transaction to which sections 556 to 569 apply, the payment of a dividend or a stock dividend, the conferring on all owners of common shares of the capital stock of the corporation of a right to buy additional common shares thereof, or a transaction described in any of paragraphs *d* to *f* of subsection 2 of section 504.”

(2) This section applies in respect of benefits conferred after 30 June 1988.

**69.** (1) Section 114 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Nor does section 113 apply if such arrangements are made and the indebtedness is incurred

(a) by a person who is an employee of the creditor or an eligible employee contemplated in section 15.2 or 15.2.1 of the Act respecting Québec business investment companies (R.S.Q., chapter S-29.1) to enable or assist the person to acquire an automobile to be used by him in the performance of the duties of his office or employment,

(b) where the creditor is a corporation, by a person who is an employee of the creditor or of a corporation that is related to the creditor, or by an eligible employee contemplated in section 15.2 or 15.2.1 of the Act respecting Québec business investment companies (R.S.Q., chapter S-29.1), to enable or assist the person to acquire shares, each of which is described in any of the following subparagraphs, to be held by the person for the person's own benefit:

i. a previously unissued fully paid share of the capital stock of the creditor, which share is acquired from that creditor,

ii. a previously unissued fully paid share of the capital stock of a corporation related to the creditor, which share is acquired from the related corporation, or

iii. a fully paid common share with full voting rights of the capital stock of a Québec business investment company, which share is acquired from the company within the scope of a stock ownership plan contemplated in section 15.1 of the said Act, or

(c) by a person who is an employee of the creditor or the spouse of such an employee to enable or assist the person to acquire a dwelling or a share of the capital stock of a cooperative housing corporation acquired for the sole purpose of acquiring the right to inhabit a dwelling owned by the corporation, where the dwelling is for the person's habitation."

(2) This section applies, subject to subsections 3 to 5, in respect of indebtedness incurred after 31 December 1981.

(3) Subject to subsection 4, where the second paragraph of section 114 of the Taxation Act, enacted by subsection 1, applies to taxation years preceding the taxation year 1986, it shall read as follows:

"Nor does section 113 apply if such arrangements are made and the indebtedness is incurred

(a) by a person who is an employee of the creditor to enable or assist the person to acquire an automobile to be used by him in the performance of the duties of his office or employment,

(b) where the creditor is a corporation, by a person who is an employee of the creditor or of a corporation that is related to the creditor to enable or assist the person to acquire shares, each of which is described in any of the following subparagraphs, to be held by the person for the person's own benefit:

i. a previously unissued fully paid share of the capital stock of the creditor, which share is acquired from that creditor, or

ii. a previously unissued fully paid share of the capital stock of a corporation related to the creditor, which share is acquired from the related corporation, or

(c) by a person who is an employee of the creditor or the spouse of such an employee to enable or assist the person to acquire a dwelling for the person's habitation."

(4) Where the second paragraph of section 114 of the Taxation Act, enacted by subsection 3, applies to the taxation year 1985, subparagraph *c* thereof shall read as follows:

"(c) by a person who is an employee of the creditor or the spouse of such an employee to enable or assist the person to acquire a dwelling or a share of the capital stock of a cooperative housing corporation acquired for the sole purpose of acquiring the right to inhabit a dwelling owned by the corporation, where the dwelling is for the person's habitation."

(5) Where the second paragraph of section 114 of the Taxation Act, enacted by subsection 1, applies from the taxation year 1986 to 16 May 1989, the references therein to "section 15.2 or 15.2.1" shall read as references to "section 15.2".

**70.** (1) Section 125.1 of the said Act is amended

(1) by replacing that part preceding paragraph *b* by the following:

**"125.1** Where a taxpayer, in this division referred to as the "lessee", has leased tangible property, other than prescribed property, that would, if the lessee had acquired the property, have been depreciable property of the lessee, from a person resident in Canada, or from a person not resident in Canada who holds the lease in the course of carrying on a business through an establishment in Canada any income from which is subject to tax under this Part, who owns the property and with whom the lessee was dealing at arm's length, in this division referred to as the "lessor", for a term of more than one year, the following rules apply for the purposes of computing the income of the lessee for the taxation year that includes the particular time when the lease commenced and for the subsequent taxation years, if the lessee and the lessor have jointly so elected by filing the prescribed form with their fiscal returns under this Part for their respective taxation years that include the particular time:

(a) in respect of any amount paid or payable for the use of, or for the right to use, the property, the lease is deemed not to be a lease;”;

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

“(d) interest, capitalized semi-annually, not in advance, is deemed to accrue on the principal amount of the borrowed money outstanding from time to time, at the prescribed rate in effect at the beginning of the period for which the interest is being calculated, where the lease provides that the amount payable by the lessee for the use of, or the right to use, the property varies according to prevailing interest rates in effect from time to time, and the lessee so elects, in respect of all of the property that is subject to the lease, in his fiscal return under this Part for his taxation year in which the lease commenced, or at the prescribed rate in effect on the earlier of the particular time and the time, before the particular time, at which the lessee last entered into an agreement to lease the property;”;

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

“(i) where the lessee has made an election under this section in respect of a property and, at any time after the lease was entered into, the owner of the property is a person not resident in Canada who does not hold the lease in the course of carrying on a business through an establishment in Canada any income from which is subject to tax under this Part, the lease is deemed, for the purposes of this section, to have been cancelled at that time.”

(2) This section applies, subject to subsections 3 and 4, to leases and subleases of properties after 10 p.m. Eastern Daylight Saving Time, 26 April 1989, other than

(a) leases of properties entered into pursuant to an agreement in writing entered into at or before that time under which the lessee has the right to require the lease of the property, and

(b) subleases of properties that are subject to leases described in paragraph *a* or to leases entered into at or before that time.

(3) Where this section applies to leases or subleases of properties before 12 June 1989, section 125.1 of the Taxation Act, as amended by subsection 1, shall read without reference to paragraph *i* thereof, the words “resident in Canada, or from a person not resident in Canada who holds the lease in the course of carrying on a business through an establishment in Canada any income from which is subject to tax under this Part,” and the words “and with whom the lessee was dealing at arm’s length”.

(4) Where this section applies to leases or subleases of properties after 11 June 1989 and before 13 July 1990, section 125.1 of the Taxation Act, as amended by subsection 1, shall read without reference to the words “any income from which is subject to tax under this Part” and as if the reference therein to “on the earlier of the particular time and the time before the particular time, at which the lessee last entered into an agreement to lease the property” were a reference to “at the particular time”.

**71.** (1) Section 125.2 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) if the lessee and the assignee have jointly so elected by filing the prescribed form with their fiscal returns under this Part for their respective taxation years that include the particular time, section 125.1 applies to the assignee as if

i. the assignee had leased the property at the particular time from the owner of the property for a term of more than one year, and

ii. the assignee and the owner of the property had jointly elected under the said section 125.1 in respect of the property by filing the prescribed form with their fiscal returns under this Part for their respective taxation years that include the particular time.”

(2) This section applies to leases and subleases of properties after 10 p.m. Eastern Daylight Saving Time, 26 April 1989, other than

(a) leases of properties entered into pursuant to an agreement in writing entered into at or before that time under which the lessee has the right to require the lease of the property, and

(b) subleases of properties that are subject to leases described in paragraph *a* or to leases entered into at or before that time.

**72.** (1) The said Act is amended by inserting, after section 125.4, the following sections:

**“125.5** For the purposes of section 125.1, property that is provided at any time by a lessor to a lessee as a replacement for a similar property of the lessor that was leased by the lessor to the lessee is deemed to be the same property as the similar property where the amount payable by the lessee for the use of, or the right to use, the replacement property is the same as the amount that was payable in respect of the similar property.

**“125.6** For the purposes of section 125.1, where at any particular time, an addition or alteration, in this section referred to



as the “additional property”, is made by a lessor to a property, in this section referred to as the “original property”, of the lessor that is the subject of a lease, the lessor and the lessee of the original property have filed the joint election referred to in section 125.1 in respect of the original property, and, as a consequence of the addition or alteration, the total amount payable by the lessee for the use of, or the right to use, the original property and the additional property exceeds the amount so payable in respect of the original property, the following rules apply:

(a) the lessee is deemed to have leased the additional property from the lessor at the particular time,

(b) the term of the lease of the additional property is deemed to be greater than one year,

(c) the lessor and the lessee are deemed to have jointly elected in accordance with section 125.1 in respect of the additional property,

(d) the prescribed rate in effect at the particular time in respect of the additional property is deemed to be equal to the prescribed rate in effect in respect of the original property at the particular time,

(e) the additional property is deemed, for the purposes of section 125.1, not to be prescribed property, and

(f) the amount by which the total amount payable by the lessee for the use of, or the right to use, the original property and the additional property exceeds the amount so payable in respect of the original property is deemed to be an amount payable by the lessee for the use of, or the right to use, the additional property.

**“125.7** For the purposes of section 125.1, where at any time a lease, in this section referred to as the “original lease”, is renegotiated in the course of a *bona fide* renegotiation and, as a result of the renegotiation, the amount payable by the lessee for the use of, or the right to use, the property that is the subject of the lease is altered in respect of a period after that time, otherwise than by reason of an addition or alteration in respect of which section 125.6 applies, the original lease is deemed to have expired and the renegotiated lease is deemed to be a new lease of the property entered into at that time.”

(2) This section applies to leases and subleases of properties after 10 p.m. Eastern Daylight Saving Time, 26 April 1989, other than

(a) leases of properties entered into pursuant to an agreement in writing entered into at or before that time under which the lessee has the right to require the lease of the property, and

(b) subleases of properties that are subject to leases described in paragraph *a* or to leases entered into at or before that time.

**73.** (1) Section 130.1 of the said Act is amended by striking out the sixth paragraph.

(2) This section applies to taxation years commencing after 13 July 1990.

**74.** (1) Section 132.2 of the said Act is replaced by the following section:

**“132.2** A taxpayer shall not deduct, in computing his income from a business or property for a taxation year, an amount in respect of any loss, depreciation or reduction in the value or amortized cost of a loan or lending asset made or acquired by him in the ordinary course of his business of insurance or the lending of money and not disposed of by him in the taxation year, except as expressly permitted by this Part.”

(2) This section applies to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987.

**75.** (1) Section 135 of the said Act is amended by replacing paragraph *d* by the following paragraph:

“(d) an outlay or expense made or incurred under a salary deferral arrangement in respect of another person, except as expressly permitted by paragraphs *p* and *q* of section 157;”.

(2) This section applies from the taxation year 1986.

**76.** (1) Section 135.1.1 of the said Act is replaced by the following section:

**“135.1.1** Paragraph *d* of section 135 does not apply to an outlay or expense made or incurred under a salary deferral arrangement that was established primarily for the benefit of one or more employees not resident in Canada in respect of services to be rendered outside Canada.”

(2) This section applies from the taxation year 1986.

**77.** (1) Section 135.4 of the said Act is replaced by the following section:

**“135.4** Notwithstanding any other provision of this Part, in computing a taxpayer’s income for a taxation year, no deduction shall

be made in respect of any outlay or expense made or incurred by the taxpayer, other than an amount deductible by reason of paragraph *a* of section 130, paragraphs *h* and *h.1* of section 157 or section 157.14, that may reasonably be regarded as a cost attributable to the period of the construction, renovation or alteration of a building by or on behalf of the taxpayer, a person with whom the taxpayer does not deal at arm's length, a corporation of which the taxpayer is a specified shareholder or a partnership of which the taxpayer's share of any income or loss is 10 % or more and relating to the construction, renovation or alteration, or a cost attributable to that period and relating to the ownership during that period of land that is subjacent to the building or that is contiguous land necessary for the use or intended use of the building and used or intended to be used for a parking area, driveway, yard or garden or any similar use."

(2) This section applies from the taxation year 1987. However, where section 135.4 of the Taxation Act, enacted by this section, applies in respect of buildings acquired before 1 January 1990, the reference therein to "or section 157.14" shall read as a reference to " , section 157.14 or Division XI or XII of Chapter V of Title III of Book III".

**78.** (1) Section 135.9 of the said Act is amended by replacing that part preceding subparagraph *a* of the first paragraph by the following:

**"135.9** Sections 135.4 and 135.5 do not apply in respect of an outlay or expense made or incurred in respect of a building or land described in section 135.4 in respect of the building".

(2) This section applies in respect of outlays or expenses made or incurred after 9 May 1985.

**79.** (1) Section 142 of the said Act is amended by replacing the first paragraph by the following paragraph:

**"142.** Where a taxpayer to whom an amount is owing as the proceeds of disposition of depreciable property of a prescribed class of the taxpayer, other than a passenger vehicle having a cost to the taxpayer in excess of \$20 000 or any other amount prescribed for the purposes of paragraph *d.3* of section 99, establishes that the amount has become a bad debt in a taxation year, he may deduct in computing his income for the year the lesser of the amount so owing to him and the amount by which the capital cost to him of that property exceeds the aggregate of the amounts realized by him as the proceeds of disposition."

(2) This section applies in respect of amounts established after 13 July 1990 to have become bad debts.

**80.** (1) Section 144 of the said Act is amended by replacing subparagraph ii of paragraph *b* of subsection 1 by the following subparagraph:

“ii. metal, minerals other than iron, petroleum or other related hydrocarbons, or coal from a mineral resource in Canada to any stage that is not beyond the prime metal stage or its equivalent;”.

(2) This section applies in respect of amounts becoming payable after 13 July 1990.

**81.** (1) Section 156.1 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

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

(2) This section applies from the taxation year 1988.

**82.** (1) Section 157 of the said Act, amended by section 27 of chapter 1 of the statutes of 1992, is again amended

(1) by inserting, after paragraph *h*, the following paragraph:

“(h.1) an amount paid by the taxpayer in the year for such prescribed renovations or alterations to a building of the taxpayer that is used by the taxpayer primarily for the purpose of gaining or producing income therefrom or from a business as are made for the purpose of enabling individuals who have a mobility impairment to gain access to the building or be mobile within it;”;

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

“(n) such portion of an amount that is an outlay or expense made or incurred by him before the end of the year that is a cost to him of any substance injected before that time into a natural reservoir to assist in the recovery of petroleum, natural gas or related hydrocarbons to the extent that that portion was not otherwise deducted by him in computing his income for the year, was not deducted by him in computing his income for any preceding taxation year, and is neither an outlay or expense described in sections 395 to 397 or 408 to 410 nor a Canadian oil and gas property expense;”;

(3) by replacing, in the French text thereof, that part of paragraph *o* preceding subparagraph i by the following:

“(o) un montant qu’il rembourse dans l’année conformément à une obligation juridique de rembourser en totalité ou en partie un montant donné qui:”;

(4) by replacing the period at the end of paragraph *p* by a semicolon;

(5) by inserting, after paragraph *p*, the following paragraph:

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

(2) Paragraph 1 of subsection 1 applies in respect of renovations or alterations made after 31 December 1990.

(3) Paragraph 2 of subsection 1 applies in respect of taxation years commencing after 13 July 1990.

(4) Paragraph 3 of subsection 1 has effect from 1 February 1990.

(5) Paragraphs 4 and 5 of subsection 1 apply from the taxation year 1986.

**83.** (1) The said Act is amended by inserting, after section 157.2, the following section:

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

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

(b) the amount of such outlay or expense referred to in the said paragraph *n* that was made or incurred by the taxpayer in the year, to the extent that it was not otherwise deducted by the taxpayer in computing his income for the year, was not deducted by him in computing his income for any preceding taxation year, is not an outlay or expense described in sections 395 to 397 or 408 to 410 and is not a Canadian oil and gas property expense.”

(2) This section applies to taxation years commencing after 13 July 1990.

**84.** (1) Section 157.5 of the said Act is amended by replacing that part preceding paragraph *b* by the following:

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

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

(2) This section applies in respect of dispositions occurring after 31 December 1989.

**85.** (1) Section 157.6 of the said Act is amended by replacing that part preceding paragraph *b* by the following:

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

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

(2) This section applies from the taxation year 1986.

**86.** (1) The said Act is amended by inserting, after section 157.12, the following sections:

**“157.13** In computing a taxpayer’s income from a business or property for a taxation year ending before the time at which a building

or a part thereof acquired after 31 December 1989 by the taxpayer has become available for use by the taxpayer, there may be deducted an amount not exceeding the amount by which

(a) the lesser of

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

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

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

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

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

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

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

(2) This section, where it enacts section 157.13 of the Taxation Act, applies to taxation years ending after 31 December 1989 and, where it enacts section 157.14 of the said Act, applies in respect of outlays or expenses made or incurred after 31 December 1989.

**87.** (1) Section 160 of the said Act is amended by replacing paragraph *d* by the following paragraph:

"(d) borrowed money used to acquire an interest in an annuity contract in respect of which sections 92.11 to 92.19 apply, or would

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

(2) This section applies in respect of contracts last acquired after 31 December 1989.

**88.** (1) Section 161 of the said Act is amended by replacing paragraph *a* by the following paragraph:

"(a) a loan used to acquire property the income from which would be exempt from tax or to acquire a life insurance policy, within the meaning of paragraph *e* of section 835, which does not include a policy that is an annuity contract issued before 1 January 1978 providing for annuity payments to commence not later than the day on which the policy holder attains 75 years of age, a policy that is a registered pension plan, a registered retirement savings plan, a deferred profit sharing plan, an income-averaging annuity contract or a policy issued under any such plan or contract, or a policy that is an annuity contract all or part of the insurer's reserves for which vary in amount depending on the fair market value of a specified group of properties;"

(2) This section applies from the taxation year 1987. However, where it applies after 31 December 1986 and before 1 January 1991, paragraph *a* of section 161 of the Taxation Act, enacted by this section, shall read as if the reference in the French text thereof to "régime de participation différée aux bénéfices" were a reference to "régime d'intéressement différé".

**89.** (1) The said Act is amended by inserting, after section 175.1, the following section:

**"175.1.1** Where, at any time, a payment is made to a person or partnership by a taxpayer in the course of carrying on a business or earning income from property in respect of borrowed money or on an amount payable for property acquired by the taxpayer, in this section referred to as a "debt obligation", as consideration for a reduction in the rate of interest payable by the taxpayer on the debt obligation, or as a penalty or bonus payable by the taxpayer by reason of the repayment by the taxpayer of all or part of the principal amount of the debt obligation before its maturity, the payment is deemed, to the extent that it may reasonably be considered to relate to, and does



not exceed the value at that time of, an amount that, but for the reduction or the repayment, would have been paid or payable by the taxpayer as interest on the debt obligation for a taxation year of the taxpayer ending after that time,

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

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

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

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

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

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

The first paragraph does not apply where the payment referred to therein

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

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

(2) This section applies in respect of payments made after 1 January 1984. However, where section 175.1.1 of the Taxation Act,

enacted by this section, applies in respect of payments made before 13 July 1990, it shall read without reference to subparagraph *a* of the first paragraph thereof.

**90.** (1) Section 175.2 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

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

(2) This section applies from the taxation year 1990.

**91.** (1) The said Act is amended by inserting, after section 175.2, the following section:

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

(2) This section applies from the taxation year 1990.

**92.** (1) The said Act is amended by inserting, after section 176.5, the following section:

**“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 the borrowing:

(*a*) the premium payable by the taxpayer under a life insurance policy, other than an annuity contract, in respect of the year, where

i. an interest in the policy is assigned to the restricted financial institution in the course of a borrowing from the institution,

ii. the interest payable in respect of the borrowing is or would, but for sections 135.4, 164, 180 to 182 and 194 to 197, be deductible in computing the taxpayer's income for the year, and

iii. the assignment referred to in subparagraph i is required by the restricted financial institution as collateral for the borrowing; and

(b) the net cost of pure insurance in respect of the year, as determined in accordance with the regulations, in respect of the interest in the policy referred to in subparagraph i of paragraph a.”

(2) This section applies in respect of premiums payable after 31 December 1989.

**93.** (1) Section 180 of the said Act is amended by replacing paragraph a by the following paragraph:

“(a) in computing his income for the year and for such of the three immediately preceding taxation years as the taxpayer had, sections 160, 163, 176 and 176.4 do not apply to the amount specified in his election that, but for the election, would have been deductible in computing his income, other than exempt income, for any such year in respect of borrowed money used to acquire the depreciable property or the amount payable for the depreciable property;”.

(2) This section has effect from 1 January 1988.

**94.** (1) Section 181 of the said Act is amended by replacing paragraph a by the following paragraph:

“(a) in computing his income for the year and for such of the three immediately preceding taxation years as the taxpayer had, sections 160, 163, 176 and 176.4 do not apply to the amount specified in his election that, but for the election, would have been deductible in computing his income, other than exempt income, for any such year in respect of the borrowed money used for the exploration, development or acquisition of property, as the case may be;”.

(2) This section has effect from 1 January 1988.

**95.** (1) Section 188 of the said Act is amended by replacing that part preceding paragraph d by the following:

**“188.** Notwithstanding section 129, where at any time after a taxpayer has ceased to carry on a business, the taxpayer no longer owns any property that was intangible capital property in respect of the business and that has value, the following rules apply in computing the taxpayer’s income for taxation years ending after that time:

(a) there shall be deducted the taxpayer’s eligible intangible capital amount in respect of the business at that time for the first such taxation year;

(b) no amount is deductible by reason of paragraph b of section 130 in respect of the business;

(c) for the purposes of subparagraph 1 of subparagraph i of paragraph *b* of section 107, the amount deducted by the taxpayer by reason of paragraph *a* is deemed to be an amount deducted under paragraph *b* of section 130 in computing the taxpayer's income from the business for the taxation year that included that time; and”.

(2) This section has effect from 14 July 1990.

**96.** (1) Section 189 of the said Act is replaced by the following section:

**“189.** Where at any time an individual has ceased to carry on a business and thereafter the individual's spouse, or a corporation controlled directly or indirectly in any manner whatever by the individual, carries on the business and acquires all of the property that was intangible capital property in respect of the business owned by the individual before that time and that had value at that time, the following rules apply:

(a) in computing the individual's income for the individual's first taxation year ending after that time, section 188 shall read without reference to paragraph *a* thereof and the reference in paragraph *c* thereof to “the amount deducted by the taxpayer by reason of paragraph *a*” shall read as a reference to “an amount equal to the taxpayer's eligible intangible capital amount in respect of the business immediately before that time”;

(b) in computing the eligible intangible capital amount of the spouse or the corporation in respect of the business, the spouse or corporation is deemed to have acquired an intangible capital property and to have disbursed an intangible capital amount at that time at a cost equal to  $\frac{4}{3}$  of the aggregate of the individual's eligible intangible capital amount in respect of the business immediately before that time and the amount determined under subparagraph i of paragraph *b* of section 107 in respect of the business of the individual at that time;

(c) for the purpose of determining the eligible intangible capital amount in respect of the business of the spouse or corporation after that time, an amount equal to the amount determined under subparagraph i of paragraph *b* of section 107 in respect of the business of the individual at that time shall be added to the amount otherwise determined in respect thereof under subparagraph 1 of subparagraph i of paragraph *b* of section 107.”

(2) This section has effect from 14 July 1990.

**97.** (1) Section 194 of the said Act is amended by adding, after the fourth paragraph, the following paragraph:

“Subparagraphs *b* and *c* of the second paragraph do not apply in computing the income of the taxpayer for the taxation year in which he died.”

(2) This section applies to fiscal periods commencing after 31 December 1988.

**98.** (1) The said Act is amended by inserting, after section 194, the following section:

**“194.0.1** For the purposes of sections 194 to 197, where at any time a taxpayer has, in circumstances where section 422 applies by reason of the application of paragraph *a* or *b* thereof, acquired inventory in connection with a farming business the income from which is computed in accordance with the cash method,

(*a*) the taxpayer is deemed to have purchased the inventory at the time it was so acquired,

(*b*) the taxpayer is deemed to have paid at that time, in the course of carrying on that business, an amount equal to the cost to him of the inventory, and

(*c*) the amount referred to in paragraph *b* is deemed to be the only amount paid for the inventory by the taxpayer.”

(2) This section applies to taxation years or fiscal periods ending after 31 December 1990.

**99.** (1) Section 194.1 of the said Act is repealed.

(2) This section applies to fiscal periods commencing after 31 December 1988.

**100.** (1) Section 194.2 of the said Act is amended

(1) by replacing that part preceding subparagraph *a* of the second paragraph by the following:

“Notwithstanding the first paragraph, an animal, in this section and in section 194 referred to as a “specified animal”, that is a horse or, where the taxpayer so elects in respect thereof for the taxation year that includes the time referred to in the first paragraph or for any preceding taxation year, is a bovine animal registered under the Animal Pedigree Act (Statutes of Canada) shall be valued”;

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

“(b) at any time in any subsequent taxation year, at such amount as is designated by the taxpayer not exceeding its cash cost and not less than 70 % of the aggregate of its value determined under this section at the end of the preceding taxation year, and the total amount paid on account of the purchase price of the animal during the year.”

(2) This section applies to fiscal periods commencing after 31 December 1988.

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

“**196.** Notwithstanding sections 194 and 197, where at the end of a taxation year a taxpayer who carried on a business the income from which was computed in accordance with the cash method is not resident in Canada and does not carry on that business in Canada, an amount equal to the aggregate of all amounts each of which is the fair market value of an amount outstanding in the year on account of a debt owing to the taxpayer that resulted from the carrying on of the business and that would have been included in computing the taxpayer’s income for the year if the amount had been received by the taxpayer during the year, shall, to the extent that the amount was not otherwise included in computing the taxpayer’s income for the year or a preceding taxation year, be included in computing the taxpayer’s income from the business for the year or, if section 23 applies, for the period contemplated in subparagraph *a* of the second paragraph of that section 23 in respect of the year.”

(2) This section applies in respect of taxpayers who cease to reside in Canada or to carry on a business in Canada after 13 July 1990.

**102.** (1) The said Act is amended by inserting, after section 196, the following section:

“**196.1** Notwithstanding section 194, where at any time in a taxation year a taxpayer who carried on a business the income from which is computed in accordance with the cash method is not resident in Canada and, at that time, a property that was inventory in connection with the business is not used in connection with a business carried on in Canada by the taxpayer, other than inventory sold in the course of carrying on the business,

(a) the taxpayer is deemed, except where this section applied in respect of the property at an earlier time, to have disposed of the

property at that time in the course of carrying on the business for proceeds of disposition equal to its fair market value at that time, and

(b) an amount equal to the proceeds of disposition referred to in paragraph *a* shall be included, in computing the taxpayer's income from the business for the year or, if section 23 applies, for the period contemplated in subparagraph *a* of the second paragraph of that section in respect of the year."

(2) This section applies in respect of taxpayers who cease to reside in Canada after 13 July 1990 and in respect of property that ceases after 13 July 1990 to be used in connection with a business carried on in Canada.

**103.** (1) Section 208 of the said Act is replaced by the following section:

**"208.** In computing the income of a taxpayer from the taxpayer's business as an insurance agent or broker, there may be deducted, as a reserve in respect of unearned commissions from that business, only an amount equal to the lesser of

(a) the aggregate of all amounts each of which is that proportion of an amount that has been included in computing the taxpayer's income for the year or a previous year as a commission in respect of an insurance contract other than a life insurance contract, that the number of days in the period provided for in the insurance contract that fall after the end of the taxation year is of the total number of days in that period, and

(b) the aggregate of all amounts each of which is the amount that would, but for this section, be deductible under section 150 for the year in respect of a commission referred to in paragraph *a*."

(2) This section applies to taxation years ending after 31 December 1990.

**104.** (1) The said Act is amended by inserting, after section 209, the following section:

**"209.0.1** In computing the income of a taxpayer for a taxation year ending after 31 December 1990 from a business carried on by the taxpayer throughout the year as an insurance agent or broker, there may be deducted as an additional reserve in respect of unearned commissions an amount not exceeding

(a) where the year ends in 1991, 90 %,

- (b) where the year ends in 1992, 80 %,
- (c) where the year ends in 1993, 70 %,
- (d) where the year ends in 1994, 60 %,
- (e) where the year ends in 1995, 50 %,
- (f) where the year ends in 1996, 40 %,
- (g) where the year ends in 1997, 30 %,
- (h) where the year ends in 1998, 20 %,
- (i) where the year ends in 1999, 10 %, and
- (j) where the year ends after 31 December 1999, 0 %

of the amount by which the reserve that was deducted by the taxpayer under section 208 for the taxpayer's last taxation year ending before 1 January 1991 exceeds the amount deductible by the taxpayer under section 208 for the taxpayer's first taxation year ending after 31 December 1990.

For the purposes of section 209, any amount deducted by the taxpayer under the first paragraph for a taxation year is deemed to have been deducted for that year pursuant to section 208."

(2) This section applies to taxation years ending after 31 December 1990.

**105.** (1) Section 222 of the said Act is amended by replacing that part preceding paragraph *a* of subsection 1 by the following:

**"222.** (1) A taxpayer who carries on a business in Canada in a taxation year and who files with his fiscal return under this Part for the year a prescribed form containing prescribed information may deduct in computing his income from that business for that taxation year an amount not exceeding the aggregate of all amounts each of which is an expenditure of a current nature made by him in that year, or in any previous taxation year ending after 31 December 1973, on scientific research and experimental development related to a business of the taxpayer and directly undertaken in Canada by him or on his behalf, or by way of a payment described in section 222.1 where the taxpayer is a corporation, or by way of a payment to be used for scientific research and experimental development carried on in Canada, related to a business of the taxpayer, provided that the taxpayer is entitled to exploit the results of such scientific research



and experimental development and that the payment was made to one of the following entities:”.

(2) This section applies in respect of payments made after 15 December 1987.

**106.** (1) The said Act is amended by inserting, after section 222, the following section:

**“222.1** The payment referred to firstly in subsection 1 of section 222, made by a taxpayer that is a corporation, is a payment made to an entity described in paragraph *c* of the said subsection, for scientific research and experimental development that is basic research or applied research carried on in Canada the primary purpose of which is the use of results therefrom by the taxpayer in conjunction with other scientific research and experimental development activities undertaken or to be undertaken by or on behalf of the taxpayer that relate to a business of the taxpayer, and that has the technological potential for application to other businesses of a type unrelated to that carried on by the taxpayer.”

(2) This section applies in respect of payments made after 15 December 1987.

**107.** (1) The said Act is amended by inserting, after section 223, the following section:

**“223.0.1** For the purposes of section 223, an expenditure made by a taxpayer in respect of property is deemed not to have been made by the taxpayer before the property is considered to have become available for use by the taxpayer.”

(2) This section applies in respect of expenditures made by a taxpayer after 31 December 1989, other than expenditures in respect of property which, before 1 January 1990, was owned by the person from whom it was acquired and was depreciable property of that person or would, but for sections 222 to 230.0.0.2 of the Taxation Act, have been depreciable property of that person, where the property was acquired either from a person with whom, at the time the property was acquired, the taxpayer was not dealing at arm's length otherwise than by reason of a right referred to in paragraph *b* of section 20 of the said Act, or in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, section 308.1 of the said Act would not be applicable with respect to the dividend by reason of the application of section 308.3 of the said Act.

**108.** (1) Section 232.1 of the said Act is amended

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

**“232.1** A business investment loss arises from the disposition after 31 December 1977 of any property that is a share of the capital stock of a small business corporation or a debt owing by such a corporation or by a particular corporation described in the third paragraph, other than a debt disposed of by a corporation which is owed to the latter by a corporation with which it does not deal at arm’s length.”;

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

“The particular corporation referred to in the first paragraph is a Canadian-controlled private corporation that is

(a) a bankrupt, within the meaning of section 777, that was a small business corporation at the time it last became a bankrupt, or

(b) a corporation referred to in section 6 of the Winding-up Act (Statutes of Canada) that was insolvent, within the meaning of the said Act, and was a small business corporation at the time a winding-up order under the said Act was made in its respect.”

(2) This section applies from the taxation year 1987.

**109.** (1) The said Act is amended by inserting, after section 232.1.1, the following section:

**“232.1.2** For the purposes of sections 232.1 and 236.1, where an amount in respect of a debt owed by a corporation has been paid by a taxpayer to a person with whom the taxpayer was dealing at arm’s length pursuant to an arrangement under which the taxpayer guaranteed the debt, and the corporation was a small business corporation at the time the debt was incurred and at any time in the 12 months before the time an amount first became payable by the taxpayer under the arrangement in respect of a debt owed by the corporation, that part of the amount that is owing to the taxpayer by the corporation is deemed to be a debt owing to the taxpayer by a small business corporation.”

(2) This section applies in respect of amounts paid after 31 December 1985.

**110.** (1) The said Act is amended by inserting, after section 247.1, the following sections:

**“247.2** Where at any time in a taxation year an individual owns capital property that is a share of a class of the capital stock of a corporation that, at that time, is a small business corporation and, immediately after that time, becomes a public corporation by reason of the listing of a class of shares of its capital stock on a prescribed stock exchange in Canada, the individual is deemed, if he so elects in prescribed form, except for the purposes of Division VI of Chapter II of Title II, Division IX of Chapter V of Title III and section 725.3,

(a) to have disposed of the share at that time for proceeds of disposition equal to the greater of

i. the adjusted cost base to the individual of the share at that time, and

ii. such amount as is designated in the prescribed form by the individual in respect of the share, not exceeding the fair market value of the share at that time, and

(b) to have reacquired the share immediately after that time at a cost equal to the proceeds of disposition determined under paragraph a.

**“247.3** An election made under section 247.2 by an individual for a taxation year shall be made on or before the day on or before which the individual is required to file his fiscal return under this Part for that taxation year.

**“247.4** Notwithstanding section 247.3, where an election was not made on or before the day referred to therein, the election is deemed to have been made on that day if, on or before the day that is two years after that day, the election is made in prescribed form and an estimate of the penalty prescribed in section 247.5 is paid by the individual when that election is made.

**“247.5** For the purposes of section 247.4, the penalty that an individual is required to pay in respect of an election is an amount equal to the lesser of

(a) 0.25 % of the amount by which the proceeds of disposition, determined under section 247.2, of the property in respect of which the election is made exceed the amount referred to in subparagraph i of paragraph a of the said section in respect of the property, for each month or part of a month during the period commencing on the day referred to in section 247.3 and ending on the day the election is actually made, and

(b) an amount equal to the product obtained by multiplying \$100 by the number of months each of which is a month all or part of which is during the period referred to in paragraph *a*.

**“247.6** The Minister shall, with dispatch, examine each election transmitted to him under section 247.4, assess the penalty payable and send a notice of assessment to the individual, who shall pay forthwith to the Minister the unpaid amount on account of that penalty.”

(2) This section applies from the taxation year 1991. However, where it applies to a taxation year ending before (*insert here the date of assent to this Act*), section 247.3 of the Taxation Act, enacted by this section, shall read as follows:

**“247.3** An election made under section 247.2 by an individual for a taxation year shall be made on or before (*insert here the date that is 90 days after the date of assent to this Act*) by filing with the Minister either the prescribed form referred to therein or a copy of the similar form required to be filed under subsection 1 of section 48.1 of the Income Tax Act (Statutes of Canada).”

**111.** (1) The said Act is amended by inserting, after section 250.1, the following section:

**“250.1.1** For the purpose of computing the income of a taxpayer who is a member of a partnership, sections 250.1 and 250.3 apply as if every Canadian security owned by the partnership were owned by the taxpayer, and every Canadian security disposed of by the partnership in a fiscal period of the partnership were disposed of by the taxpayer at the end of that fiscal period.”

(2) This section applies in respect of dispositions occurring after 13 July 1990.

**112.** (1) Section 250.3 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) a bank;”.

(2) This section has effect from 28 February 1992.

**113.** (1) Section 255 of the said Act is amended

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

“(b) the amount by which the amount of the non-allowable loss contemplated in section 237 from the disposition of a property by the

taxpayer exceeds, where the property was a share of the capital stock of a corporation, the amount that would, but for section 237, be deducted under section 741 or 742 in computing the loss of any taxpayer in respect of the disposition of the share;”;

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

“ix. the amount by which the taxpayer’s share of the amount of any assistance or benefit that the partnership has received or has become entitled to receive after 31 December 1971 and before the particular time from a government, municipality or other public authority, whether as a grant, subsidy, forgivable loan, deduction from royalty or tax, investment allowance or any other form of assistance or benefit, in respect of or related to a Canadian resource property or an exploration or development expense incurred in Canada, exceeds such part of that share of the assistance or benefit as has been repaid before that time by the taxpayer pursuant to a legal obligation to repay all or any part of that share of that assistance or benefit;”;

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

“(k) where the property is land of the taxpayer, every amount paid after 31 December 1971 and before the particular time by the taxpayer or by another taxpayer in respect of whom the taxpayer was a person, corporation or partnership described in subparagraph ii of paragraph *c* of section 165, pursuant to a legal obligation to pay interest on debt relating to the acquisition of land, within the meaning of paragraph *c* of section 165, or property taxes, except an income or profits tax or a tax relating to the transfer of property, paid by the taxpayer, with respect to such property, to a province or a Canadian municipality, to the extent that that amount was neither deductible by reason of section 164 in computing his income from the land or from a business for any taxation year commencing before that time nor in computing the income of another taxpayer in respect of whom the taxpayer was a person, corporation or partnership described in subparagraph ii of paragraph *c* of section 165, and was not included in or added to the cost to that other taxpayer of any property otherwise than by reason of paragraph *e.1* or subparagraph xi of paragraph *i*;”.

(2) Paragraph 1 of subsection 1 applies for the purpose of computing the adjusted cost base of property after 13 July 1990.

(3) Paragraph 2 of subsection 1 applies for the purpose of computing the adjusted cost base of an interest in a partnership after 31 January 1990.

(4) Paragraph 3 of subsection 1 applies from the taxation year 1988. However, where paragraph *k* of section 255 of the Taxation Act, enacted by this section, applies in respect of expenses incurred in taxation years preceding the taxation year 1988, it shall read without reference to “or by another taxpayer in respect of whom the taxpayer was a person, corporation or partnership described in subparagraph ii of paragraph *c* of section 165,”.

**114.** (1) Section 257 of the said Act, amended by section 29 of chapter 1 of the statutes of 1992, is again amended by replacing paragraph *f.2* of the French text thereof by the following paragraph:

“(f.2) l’excédent du montant choisi par le contribuable avant le moment donné en vertu de l’article 257.2, sur tout remboursement qu’il a effectué avant ce moment d’un montant visé à l’article 257.2 qu’il a reçu et que l’on peut raisonnablement considérer comme étant relatif au montant choisi, lorsque le remboursement est fait conformément à une obligation juridique de rembourser en totalité ou en partie le montant ainsi reçu;”.

(2) This section has effect from 1 February 1990.

**115.** (1) Section 261 of the said Act is replaced by the following section:

**“261.** Where the aggregate of all amounts required by section 257, except paragraph *l* of that section, to be deducted in computing the adjusted cost base to a taxpayer of any property at any time in a taxation year exceeds the aggregate of the cost to him of the property determined for the purpose of computing the adjusted cost base to him of that property at that time, and of all amounts required by section 255 to be added to the cost to him of the property in computing the adjusted cost base to him of that property at that time, the following rules apply:

(a) subject to section 589.1, the amount of the excess is deemed to be a gain of the taxpayer for the year from the disposition of the property,

(b) for the purposes of Chapter V of Title X, the amount of the excess is deemed to be proceeds of disposition of the property to the taxpayer, and

(c) for the purposes of Chapter V of Title X and Title VI.5 of Book IV, the property is deemed to have been disposed of by the taxpayer in the year.”

(2) This section applies from the taxation year 1987.

**116.** (1) Section 283 of the said Act is replaced by the following section:

**“283.** Where at a particular time there has been an increase or decrease in the relation between the use made by a taxpayer of a property for gaining income and the use made by him of the property for some other purpose, the taxpayer is deemed to have disposed of a property at that time for proceeds equal to the proportion of the fair market value of the property at that time that the amount of the increase or decrease in the use regularly made by the taxpayer of the property for such other purpose is of the whole use made of the property and to have reacquired the property immediately thereafter at a cost equal to those proceeds.”

(2) This section applies from the taxation year 1972.

**117.** (1) Section 294 of the said Act is amended

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

**“294.** Subject to section 296, the granting of an option is a disposition of property the adjusted cost base of which to the grantor immediately before he grants it is nil.”;

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

**“(b.1)** an option granted by a trust to purchase units of the trust to be issued by the trust;”.

(2) This section applies in respect of options granted after 31 December 1989.

**118.** (1) The said Act is amended by inserting, after section 295, the following section:

**“295.1** Where a trust grants an option to purchase units of the trust to be issued by the trust, the trust is deemed to have disposed of capital property and realized a gain equal to the amount it received as consideration for the granting of the option, at the time the option expires.”

(2) This section applies in respect of options granted after 31 December 1989.

**119.** (1) Section 296 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) in the case of an option to purchase, the consideration received by the vendor for such option must be included in computing the proceeds of disposition to him of the property, and the purchaser must include, in computing the cost to him of the property, the adjusted cost base to him of the option or, where paragraph *f* of section 255 applies in respect of the acquisition of the property by the purchaser because a person who did not deal at arm’s length with the purchaser was deemed by reason of the acquisition to have received a benefit under sections 48 to 58, the adjusted cost base to that person of the option immediately before that person last disposed of the option;”.

(2) This section has effect from 14 July 1990.

**120.** (1) Section 298 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

“**298.** Where a taxpayer has granted a renewal or extension of an option referred to in section 294, 295 or 295.1, the following rules apply:”

(2) This section applies in respect of options renewed or extended after 31 December 1989.

**121.** (1) Section 299 of the said Act is amended

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

“**299.** Where a taxpayer establishes that a debt owing to him at the end of a taxation year, other than a debt resulting from the disposition of personal-use property, is a bad debt for the year, he is deemed to have disposed of it at that time for proceeds equal to nil and to have reacquired it immediately thereafter at a cost equal to nil.”;

(2) by replacing that part of subparagraph *c* of the second paragraph preceding subparagraph *i* by the following:

“(c) a corporation that is insolvent at the end of the year if, at that time, neither the corporation nor a corporation controlled by it carries on business, and if the following conditions are met:”;



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

“ii. the taxpayer elects, in his fiscal return under this Part for the year, to have this section apply in respect of the share.”

(2) This section applies from the taxation year 1990. It also applies to each of the taxation years 1985 to 1989 of a taxpayer provided he notifies the Minister of Revenue in writing, with supporting evidence, that he has made a valid election with the Minister of National Revenue under subsection 3 of section 28 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 (S.C., 1991, chapter 49), concerning the application of subsection 1 of section 50 of the Income Tax Act (Statutes of Canada) in respect of a share of the capital stock of a corporation owned by him at the end of any of those years. In such a case, the taxpayer is deemed to have elected, in his fiscal return under Part I of the Taxation Act for each of those taxation years, to have section 299 of the said Act, as amended by this section, apply in respect of the share, and, notwithstanding section 1010 of the said 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 such modifications as the circumstances require.

**122.** (1) The said Act is amended by inserting, after section 299, the following section:

**“299.1** Where a taxpayer is deemed, by reason of subparagraph *c* of the second paragraph of section 299, to have disposed of a share of the capital stock of a corporation at the end of a taxation year and the taxpayer or a person with whom he is not dealing at arm’s length owns the share at the earliest time, during the 24-month period immediately following the disposition, that the corporation or a corporation controlled by it carries on business, the taxpayer or the person, as the case may be, is deemed to have disposed of the share at that earliest time for proceeds of disposition equal to its adjusted cost base to the taxpayer, determined immediately before the time he is deemed to have disposed of it by reason of subparagraph *c* of the second paragraph of section 299, and to have reacquired it immediately after that earliest time at a cost equal to those proceeds.”

(2) This section applies from the taxation year 1990.

**123.** (1) Section 305 of the said Act is amended

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

“(a) where the stock dividend is a dividend, the amount of the stock dividend,”;

(2) by inserting, after paragraph *a*, the following paragraph:

“(a.1) where the stock dividend is not a dividend, nil, and”.

(2) This section applies in respect of stock dividends paid after 23 May 1985.

**124.** (1) The said Act is amended by inserting, after section 309, the following section:

**“309.1** Notwithstanding section 309, an individual other than a trust is not required to include in computing his income for a taxation year, if he so elects, that portion, not less than \$300, of the aggregate of all amounts each of which is an amount described in the second paragraph, that is received by him in the year and that relates to one or more preceding taxation years.

The amount referred to in the first paragraph is an amount received on account or in lieu of payment of, or in satisfaction of, a pension under the Labour Adjustment Benefits Act (Statutes of Canada) or a disability pension under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or a similar plan within the meaning of the said Act.”

(2) This section applies in respect of amounts received after 31 December 1989. However, where section 309.1 of the Taxation Act, enacted by this section, applies in respect of amounts received after that date but before 1 January 1991, it shall read as follows:

**“309.1** Notwithstanding section 309, an individual other than a trust is not required to include in computing his income for a taxation year, if he so elects, that portion, not less than \$300, of the aggregate of all amounts each of which is an amount described in the second paragraph, other than such an amount in respect of which a deduction is claimed by the individual for the year under section 726.25, that is received by him in the year and that relates to one or more preceding taxation years.

The amount referred to in the first paragraph is an amount received on account or in lieu of payment of, or in satisfaction of, a disability pension under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or a similar plan within the meaning of the said Act.”

**125.** (1) Section 311 of the said Act is amended

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

“(c) a benefit under the Unemployment Insurance Act (Statutes of Canada), other than a payment relating to the cost of a course or program designed to facilitate the re-entry into the labour force of a claimant under that Act;”;

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

“(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 of 14 September 1988 or an income assistance payment made pursuant to an agreement under section 5 of the Department of Labour Act (Statutes of Canada);”;

(3) by replacing paragraph *k.1* of the English text thereof by the following paragraph:

“(k.1) compensation received under an employee’s or worker’s compensation law of Canada or a province in respect of an injury, disability or death;”.

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

(3) Paragraph 2 of subsection 1 applies in respect of payments received after 14 September 1989.

(4) Paragraph 3 of subsection 1 has effect from 28 February 1992.

**126.** (1) Section 311.1 of the said Act is replaced by the following section:

**“311.1** A taxpayer shall also include any amount received by him in the year as a social assistance payment based on a means, needs or income test or any such amount received in the year by his spouse who resided with him at the time the payment was received and whose income for the year, determined without taking account of this section, section 313.1, paragraph *d.1* of section 336 or Chapter VIII

of Title VI, is less than his income so determined for the year, except where the taxpayer resided with his spouse at the time the payment was received and the income of the taxpayer for the year, determined without taking account of this section, section 313.1, paragraph *d.1* of section 336 or Chapter VIII of Title VI, is less than his spouse's income so determined for the year, to the extent that such amount is not otherwise required to be included in computing the income for a taxation year from a business or property of the taxpayer or the taxpayer's spouse."

(2) This section applies from the taxation year 1982. However, where section 311.1 of the Taxation Act, enacted by this section, applies to a taxation year preceding the taxation year 1989, the references therein to "this section, section 313.1, paragraph *d.1* of section 336 or Chapter VIII of Title VI" shall read as references to "this section or section 313.1".

**127.** (1) Section 312 of the said Act is amended

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

"*ii*: an amount with respect to an interest in an annuity contract to which section 92.11 applies, or would apply if the contract had an anniversary day in the year at a time when the taxpayer held the interest;"

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

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

"(*g*) the excess, over the amount determined under section 312.2 in respect of the taxpayer, of the aggregate of all amounts other than an amount contemplated in paragraph *i* of section 311, an amount received in the course of business and an amount received in respect of or by virtue of an office or employment, received by the taxpayer in the year as a scholarship, fellowship or bursary or a prize for achievement in a field of endeavour ordinarily carried on by the taxpayer, other than a prescribed prize;"

(2) Paragraphs 1 and 2 of subsection 1 apply in respect of contracts last acquired after 31 December 1989.

(3) Paragraph 3 of subsection 1 applies from the taxation year 1987.

**128.** (1) The said Act is amended by inserting, after section 312.1, the following section:

**“312.2** The amount referred to in paragraph *g* of section 312 in respect of a taxpayer is equal to the greater of \$500 and the aggregate of all amounts each of which is the lesser of

(a) the amount that would be included under paragraph *g* of section 312 if that paragraph were read without reference to “the excess, over the amount determined under section 312.2 in respect of the taxpayer, of” in computing the income of the taxpayer for the year in respect of a scholarship, fellowship, bursary or prize that is to be used by the taxpayer in the production of a literary, dramatic, musical or artistic work, and

(b) the aggregate of all amounts each of which is an expense incurred by the taxpayer in the year, in the preceding year but after his receiving confirmation that the scholarship, fellowship, bursary or prize referred to in paragraph *a* would be received, or in the year following that in which the scholarship, fellowship, bursary or prize was received, for the purpose of fulfilling the conditions under which the scholarship, fellowship, bursary or prize was received, other than

i. personal or living expenses of the taxpayer, except expenses in respect of travel, meals and lodging incurred by the taxpayer in the course of fulfilling those conditions and while absent from the taxpayer’s usual place of residence for the period to which the scholarship, fellowship, bursary or prize, as the case may be, relates,

ii. expenses for which the taxpayer has been reimbursed, and

iii. expenses that are otherwise deductible in computing the taxpayer’s income.”

(2) This section applies from the taxation year 1987.

**129.** (1) Section 313.1 of the said Act is replaced by the following section:

**“313.1** A taxpayer shall also include the amount of any grant received by him in the year under a prescribed program relating to home insulation or energy conversion or so received in the year by his spouse who resides with him at the time of payment and whose income for the year, determined without reference to this section, section 311.1, paragraph *d.1* of section 336 and Chapter VIII of Title VI, is less than the taxpayer’s income so determined for the year, to the extent that paragraph *s* of section 87 does not require the inclusion of such amount in computing the taxpayer’s income or that of his spouse for the year or a subsequent year, except where the taxpayer resides with his spouse at the time of payment and the taxpayer’s income for the year, determined without reference to this section,

section 311.1, paragraph *d.1* of section 336 and Chapter VIII of Title VI, is less than the spouse's income so determined for the year."

(2) This section applies from the taxation year 1989.

**130.** (1) The said Act is amended by inserting, after section 313.5, the following section:

**"313.6** A taxpayer shall also include the value of benefits received or enjoyed by any person in the year in respect of a workshop, seminar, training program or any similar development program by reason of the taxpayer's membership in a registered national arts service organization or in an artistic organization recognized by the Minister on the recommendation of the Minister of Cultural Affairs."

(2) This section has effect from 14 July 1990.

**131.** (1) Sections 316.1 and 316.2 of the said Act are replaced by the following sections:

**"316.1** Where a particular individual, other than a trust, or a trust in which the particular individual is a beneficiary within the meaning of section 462.22, receives a loan from or becomes indebted to a creditor or creditor trust, directly or indirectly by means of a trust or by any other means, and it may reasonably be considered that one of the main reasons for making the loan or incurring the indebtedness is to reduce or avoid tax by causing income from the loaned property to be included in the income of the particular individual, the following rules apply:

(a) any income of the particular individual, for a taxation year, from the loaned property that relates to the period or periods in the year throughout which the creditor or the creditor trust, as the case may be, is resident in Canada and the particular individual is not dealing at arm's length with the creditor or the original transferor in respect of the creditor trust, as the case may be, is deemed to be income of the creditor or creditor trust, as the case may be, for that taxation year and not income of the particular individual;

(b) where section 467 applies in respect of the loaned property and income therefrom is deemed to be income of the creditor trust and not income of the particular individual, as provided for in subparagraph *a*, section 467 shall be applied after the application of subparagraph *a*.

Subparagraph *a* of the first paragraph does not apply, in respect of such income of the individual

(a) to the extent that sections 462.1 to 462.4 apply or would, but for section 462.16, apply to such income;

(b) in the case of a creditor, to the extent that section 467 applies to such income;

(c) in the case of a creditor trust,

i. to the extent that subparagraph *a* of the first paragraph applies to such income in the case of a creditor;

ii. to the extent that section 467 applies to such income otherwise than by reason of subparagraph *b* of the first paragraph.

For the purposes of this section,

“creditor”, in respect of a particular individual, or of a trust in which the particular individual is a beneficiary within the meaning of section 462.22, having received a loan or incurred a debt, means the individual, other than a trust, who made the loan or became the creditor and with whom the particular individual does not deal at arm’s length;

“creditor trust”, in respect of a particular individual, or of a trust in which the particular individual is a beneficiary within the meaning of section 462.22, having received a loan or incurred a debt, means the trust that made the loan or became the creditor and to which property has, directly or indirectly by means of a trust or by any other means, been transferred by another individual, in this section referred to as the “original transferor”, who is not a trust, who is resident in Canada at any time in the period during which the loan or indebtedness is outstanding and with whom the particular individual does not deal at arm’s length;

“loaned property”, in respect of a particular individual, or of a trust in which the particular individual is a beneficiary within the meaning of section 462.22, having received a loan or incurred a debt, includes property that the loan or indebtedness enabled or assisted the particular individual, or the trust in which the particular individual is a beneficiary within the meaning of section 462.22, to acquire, and property substituted for such property or for the loaned property.

**“316.2** Notwithstanding any other provision of this Act, section 316.1 does not apply to any income derived in a particular taxation year, in respect of a loan or indebtedness, where the following conditions are met:

(a) interest is charged on the loan or indebtedness at a rate equal to or greater than the lesser of the following rates:

i. the prescribed rate of interest in effect at the time the loan was made or the indebtedness was incurred, and

ii. the rate that would, having regard to all the circumstances, have been agreed on, at the time the loan was made or the indebtedness was incurred, between parties dealing with each other at arm's length;

(b) the amount of interest that is payable in respect of the particular taxation year in respect of the loan or indebtedness is paid not later than 30 days after the end of the particular taxation year; and

(c) the amount of interest that was payable in respect of each taxation year preceding the particular taxation year in respect of the loan or indebtedness was paid not later than 30 days after the end of each such taxation year."

(2) This section applies to income relating to periods commencing after 31 December 1990.

**132.** (1) Section 316.3 of the said Act is amended by replacing the first paragraph by the following paragraph:

**"316.3** For the purposes of section 316.1, where at any time a particular property is used to repay, in whole or in part, a loan or indebtedness that enabled or assisted an individual to acquire another property, there shall be included in computing the income from the particular property that proportion of the income or loss, as the case may be, derived after that time from the other property or from property substituted therefor that the amount so repaid is of the cost to the individual of the other property."

(2) This section applies to income relating to periods commencing after 31 December 1990.

**133.** (1) Section 317 of the said Act is replaced by the following section:

**"317.** A taxpayer must include any amount received by him as pension benefit, including any pension, supplement or spouse's allowance under the Old Age Security Act (Statutes of Canada), any similar payment made under a provincial law and any benefit under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or any equivalent plan within the meaning of that Act, the amount of any



payment out of or under a prescribed provincial pension plan and the amount of any payment out of or under a foreign retirement arrangement established under the laws of a country, except to the extent that the latter amount would not, if the taxpayer were resident in the country, be subject to the income taxation in the country, but not including that part of an amount received by the taxpayer out of or under an employee benefit plan and which must, pursuant to section 47.1, be included in computing the taxpayer's income or which would be required to be included therein were section 47.2 construed without reference to the words "a return of amounts contributed to the plan by him or a deceased employee of whom he is an heir or legal representative" and the portion of an amount received out of or under a retirement compensation arrangement that is required to be included in computing his income under section 313.5 where it refers to an amount provided for in paragraph *a* or *c* of section 890.9."

(2) This section applies in respect of payments received after 13 July 1990.

**134.** (1) Section 330 of the said Act is amended by replacing paragraphs *d* and *e* by the following paragraphs:

"(d) the amount by which the aggregate of all amounts deducted under section 399 in computing his cumulative Canadian exploration expenses at the end of the year exceeds the total of the aggregate of all amounts included under section 398 in computing his cumulative Canadian exploration expenses at the end of the year and the aggregate determined under subparagraph i of paragraph *a* of section 418.31.1 in respect of the taxpayer for the year;

"(e) the amount by which the total of the aggregate of all amounts deducted under section 412 in computing his cumulative Canadian development expenses at the end of the year and the amount designated by him for the year for the purposes of the Income Tax Act (Statutes of Canada) under subsection 14.2 of section 66 thereof exceeds the total of the aggregate of all amounts included under section 411 in computing his cumulative Canadian development expenses at the end of the year and the aggregate determined under subparagraph i of paragraph *b* of section 418.31.1 in respect of the taxpayer for the year;"

(2) This section applies to taxation years ending after 17 February 1987.

**135.** (1) Section 333.1 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

**“333.1** Where in a particular taxation year proceeds of disposition, described in subparagraph iv of paragraph *f* of section 93, of any Canadian resource property are deemed, under section 280, to have become receivable by a taxpayer, and where that taxpayer, in his fiscal return for the year under this Part, has elected to have this section and sections 333.2 and 333.3 apply in respect of those proceeds, the taxpayer may deduct in computing his income for the year an amount which does not exceed the least of the following amounts:”.

(2) This section applies in respect of amounts deemed to have become receivable in taxation years commencing after 31 December 1984.

**136.** (1) Section 336 of the said Act, amended by section 30 of chapter 1 of the statutes of 1992 and section 94 of chapter (*insert here the chapter number of Bill 43*) of the statutes of (*insert here the year in which Bill 43 is assented to*), is again amended

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

“(d) an overpayment of a pension or supplement received under the Old Age Security Act (Statutes of Canada), of a benefit paid under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or a similar plan within the meaning of that Act, of a benefit paid under the Labour Adjustment Benefits Act (Statutes of Canada) or under the Unemployment Insurance Act (Statutes of Canada), of 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 of 14 September 1988, of an income assistance payment made pursuant to an agreement under section 5 of the Department of Labour Act (Statutes of Canada), or of a training allowance under the National Training Act (Statutes of Canada), 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 VIII of the Unemployment Insurance Act;”;

(2) by inserting, after paragraph *d* of subsection 1, the following paragraph:

“(d.1) any amount the taxpayer is required to pay on or before 30 April of the following year as a benefit repayment under Part VII of the Unemployment Insurance Act (Statutes of Canada), to the extent that the amount was not deductible in computing his income or taxable income for any preceding taxation year;”.

(2) Paragraph 1 of subsection 1 applies in respect of repayments made after 31 December 1987. However, where paragraph *d* of subsection 1 of section 336 of the Taxation Act, enacted by this section, applies in respect of repayments made between 31 December 1987 and 15 September 1989, it shall read without reference to the words “of an income assistance payment made pursuant to an agreement under section 5 of the Department of Labour Act (Statutes of Canada),”.

(3) Paragraph 2 of subsection 1 applies from the taxation year 1989.

**137.** (1) Section 338 of the said Act is amended by inserting, after the first paragraph, the following paragraph:

“In order that fees paid to an educational institution contemplated in paragraph *a* of section 337, which are fees in respect of which the individual is or was entitled to receive a reimbursement or any form of assistance under a program of Her Majesty in right of Canada or a province designed to facilitate the entry or re-entry of workers into the labour force, be deductible in computing an individual's income under section 337, the amount of the reimbursement or assistance, as the case may be, must be included in computing the individual's income.”

(2) This section applies from the taxation year 1988.

**138.** (1) Section 351 of the said Act is amended by replacing subparagraph ii of paragraph *b* by the following subparagraph:

“ii. a supporting person of the child or a person under 18 years of age and related to the individual; or”.

(2) This section applies from the taxation year 1990.

**139.** (1) Section 355.1 of the said Act is replaced by the following section:

**“355.1** A child referred to in section 352, subparagraph i of paragraph *a* of section 354 and paragraph *b* of section 355 for a taxation year is an eligible child who is a person in respect of whom an amount is deductible by reason of sections 752.0.14 to 752.0.16 in computing an individual's tax payable under this Part for the year.”

(2) This section applies from the taxation year 1991.

**140.** (1) Section 358.0.1 of the said Act is amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) the excess, over the aggregate of all amounts each of which is the amount of a reimbursement or any other form of assistance, other than prescribed assistance or an amount that is included in computing a taxpayer’s income and that is not deductible in computing his taxable income, that any taxpayer is or was entitled to receive in respect of an amount described in both subparagraphs i and ii, of the aggregate of all amounts each of which is an amount

i. that was paid in the year by the individual to a person who, at the time of the payment, is neither the individual’s spouse nor under 18 years of age, on account of attendant care provided in Canada to the individual to enable him to perform the duties of an office or employment, to carry on a business either alone or as a partner actively engaged in the business, to undertake an occupational training course in respect of which he received a training allowance under the National Training Act (Statutes of Canada), or to carry on research or any similar work in respect of which he received a grant, and

ii. that is not included in computing a deduction under sections 752.0.11 to 752.0.13 for any taxation year;”.

(2) This section applies from the taxation year 1989. However, where subparagraph i of subparagraph *a* of the first paragraph of section 358.0.1 of the Taxation Act, enacted by this section, applies to the taxation years 1989 and 1990, it shall read as if the reference therein to “a person who, at the time of the payment, is neither the individual’s spouse nor” were a reference to “a person, other than a person who is related to him or a person”.

**141.** (1) Section 359 of the said Act is amended by replacing paragraph *a* of the French text by the following paragraph:

“(a) “débours” fait ou “dépense” engagée par un contribuable avant un moment donné ne comprend pas un montant payé ou à payer pour des services devant être rendus après ce moment ni un montant payé ou à payer à titre de loyer pour une période postérieure à ce moment, mais comprend un montant désigné par lui à ce moment, en vertu du paragraphe *b* des articles 622 ou 628, à titre de coût relatif à un bien qui est un bien minier canadien ou un bien minier étranger;”.

(2) This section applies in respect of fiscal periods ending after 28 February 1986.

**142.** (1) Section 359.1 of the said Act is amended

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

**“359.1** In this chapter, “flow-through share” means a share, other than a prescribed share, of the capital stock of a development corporation that is issued to a person pursuant to an agreement in writing entered into between the person and the development corporation after 28 February 1986, under which the corporation agrees, for consideration that does not include property to be exchanged or transferred by the person under the agreement in circumstances in which Division XIII of Chapter IV of Title IV or Chapter IV, V or VI of Title IX applies,”;

(2) by striking out the word “et” at the end of subparagraph *a* of the first paragraph of the French text thereof.

(2) This section applies in respect of shares issued pursuant to an agreement in writing entered into after 13 July 1990.

**143.** (1) Section 359.3 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

**“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, the following rules apply:”.

(2) This section has effect from 14 July 1990.

**144.** (1) Section 359.5 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

**“359.5** Subject to sections 359.11 to 359.12.0.1, where a corporation renounces an amount to a person under section 359.4, the following rules apply:”.

(2) This section has effect from 14 July 1990.

**145.** (1) Section 359.7 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

**“359.7** Subject to sections 359.11 to 359.12.0.1, where a corporation renounces an amount to a person under section 359.6, the following rules apply:”.

(2) This section has effect from 14 July 1990.

**146.** (1) Section 359.11 of the said Act is replaced by the following section:

**“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, 359.4 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 a prescribed form indicating the share of the expense attributable to each member of the partnership at the end of that fiscal period.

Where the form required to be filed under the first paragraph is not so filed, the partnership is deemed not to have incurred the expense referred to therein.”

(2) This section applies in respect of fiscal periods ending after 13 July 1990.

**147.** (1) The said Act is amended by inserting, after section 359.11, the following section:

**“359.11.1** Where a partnership receives or becomes entitled to receive assistance as an agent for its members or former members at a particular time in respect of any Canadian exploration expense, Canadian development expense or Canadian oil and gas property expense that is or, but for paragraph *b* of sections 359.3, 359.5 and 359.7, would be incurred by a corporation, the following rules apply:

(a) where the entitlement of any such member or former member to any part of such assistance is known by the partnership as of the end of the partnership’s first fiscal period ending after the particular time and that part of such assistance was not required to be reported under paragraph *b* in respect of a calendar year ending before the end of that fiscal period, the partnership shall, on or before the last day of the third month following the end of that fiscal period, file with the Minister a prescribed form indicating the share of that part of such assistance paid to each such member or former member before the end of that fiscal period or to which each such member or former member is entitled at the end of that fiscal period;

(b) where the entitlement of any such member or former member to any part of such assistance is known by the partnership at the end of a calendar year that ends after the particular time and that part of such assistance was not required to be reported under paragraph *a* in respect of a fiscal period ending on or before the end of that calendar year, or under this paragraph in respect of a preceding calendar year, the partnership shall, on or before the last day of the third month following the end of that calendar year, file with the Minister a prescribed form indicating the share of that part of such assistance paid to each such member or former member before the

end of that fiscal period or to which each such member or former member is entitled at the end of that calendar year;

(c) where the prescribed form required to be filed under paragraph *a* or *b* is not so filed, the part of such expense relating to the assistance required to be reported in the prescribed form is deemed not to have been incurred by the partnership.”

(2) This section applies in respect of assistance that a partnership receives or becomes entitled to receive after 31 December 1989 and in a fiscal period of the partnership ending after 13 July 1990.

**148.** (1) Section 359.12 of the said Act is replaced by the following section:

**“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, 359.4 or 359.6, the corporation shall file a 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.

Where the form required to be filed under the first paragraph is not so filed, sections 359.3, 359.5 and 359.7 shall not apply in respect of the amount referred to in the first paragraph that the corporation has renounced.”

(2) This section applies in respect of renunciations made after 13 July 1990.

**149.** (1) The said Act is amended by inserting, after section 359.12, the following section:

**“359.12.0.1** Where a corporation receives or becomes entitled to receive assistance as an agent at a particular time in respect of any Canadian exploration expense, Canadian development expense or Canadian oil and gas property expense that is or, but for paragraph *b* of sections 359.3, 359.5 and 359.7, would be incurred by the corporation, the corporation shall, before the end of the first month following the particular month in which it first becomes known by the corporation that a person or partnership who holds a flow-through share of the corporation is entitled to a share of any part of such assistance, file with the Minister a prescribed form indicating the share of that part of such assistance to which each such person or partnership is entitled at the end of the particular month.

Where the form required to be filed under the first paragraph is not so filed, the part of such expense referred to in the first paragraph

relating to the assistance required to be reported in the prescribed form is deemed not to have been incurred by the corporation.”

(2) This section applies in respect of assistance that a corporation receives or becomes entitled to receive after 13 July 1990.

**150.** (1) Sections 359.12.1 and 359.12.2 of the said Act are replaced by the following sections:

**“359.12.1** A corporation or partnership may file with the Minister a document referred to in any of sections 359.10 to 359.12.0.1 after the particular day on or before which the document is required to be filed under the applicable section, if

(a) the document is filed on or before the day that is 90 days after the particular day, or after that day where, in the opinion of the Minister, the circumstances are such that it would be just and equitable to permit the document to be filed, and

(b) the corporation or partnership, as the case may be, pays to the Minister at the time of filing the penalty prescribed in section 359.12.2 in respect of the late filing.

The document filed in accordance with the first paragraph is deemed, except for the purposes of this section and section 359.12.2, to have been filed with the Minister on the day on or before which it was required to be filed under any of sections 359.10 to 359.12.0.1, as the case may be.

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

(a) where the penalty is in respect of the late filing of a document referred to in section 359.10, 359.11 or 359.12, the greater of \$100 and 0.25 % of the maximum amount in respect of the Canadian exploration expenses, Canadian development expenses and Canadian oil and gas property expenses renounced or attributed or to be renounced or attributed as set out in the document; and

(b) where the penalty is in respect of the late filing of a document referred to in section 359.11.1 or 359.12.0.1, the greater of \$100 and 0.25 % of the assistance reported in the document.”

(2) This section, where it replaces section 359.12.1 of the Taxation Act, applies in respect of documents filed after 30 June 1988. However, where the said section 359.12.1 applies



(a) in respect of documents filed before 14 July 1990, the references therein to section 359.12.0.1 shall read as references to section 359.12;

(b) in respect of documents referred to in section 359.11.1 or 359.12.0.1 of the said Act, filed before (*insert here the date that is 121 days after the date of assent to this Act*), it shall read without reference to subparagraphs *a* and *b* of the first paragraph thereof.

(3) This section, where it replaces section 359.12.2 of the Taxation Act, applies in respect of documents filed after 13 July 1990.

**151.** (1) Section 359.14 of the said Act is amended

(1) by inserting, after subparagraph *b* of the first paragraph, the following subparagraph:

“(b.1) the amount of any assistance in respect of the expenses, and”;

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

“(c) any information relating to the expenses or the amounts renounced by the corporation or to any assistance in respect of the expenses.”;

(3) by striking out the second paragraph.

(2) This section has effect from 14 July 1990.

**152.** (1) Sections 359.16 and 359.17 of the said Act are replaced by the following sections:

**“359.16** For the purposes of paragraph *c*.0.1 of section 359, the first and second paragraphs of section 359.1, sections 359.2 to 359.8, 359.18, 359.19 and 419.0.1, a partnership is deemed to be a person and its taxation year is deemed to be its fiscal period.

**“359.17** For the purposes of paragraph *c* of section 359.8, where an expense would, but for paragraph *b* of section 359.3, be incurred during the first 60 days of a calendar year by a corporation and the expense is deemed by section 359.3 to be incurred by a partnership, the partnership and the corporation are deemed not to deal with each other at arm’s length at any time during that period only where a share of the expense of the partnership is included by reason of paragraph *d* of section 395 in the Canadian exploration

expense of the corporation or a member of the partnership with whom the corporation does not deal at arm's length at any time during that period."

(2) This section applies to fiscal periods ending after 28 February 1986.

**153.** (1) The said Act is amended by inserting, after section 359.17, the following sections:

**"359.18** For the purposes of section 181, paragraph *d* of section 330, sections 333.1 to 333.3, 362 to 394, 600.1 and 600.2, Divisions I, I.1, III to IV.2 and V and subparagraph iv of subparagraph *a.2* of the first paragraph of section 726.6, where a person's share of an outlay or expense made or incurred by a partnership in a fiscal period thereof is included in respect of the person under section 372, to the extent that it refers to paragraph *d* of section 364, under paragraph *d* of section 395 or 408, or under paragraph *b* of section 418.2, the portion of the outlay or expense so included is deemed, except for the purposes of applying sections 372, 395 to 397, 408 to 410 and 418.2 to 418.4 in respect of the person, to have been made or incurred by the person at the end of that fiscal period.

**"359.19** Notwithstanding sections 359.2, 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

(*a*) would, but for this section, be entitled to renounce, under any of the said sections to the other person, all or part of

i. its share of the outlay or expense made or incurred by a partnership of which the corporation is a member or former member at that time, or

ii. an amount renounced to the corporation under any of the said sections, and

(*b*) would not be entitled to so renounce the amount described in subparagraph i or ii of paragraph *a* to the other person if the words "end of that fiscal period" in section 359.18 were read as "time the outlay or expense is made or incurred by the partnership" and the words "on the effective date of the renunciation" in paragraph *a* of each of sections 359.3, 359.5 and 359.7 were read as "at the earliest time that any part of such expense is incurred by the corporation"."

(2) This section, where it enacts section 359.18 of the Taxation Act, applies to fiscal periods ending after 28 February 1986 and, where it enacts section 359.19 of the said Act, applies in respect of outlays or expenses made or incurred after 13 July 1990, other than such outlays or expenses made or incurred pursuant to an agreement in writing entered into before 14 July 1990.

**154.** (1) Section 375 of the said Act is replaced by the following section:

**“375.** Sections 329 to 333, 357, 358, 368, 371, 374, 395 to 418.12 and 418.16 to 418.36 do not apply in computing the income for a taxation year of a taxpayer, other than a development corporation, if the business of such taxpayer includes trading or dealing in rights, licences or privileges to explore for, drill for or take minerals, petroleum, natural gas or other related hydrocarbons.”

(2) This section applies to taxation years ending after 17 February 1987. Furthermore, where section 375 of the Taxation Act, enacted by subsection 1, applies to taxation years ending

(a) after 11 December 1979 and before 1 January 1985, the reference therein to “332” shall read as a reference to “332.3”;

(b) after 31 December 1984 and before 18 February 1987, it shall read as it is to read for taxation years ending after 11 December 1979 and before 1 January 1985, without reference, however, to section 369 of the Taxation Act.

**155.** (1) Section 393 of the French text of the said Act is replaced by the following section:

**“393.** Le contribuable, qui a engagé une dépense ou fait un débours à l’égard duquel une déduction est permise par plus d’une disposition du présent chapitre, ne peut les déduire qu’une fois, et ce en vertu de la disposition qu’il choisit.”

(2) This section applies to fiscal periods ending after 28 February 1986.

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

(1) by inserting, after paragraph *b*, the following paragraph:

“(b.1) all amounts determined under paragraph *a* of section 418.31.1 in respect of the taxpayer for a taxation year ending before that time;”;

(2) by replacing paragraph *e* of the French text thereof by the following paragraph:

“(e) de la partie d’un montant visé au paragraphe *e* de l’article 399 qu’il a remboursée, avant ce moment, conformément à une obligation juridique de rembourser en totalité ou en partie ce montant.”

(2) Paragraph 1 of subsection 1 applies to taxation years commencing after 17 February 1987.

(3) Paragraph 2 of subsection 1 applies in respect of amounts repaid after 31 January 1990.

**157.** (1) Sections 400 and 401 of the said Act are replaced by the following sections:

“**400.** A development corporation or any other taxpayer carrying on a mining business must deduct, in computing its income for a taxation year, 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 (Statutes of Canada) under subsection 14.1 of section 66 of the said Act, not exceeding the amount that would be its income for the year, computed without taking into account sections 332.1 to 332.2, if no deduction, other than a prescribed deduction, were allowed under this section and sections 360 and 361, minus the deductions allowed for the year under sections 738 to 749.

A taxpayer contemplated in the first paragraph may also deduct, in computing its income for any taxation year, an amount not exceeding the aggregate of

(a) the lesser of

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

ii. the amount by which the amount that would be its income for the year as determined under the first paragraph exceeds the amount deducted by it for the year under this section by reason of the first paragraph; and

(b) the least of

i. the aggregate of all amounts included in computing its income for the year under sections 332.1 to 332.2,

ii. the aggregate of the amount by which the amount determined under the first paragraph in respect of the taxpayer for the year exceeds the amount that would be its income for the year as determined under that first paragraph, and the amount by which the amount determined under subparagraph i of subparagraph *a* in respect of the taxpayer for the year exceeds the amount determined under subparagraph ii of subparagraph *a* in respect of the taxpayer for the year; and

iii. the amount that would be its income for the year as determined under the first paragraph if that paragraph were read without reference to the words “, computed without taking into account sections 332.1 to 332.2,”.

**“401.** A taxpayer not contemplated in section 400 may deduct, in computing the income of the taxpayer for a taxation year, an amount not exceeding the aggregate of

(a) the amount by which the taxpayer’s cumulative Canadian exploration expense at the end of the year exceeds the amount designated by the taxpayer for the year for the purposes of the Income Tax Act (Statutes of Canada) under subsection 14.1 of section 66 of the said Act, and

(b) the amount by which the aggregate determined under subparagraph i of paragraph *a* of section 418.31.1 in respect of the taxpayer for the year exceeds the amount that would be determined in respect of the taxpayer for the year under paragraph *d* of section 330 if the aggregate last referred to in the said paragraph *d* were not taken into account.”

(2) This section applies to taxation years ending after 17 February 1987. Furthermore, where section 400 of the Taxation Act, replaced by this section, applies to taxation years ending after 31 December 1983 and before 18 February 1987, the references therein to “and 332.2” shall read as references to “to 332.2”.

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

“(b) of all amounts of assistance that any person has received, is entitled to receive or, at any time, becomes entitled to receive in respect of such expenses incurred during the period or that may reasonably be regarded as relating to Canadian exploration activities of the joint exploration corporation during the period, other than that

portion of such assistance arising by reason of the application of section 127 or 127.1 of the Income Tax Act (Statutes of Canada) in respect of a shareholder corporation of the joint exploration corporation.”

(2) This section applies in respect of assistance for expenses incurred after 30 November 1985.

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

(1) by inserting, after paragraph *a*, the following paragraph:

“(a.1) all amounts determined under paragraph *b* of section 418.31.1 in respect of the taxpayer for a taxation year ending before that time;”;

(2) by replacing paragraph *d* of the French text thereof by the following paragraph:

“(d) de la partie d’un montant visé au paragraphe *h* de l’article 412 qu’il a remboursée, avant ce moment, conformément à une obligation juridique de rembourser en totalité ou en partie ce montant.”

(2) Paragraph 1 of subsection 1 applies to taxation years commencing after 17 February 1987.

(3) Paragraph 2 of subsection 1 applies in respect of amounts repaid after 31 January 1990.

**160.** (1) Section 413 of the said Act is amended

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

**“413.** A development corporation carrying on an oil business may deduct, in computing its income for a taxation year, an amount not exceeding the aggregate of its cumulative Canadian development expenses incurred in Québec at the end of the year and the amount by which the aggregate determined under subparagraph *i* of paragraph *b* of section 418.31.1 in respect of the corporation for the year in respect of its cumulative Canadian development expenses incurred in Québec exceeds the amount that would be determined in respect of the corporation for the year under paragraph *e* of section 330 in respect of such expenses if the aggregate last referred to in the said paragraph *e* were not taken into account, and an amount not exceeding the aggregate of”;

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

“*i.* the aggregate of its other cumulative Canadian development expenses at the end of the year and the amount by which the aggregate determined under subparagraph *i* of paragraph *b* of section 418.31.1 in respect of the corporation for the year in respect of its other cumulative Canadian development expenses exceeds the amount that would be determined in respect of the corporation for the year under paragraph *e* of section 330 in respect of such expenses if the aggregate last referred to in the said paragraph *e* were not taken into account; and”.

(2) This section applies to taxation years ending after 17 February 1987.

**161.** (1) Section 414 of the said Act is amended by replacing that part preceding subparagraph *a* of the second paragraph by the following:

“**414.** A development corporation carrying on a mining business may deduct, in computing its income for a taxation year, the aggregate of its cumulative Canadian development expenses at the end of the year and the amount by which the aggregate determined under subparagraph *i* of paragraph *b* 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 *e* of section 330 if the aggregate last referred to in the said paragraph *e* were not taken into account.

Any other taxpayer may deduct in respect of a mining business, in computing his income for a taxation year, the aggregate of his cumulative Canadian development expenses at the end of the year and the amount by which the aggregate determined under subparagraph *i* of paragraph *b* of section 418.31.1 in respect of the taxpayer for the year exceeds the amount that would be determined in respect of the taxpayer for the year under paragraph *e* of section 330 if the aggregate last referred to in the said paragraph *e* were not taken into account, without exceeding the greater of”.

(2) This section applies to taxation years ending after 17 February 1987.

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

(1) by inserting, after paragraph *a*, the following paragraph:

“(a.1) of the aggregate of all amounts determined under paragraph *c* of section 418.31.1 in respect of the taxpayer for a taxation year ending before that time,”;

(2) by replacing paragraph *d* of the French text thereof by the following paragraph:

“(d) de la partie d’un montant visé au paragraphe *e* de l’article 418.6 qu’il a remboursée, avant ce moment, conformément à une obligation juridique de rembourser en totalité ou en partie ce montant.”

(2) Paragraph 1 of subsection 1 applies to taxation years commencing after 17 February 1987.

(3) Paragraph 2 of subsection 1 applies in respect of amounts repaid after 31 January 1990.

**163.** (1) Section 418.7 of the said Act is amended by replacing subparagraph *i* of paragraph *a* by the following subparagraph:

“i. the aggregate of his cumulative Canadian oil and gas property expense at the end of the year and the amount by which the aggregate determined under subparagraph *i* of paragraph *c* of section 418.31.1 in respect of the taxpayer for the year exceeds the amount that would be determined in respect of the taxpayer for the year under section 418.12 if the aggregate last referred to in the said section 418.12 were not taken into account; and”.

(2) This section applies to taxation years ending after 17 February 1987.

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

**“418.12** For the purposes of subparagraph *a* of the second paragraph of section 358, 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 the aggregate 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) This section applies to taxation years ending after 17 February 1987.

**165.** (1) Section 418.16 of the said Act is amended by replacing subparagraph *a* of the second paragraph by the following subparagraph:

“(a) were not otherwise deducted in computing the income of the corporation for the year or deducted in computing the income of the corporation for a preceding taxation year or in computing the income of a predecessor owner of the particular property for any taxation year; and”.

(2) This section applies to taxation years ending after 17 February 1987.

**166.** (1) Section 418.17 of the said Act is amended

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

“The first amount to which the first paragraph refers is equal to the amount of foreign exploration and development expenses incurred by the original owner before the disposition of the particular property by the original owner, to the extent that those expenses were not otherwise deducted in computing the income of the corporation for the year, were not deducted in computing the income of the corporation for a preceding taxation year or in computing income of any predecessor owner of the particular property for any taxation year and were not deductible in computing the income of the original owner for any taxation year.”;

(2) by replacing subparagraphs *a* and *b* of the third paragraph by the following subparagraphs:

“(a) the aggregate of

i. the part of the corporation's income for the year, determined before any deduction under any of sections 359 to 419.6, that may reasonably be regarded as attributable to

(1) the amount included in computing its income for the year under paragraph *a* of section 330, that may reasonably be regarded as attributable to the disposition by the corporation of any interest in or right to the particular property, or

(2) production from the particular property, and

ii. the lesser of

(1) the aggregate of all amounts each of which is the amount designated by the corporation for the year in respect of a Canadian resource property owned by the original owner immediately before being acquired with the particular property by the corporation or a predecessor owner of the particular property, not exceeding the amount included in computing the corporation's income for the year, determined before any deduction under section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24) and sections 359 to 419.6, that may reasonably be regarded as being attributable to the production, after 31 December 1988, from the Canadian resource property, and

(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 paragraph *f* of section 418.26 as a result of the application of paragraph *b* of section 418.29, 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

“(b) the aggregate of all other amounts deducted for the year

i. under this section and section 418.19 as a result of the application of subparagraph *c* of the first paragraph of section 418.20 that may reasonably be regarded as attributable to the part of its income for the year described in subparagraph i of subparagraph *a* in respect of the particular property, and

ii. under this section that may reasonably be regarded as attributable to the part of its income referred to in subparagraph 1 of subparagraph ii of subparagraph *a* for the year in respect of which an amount is designated by the corporation under the said subparagraph 1.”;

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

“Income in respect of which an amount is designated under subparagraph 1 of subparagraph ii of subparagraph *a* of the third paragraph is deemed, for the purposes of subparagraph iii of subparagraph *a* of the third paragraph of sections 418.16 and 418.18, subparagraph 2 of subparagraph i of subparagraph *a* of the third paragraph of section 418.19, subparagraph i of subparagraph *c* of the

first paragraph of section 418.20, subparagraph 2 of subparagraph i of subparagraph *a* of the third paragraph of section 418.21, paragraph *a* of section 418.28 of this Act and 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 clause B of subparagraph i of paragraph *d* of subsection 25 of section 29 of the Income Tax Application Rules, 1971 (Statutes of Canada), not to be attributable to production from a Canadian resource property.”

(2) This section applies to taxation years ending after 17 February 1987. However, where section 418.17 of the Taxation Act, as amended by subsection 1, applies to a corporation referred to therein as a result of the application of section 418.26 of the said Act, subparagraph 1 of subparagraph ii of subparagraph *a* of the third paragraph thereof shall read without reference to “, after 31 December 1988,”.

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

“(a) otherwise deducted in computing the corporation’s income for the year or deducted in computing the corporation’s income for a preceding taxation year or in computing the income of a predecessor owner of the particular property for any taxation year; and”.

(2) This section applies to taxation years ending after 17 February 1987.

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

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

“i. the cumulative Canadian development expenses of the original owner, determined immediately after the disposition of the particular property by the original owner, to the extent that the expenses were not otherwise deducted in computing the corporation’s income for the year, were not deducted in computing the corporation’s income for any preceding taxation year or in computing the income of the original owner or any predecessor owner of the particular property for any taxation year, and were not designated by the original owner for any taxation year for the purposes of the Income Tax Act (Statutes of Canada) pursuant to subsection 14.2 of section 66 of the said Act, exceeds”;

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

“(a) the lesser of

i. the part of the corporation’s income for the year, determined before any deduction under section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24) or any of sections 359 to 419.6, that may reasonably be regarded as attributable to

(1) its reserve amount for the year in respect of the original owner and each predecessor owner of the particular property, or

(2) production from the particular property, and

ii. where the corporation acquired the particular property from the original owner at any time in the year, otherwise than by way of an amalgamation or merger or by reason only of the application of paragraph *a* of section 418.26, and did not deal at arm’s length with the original owner at that time, nil, exceeds”.

(2) Paragraph 1 of subsection 1 applies to taxation years ending after 17 February 1987.

(3) Paragraph 2 of subsection 1 applies

(a) in respect of dispositions occurring in taxation years commencing after 16 December 1991, and

(b) in respect of dispositions made by a taxpayer in a taxation year ending after 17 February 1987 and commencing before 17 December 1991, where the taxpayer and each corporation referred to in paragraph *b* of subsection 18 of section 42 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 (S.C., 1991, chapter 49), have made a valid election with the Minister of National Revenue under the said subsection in respect of the disposition and have so notified the Minister of Revenue in writing, with supporting evidence, 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 such modifications as the circumstances require.

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

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

“(a) the cumulative Canadian oil and gas property expense of the original owner determined immediately after the disposition of the particular property by the original owner to the extent that it has not been otherwise deducted in computing the corporation’s income for the year and has not been deducted in computing the corporation’s income for any preceding taxation year or in computing the income of the original owner or any predecessor owner of the particular property for any taxation year, exceeds”;

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

“(a) the lesser of

i. the part of the corporation’s income for the year, determined before any deduction under section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24) or any of sections 359 to 419.6, that may reasonably be regarded as attributable to

(1) its reserve amount for the year in respect of the original owner and each predecessor owner of the particular property, or

(2) production from the particular property, and

ii. where the corporation acquired the particular property from the original owner at any time in the year, otherwise than by way of an amalgamation or merger or by reason only of the application of paragraph *a* of section 418.26, and did not deal at arm’s length with the original owner at that time, nil, exceeds”.

(2) Paragraph 1 of subsection 1 applies to taxation years ending after 17 February 1987.

(3) Paragraph 2 of subsection 1 applies

(a) in respect of dispositions occurring in taxation years commencing after 16 December 1991, and

(b) in respect of dispositions made by a taxpayer in a taxation year ending after 17 February 1987 and commencing before 17 December 1991, where the taxpayer and each corporation referred to in paragraph *b* of subsection 18 of section 42 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 (S.C., 1991, chapter 49), have made a valid election with the Minister of National Revenue under the said subsection in respect of the disposition and have so notified the Minister of Revenue in writing, with supporting evidence, 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 such modifications as the circumstances require.

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

(1) by striking out paragraph *d*;

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

“*i.* for the purposes of computing an amount under the third paragraph of section 418.17 and subparagraph *c* of the first paragraph of section 418.20, as that subparagraph would read but for the words “to the higher of either 30 % of the excess amount referred to in the second paragraph of the said section or” and if the words “or the amount by which” read “to the amount by which”, to be income of the transferee from the sources described in paragraph *a* or *b*, as the case may be, of section 418.29 for its taxation year in which that taxation year of the transferor ends, and”;

(3) by replacing that part of paragraph *h* preceding subparagraph *i* by the following:

“(h) where that time is after 15 January 1987 and at that time the corporation was a member of a partnership that owned a Canadian resource property or a foreign resource property at that time, for the purposes of paragraph *a*, the corporation shall be deemed to have owned immediately before that time that portion of the property owned by the partnership at that time that is equal to its percentage share of the aggregate of amounts that would be paid to all members of the partnership if it were wound up at that time, and, for the purposes of subparagraph *iii* of subparagraph *a* of the third paragraph of section 418.16, subparagraph 2 of subparagraph *i* of subparagraph *a* of the third paragraph of section 418.17, subparagraph *iii* of subparagraph *a* of the third paragraph of section 418.18,

subparagraph 2 of subparagraph i of subparagraph *a* of the third paragraph of section 418.19, subparagraph i of subparagraph *c* of the first paragraph of section 418.20 and subparagraph 2 of subparagraph i of subparagraph *a* of the third paragraph of section 418.21 of this Act and of 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 clause B of subparagraph i of paragraph *d* of subsection 25 of section 29 of the Income Tax Application Rules, 1971 (Statutes of Canada), for a taxation year ending after that time, the lesser of the following amounts is deemed to be the income of the corporation for the year that may reasonably be attributable to production from the property:".

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

(3) Paragraph 3 of subsection 1 applies

(a) in respect of dispositions occurring in taxation years commencing after 16 December 1991, and

(b) in respect of dispositions made by a taxpayer in a taxation year ending after 17 February 1987 and commencing before 17 December 1991, where the taxpayer and each corporation referred to in paragraph *b* of subsection 18 of section 42 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 (S.C., 1991, chapter 49), have made a valid election with the Minister of National Revenue under the said subsection in respect of the disposition and have so notified the Minister of Revenue in writing, with supporting evidence, 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 such modifications as the circumstances require.

**171.** (1) Section 418.27 of the said Act is repealed.

(2) This section applies to taxation years ending after 17 February 1987.

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

(1) by replacing that part preceding paragraph *a* by the following:

**“418.31** Where in a taxation year an original owner of Canadian resource properties disposes of all or substantially all of his Canadian resource properties to a particular corporation in circumstances in which section 418.16, 418.18, 418.19 or 418.21 of this Act 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 Application Rules, 1971 (Statutes of Canada) applies, the following rules apply:”;

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

“(b) in determining the cumulative Canadian exploration expense of the original owner at any time after the first time referred to in the second paragraph of section 418.18, there shall be deducted the amount thereof determined immediately after the disposition;”;

(3) by inserting, after paragraph *b*, the following paragraphs:

“(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 deductible under section 400 or deducted under section 401 in computing the original owner’s income for the year is deemed to be equal to the lesser of

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

ii. the amount by which

(1) the amount determined under paragraph *a* of section 418.31.1 in respect of the original owner for the year exceeds

(2) the aggregate of all amounts each of which is an amount determined under this paragraph in respect of any disposition made by the original owner in the year and before the disposition first referred to in this paragraph;

“(b.2) for greater certainty, any amount, other than the amount determined under paragraph *b.1*, that was deductible under section 400 or deducted under section 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;”;

(4) by inserting, after paragraph *c*, the following paragraphs:

“(c.1) for the purposes of the second paragraph of section 418.19, the cumulative Canadian development expense of the original owner determined immediately after the disposition that was deducted under section 413 or 414 in computing the original owner’s income for the year is deemed to be equal to the lesser of

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

ii. the amount by which

(1) the amount determined under paragraph *b* of section 418.31.1 in respect of the original owner for the year exceeds

(2) the aggregate of all amounts each of which is an amount determined under this paragraph in respect of any disposition made by the original owner in the year and before the disposition first referred to in this paragraph;

“(c.2) for greater certainty, any amount, other than the amount determined under paragraph *c.1*, that was deducted under section 413 or 414 by the original owner for the year or a subsequent taxation year is deemed, for the purposes of the second paragraph of section 418.19, not to be in respect of the cumulative Canadian development expense of the original owner determined immediately after the disposition;”;

(5) by inserting, after paragraph *d*, the following paragraphs:

“(d.1) for the purposes of the second paragraph of section 418.21, the cumulative Canadian oil and gas property expense of the original owner determined immediately after the disposition that was deducted under section 418.7 in computing the original owner’s income for the year is deemed to be equal to the lesser of

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

ii. the amount by which

(1) the amount determined under paragraph *c* of section 418.31.1 in respect of the original owner for the year exceeds

(2) the aggregate of all amounts each of which is an amount determined under this paragraph in respect of any disposition made by the original owner in the year and before the disposition first referred to in this paragraph;

“(d.2) for greater certainty, any amount, other than the amount determined under paragraph d.1, that was deducted under section 418.7 by the original owner for the year or a subsequent taxation year is deemed, for the purposes of the second paragraph of section 418.21, not to be in respect of the cumulative Canadian oil and gas property expense of the original owner determined immediately after the disposition;”.

(2) This section applies

(a) in respect of dispositions occurring in taxation years commencing after 16 December 1991, and

(b) in respect of dispositions made by a taxpayer in a taxation year ending after 17 February 1987 and commencing before 17 December 1991, where the taxpayer and each corporation referred to in paragraph b of subsection 18 of section 42 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 (S.C., 1991, chapter 49), have made a valid election with the Minister of National Revenue under the said subsection in respect of the disposition and have so notified the Minister of Revenue in writing, with supporting evidence, 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 such modifications as the circumstances require.

**173.** (1) The said Act is amended by inserting, after section 418.31, the following section:

**“418.31.1** Where in a taxation year an original owner of Canadian resource properties disposes of all or substantially all of his Canadian resource properties in circumstances in which section 418.18, 418.19 or 418.21 applies, the following rules apply:

(a) the amount determined in respect of the original owner for the year for the purposes of paragraph *b.1* of section 398 and subparagraph 1 of subparagraph ii of paragraph *b.1* of section 418.31 is equal to the lesser of

i. the aggregate of all amounts each of which is the amount by which

(1) the amount deducted under paragraph *b* of section 418.31 in respect of a disposition in the year by the original owner, exceeds

(2) the amount designated by the original owner in prescribed form filed with the Minister within six months after the end of the year in respect of an amount determined under subparagraph 1, and

ii. the aggregate of

(1) the amount deducted by the original owner for the year under section 400 or 401, and

(2) the amount that would be determined in respect of the original owner for the year under paragraph *d* of section 330 if the aggregate last referred to therein were not taken into account;

(b) the amount determined in respect of the original owner for the year for the purposes of paragraph *a.1* of section 411 and subparagraph 1 of subparagraph ii of paragraph *c.1* of section 418.31 is equal to the lesser of

i. the aggregate of all amounts each of which is the amount by which

(1) the amount deducted under paragraph *c* of section 418.31 in respect of a disposition in the year by the original owner, exceeds

(2) the amount designated by the original owner in prescribed form filed with the Minister within six months after the end of the year in respect of an amount determined under subparagraph 1, and

ii. the aggregate of

(1) the amount deducted by the original owner for the year under section 413 or 414, and

(2) the amount that would be determined in respect of the original owner for the year under paragraph *e* of section 330 if the aggregate last referred to therein were not taken into account;

(c) the amount determined in respect of the original owner for the year for the purposes of paragraph *a.1* of section 418.5 and subparagraph 1 of subparagraph ii of paragraph *d.1* of section 418.31 is equal to the lesser of

i. the aggregate of all amounts each of which is the amount by which

(1) the amount deducted under paragraph *d* of section 418.31 in respect of a disposition in the year by the original owner, exceeds

(2) the amount designated by the original owner in prescribed form filed with the Minister within six months after the end of the year in respect of an amount determined under subparagraph 1, and

ii. the aggregate of

(1) the amount deducted by the original owner for the year under section 418.7, and

(2) the amount that would be determined in respect of the original owner for the year under section 418.12 if the aggregate last referred to therein were not taken into account.”

(2) This section applies

(a) in respect of dispositions occurring in taxation years commencing after 16 December 1991, and

(b) in respect of dispositions made by a taxpayer in a taxation year ending after 17 February 1987 and commencing before 17 December 1991, where the taxpayer and each corporation referred to in paragraph *b* of subsection 18 of section 42 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 (S.C., 1991, chapter 49), have made a valid election with the Minister of National Revenue under the said subsection in respect of the disposition and have so notified the Minister of Revenue in writing, with supporting evidence, 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 such modifications as the circumstances require.

(3) Where, in respect of a disposition of property made by a taxpayer, an election is made in accordance with paragraph *b* of subsection 3 of sections 168, 169 and 170, paragraph *b* of subsection 2 of section 172 or paragraph *b* of subsection 2 of this section, a designation under subparagraph 2 of subparagraph *i* of paragraph *a*, *b* or *c* of section 418.31.1 of the Taxation Act, enacted by subsection 1, in respect of the disposition, is deemed to have been filed within the time prescribed in the said subparagraph 2 if the taxpayer notifies the Minister of Revenue in writing, with supporting evidence, that he has filed a designation with the Minister of National Revenue under clause B of subparagraph *i* of paragraph *a*, *b* or *c* of subsection 12.1 of section 66.7 of the Income Tax Act (Statutes of Canada), in accordance with paragraph *d* of subsection 18 of section 42 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 (S.C., 1991, chapter 49).

**174.** (1) Section 418.33 of the said Act is replaced by the following section:

**“418.33** Where, in a taxation year, a predecessor owner of Canadian resource properties disposes of all or substantially all of its Canadian resource properties to a corporation in circumstances in which section 418.16, 418.18, 418.19 or 418.21 of this Act 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 Application Rules, 1971 (Statutes of Canada) applies, for the purposes of applying any of those sections to the predecessor owner in respect of its acquisition of any of those properties, it is deemed, after the disposition, never to have acquired the properties except for the purposes of determining an amount deductible under section 418.16 or 418.18 for the year and, 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, determining an amount deductible under section 418.19 or 418.21 for the year.”

(2) This section applies in respect of dispositions occurring in taxation years ending after 17 February 1987.

**175.** (1) Section 421.2 of the said Act is amended

(1) by replacing that part preceding paragraph *a* by the following:

**“421.2** Section 421.1 does not apply to an amount paid or payable by a person in respect of the consumption of food or beverages or in respect of entertainment enjoyed by a person, where the amount”;

(2) by replacing paragraphs *d* and *e* by the following paragraphs:

“(d) is an amount required to be included in computing the income of an employee of the person or would be so required but for subparagraph ii of paragraph *a* of section 42; or

“(e) is incurred by the person for food, beverages or entertainment generally available to all individuals employed by the person at a particular place of business of the person and consumed or enjoyed by such individuals.”

(2) Paragraph 1 of subsection 1 applies in respect of amounts incurred after 17 June 1987 in respect of food or beverages consumed or entertainment enjoyed by a person after 31 December 1987.

(3) Paragraph 2 of subsection 1, where it replaces paragraph *d* of section 421.2 of the Taxation Act, applies from the taxation year 1989 and, where it replaces paragraph *e* of the said section, applies to taxation years ending after 13 July 1990.

**176.** (1) Section 421.5 of the said Act is amended

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

**“421.5** For the purposes of this Part, any interest paid or payable for a period by a person on a loan used to purchase a passenger vehicle or on an amount paid or payable for such purchase is deemed, in computing the income of the person for a taxation year, to be the lesser of the amount paid or payable and the amount equal to that determined by the formula

$$\frac{A}{30} \times B.”;$$

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

“(b) B is the number of days in the period in respect of which the interest is paid or payable, as the case may be.”

(2) This section applies to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987.

**177.** (1) Section 421.6 of the said Act is amended

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

**“421.6** Notwithstanding any other provision of this Part, where in a taxation year all or part of the lease charges in respect of a passenger vehicle are paid or payable, directly or indirectly, by a taxpayer and an amount may be deducted in respect of such charges in computing the taxpayer’s income for the year, for the purposes of determining the amount that may be so deducted, the aggregate of such charges are deemed not to exceed the lesser of the amounts determined by the following formulas:”;

(2) by replacing subparagraphs *b* and *c* of the second paragraph by the following subparagraphs:

“(b) B is the number of days in the period commencing at the beginning of the term of the lease of the vehicle and ending at the earlier of the end of the year and the end of the lease;

“(c) C is the aggregate of all amounts deducted in computing the taxpayer’s income for the preceding taxation years in respect of the lease charges in respect of the vehicle;”;

(3) by replacing that part of subparagraph *d* of the second paragraph preceding subparagraph *i* by the following:

“(d) D is the amount of interest that would be earned on that part of the total of all refundable amounts in respect of the lease that exceeds \$1 000 if interest were”;

(4) by replacing subparagraphs *e* and *f* of the second paragraph by the following subparagraphs:

“(e) E is the aggregate of all reimbursements that became receivable before the end of the year by the taxpayer in respect of the lease;

“(f) F is the aggregate of the lease charges in respect of the lease incurred in respect of the year or the aggregate of the lease charges in respect of the lease paid in the year, depending on the method regularly followed by the taxpayer in computing his income;”;

(5) by replacing subparagraph ii of subparagraph *h* of the second paragraph by the following subparagraph:

“ii. the manufacturer’s suggested retail price for the vehicle;”;

(6) by replacing that part of subparagraph *i* of the second paragraph preceding subparagraph i by the following:

“(i) I is the amount of interest that would be earned on that part of the total of all refundable amounts in respect of the lease that exceeds \$1 000 if interest were”;

(7) by replacing subparagraph *j* of the second paragraph by the following subparagraph:

“(j) J is the aggregate of all reimbursements that became receivable during the year by the taxpayer in respect of the lease.”

(2) This section applies to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987. However, in respect of amounts paid or payable as a reimbursement in respect of a lease expense, this section applies to taxation years ending after 13 July 1990.

(3) Notwithstanding subsection 2, subparagraphs *b*, *c* and *e* of the second paragraph of section 421.6 of the Taxation Act, enacted by paragraphs 2 and 4 of subsection 1, shall, in respect of a vehicle leased pursuant to a lease entered into, extended or renewed after 17 June 1987 and in respect of which an amount was deducted under section 64.1, 133.1 or 133.2 of the said Act for a fiscal period or a taxation year ending after 17 June 1987 and before 1 January 1988, read as follows:

“(b) B is the number of days after the end of the last fiscal period or taxation year ending before 1 January 1988, and in the period commencing at the beginning of the term of the lease of the vehicle and ending at the earlier of the end of the year and the end of the term of the lease;

“(c) C is the aggregate of all amounts deducted in computing the taxpayer’s income for preceding taxation years in respect of the lease charges in respect of the vehicle, other than amounts so deducted for fiscal periods or taxation years ending before 1 January 1988;

“(e) E is the aggregate of all reimbursements that became receivable by the taxpayer in respect of the lease before the end of the year and after the end of the last fiscal period or taxation year ending before 1 January 1988;”.



(4) Notwithstanding subsection 2, where subparagraph ii of subparagraph *h* of the second paragraph of section 421.6 of the Taxation Act, enacted by paragraph 5 of subsection 1, applies in respect of leases entered into before 1 January 1991, it shall read as follows:

“ii. the aggregate of the manufacturer’s suggested retail price for the vehicle and the provincial sales tax, if any, that would have been payable by a purchaser of the vehicle if it had been purchased at the manufacturer’s suggested retail price for the vehicle at the time the first lease of the vehicle was entered into and in the province under the laws of which the vehicle was registered for the greatest part of the year;”.

**178.** (1) The said Act is amended by inserting, after section 421.7, the following:

“DIVISION III

“ILLEGAL PAYMENTS

**“421.8** In computing income, no amount may be deducted in respect of an outlay made or expense incurred for the purpose of doing anything that is an offence or an indictable offence under any of sections 119 to 121, 123 to 125, 393 and 426 of the Criminal Code (Statutes of Canada) or an offence or indictable offence under section 465 of that Act as it relates to an offence or indictable offence described in any of those sections.

Notwithstanding section 1010, the Minister may make such assessments, reassessments and additional assessments of tax, interest and penalties and such determinations and redeterminations as are necessary to give effect to the first paragraph for any taxation year.”

(2) This section applies in respect of outlays made or expenses incurred after 13 July 1990.

**179.** (1) Section 423 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Similarly, if he neither receives nor agrees to receive an amount equal to or greater than such reasonable amount therefor from such a person, he shall compute his income under this Part as if he received or agreed to receive the reasonable amount therefor.”

(2) This section applies in respect of transactions or events occurring after 13 July 1990.

**180.** (1) Section 424 of the said Act is amended by adding, after subsection 3, the following subsection:

“(4) Section 239 does not apply in computing the loss of the shareholder referred to in subsection 2 from the disposition of a share of the capital stock of the corporation referred to in the said subsection to the corporation on the winding-up.”

(2) This section applies in respect of dispositions of shares occurring after 31 December 1985.

**181.** Sections 430 and 431 of the said Act are replaced by the following sections:

**“430.** Where, before the time allowed under the second paragraph of section 429 has expired, a right or property referred to in the said section, except any compensation or amount referred to in subparagraph ii, iii or iv of paragraph *f* of section 93, has been transferred or assigned to a person who is a beneficiary of the estate, the said section 429 does not apply in respect of such right or property and the person shall include in computing his income the amount received by him upon the realization or disposition of such right or property for the year in which such amount is received.

**“431.** The cost to a person who is a beneficiary of the estate of a right or property referred to in section 430 is deemed to be such part of the cost thereof to the individual who has died as was not deducted in computing his income for any taxation year, plus the expenditures made or incurred by the person to acquire it, and section 422 does not apply in computing the cost of that property to the person.”

**182.** (1) Section 437 of the said Act is amended

(1) by replacing that part preceding paragraph *b* by the following:

**“437.** Notwithstanding section 188, where at any time an individual has died and any person has, as a consequence of the individual's death, acquired an intangible capital property of the individual in respect of a business carried on by the individual immediately before that time, otherwise than by way of a distribution of property by a trust that has deducted an amount under paragraph *b* of section 130 in respect of the property or in circumstances to which section 189 applies, the following rules apply:

(a) the individual is deemed to have disposed of the capital property immediately before his death for proceeds of disposition

equal to  $\frac{4}{3}$  of that proportion of the eligible intangible capital amount of the individual in respect of the business that the fair market value immediately before that time of the capital property is of the fair market value immediately before that time of all of the intangible capital property of the individual in respect of the business;”;

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

“ii.  $\frac{4}{3}$  of that proportion of the excess determined under subparagraph i of paragraph *b* of section 107 in respect of the business of the individual at that time that the fair market value immediately before that time of the capital property is of the fair market value immediately before that time of all intangible capital property of the individual in respect of the business;”.

(2) This section applies in respect of acquisitions occurring as a consequence of the death of an individual after the commencement of the first fiscal period of the individual’s business commencing after 31 December 1987. However, where that part of section 437 of the Taxation Act that precedes paragraph *a*, enacted by this section, applies in respect of acquisitions occurring before 13 July 1990, it shall read without reference to the words “otherwise than by way of a distribution of property by a trust that has deducted an amount under paragraph *b* of section 130 in respect of the property or in circumstances to which section 189 applies,”.

**183.** (1) Section 440 of the said Act is amended

(1) by replacing that part of paragraph *a* preceding subparagraph i by the following:

“(a) subject to paragraph *a.1*, the individual is deemed to have disposed of such property immediately before his death and the spouse or the trust is deemed to have acquired it for proceeds or at a cost, as the case may be, equal to”;

(2) by striking out the word “and” at the end of paragraph *a*;

(3) by inserting, after paragraph *a*, the following paragraph:

“(a.1) where the property is an interest in a partnership, other than an interest to which section 636 applies,

i. the individual is deemed, except for the purposes of section 632, not to have disposed of the property as a consequence of his death,

ii. the spouse or the trust is deemed to have acquired the property for an amount equal to the cost thereof to the individual, and

iii. each amount added or deducted under section 255 or 257, as the case may be, in computing the adjusted cost base to the individual of the property is deemed to be required by that section 255 or 257 to be added or deducted in computing the adjusted cost base to the spouse or the trust of the property; and”.

(2) This section applies in respect of transfers, distributions or acquisitions occurring after 15 January 1987.

**184.** (1) Section 444 of the said Act is amended

(1) by replacing that part of subparagraph *a* of the first paragraph preceding subparagraph i by the following:

“(a) subject to subparagraph *a.1*, the individual is deemed to have disposed of such property immediately before his death and the child is deemed to have acquired it for proceeds or at a cost, as the case may be, equal to”;

(2) by striking out the word “and” at the end of subparagraph *a* of the first paragraph;

(3) by inserting, after subparagraph *a* of the first paragraph, the following subparagraph:

“(a.1) where the property is an interest in a family farm partnership, other than an interest to which section 636 applies,

i. the individual is deemed, except for the purpose of section 632, not to have disposed of the property as a consequence of his death,

ii. the child is deemed to have acquired the property for an amount equal to the cost thereof to the individual, and

iii. each amount added or deducted under section 255 or 257, as the case may be, in computing the adjusted cost base to the individual of the property is deemed to be required by that section 255 or 257 to be added or deducted in computing the adjusted cost base to the child of the property; and”;

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

“(a) the first paragraph applies as if subparagraphs *a* and *a.1* thereof did not exist and as if the references to the said subparagraph

*a* made in subparagraph *b* of the said paragraph were references to subparagraph *b* of this paragraph; and”.

(2) This section applies in respect of transfers, distributions or acquisitions occurring after 15 January 1987.

**185.** (1) Section 450 of the said Act is amended

(1) by replacing that part of subparagraph *b* of the first paragraph preceding subparagraph *i* by the following:

“(b) subject to subparagraph *b.1*, the trust is deemed to have disposed of the property immediately before the death of such spouse and the child is deemed to have acquired the property for proceeds or at a cost, as the case may be, equal to,”;

(2) by striking out the word “and” at the end of subparagraph *b* of the first paragraph;

(3) by inserting, after subparagraph *b* of the first paragraph, the following subparagraph:

“(b.1) where the property is an interest in a family farm partnership, other than an interest to which section 636 applies,

i. the trust is deemed, except for the purposes of section 632, not to have disposed of the property as a consequence of the death of the spouse,

ii. the child is deemed to have acquired the property for an amount equal to the cost thereof to the trust, and

iii. each amount added or deducted under section 255 or 257, as the case may be, in computing the adjusted cost base to the trust of the property is deemed to be required by that section 255 or 257 to be added or deducted in computing the adjusted cost base to the child of the property; and”;

(4) by replacing the second paragraph by the following paragraph:

“Notwithstanding the foregoing, if the trust contemplated in the first paragraph has so elected in its fiscal return under this Part for its taxation year in which the spouse died, the first paragraph applies as if subparagraphs *b* and *b.1* thereof did not exist and as if the references to the said subparagraph *b* made in subparagraph *c* of the said paragraph were references to this paragraph and, in that case,

the trust is deemed to have disposed, immediately before the death of the spouse, of the property contemplated in the first paragraph and the child is deemed to have acquired it for proceeds or at a cost, as the case may be, equal to the amount the trust has elected in respect of the property in accordance with section 450.5.”

(2) This section applies in respect of transfers, distributions or acquisitions occurring after 15 January 1987.

**186.** (1) Section 450.9 of the said Act is replaced by the following section:

“**450.9** For the purposes of section 105, paragraph *b* of section 130, sections 444 and 459, subparagraph iv of subparagraph *a* of the first paragraph of section 726.6 and the third paragraph of section 726.6, where at any time any property of an individual that is land, depreciable property of a prescribed class or intangible capital property, was used by a corporation a share of the capital stock of which is a share of the capital stock of a family farm corporation of the individual, his spouse or any of his children, or by a partnership an interest in which is an interest in a family farm partnership of the individual, his spouse or any of his children in the course of carrying on the business of farming in Canada, the property is deemed to have been used at that time by the individual in the business of farming.”

(2) This section applies from the taxation year 1986.

**187.** (1) Section 452 of the said Act is replaced by the following section:

“**452.** Subject to section 453, in computing the income of a taxpayer for the taxation year in which he died, sections 153, 208, 357 and 358 and subparagraph *b* of the first paragraph of section 234 do not apply and that part of paragraph *a* of section 279 preceding subparagraph i shall read as follows:

“(a) the gain for a particular taxation year from the disposition of his former property is deemed to be equal to either of the following amounts, as the case may be:”.

(2) This section applies from the taxation year 1990.

**188.** (1) Section 453 of the said Act is amended

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

“(a) sections 153, 208, 357 and 358 apply in computing the taxpayer’s income for the taxation year of his death, subparagraph

*b* of the first paragraph of section 234 applies in computing his gain for that year and section 452 does not apply for the purpose of computing his gain referred to in paragraph *a* of section 279 for that year, and the beneficiary must include in computing his income or gain, as the case may be, for his first taxation year ending after the death the amounts deducted in respect of the taxpayer under sections 153 and 208, subparagraph *b* of the first paragraph of section 234, paragraph *a* of section 279 or sections 357 and 358;”;

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

“(c) notwithstanding paragraphs *a* and *b*, where the taxpayer had disposed of property, the beneficiary is deemed, for the purposes of computing any amount he may claim as an allowance or reserve under section 153, subparagraph *b* of the first paragraph of section 234, paragraph *a* of section 279 or sections 357 and 358, in respect of the disposition of the property, in computing his income for a taxation year ending after the death of the taxpayer, to be the taxpayer who had disposed of the property and to have disposed of it at the time it was disposed of by the taxpayer.”

(2) This section applies from the taxation year 1990.

**189.** (1) Section 454 of the said Act is amended by replacing subparagraph *d* of the second paragraph by the following subparagraph:

“(d) an individual of the opposite sex to that of the taxpayer, if that transfer is pursuant to an order for the support or maintenance of the individual, made by a competent tribunal in accordance with the laws of a province, where the individual and the taxpayer cohabited in a conjugal relationship before the date of the order.”

(2) This section applies in respect of transfers occurring after 13 July 1990.

**190.** (1) Section 462.6 of the said Act is replaced by the following section:

“**462.6** Where an individual is deemed under section 457, 458, 462.5, 463 or 467 to have a taxable capital gain or allowable capital loss for a taxation year, such portion of the gain or loss as may reasonably be considered to relate to the disposition of a property by another person in the year is deemed, for the purposes of section 28 and 727 to 737 as they apply for the purposes of Title VI.5 of Book

IV, to arise from the disposition of that property by the individual in the year, and that property is deemed, for the purposes of this title, to have been disposed of by the individual in the year.”

(2) This section applies from the taxation year 1987.

**191.** (1) Section 462.12 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(c) the person is a designated person in respect of the individual and would have been a specified shareholder of the corporation, within the meaning of section 21.17 if the reference therein to “any other corporation that is related to the corporation” were read as a reference to “any other corporation, other than a small business corporation, that is related to the corporation” and if section 21.18 were read without reference to paragraphs *a* and *d* thereof.”

(2) This section applies from the taxation year 1987 in respect of transfers or loans made after 27 October 1986.

**192.** (1) Section 462.16 of the said Act is replaced by the following section:

**“462.16** Section 462.1 does not apply with respect to any income or loss from property that relates to the period throughout which the persons referred to therein are living separate and apart from each other by reason of a breakdown of their marriage, and sections 462.5 and 462.6 do not apply with respect to a disposition of property occurring at any time while the persons referred to therein are living separate and apart from each other by reason of a breakdown of their marriage if the individual files with his fiscal return under section 1000 for the taxation year that includes that time or for any preceding taxation year an election to that effect completed jointly with his spouse.”

(2) This section applies in respect of transfers of property made after 22 May 1985 and loans outstanding after 21 May 1985.

**193.** (1) Section 463 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

**“463.** Where section 459 applies in respect of the transfer of property by a taxpayer to one of his children for an amount less than the fair market value of the property immediately before the transfer and where, in a taxation year during which he has not reached 18 years



of age, the transferee disposes of the property, the following rules apply during the lifetime of the transferor while he is resident in Canada.”.

(2) This section applies in respect of property transferred after 31 December 1989.

**194.** (1) Section 482 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**482.** Where an amount in respect of a taxpayer’s expense that is a pension benefit, a retiring allowance, salary, wages or other remuneration in respect of an office or employment is unpaid on the day that is 180 days after the end of the taxation year in which the expense was incurred, for the purposes of this Part other than this section, the amount is deemed not to have been incurred as an expense in the year and is deemed to be incurred as an expense in the taxation year in which the amount is paid.”

(2) This section applies in respect of expenses incurred after 31 July 1990.

**195.** (1) Section 484 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(c) in computing the income of the creditor for the year, the amount which he claimed as a reserve under subparagraph *b* of the first paragraph of section 234 or paragraph *a* of section 279 and the amount deducted under section 153 in respect of such property for the preceding taxation year are deemed to be nil;”.

(2) This section applies in respect of property acquired or reacquired after 12 July 1990. It also applies to property in respect of which a creditor has claimed an amount as a reserve under paragraph *a* of section 279 of the Taxation Act and that was reacquired by the creditor after 31 December 1985 and before 13 July 1990, where the creditor notifies the Minister of Revenue in writing, with supporting evidence, that the creditor has made a valid election with the Minister of National Revenue under subsection 2 of section 57 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 (S.C., 1991, chapter 49), concerning the application of subparagraph *i* of paragraph *e* of section 79 of the Income Tax Act

(Statutes of Canada) in respect of the property, 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 such modifications as the circumstances require.

**196.** (1) Section 485.3 of the said Act is replaced by the following section:

**“485.3** For the purposes of sections 485 and 485.2, an amount of interest in respect of an obligation of a taxpayer shall be deemed to be an obligation that was issued by the taxpayer for an amount, and has a principal amount, equal to the portion of the amount of such interest that was deductible, or would, but for sections 135.4, 164 and 180 to 182, have been deductible, in computing the taxpayer’s income for a taxation year under this Part.”

(2) This section applies in respect of interest in respect of obligations settled or extinguished after 9 May 1985. However, where section 485.3 of the Taxation Act, enacted by this section, applies in respect of interest accruing before 14 July 1990, the reference therein to “the portion of the amount of such interest that was deductible” shall read as a reference to “the portion of the amount of such interest that was deducted”.

**197.** (1) Sections 487.0.3 and 487.0.4 of the said Act are replaced by the following sections:

**“487.0.3** The amount deducted under section 487.0.2 in computing the income of a taxpayer for a particular taxation year from a farming business carried on in a drought region, within the meaning of the regulations made under this section, may, to the extent that the taxpayer so elects, be included in computing the taxpayer’s income from the business for a taxation year ending after the particular taxation year, and is deemed, except to the extent that the amount has been included under this section in computing the taxpayer’s income from the business for a preceding taxation year after the particular year, to be income of the taxpayer from the business for the taxation year that is the earliest of

(a) the taxpayer’s first taxation year commencing after the end of the period or series of continuous periods, as the case may be, for which the region was a drought region,

(b) the taxpayer’s first taxation year, following the particular taxation year, at the end of which the taxpayer was not resident in

Canada and not carrying on business through a fixed place of business in Canada, and

(c) the taxpayer's taxation year in which the taxpayer died.

**"487.0.4** Section 487.0.2 and the first paragraph of section 487 do not apply to a taxpayer, in respect of a farming business, for a taxation year in which the taxpayer died or where at the end of the year the taxpayer is not resident in Canada and not carrying on business through a fixed place of business in Canada."

(2) This section applies to taxation years or fiscal periods ending after 31 December 1987.

**198.** (1) Section 487.5.3 of the said Act is replaced by the following section:

**"487.5.3** For the purposes of sections 487.1 to 487.6, the expression "home purchase loan" means that portion of any debt contracted by an individual in the circumstances described in sections 487.1 and 487.2 that is used to acquire, or to repay a debt that had been contracted to acquire, a dwelling or a share of the capital stock of a cooperative housing corporation acquired for the sole purpose of acquiring the right to inhabit a dwelling owned by the corporation, where the dwelling is for the habitation of any of the persons contemplated in section 487.5.4, or that is used to repay a home purchase loan."

(2) This section has effect from 1 May 1987.

**199.** (1) Section 489 of the said Act is amended

(1) by inserting, before paragraph *d*, the following paragraph:

"(c.1) an amount, other than a prescribed amount, ordinarily paid to an individual, other than a trust, as a social assistance payment based on a means, needs or income test under a program provided for by a law of Canada or of a province, to the extent that it is received directly or indirectly by the individual for the benefit of another individual other than a person who is cohabiting in a conjugal relationship with the individual or who is related to the individual or to such a person, if

i. no family allowance under the Family Allowance Act (Statutes of Canada) or any similar allowance under a law of a province is payable in respect of the other individual for the period in respect of which the social assistance payment is made, and

ii. throughout the period referred to in subparagraph i, the other individual resides in the individual's principal place of residence or the individual's principal place of residence is maintained for use as the residence of that other individual;";

(2) by inserting, after paragraph *f*, the following paragraph:

"(f.1) an amount that is credited or added to a deposit or account governed by a foreign retirement arrangement as interest or other income in respect of the deposit or account, where the amount would, but for this paragraph, be included in computing the taxpayer's income by reason only of such crediting or adding;"

(2) Paragraph 1 of subsection 1 applies from the taxation year 1982. Furthermore, notwithstanding section 1010 of the Taxation Act and for the sole purpose of giving effect to paragraph 1 of subsection 1, if within a reasonable time the taxpayer files a written request to do so with the Minister of Revenue, such assessments of tax, amounts deemed to be paid on account of tax and interest and penalties to be paid by the individual for any taxation year subsequent to the taxation year 1981 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 such modifications as the circumstances require.

(3) Paragraph 2 of subsection 1 applies from the taxation year 1990.

**200.** (1) Section 491 of the said Act is amended

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

"(a) a pension payment in the case of disability or death arising out of a war from a country that was an ally of Canada at that time, if that country grants the same exemption for the year to persons receiving a pension contemplated in paragraph *e*;"

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

"(e) compensation received under the regulations made under section 9 of the Aeronautics Act (Statutes of Canada), 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 following laws of Canada: the Pension Act, the Civilian War Pensions and Allowances Act or the War Veterans Allowance Act; or".

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

(3) Paragraph 2 of subsection 1 applies from the taxation year 1986.

**201.** (1) Section 504 of the said Act is amended

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

**“504.** (1) A corporation resident in Canada which, at a particular time after 31 December 1971, increases its paid-up capital in respect of the shares of a given class of its capital stock, is deemed to have then paid, on the issued shares of such class, a dividend equal to the excess of the increase in the paid-up capital over the aggregate of the amount of the increase in the value of the assets or the decrease in the liabilities, as the case may be, contemplated in paragraph *b* of subsection 2, of the amount of the reduction contemplated in paragraph *c* of subsection 2 and of the amount of the increase in the paid-up capital that resulted from a conversion referred to in any of paragraphs *d* to *f* of subsection 2.”;

(2) by replacing paragraphs *e* and *f* of subsection 2 by the following paragraphs:

“(e) a transaction by which a bank converts contributed surplus resulting from the issuance of shares of its capital stock into paid-up capital in respect of shares of its capital stock; or

“(f) a transaction by which a corporation, other than an insurance corporation or a bank, converts into paid-up capital in respect of a class of shares of its capital stock any of its contributed surplus resulting, after 31 March 1977,

i. from the issuance of shares of that class or shares of another class for which shares of that class were substituted, other than an issuance to which any of sections 236.3, 301, 301.1, 419 and 419.0.1 or Chapters III.1 to VI of Title IX of Book III apply,

ii. from the acquisition of property by the corporation from a person who, at the time of the acquisition, held any of the issued shares of that class or shares of another class for which shares of that class were substituted, where the property is acquired for no consideration or for consideration that does not include shares of the capital stock of the corporation, or

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.”

(2) Paragraph 1 of subsection 1 has effect from 1 January 1986.

(3) Paragraph 2 of subsection 1, where it replaces paragraph *e* of subsection 2 of section 504 of the Taxation Act, has effect from 28 February 1992.

(4) Paragraph 2 of subsection 1, where it replaces paragraph *f* of subsection 2 of section 504 of the Taxation Act, applies in respect of transactions occurring after 13 July 1990. However,

(a) where paragraph 2 of subsection 1 strikes out the reference, in paragraph *f* of subsection 2 of section 504 of the said Act, to section 191 of the said Act, it has effect from 28 February 1992;

(b) where paragraph *f* of subsection 2 of section 504 of the said Act, enacted by paragraph 2 of subsection 1, applies before 28 February 1992, subparagraph iii of the English text of the said paragraph *f* shall 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 the shares of that class were substituted.”

**202.** (1) The said Act is amended by inserting, after section 504, the following section:

**“504.1** For the purposes of paragraph *f* of subsection 2 of section 504, there shall be deducted in determining at any time the contributed surplus of a corporation that results, after 31 March 1977, from any event described in that paragraph the lesser of

(a) the amount by which the amount of a dividend paid by the corporation at or before that time and after 31 March 1977 while being a public corporation, exceeds its retained earnings immediately before the payment of the dividend, and

(b) the amount of the contributed surplus of the corporation immediately before the payment of the dividend referred to in paragraph *a*, that results, after 31 March 1977, from any event described in paragraph *f* of subsection 2 of section 504.”

(2) This section applies in respect of the determination, after 13 July 1990, of the contributed surplus of a corporation.

**203.** (1) Section 517 of the said Act is replaced by the following section:

**“517.** A dividend that is deemed by this chapter or Chapter III.1 to have been paid at a particular time is deemed, for the purposes of this Title, to have become payable at that time.”

(2) This section applies in respect of dividends paid after 31 December 1988.

**204.** (1) Section 517.2 of the said Act is replaced by the following section:

**“517.2** For the purposes of this Part, a dividend equal to the amount by which the aggregate determined under section 517.3 exceeds the aggregate determined under section 517.3.1 is deemed to have been paid to the taxpayer by the purchaser corporation, and received by the taxpayer from the purchaser corporation, at the time of the disposition.”

(2) This section applies in respect of dispositions occurring after 22 May 1985.

**205.** (1) The said Act is amended by inserting, after section 517.4.3, the following sections:

**“517.4.4** For the purposes of paragraph *b* of section 517.4.2, where a taxpayer or an individual with whom the taxpayer does not deal at arm's length, in this section referred to as the “transferor”, disposes of a share in a taxation year and deducts an amount under subparagraph *b* of the first paragraph of section 234 in computing the gain for the year from the disposition, in this section referred to as the “particular disposition”, the amount in respect of which an amount was deducted under Title VI.5 of Book IV in respect of the transferor's gain from the particular disposition is deemed to be equal to the lesser of

(a) the aggregate of

i. the amount deducted by the transferor for the year under subparagraph *b* of the first paragraph of section 234 in respect of the particular disposition, and

ii.  $\frac{4}{3}$  of the amount deducted under Title VI.5 of Book IV in computing the taxable income of the transferor for the year in respect of the taxable capital gain from the particular disposition, and

(b) 4/3 of the maximum amount that could have been deducted under Title VI.5 of Book IV in computing the taxable income of the transferor for the year in respect of the taxable capital gain from the particular disposition, if

i. no amount had been deducted by the transferor under subparagraph *b* of the first paragraph of section 234 in computing the gain for the year from the particular disposition, and

ii. all amounts deducted under Title VI.5 of Book IV in computing the taxable income of the transferor for the year in respect of the taxable capital gain from the disposition of property to which this section does not apply, were deducted before determining the maximum amount that could have been deducted under the said title in respect of the taxable capital gain from the particular disposition.

For the purposes of subparagraph ii of subparagraph *b* of the first paragraph, 3/4 of the aggregate of all amounts determined under this section for the year in respect of other property disposed of before the particular disposition are deemed to have been deducted under Title VI.5 of Book IV in computing the taxable income of the transferor for the year in respect of taxable capital gains from the disposition of property to which this section does not apply.

**“517.4.5** For the purposes of section 517.4.4, where more than one share to which this section applies is disposed of in a taxation year, each such share is deemed to have been separately disposed of in the order designated by the taxpayer in his fiscal return for the year under this Part.”

(2) This section applies in respect of dispositions occurring after 13 July 1990.

**206.** (1) Section 517.5.1 of the said Act is amended by replacing the first paragraph by the following paragraph:

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

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

(b) a trust of which the taxpayer, a person described in paragraph *a* or a corporation described in paragraph *c* is a beneficiary;



(c) a corporation controlled by the taxpayer, by a person described in paragraph *a*, by a trust described in paragraph *b* or by any combination thereof.”

(2) This section applies in respect of dispositions occurring after 13 July 1990.

**207.** (1) The said Act is amended by inserting, after section 517.5.1, the following section:

**“517.5.2** For the purposes of this chapter, a trust and a beneficiary of the trust or a person related to a beneficiary of the trust are deemed not to deal with each other at arm’s length.”

(2) This section applies in respect of dispositions occurring after 13 July 1990.

**208.** (1) Section 518.1 of the said Act is amended

(1) by replacing the period at the end of paragraph *g* by a semicolon;

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

“(h) a capital property that is immovable property, an interest therein or an option in respect thereof, owned by a person not resident in Canada, other than an insurer not resident in Canada, and used in the year in a business carried on by that person in Canada.”

(2) This section applies in respect of dispositions occurring after 31 December 1989 or after 31 December 1984 where, in the latter case, the taxpayer referred to in section 518 of the Taxation Act is resident in a country with which Canada has entered into a tax treaty and a provision of that treaty prescribed for the purposes of section 115.1 of the Income Tax Act (Statutes of Canada) was in effect at the time the disposition occurred.

**209.** (1) The said Act is amended by inserting, after section 518.1, the following section:

**“518.2** Section 518 does not apply to the disposition by a taxpayer to a corporation of a property referred to in paragraph *h* of section 518.1, unless

(a) immediately after the disposition, the corporation is controlled by the taxpayer, by a person or persons related to him, otherwise than by reason of a right referred to in paragraph *b* of section 20, or by the taxpayer and a person or persons related to him;

(b) the disposition is part of a transaction or series of transactions in which all or substantially all of the property used in the business referred to in paragraph *h* of section 518.1 is disposed of by the taxpayer to the corporation; and

(c) the disposition is not part of a series of transactions that resulted in control of the corporation being acquired by a person or group of persons after the time that is immediately after the disposition.”

(2) This section applies in respect of dispositions occurring after 31 December 1989 or after 31 December 1984 where, in the latter case, the taxpayer referred to in section 518 of the Taxation Act is resident in a country with which Canada has entered into a tax treaty and a provision of that treaty prescribed for the purposes of section 115.1 of the Income Tax Act (Statutes of Canada) was in effect at the time the disposition occurred.

**210.** (1) Section 521.1 of the said Act is repealed.

(2) This section applies from the taxation year 1988.

**211.** (1) The said Act is amended by inserting, after section 524, the following section:

“**524.1** Subject to paragraphs *b* and *c* of section 522 and notwithstanding paragraph *c* of section 524, where the taxpayer referred to in section 518 carries on a farming business the income of which is computed in accordance with the cash method and the property disposed of as referred to in the said section 518 was inventory owned by the taxpayer in connection with that business immediately before the particular time when the property was disposed of to the corporation referred to in the said section 518,

(a) the amount agreed on in the election under section 518 in respect of inventory purchased by the taxpayer is deemed to be equal to the amount determined by the formula

$$\frac{(A \times B)}{C} + D;$$

(b) for the purposes of subparagraph *a* of the second paragraph of section 194, the disposition of the property and the receipt of proceeds of disposition therefor are deemed to have occurred at the particular time and in the course of carrying on the business; and

(c) for the purposes of section 194, where the property of which the corporation has become the owner is in connection with a farming business and the income from that business is computed in accordance with the cash method,

i. the corporation is deemed to have paid, at the particular time and in the course of carrying on that business, an amount equal to the cost to the corporation of the property, and

ii. the corporation is deemed to have purchased the property at the particular time and in the course of carrying on that business, for an amount equal to that cost.

For the purposes of the formula set forth in subparagraph *a* of the first paragraph,

(a) A is the amount that would be included, by reason of subparagraph *c* of the second paragraph of section 194, in computing the taxpayer's income for his last taxation year commencing before the particular time referred to in the first paragraph if that taxation year had ended immediately before the particular time;

(b) B is the value, determined in accordance with section 194.2, to the taxpayer immediately before the particular time, of the inventory purchased by him and in respect of which the election under section 518 is made;

(c) C is the value, determined in accordance with section 194.2, of all of the inventory purchased by the taxpayer that was owned by him in connection with that business immediately before the particular time;

(d) D is such additional amount as the taxpayer and the corporation designate in respect of the property."

(2) This section applies in respect of dispositions occurring after 13 July 1990.

**212.** (1) Section 526 of the said Act is replaced by the following section:

**"526.** Where the fair market value of a property of a taxpayer, immediately before the time of the disposition thereof to which section 518 applies, exceeds the greater of the fair market value, immediately after that time, of the consideration received by the taxpayer and the amount otherwise agreed upon in the election made under the terms of the said section in respect of the property, and it is reasonable to

regard any part of such excess as a benefit that the taxpayer desired to have conferred on a person related to him, other than a corporation that is a wholly-owned corporation of the taxpayer immediately after the disposition, the amount agreed upon is deemed, except for the purposes of paragraphs *b* and *c* of section 528, to be the amount otherwise agreed upon plus that part of such excess.”

(2) This section applies in respect of dispositions occurring after 30 June 1988.

**213.** (1) The said Act is amended by inserting, after section 526, the following section:

**“526.1** For the purposes of section 526 and this section, “wholly-owned corporation” of a taxpayer means a corporation all the issued and outstanding shares of the capital stock of which, except directors’ qualifying shares, belong to

(*a*) the taxpayer,

(*b*) a corporation that is a wholly-owned corporation of the taxpayer, or

(*c*) any combination of persons described in paragraph *a* or *b*.”

(2) This section applies in respect of dispositions occurring after 30 June 1988.

**214.** (1) Section 534 of the said Act is replaced by the following section:

**“534.** This division applies where a taxpayer or a partnership, included in the term “taxpayer” for the purposes of this section and section 535, disposes of capital property owned by the taxpayer, other than depreciable property of a prescribed class, or of intangible capital property in respect of a business of the taxpayer in respect of which the taxpayer would, but for this division, have been entitled to a deduction under paragraph *a* of section 188 in computing his income, to a corporation that, immediately after the disposition, is controlled, directly or indirectly in any manner whatever, by the taxpayer, by his spouse or by a person or group of persons by whom the taxpayer is so controlled.”

(2) This section applies in respect of dispositions occurring after 13 July 1990.

**215.** (1) Section 535 of the said Act is amended

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

“(a) the following amounts are deemed to be nil, notwithstanding any other provision of this Part:

i. the capital loss from the disposition described in section 534, and

ii. any amount deducted under paragraph *a* of section 188, in respect of the business referred to in section 534, in computing the taxpayer’s income for the taxation year in which the taxpayer ceased to carry on the business;”;

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

“i. in the case of capital property, the cost amount to the taxpayer immediately before the disposition of the property disposed of, exceeds the aggregate of the proceeds of such disposition 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

(1) under section 591 or 742 or under the first paragraph of section 741 in computing a loss of the taxpayer from the disposition, or

(2) under the second paragraph of section 741, where the taxpayer is a partnership, by a corporation that is a member of the partnership in computing its share of the loss of the partnership from the disposition; and”.

(2) This section applies in respect of dispositions occurring after 13 July 1990.

**216.** (1) The said Act is amended by inserting, after section 546, the following section:

**“546.1** For the purposes of section 194, where the income of the predecessor corporation at the end of its taxation year ending immediately before the amalgamation, in this section referred to as its “last taxation year”, from a farming business and the income of the new corporation from a farming business are computed in accordance with the cash method, the new corporation is deemed to have purchased, in its first taxation year and in the course of carrying on that farming business, the property described in its inventory in connection with that business at the commencement of its first taxation year that was property described in the inventory in

connection with the farming business of the predecessor corporation at the end of its last taxation year, for an amount equal to the aggregate of all amounts each of which is an amount included, by reason of subparagraph *b* or *c* of the second paragraph of section 194, in computing the income from a farming business of the predecessor corporation for its last taxation year.”

(2) This section applies in respect of amalgamations occurring after 31 December 1988.

**217.** (1) The said Act is amended by inserting, after section 550.6, the following section:

**“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 purposes of renouncing an amount under section 359.2, 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:

(a) the person is deemed to have given the consideration under the agreement to the new corporation for the issue of the particular share described in the second paragraph,

(b) the agreement is deemed to have been entered into between the person and the new corporation at the particular time,

(c) the particular share described in the second paragraph is deemed to be a flow-through share of the new corporation, and

(d) the new corporation is deemed to be the same corporation as the predecessor corporation.

The particular share referred to in the first paragraph is a share of any class of the capital stock of the new corporation

(a) that the new corporation issued on the amalgamation to the person referred to in the first paragraph in consideration for the disposition of the flow-through share of the predecessor corporation and the attributes of which are similar to the attributes of the flow-through share, or

(b) that the new corporation was obliged after the amalgamation to issue to the person referred to in the first paragraph pursuant to the obligation of the predecessor corporation to issue a flow-through share to that person and that would not, if issued, be a prescribed share for the purposes of section 359.1.

For the purposes of this section, "flow-through share" has the meaning assigned by the first paragraph of section 359.1."

(2) This section applies in respect of amalgamations occurring after 28 February 1986.

**218.** (1) The said Act is amended by inserting, after section 555.2, the following sections:

**"555.2.1** For the purposes of sections 550.3 and 550.5, a share of the particular corporation issued to a shareholder in consideration for the disposition of a share of any class of the capital stock of a predecessor corporation is deemed to be a share of any class of the capital stock of the new corporation that was issued in consideration for the disposition of a share of any class of the capital stock of a predecessor corporation by that shareholder.

**"555.2.2** For the purposes of section 550.6, a right listed on a prescribed stock exchange referred to therein to acquire a share of any class of the capital stock of the particular corporation is deemed to be a right listed on such a stock exchange to acquire a share of any class of the capital stock of the new corporation."

(2) This section applies in respect of amalgamations or mergers occurring after 18 June 1987.

**219.** (1) Section 557 of the said Act is amended

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

**"557.** Any property, other than an interest in a partnership, that was distributed to the parent by a subsidiary on the winding-up is deemed to have been disposed of by the subsidiary for proceeds equal to the cost amount to the subsidiary of the property immediately before the winding-up or to 4/3 of that cost amount, to it, at that time, in the case of intangible capital property.";

(2) by replacing the third paragraph by the following paragraph:

"Each interest of the subsidiary in a partnership that was distributed to the parent on the winding-up is deemed, except for the

purposes of section 632, not to have been disposed of by the subsidiary.”

(2) Paragraph 1 of subsection 1 applies in respect of distributions of property on the winding-up of a subsidiary in a taxation year thereof commencing after 30 June 1988.

(3) Paragraph 2 of subsection 1 applies in respect of windings-up commencing after 15 January 1987.

**220.** (1) Section 558 of the said Act is amended by replacing subparagraph ii of paragraph *a* by the following subparagraph:

“ii. the amount by which the aggregate of all amounts each of which is in respect of any property owned by the subsidiary immediately before the winding-up and equal to the cost amount to it of the property at that time, plus its cash then on hand, exceeds the aggregate of all the debts of the subsidiary immediately before the winding-up and of the amount of each allowance or reserve deducted by the subsidiary in computing its income for the taxation year during which its property was distributed to the parent on the winding-up, other than an allowance or reserve contemplated in sections 153, 234, 279, 357 and 358; or”.

(2) This section applies in respect of windings-up commencing after 31 December 1989.

**221.** (1) Section 559 of the said Act is amended

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

**“559.** Notwithstanding the reference to section 546 in section 564, the cost to the parent of each property of the subsidiary distributed to the parent on the winding-up is deemed to be equal, in the case of a property that is an interest in a partnership, to the amount that but for this section would be the cost to the parent of the property and, in any other case, to the amount by which the amount deemed by section 557 to be the proceeds of disposition of the property exceeds the amount by which the cost amount to the subsidiary of the property has been reduced by reason of subsection 2 of section 485 on the winding-up, plus, where the property is a capital property, other than depreciable property, owned by the subsidiary at the time the parent last acquired control of the subsidiary and thereafter without interruption until such time as it was distributed to the parent on the winding-up, the amount determined under the second paragraph.”;



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

“The amount referred to in the first paragraph in respect of each property that is a capital property, other than property described in the third paragraph, owned by the subsidiary at the time the parent last acquired control of the subsidiary and thereafter without interruption until such time as it was distributed to the parent on the winding-up, is equal to the part, determined in accordance with section 560 in respect of the capital property, of the amount by which the aggregate determined under paragraph *b* of section 558 exceeds the aggregate”;

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

“(b) of the aggregate of all amounts each of which is in respect of any share of the capital stock of the subsidiary disposed of by the parent on the winding-up or in contemplation of the winding-up and equal to the aggregate of all amounts each of which is received by the parent or by a corporation with which the parent was not dealing at arm's length, otherwise than by reason of a right referred to in paragraph *b* of section 20 in respect of the subsidiary, in respect of that share or any share, in this subparagraph referred to as a “replaced share”, that replaced that share or a replaced share or that was exchanged for that share or a replaced share, as a taxable dividend to the extent that the amount was deductible under sections 738 to 745 or section 845 in computing the taxable income of the recipient corporation for a taxation year and was not an amount on which it was required to pay prescribed tax, or as a capital dividend or life insurance capital dividend.”;

(4) by adding, after the second paragraph, the following paragraph:

“The property referred to in the second paragraph is

(a) depreciable property,

(b) property transferred in the course of a reorganization described in section 308.3 in which a dividend, to which sections 308.1 and 308.2 would, but for section 308.3, apply, was received by a corporation where the winding-up of the subsidiary was part of a transfer, directly or indirectly, of property of a particular corporation to a beneficiary corporation referred to in section 308.3, or

(c) property transferred to the subsidiary by the parent or by any person or partnership that was not, otherwise than by reason of a right

referred to in paragraph *b* of section 20, dealing at arm's length with the parent."

(2) Paragraph 1 of subsection 1 applies in respect of windings-up commencing after 13 July 1990. However, where the first paragraph of section 559 of the Taxation Act, enacted by paragraph 1 of subsection 1, applies in respect of windings-up commencing after 13 July 1990 and before (*insert here the date of assent to this Act*), it shall read as follows:

**"559.** Notwithstanding the reference to section 546 in section 564, the cost to the parent of each property of the subsidiary distributed to the parent on the winding-up is deemed to be equal, in the case of a property that is an interest in a partnership, to the amount that but for this section would be the cost to the parent of the property and, in any other case, to the amount by which the amount deemed by section 557 to be the proceeds of disposition of the property exceeds the amount by which the cost amount to the subsidiary of the property has been reduced by reason of subsection 2 of section 485 on the winding-up, plus, where the property is a capital property, other than depreciable property, owned by the subsidiary at the time the parent last acquired, otherwise than by an amalgamation, control of the subsidiary and thereafter without interruption until such time as it was distributed to the parent on the winding-up, the amount determined under the second paragraph."

(3) Paragraphs 2 and 4 of subsection 1 apply in respect of windings-up commencing after 30 September 1988. However,

(*a*) where that part of the second paragraph of section 559 of the Taxation Act preceding subparagraph *a*, enacted by paragraph 2 of subsection 1, applies in respect of windings-up commencing after 30 September 1988 and before (*insert here the date of assent to this Act*), it shall read as follows:

"The amount referred to in the first paragraph in respect of each property that is a capital property, other than property described in the third paragraph, owned by the subsidiary at the time the parent last acquired, otherwise than by an amalgamation, control of the subsidiary and thereafter without interruption until such time as it was distributed to the parent on the winding-up, is equal to the part, determined in accordance with section 560 in respect of the capital property, of the amount by which the aggregate determined under paragraph *b* of section 558 exceeds the aggregate";

(*b*) where the third paragraph of section 559 of the Taxation Act, enacted by paragraph 4 of subsection 1, applies in respect of

windings-up commencing after 30 September 1988 and before 14 July 1990, it shall read without reference to subparagraph *c* thereof.

(4) Paragraph 3 of subsection 1 applies in respect of windings-up commencing after 31 December 1986. However, where subparagraph *b* of the second paragraph of section 559 of the Taxation Act, enacted by paragraph 3 of subsection 1, applies in respect of windings-up commencing after 31 December 1986 and before 1 July 1988, it shall read without reference to “or in contemplation of the winding-up” therein.

**222.** (1) Section 560 of the said Act is amended by replacing the second paragraph by the following paragraph:

“However, the part of that excess that is added must not exceed, in respect of a capital property contemplated in the second paragraph of section 559, that part of the fair market value of the capital property at the time the parent last acquired control of the subsidiary that exceeds the cost amount of the capital property to the subsidiary immediately before the winding-up.”

(2) This section applies in respect of windings-up commencing after *(insert here the date of the day immediately preceding the date of assent to this Act)*.

**223.** (1) Section 560.2 of the said Act is amended by replacing the second paragraph by the following paragraph:

“For the purposes of the first paragraph and sections 559 to 560.1, the following rules apply:

(a) subject to subparagraph *c*, control of any corporation is deemed not to have been acquired by reason of an amalgamation;

(b) any corporation formed as a result of an amalgamation is deemed to be the same corporation as, and a continuation of, each predecessor corporation; and

(c) in the case of a merger contemplated in section 555.1, where the parent did not have control of a predecessor corporation prior to the merger, the parent is deemed to have acquired control immediately before the merger.”

(2) This section applies in respect of windings-up commencing after 16 November 1978. However, where the second paragraph of section 560.2 of the Taxation Act, enacted by this section, applies in respect of windings-up commencing after 16 November 1978 and

before (*insert the date of assent to this Act*), it shall read without reference to subparagraph *a* thereof.

**224.** (1) Sections 564.2 to 564.4 of the said Act are replaced by the following sections:

**“564.2** For the purposes of computing the taxable income of the parent for any taxation year commencing after the commencement of a winding-up described in section 556 or that would be if the expression “taxable Canadian corporation” were replaced by the expression “Canadian corporation”, such portion of any non-capital loss, restricted farm loss, farm loss or limited partnership loss of the subsidiary for a particular taxation year as may reasonably be regarded as its loss from carrying on a particular business, any other portion of any non-capital loss or limited partnership loss of the subsidiary for any such year as may reasonably be regarded as being derived from any other source or any other portion of any non-capital loss of the subsidiary for any such year as may reasonably be regarded as being due to an amount added to its taxable income under section 726.5 or the net capital loss sustained by the subsidiary for any such year is deemed, for the purposes of this section, sections 564.3 to 564.4.4, 727, 728.2, 729, 731, 733.0.0.1, 734 and 735, to be a non-capital loss, restricted farm loss, farm loss or limited partnership loss of the parent from carrying on a particular business of the subsidiary, a non-capital loss or limited partnership loss of the parent from the source from which the subsidiary sustained such portion of a non-capital loss or limited partnership loss, a non-capital loss of the parent due to an amount added to its taxable income under section 726.5 or a net capital loss, respectively, sustained by the parent for its taxation year during which the particular taxation year of the subsidiary ended.

**“564.3** Section 564.2 applies only to the extent that the loss referred to therein was not deducted in computing the taxable income of the subsidiary for any taxation year and would have been deductible in such computation for any taxation year commencing after the commencement of the winding-up if the subsidiary had such a taxation year as well as sufficient income and taxable capital gains for that year.

**“564.4** Where section 564.2 applies and where, at any time, control of the parent or subsidiary has been acquired by a person or group of persons, no amount in respect of a net capital loss of the subsidiary for a taxation year ending before that time is deductible in computing the parent’s taxable income for a taxation year ending after that time.”

(2) This section, where it replaces section 504.2 of the Taxation Act to add thereto a reference to sections 564.2 to 564.4.4 of the said Act and replaces sections 564.3 and 564.4 of the said Act, applies in computing the taxable income of parent corporations for a taxation year subsequent to the taxation year 1984.

**225.** (1) The said Act is amended by inserting, after section 564.4.2, the following sections:

**“564.4.3** For the purposes of section 564.4.1, where section 564.2 applies to the winding-up of a particular corporation in respect of which the subsidiary referred to in the said section 564.2 was the parent and section 564.4.1 applies in respect of losses of that particular corporation, the subsidiary is deemed to be the same corporation as, and a continuation of, that particular corporation with respect to those losses.

**“564.4.4** A parent may elect that any portion of a loss of the subsidiary that would otherwise be deemed, by reason of section 564.2, to be a loss of the parent for a particular taxation year commencing after the commencement of the winding-up be deemed, for the purpose of computing the parent’s taxable income for a taxation year commencing after the commencement of a winding-up described in section 556, to be a loss of the parent for its immediately preceding taxation year and not for the particular taxation year.

The parent referred to in the first paragraph must make the election referred to therein in its fiscal return under this Part for the particular taxation year.”

(2) This section, where it enacts section 564.4.3 of the Taxation Act, applies in computing taxable income for taxation years subsequent to the taxation year 1989.

(3) This section, where it enacts section 564.4.4 of the Taxation Act, applies in computing the taxable income of parent corporations for taxation years subsequent to the taxation year 1984. However, a parent corporation may make the election provided for in the said section 564.4.4 for any of its taxation years 1985 to 1991 by notifying the Minister of Revenue in writing, with supporting evidence, that it has made a valid election with the Minister of National Revenue under subsection 30 of section 66 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 (S.C., 1991, chapter 49), concerning the application of paragraph *f* of subsection 1.1 and paragraph *d* of subsection 1.2 of section 88 of the Income Tax Act (Statutes of Canada). In such a case, the parent corporation is deemed to have elected, in its fiscal return filed under Part I of the Taxation Act for each of those taxation years, to have the said section 564.4.4 apply, and, notwithstanding section 1010 of the said 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 such modifications as the circumstances require.

**226.** (1) The said Act is amended by inserting, after section 565.1, the following section:

**“565.2** Where a corporation that carries on a farming business and computes its income from that business in accordance with the cash method is wound up in circumstances to which sections 556 to 564.1 and 565 apply and, at the particular time that is immediately before the winding-up, owned inventory that was used in connection with the business, the following rules apply:

(a) for the purposes of the first paragraph of section 557, the cost amount to the corporation, at the particular time, of property purchased by it that is included in the inventory is deemed to be the amount determined by the formula

$$\frac{(A \times B)}{C} + D;$$

(b) for the purposes of subparagraph *a* of the second paragraph of section 194, the disposition of the inventory and the receipt of the proceeds of disposition are deemed to have occurred at that particular time in the course of carrying on the business;

(c) for the purposes of section 194, where the parent carries on a farming business and computes its income from that business in accordance with the cash method, the following rules apply:

i. an amount equal to the cost to the parent of the inventory is deemed to have been paid by it in the course of carrying on a business and at the time it acquired the inventory, and

ii. the parent is deemed to have purchased the inventory for an amount equal to that cost in the course of carrying on that business and at the time referred to in subparagraph i.

For the purposes of the formula set forth in subparagraph *a* of the first paragraph,

(*a*) *A* is the amount that would be included by reason of subparagraph *c* of the second paragraph of section 194 in computing the corporation's income for its last taxation year commencing before the particular time referred to in the first paragraph if that taxation year had ended at that time,

(*b*) *B* is the value, determined in accordance with section 194.2, to the corporation at that time of the inventory purchased by it and distributed to the parent on the winding-up,

(*c*) *C* is the value, determined in accordance with section 194.2, of all of the inventory purchased by the corporation that was owned by it in connection with that business at that time,

(*d*) *D* is the lesser of

i. such additional amount as the corporation designates in respect of the property, and

ii. the amount by which the fair market value of the property at the particular time referred to in the first paragraph exceeds the amount determined under subparagraph *a* in respect of the property."

(2) This section applies to windings-up commencing after 13 July 1990.

**227.** (1) Section 568 of the said Act is amended by replacing paragraph *a* by the following paragraph:

"(*a*) for the purposes of the election provided for in section 502 or 1106 and, if the corporation has so elected, for all other purposes, such dividend is deemed to be a separate dividend to the extent that it does not exceed its capital dividend account or its capital gains dividend account within the meaning of the regulations made under section 567, as the case may be, immediately before that time;"

(2) This section applies in respect of windings-up commencing after 31 December 1988.

**228.** (1) Section 569 of the said Act is amended by replacing subparagraph ii of paragraph *b* by the following subparagraph:

“ii. the aggregate of any debt owing by the dissolved affiliate or of any other obligation of such affiliate to pay an amount, otherwise than on account of a dividend owing by it to the taxpayer or to a person with whom the taxpayer is not dealing at arm’s length, that was outstanding immediately before its dissolution and that is assumed or cancelled by the taxpayer on the dissolution.”

(2) This section applies in respect of dissolutions occurring after 13 July 1990.

**229.** (1) Section 570 of the said Act is amended by replacing paragraph *e* by the following paragraph:

“(e) “private corporation” at any particular time means a corporation that is resident in Canada at that time, is not a public corporation and is not controlled by one or more public corporations, other than prescribed venture capital corporations, or prescribed Crown corporations of Québec or Canada or by any combination thereof.”

(2) This section has effect from 14 July 1990.

**230.** (1) Section 572 of the said Act is replaced by the following section:

“**572.** For the purposes of this title, a controlled foreign affiliate, at any time, of a taxpayer resident in Canada is a foreign affiliate of such taxpayer that is controlled by the taxpayer, by the taxpayer and not more than four other persons resident in Canada, by not more than four persons resident in Canada, other than the taxpayer, by a person or persons with whom the taxpayer does not deal at arm’s length, or by the taxpayer and a person or persons with whom he does not deal at arm’s length.”

(2) This section applies to taxation years commencing after 13 July 1990.

**231.** (1) Section 576.1 of the said Act is amended by replacing the second paragraph by the following paragraph:

“For the purposes of this section and sections 571 and 573 as they apply to this section, where at any time a foreign affiliate of a taxpayer has an interest in a partnership, the following rules apply:

(a) the partnership is deemed to be a corporation not resident in Canada having a capital stock of a single class divided into 100 issued shares;



(b) the foreign affiliate is deemed to own at that time that proportion of the issued shares of that class that the fair market value of the affiliate's interest in the partnership at that time is of the fair market value of all interests in the partnership at that time."

(2) This section has effect from 1 January 1990.

**232.** (1) The said Act is amended by inserting, after section 584, the following section:

**"584.1** For the purposes of section 584, where a taxpayer that is a taxable Canadian corporation acquires from another corporation resident in Canada with which the taxpayer does not deal at arm's length, a share of the capital stock of a foreign affiliate of the taxpayer, the taxpayer is deemed to have been required to add or deduct, as the case may be, under Chapter IV of Title X of Book III, in computing the adjusted cost base of the share, any amount the other corporation has been so required to add or deduct, as the case may be, in computing the adjusted cost base of the share."

(2) This section applies from the taxation year 1990.

**233.** (1) The said Act is amended by inserting, after section 589, the following section:

**"589.1** Except for the purposes of paragraph *a* of section 255, where section 261 applies to a corporation that has made the election provided for in the first paragraph of section 589 or to a foreign affiliate of the corporation, the amount that is deemed by section 261 to be the gain of the corporation or foreign affiliate of the corporation, as the case may be, from the disposition of the share is deemed to be equal to the amount by which the amount established without reference to this section exceeds the amount designated in the election."

(2) This section applies from the taxation year 1987.

**234.** (1) Section 590 of the said Act is amended by replacing paragraph *b* by the following paragraph:

"(b) the taxpayer or, as the case may be, the foreign affiliate which acquires the shares, in computing the adjusted cost base of all shares of any particular class of the capital stock of the acquired affiliate owned by it immediately after the disposition, shall add an amount equal to that proportion of the amount by which the cost amount to it, immediately before the disposition, of the shares disposed of exceeds the aggregate of the proceeds of the disposition and the total of all amounts each of which is an amount deducted under

the second paragraph of section 591 in computing a loss sustained by it from the disposition of the shares disposed of, that the fair market value, immediately after the disposition, of all shares of that particular class then owned by it is of the fair market value, immediately after the disposition, of all shares of the capital stock of the acquired affiliate owned by it at that time.”

(2) This section applies in respect of dispositions of shares occurring after 13 July 1990.

**235.** (1) Section 591 of the said Act is replaced by the following section:

**“591.** Where a corporation resident in Canada has disposed of a share of the capital stock of a corporation that is a foreign affiliate of the corporation, or a foreign affiliate of a corporation resident in Canada has disposed of a share of the capital stock of another foreign affiliate of the corporation, the amount of the loss from the disposition of that share is deemed to be the amount by which the amount that would, but for this section, be the loss therefrom exceeds the amount determined under the second paragraph.

The amount last referred to in the first paragraph is the amount by which the aggregate of all amounts received before the disposition of the share in respect of exempt dividends on the share, or a share for which the share was substituted, by the disposing corporation, a corporation related to the disposing corporation, a foreign affiliate of the disposing corporation, or a foreign affiliate of a corporation related to the disposing corporation, exceeds the aggregate of all amounts each of which is an amount by which a loss from a previous disposition of the share or a share for which the share was substituted, by a corporation referred to in this paragraph has been reduced by reason of this section.”

(2) This section applies in respect of the determination of losses arising in any year subsequent to the taxation year 1984. However, where the second paragraph of section 591 of the Taxation Act, enacted by this section, applies in respect of the determination of losses from dispositions occurring before 13 July 1990, it shall read as follows:

“The amount last referred to in the first paragraph is the aggregate of the amounts received before the disposition as dividends exempt from tax by the corporation which proceeded with the disposition.”

**236.** (1) Section 594 of the said Act is amended by replacing that part preceding subparagraph *a* of the first paragraph by the following:

**“594.** The rules provided in this chapter apply for a taxation year of a foreign trust, other than an *inter vivos* trust created before 1 January 1960 by a person who, at that time, was not resident in Canada, other than a testamentary trust that arose as a consequence of the death of an individual before 1 January 1976 and other than a trust governed by a foreign retirement arrangement, where before the end of the year that trust or a corporation not resident in Canada that would be a controlled foreign affiliate of the trust, if the trust were resident therein, has, other than in prescribed circumstances, acquired property, in any manner whatever, from”.

(2) This section applies from the taxation year 1990.

**237.** (1) Sections 600.1 and 600.2 of the said Act are replaced by the following sections:

**“600.1** Subject to section 600.2, the share of a member of a partnership of any amount that would be an amount referred to in paragraph *e* of section 398, paragraph *b* or *e* of section 399, paragraph *d* of section 411, subparagraph *i* of paragraph *b* or paragraph *c* or *h* of section 412, paragraph *d* of section 418.5 or subparagraph *i* of paragraph *b* or paragraph *c* or *e* of section 418.6, in respect of the partnership for a taxation year of the partnership, but for paragraph *d* of section 600, is deemed to be an amount referred to in paragraph *e* of section 398, paragraph *b* or *e* of section 399, paragraph *d* of section 411, subparagraph *i* of paragraph *b* or paragraph *c* or *h* of section 412, paragraph *d* of section 418.5 or subparagraph *i* of paragraph *b* or paragraph *c* or *e* of section 418.6, as the case may be, in respect of the member for the taxation year of the member in which the taxation year of the partnership ends.

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

(2) This section, where it replaces section 600.1 of the Taxation Act, has effect from 1 February 1990.

(3) This section, where it replaces section 600.2 of the Taxation Act to include therein a reference to section 418.5 of the said Act,

applies to a taxation year of a partnership commencing after 31 December 1984 and, where it replaces the said section 600.2 to add therein a reference to section 411 of the said Act, has effect from 1 February 1990.

**238.** (1) Section 603 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

**“603.** Where a taxpayer who was a member of a partnership during a fiscal period has, for the purposes of computing his income from the partnership for the fiscal period, made an election provided for by the regulations made under section 104 or by any of sections 96, 110.1, 156, 180 to 182, 184, 199, 215, 216, 279, 280.3, 299 and 614, and where the election would, but for this section, be valid, the following rules apply:”.

(2) This section applies in respect of dispositions occurring after 13 July 1990 and in respect of elections made in respect of the application of section 299 of the Taxation Act, as amended by section 121 of this Act, to the taxation years 1985 to 1989. In the latter case, notwithstanding section 1010 of the Taxation Act, such assessments of tax, interest and penalties payable for the taxation years 1985 to 1989 shall be made by the Minister of Revenue as are necessary to give effect to those elections and the second and third paragraphs of section 1060.1 and section 1066.2 of the said Act shall apply thereto, with such modifications as the circumstances require.

**239.** (1) Section 613.3 of the said Act is amended

(1) by replacing that part of paragraph *b* preceding subparagraph *i* by the following:

**“(b)** where the taxpayer or a person with whom the taxpayer does not deal at arm’s length is entitled, either immediately or in the future and either absolutely or contingently, to receive or obtain any amount or benefit, whether by way of reimbursement, compensation, revenue guarantee or proceeds of disposition or in any other form or manner whatever, granted or to be granted for the purpose of reducing the impact, in whole or in part, of any loss that the taxpayer may sustain by virtue of his being a member of the partnership or by virtue of his holding or disposing of an interest in the partnership, the amount or benefit, as the case may be, that the taxpayer or the person is or will be so entitled to receive or obtain, except to the extent that the amount or benefit is included under paragraph *e* of section 399, paragraph *h* of section 412 or paragraph *e* of section 418.6 in respect of the taxpayer or the entitlement arises”;

(2) by striking out the word “or” at the end of subparagraph v of paragraph *b*;

(3) by replacing the period at the end of subparagraph vi of paragraph *b* by a semicolon and the word “or”;

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

“vii. by reason of a prescribed excluded obligation in relation to a share issued to the partnership by a corporation.”

(2) This section applies to taxation years ending after 17 June 1987.

**240.** (1) Section 627 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) the aggregate of the adjusted cost base of his interest in the partnership immediately before the particular time, and the adjusted cost base to him of each other interest in the partnership deemed under section 632 to have been acquired by him at the particular time; and”.

(2) This section applies in respect of partnerships ceasing to exist after 15 January 1987.

**241.** (1) Section 647 of the said Act is amended by replacing subparagraph *a* of the third paragraph by the following subparagraph:

“(a) an employee trust, a trust referred to in paragraph *c.4* of section 998 or a trust governed by a foreign retirement arrangement, a registered pension plan, a profit sharing plan, a registered supplementary unemployment benefit plan, a registered retirement savings plan, a deferred profit sharing plan, a registered education savings plan, a registered home ownership savings plan, an employee benefit plan or a registered retirement income fund;”.

(2) This section has effect from the taxation year 1990. However, where subparagraph *a* of the third paragraph of section 647 of the French text of the Taxation Act, enacted by this section, applies before 1 January 1991, it shall read as if the reference therein to a “régime de participation différée aux bénéfices” were a reference to a “régime d’intéressement différé”.

**242.** (1) Section 649 of the said Act is amended by replacing subparagraph iv of paragraph *b* by the following subparagraph:

“iv. not less than 95 % of its income, determined without reference to section 295.1 and paragraph *a* of section 657, for the year is derived from, or from dispositions of, investments contemplated in subparagraph iii;”.

(2) This section applies from the taxation year 1990.

**243.** (1) Section 668.2 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(c) C is the greater of

i. the aggregate of all amounts each of which is an amount determined under paragraph *b* in respect of a beneficiary of the trust for the designation year, and

ii. the amount by which the net taxable capital gains of the trust for the designation year exceeds the amount by which the investment expense, within the meaning of subparagraph *a.2* of the first paragraph of section 726.6, of the trust for the designation year exceeds the investment income, within the meaning of subparagraph *e* of the first paragraph of the said section, of the trust for the designation year;”.

(2) This section applies from the taxation year 1988.

**244.** (1) Section 669.1 of the said Act is replaced by the following section:

**“669.1** Where a testamentary trust has received a pension benefit, or a benefit out of or under a foreign retirement arrangement, in a taxation year throughout which it was resident in Canada and has designated, in its fiscal return for the year under this Part, an amount in respect of a beneficiary under the trust equal to such portion, in this section referred to as the “beneficiary’s share”, of the benefit as has been designated by the trust exclusively in respect of the beneficiary and as may reasonably be considered, having regard to all the circumstances including the terms and conditions of the trust arrangement, to be part of the amount that, by reason of section 663, was included in computing the income of the beneficiary for a particular taxation year, the beneficiary’s share in respect of the benefit is deemed, for the purposes of sections 752.0.8 and 752.0.9, to be a payment described in subparagraph *a* of the first paragraph of section 752.0.8 that is included in computing the beneficiary’s income for the particular taxation year where the benefit is an amount

described in subparagraph *a* of the first paragraph of section 752.0.8 and the beneficiary was the spouse, within the meaning of section 905.3, of the settlor of the trust.”

(2) This section applies from the taxation year 1990. However, where section 669.1 of the Taxation Act, enacted by this section, applies to the taxation year 1990, it shall read as follows:

**“669.1** Where a testamentary trust has received a pension benefit, or a benefit out of or under a foreign retirement arrangement, in a taxation year throughout which it was resident in Canada and has designated, in its fiscal return for the year under this Part, an amount in respect of a beneficiary under the trust equal to such portion, in this section referred to as the “beneficiary’s share”, of the benefit as has been designated by the trust exclusively to the beneficiary and as may reasonably be considered, having regard to all the circumstances including the terms and conditions of the trust arrangement, to be part of the amount that, by reason of section 663, was included in computing the income of the beneficiary for a particular taxation year, the following rules apply:

(a) the beneficiary’s share in respect of the benefit is deemed, for the purposes of sections 752.0.8 and 752.0.9, to be a payment described in subparagraph *a* of the first paragraph of section 752.0.8 that is included in computing the beneficiary’s income for the particular taxation year where the benefit is an amount described in subparagraph *a* of the first paragraph of section 752.0.8 and the beneficiary was the spouse, within the meaning of section 905.3, of the settlor of the trust,

(b) the beneficiary’s share in respect of the benefit is, for the purposes of paragraph *d* of section 339, an eligible amount in respect of the beneficiary for the particular taxation year where the benefit

i. is a single amount, within the meaning of section 965.0.1, other than an amount that relates to an actuarial surplus, paid to the trust by a registered pension plan as a consequence of the death of the settlor of the trust who was, at the time of his death, the spouse of the beneficiary, or

ii. would be an amount included in the aggregate determined under paragraph *d* of section 339 in respect of the beneficiary for his taxation year in which the benefit was received by the trust, if the benefit had been received by the beneficiary at the time it was received by the trust, and

(c) the beneficiary’s share in respect of the benefit, other than any portion thereof that relates to an actuarial surplus, is deemed,

for the purposes of paragraph *f* of section 339, to be an amount from a registered pension plan included in computing the beneficiary's income for the particular taxation year as a payment and described secondly in subparagraph 3 of subparagraph ii of the said paragraph *f* where the benefit is a single amount, within the meaning of section 965.0.1, paid to the trust by a registered pension plan as a consequence of the death of the settlor of the trust and the beneficiary was, at the time of the settlor's death, under 18 years of age and a child or grandchild of the settlor."

**245.** (1) Section 686 of the said Act is amended by replacing subsection 1 by the following subsection:

**"686.** (1) In computing a taxpayer's taxable capital gain from the disposition of all or any part of his capital interest in a personal trust or a prescribed trust, the adjusted cost base to the taxpayer of such interest immediately before the disposition is deemed to be an amount equal to the greater of the adjusted cost base to the taxpayer thereof otherwise determined immediately before that time and the cost amount to the taxpayer thereof immediately before that time; in computing an allowable capital loss, such cost base shall be that which is otherwise determined."

(2) This section applies in respect of dispositions of an interest in a trust occurring after 31 December 1987, other than a disposition of an interest in a trust, the units of which were listed on 1 October 1987 on a prescribed stock exchange for the purposes of section 934 of the Taxation Act, occurring before the earlier of 1 January 1991 and any day after 1 October 1987 on which a beneficial interest in the trust is issued.

**246.** (1) Section 688 of the said Act is amended

(1) by replacing the period at the end of paragraph *d* by a semicolon;

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

"(e) where the property transferred was intangible capital property of the trust in respect of a business of the trust, the following rules apply:

i. the references to "its cost amount" in paragraphs *a* and *b* shall read as references to "4/3 of its cost amount";

ii. for the purposes of Division III of Chapter II of Title III and sections 130, 188 and 189, where the intangible capital amount of the



trust in respect of the property exceeds the cost at which the taxpayer is deemed, under this section, to have acquired the property,

(1) the intangible capital amount of the taxpayer in respect of the property is deemed to be the intangible capital amount of the trust in respect of the property, and

(2)  $\frac{3}{4}$  of the excess are deemed to have been deducted by the taxpayer in respect of the property under paragraph *b* of section 130 in computing income for taxation years ending before the acquisition by the taxpayer of the property and after the adjustment time, within the meaning of section 107.1, of the taxpayer in respect of the business.”

(2) This section applies in respect of transfers of property occurring after 13 July 1990.

**247.** (1) The said Act is amended by inserting, after section 688, the following section:

**“688.0.1** Where at any time a property is transferred by a trust described in section 440 or 454 to a taxpayer in circumstances in which section 688 applies and section 691 does not apply and the property would, if the trust had so designated the property under section 274, be a principal residence, within the meaning of that section, of the trust for a taxation year, the following rules apply where the trust so elects in its fiscal return under this Part for the taxation year that includes that time:

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

(b) the trust is deemed to have reacquired the property at the particular time at a cost equal to that fair market value.”

(2) This section applies in respect of transfers of property occurring after 9 May 1985. However, an election to have the rules set out in section 688.0.1 of the Taxation Act, enacted by this section, apply in respect of a transfer of property by a trust occurring after 9 May 1985 and on or before 17 December 1991 may be made by the trust by notifying the Minister of Revenue in writing, with supporting evidence, that the trust has made a valid election with the Minister of National Revenue under subsection 6 of section 76 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 (S.C., 1991, chapter 49), concerning the application of subsection 2.01 of section 107 of the Income Tax Act (Statutes of Canada), 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 such modifications as the circumstances require.

**248.** (1) Section 690 of the said Act is amended

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

“(a) where the trust transfers at any time to the taxpayer money or other property, as consideration for all or part of his capital interest, the aggregate of

i. the money so transferred,

ii. the aggregate of all amounts each of which is the cost amount to the trust, immediately before the transfer, of such other property other than intangible capital property in respect of a business of the trust, and

iii. the aggregate of all amounts each of which is  $\frac{4}{3}$  of the cost amount to the trust, immediately before the transfer, of such other property that is intangible capital property in respect of a business of the trust;

“(b) in any other case, the amount determined by the formula

$$(A - B) \times \frac{C}{D}.”;$$

(2) by adding, at the end, the following paragraph:

“For the purposes of the formula set forth in subparagraph *b* of the first paragraph,

(a) A is the aggregate of

i. all money of the trust on hand immediately before that time,

ii. the aggregate of all amounts each of which is the cost amount to the trust, immediately before that time, of each such other property that is not intangible capital property in respect of a business of the trust,

iii.  $\frac{4}{3}$  of the aggregate of all amounts each of which is the eligible intangible capital amount of the trust, immediately before that time, in respect of a business of the trust;

(b) B is the aggregate of all amounts each of which is the amount of any debt owing by the trust immediately before that time;

(c) C is the fair market value, at that time, of the capital interest or any part thereof in the trust;

(d) D is the fair market value, at that time, of all capital interests in the trust.”

(2) This section has effect from 14 July 1990.

**249.** (1) Section 693 of the said Act is amended by replacing the second paragraph by the following paragraph:

“However, the taxpayer shall apply the provisions of this book in the following order: sections 737.8 and 737.17, Titles V, V.1, VI.0.1, VI.1, VI.2, VI.3, VI.3.1, VI.3.2, VI.3.2.1, VI.3.3, VI.3.4, VII, VI.5 and VI.6 and sections 737.14 to 737.16 and 737.21.”

(2) This section applies from the taxation year 1991.

**250.** (1) The heading of Title V of Book IV of Part I of the said Act is replaced by the following heading:

“CHARITABLE DONATIONS AND OTHER DEDUCTIONS”.

(2) This section applies from the taxation year 1988.

**251.** (1) Section 710 of the said Act is amended by replacing that part preceding paragraph *a* by the following paragraph:

“**710.** A taxpayer may deduct the aggregate of all amounts each of which is the fair market value of a gift made by him in the year or in any of the five preceding taxation years to the extent that the amount thereof was not deducted for any preceding taxation year, to”.

(2) This section has effect from 12 December 1988.

**252.** (1) The said Act is amended by inserting, after section 710, the following section:

**“710.1** For the purposes of paragraph *b* of section 710, the fair market value of a property referred to therein that is a prescribed cultural property is the fair market value determined by the Canadian Cultural Property Export Review Board.”

(2) This section applies in respect of gifts made after 20 February 1990.

**253.** (1) Section 711 of the said Act is replaced by the following section:

**“711.** The deductions allowed by paragraphs *c* to *j* of section 710 must not exceed in aggregate 20 % of the income of the taxpayer for the year, computed before any deduction under section 800, the deduction allowed by paragraph *a* of the said section 710 must not exceed the taxpayer's income for the year decreased by the amounts deducted under paragraphs *c* to *j* thereof, and the deduction allowed by paragraph *b* of the said section 710 must not exceed the taxpayer's income for the year decreased by the amounts deducted under paragraphs *a* and *c* to *j* thereof.”

(2) This section has effect from 12 December 1988.

**254.** (1) Section 716.1 of the said Act is replaced by the following section:

**“716.1** Where at any time an individual has made a gift of a work of art created by him that is property in his inventory to a donee described in any of paragraphs *a* and *c* to *j* of section 710, and the fair market value of the work of art at that time exceeded its cost amount to him, the individual or his legal representative may designate in the fiscal return which must be filed by or for the individual under section 1000 for the year during which the gift was made, an amount which is deemed to be both the individual's proceeds of disposition of the work of art and, for the purposes of section 710, the fair market value of the gift, and which must not be greater than the fair market value nor less than the cost amount to the individual of the work of art at that time.”

(2) This section applies in respect of gifts made after 31 December 1990.

**255.** (1) The said Act is amended by inserting, after section 716.1, the following section:

**“716.2** Where at any time an individual has made a gift of a work of art created by him that is cultural property contemplated in section 232 and property in his inventory to a donee described in paragraph *b* of section 710, the individual is deemed to have received proceeds of disposition at that time equal to the cost amount to him of the work of art at that time.”

(2) This section applies in respect of gifts made after 31 December 1990.

**256.** (1) Section 725 of the said Act is amended

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

“(a) an amount exempt from income tax in Québec by reason of a provision contained in a tax agreement between Québec and a particular country in respect of income tax that has the force of law in Québec or, in the absence of such an agreement, an amount exempt from income tax in Canada by reason of a tax convention or agreement between Canada and a particular country that has the force of law in Canada;”;

(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 pension, supplement or spouse’s allowance received under the Old Age Security Act (Statutes of Canada) or any similar payment made under a provincial law.”

(2) This section applies from the taxation year 1991.

**257.** (1) Section 725.1 of the said Act is repealed.

(2) This section applies from the taxation year 1989.

**258.** (1) Section 725.2 of the said Act, amended by section 35 of chapter 1 of the statutes of 1992, is replaced by the following section:

**“725.2** Where a corporation has agreed to sell, issue or cause to be issued to an individual a share of its capital stock or of the capital stock of a corporation with which it does not deal at arm’s length, that individual may deduct an amount equal to 1/4 of the amount of the benefit he is deemed to have received in the year under section 49 or any of sections 50 to 52.1, in respect of the share or the transfer or any other disposition of the rights under the agreement contemplated in section 48, if

(a) the amount that the individual is required to pay to acquire the share 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 in respect of which section 49.4 applied, the amount payable by the individual to acquire the old share under the exchanged option 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;

(b) the share was acquired or the rights under the agreement were transferred or disposed of, as the case may be, by an individual who, immediately after the agreement was made, and where the rights under the agreement were acquired by the individual as a result of one or more dispositions in respect of which section 49.4 applied, at the time that the agreement in respect of the exchanged option was made and at the time immediately after each disposition, was dealing at arm's length with the particular corporation contemplated in section 48, with the corporation a share of the capital stock of which the particular corporation contemplated in section 48 has agreed to sell or to issue, and with the corporation of which he is an employee; and

(c) the share is a share contemplated in subparagraph ii of paragraph *d* of subsection 1 of section 110 of the Income Tax Act (Statutes of Canada)."

(2) This section applies from the taxation year 1988. However, where that part of section 725.2 of the Taxation Act preceding paragraph *a*, enacted by this section, applies in respect of benefits deemed to have been received in respect of shares acquired or rights in respect of shares transferred or otherwise disposed of

(a) after 31 December 1987 and before 1 January 1990, the references therein to "1/4" and "section 49 or any of sections 50 to 52.1" shall read as references to "1/3" and "section 49, by virtue of section 49.1 or 49.2, or under section 50, 51 or 52", respectively;

(b) after 31 December 1989 and before 14 July 1990, it shall read as it is to read in respect of benefits deemed to have been received in respect of shares acquired or rights in respect of shares transferred or otherwise disposed of after 31 December 1987 and before 1 January

1990, except that the reference therein to "1/3" shall read as a reference to "1/4";

(c) after 13 July 1990 and before 3 May 1991, it shall read as it is to read in respect of benefits deemed to have been received in respect of shares acquired or rights in respect of shares transferred or otherwise disposed of after 31 December 1989 and before 14 July 1990, except that the reference therein to "section 50, 51 or 52" shall read as a reference to "any of sections 50 to 52.1".

**259.** (1) The said Act is amended by inserting, after section 725.2, the following section:

**"725.2.1** For the purposes of paragraph *a* of section 725.2, the fair market value of a share of the capital stock of a corporation at the time an agreement in respect of the share was made shall be determined on the assumption that any subdivision or consolidation of shares of the capital stock of the corporation, any reorganization of share capital of the corporation, and any stock dividend of the corporation occurring after the agreement was made and before the share was acquired had taken place immediately before the agreement was made."

(2) This section applies from the taxation year 1988.

**260.** (1) Section 726.4.8.16 of the said Act, enacted by section 36 of chapter 1 of the statutes of 1992, is amended

(1) by striking out the word "and" at the end of subparagraph *b* of the first paragraph and by inserting, after subparagraph *b* of the first paragraph, the following subparagraph:

"(b.1) assistance, within the meaning of paragraph c.0.1 of section 359, in respect of those qualified expenditures, and";

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

"(c) any information relating either to the qualified expenditures in respect of which the corporation has renounced an amount or the amounts renounced by the corporation, or to any assistance, within the meaning of paragraph c.0.1 of section 359, in respect of those qualified expenditures.";

(3) by striking out the second paragraph.

(2) This section has effect from 20 December 1990.

**261.** (1) Section 726.4.17.16 of the said Act, enacted by section 41 of chapter 1 of the statutes of 1992, is amended

(1) by striking out the word “and” at the end of subparagraph *b* of the first paragraph and by inserting, after subparagraph *b* of the first paragraph, the following subparagraph:

“(b.1) government assistance or non-government assistance, within the meanings of section 1029.8.17, in respect of those expenses; and”;

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

“(c) any information relating either to expenses in respect of which the corporation or partnership has renounced an amount or the amount so renounced by the corporation or partnership, or to any government assistance or non-government assistance, within the meanings of section 1029.8.17, in respect of those expenses.”;

(3) by striking out the second paragraph.

(2) This section has effect from 3 May 1991.

**262.** (1) Section 726.4.18, amended by section 42 of chapter 1 of the statutes of 1992, is again amended by replacing subparagraph iii of subparagraph *b* of the first paragraph by the following subparagraph:

“iii. a share that meets the requirements set forth in paragraphs *a* to *c* of section 726.4.18.1, that is issued as part of a public share issue in respect of which the receipt for the final prospectus or the exemption from filing a prospectus was granted after 16 May 1989 and that is a common share with full voting rights issued by an issuer referred to in subparagraph iii of paragraph *e*, other than a designated company or a corporation referred to in section 965.11.1 or 965.11.6;”.

(2) This section has effect from 17 May 1989.

**263.** (1) Section 726.4.36 of the said Act is amended

(1) by striking out the word “and” at the end of subparagraph *b* of the first paragraph and by inserting, after subparagraph *b* of the first paragraph, the following subparagraph:

“(b.1) the amount of any contract payment, government assistance or non-government assistance, within the meanings of section 1029.8.17, in respect of those expenditures, and”;



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

“(c) any information relating either to expenditures in respect of which the corporation has renounced an amount or the amounts renounced by the corporation, or to any contract payment, government assistance or non-government assistance, within the meanings of section 1029.8.17, in respect of those expenditures.”;

(3) by striking out the second paragraph.

(2) This section has effect from 14 July 1990.

**264.** (1) Section 726.6 of the said Act is amended

(1) by replacing that part of subparagraph *i* of subparagraph *a* of the first paragraph preceding subparagraph 1 by the following:

“i. an immovable that has been used in the course of carrying on a business of farming in Canada by”;

(2) by replacing subparagraphs *i* to *v* of subparagraph *a.2* of the first paragraph by the following subparagraphs:

“i. the aggregate of all amounts each of which is an amount deducted in computing his income for the year from property, except to the extent that the amount was otherwise taken into account in computing his investment expense or his investment income for the year, other than any such amount deducted under

(1) section 147, 160, 163, 176, 176.4 or 178, in respect of borrowed money that was used by the individual, or that was used to acquire property that was used by the individual, to make a payment as consideration for an income-averaging annuity contract, to pay a premium under a registered retirement savings plan or to make a contribution to a registered pension plan or a deferred profit sharing plan, or

(2) section 177, the first paragraph of section 360 or section 371, 400, 401, 413, 414 or 418.7;

“ii. the aggregate of

(1) the aggregate of all amounts each of which is an amount deducted under section 147, paragraph *d* of section 157 or section 160, 163, 176, 176.4, 178 or 179 in computing his income for the year from a partnership of which he was a specified member in the fiscal period thereof ending in the year, and

(2) the aggregate of all amounts each of which is an amount deducted under section 147.2 or 176.3 in computing his income for the year in respect of an expense incurred by a partnership of which he was a specified member in the fiscal period thereof ending immediately before the partnership ceased to exist;

“iii. the aggregate of

(1) the aggregate of all amounts, other than allowable capital losses, each of which is an amount deducted in computing his income for the year in respect of his share of any loss of a partnership of which he was a specified member in the fiscal period thereof ending in the year, and

(2) the aggregate of all amounts each of which is an amount deducted under section 733.0.0.1 in computing his taxable income for the year;

“iv. 50 % of the aggregate of all amounts each of which is an amount deducted under section 371, 400, 401, 413, 414 or 418.7 in computing his income for the year in respect of expenses incurred and renounced under section 359.2, 359.4 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 thereof in which the expense was incurred, other than any such expense that would be referred to in subparagraph i of paragraph a of section 726.4.10 if the reference therein to “30 June 1988” were a reference to “31 December 1988”;

“v. the aggregate of all amounts each of which is the amount of his loss for the year from property or from renting or leasing a rental property within the meaning of section 130R46 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1) or a property described in Class 31 or 32 of Schedule B to the said regulation, if the property was owned by the individual or by a partnership of which he was a member other than a partnership of which he was a specified member in the fiscal year thereof ending in the year;”;

(3) by replacing that part of subparagraph a.3 of the first paragraph preceding subparagraph i by the following:

“(a.3) “interest in a family farm partnership” of an individual, other than a trust that is not a personal trust, at any time means an interest owned by the individual at that time in a partnership where more than 50 % of the fair market value of the property of the partnership was attributable to property used, throughout any 24-month period ending before that time, by the partnership or any

of the persons referred to in subparagraphs i to iv, principally in the course of carrying on the business of farming in Canada in which any individual referred in any of subparagraphs i to iii was actively engaged on a regular and continuous basis, and where all or substantially all the fair market value of the property of the partnership at that time was attributable to property used principally in the course of carrying on the business of farming in Canada by the partnership or any of the following persons:";

(4) by replacing subparagraphs i and ii of subparagraph *e* of the first paragraph by the following subparagraphs:

"i. the aggregate of all amounts each of which is an amount included in computing his income for the year from property, other than an amount included under section 113 or paragraph *c* or *c.1* of section 312, including any amount so included under section 94 in respect of a property the income from which would be income from property, except to the extent that the amount was otherwise taken into account in computing his investment income or investment expense for the year;

"ii. the aggregate of all amounts, other than taxable capital gains, each of which is an amount included in computing his income for the year in respect of his share of the income of a partnership of which he was a specified member in the fiscal period thereof ending in the year, including his share of all amounts included in computing the income of the partnership under section 94;"

(5) by replacing subparagraph iv of subparagraph *e* of the first paragraph by the following subparagraph:

"iv. the aggregate of all amounts each of which is the amount of his income for the year from property or from renting or leasing a rental property within the meaning of section 130R46 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1) or a property described in Class 31 or 32 of Schedule B to the said regulation, if the property was owned by the individual or by a partnership of which he was a member, other than a partnership of which he was a specified member in the fiscal year thereof ending in the year, including any amount included in computing his income for the year under section 94 in respect of a rental property of the individual or the partnership or in respect of a property any income from which would be income from property;"

(6) by adding, after subparagraph iv of subparagraph *e* of the first paragraph, the following subparagraph:

“v. the amount by which the aggregate of all amounts, other than amounts in respect of an income-averaging annuity contract or annuity contract purchased pursuant to a deferred profit sharing plan or a revoked plan referred to in section 879, included under paragraph *c* or *c.1* of section 312 in computing his income for the year exceeds the aggregate of all amounts deducted under paragraph *f* of subsection 1 of section 336 in computing his income for the year.”;

(7) by replacing the second and third paragraphs by the following paragraphs:

“For the purposes of subparagraph *i* of subparagraph *a* of the first paragraph, property of an individual will not be considered to have been used in the course of carrying on the business of farming in Canada unless

(a) the property or property for which the property was substituted, in this subparagraph referred to as “the property”, was owned, throughout a period of at least 24 months immediately preceding the time specified in subparagraph *a* of the first paragraph, by a person who was the individual or a person referred to in subparagraph 2 or 3 of subparagraph *i* of subparagraph *a* of the first paragraph, by a personal trust from which the individual acquired the property or by a partnership referred to in subparagraph 5 of the said subparagraph *i*, and

i. in at least two years during which the property was so owned, the gross revenue of such a person, or of a personal trust from which the individual acquired the property, from the farming business carried on in Canada in which the property was principally used and in which such a person or, where the individual is a personal trust, a beneficiary of the trust was actively engaged on a regular and continuous basis exceeded the income of the person from all other sources for the year, or

ii. the property was used by a corporation referred to in subparagraph 4 of subparagraph *i* of paragraph *a* of the first paragraph or by a partnership referred to in subparagraph 5 of the said subparagraph *i* principally in the course of carrying on the business of farming in Canada throughout a period of at least 24 months during which an individual referred to in any of subparagraphs 1 to 3 of the said subparagraph *i* was actively engaged on a regular and continuous basis in the farming business in which the property was used; or

(b) where the property was last acquired by the individual or a partnership before 18 June 1987, or after 17 June 1987 pursuant to

an agreement in writing entered into before that date, the property or property for which the property was substituted, in this subparagraph referred to as "the property", was used principally in the course of carrying on the business of farming in Canada by a person or a partnership referred to in any of subparagraphs 1 to 5 of subparagraph i of subparagraph *a* of the first paragraph or by a personal trust from which the individual acquired the property, in the year the property was disposed of by the individual or in at least five years during which the property was owned by an individual referred to in any of subparagraphs 1 to 3 of the said subparagraph i, by a personal trust from which the individual acquired the property, or by a partnership referred to in subparagraph 5 of that subparagraph i.

"For the purposes of subparagraph iv of subparagraph *a* of the first paragraph, an intangible capital property is deemed to include capital property in respect of which paragraph *b* of section 437 or subparagraph *c* of the first paragraph of section 462 applies and will not be considered to have been used in the course of carrying on the business of farming in Canada unless the conditions set out in subparagraph *a* or *b* of the second paragraph, as the case may be, are met."

(2) This section applies from the taxation year 1988. However,

(a) subparagraphs i and v of subparagraph *a.2* of the first paragraph of section 726.6 of the Taxation Act, enacted by paragraph 2 of subsection 1, do not apply before 1 January 1989 with respect to amounts deducted under paragraph *a* of section 130 of the said Act in respect of a certified production, within the meaning of paragraph *j* of subsection 1 of section 130R2 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1), of an individual or a partnership that is property included in paragraph *n* of Class 12 of Schedule B to the said regulation;

(b) in its application to the taxation years 1988 and 1989 of a taxpayer who so elects in the manner prescribed in subsection 3, subparagraph i of subparagraph *e* of the first paragraph of section 726.6 of the said Act, enacted by paragraph 4 of subsection 1, shall read without reference to the words "section 113 or" and subparagraph 2 of subparagraph i of subparagraph *a.2* of the first paragraph of section 726.6 of the said Act, enacted by paragraph 2 of subsection 1, shall read as follows:

"(2) section 177, to the extent that the aggregate of all amounts deducted by the taxpayer in the year or a preceding taxation year ending after 31 December 1987 under that section exceeds the aggregate of all amounts each of which is an amount included, for the

taxpayer's taxation year 1988 or 1989, in his investment income or in computing his income by reason of section 113, the first paragraph of section 360 or section 371, 400, 401, 413, 414 or 418.7;"

(c) in its application to the taxation years 1988 to 1990, subparagraph 1 of subparagraph i of subparagraph *a.2* of the first paragraph of section 726.6 of the said Act, enacted by paragraph 2 of subsection 1, shall read as if the reference in the French text thereof to "régime de participation différée aux bénéfices" were a reference to "régime d'intéressement différé" and subparagraph v of subparagraph *e* of the first paragraph of section 726.6 of the said Act, enacted by paragraph 6 of subsection 1, shall read as if the reference in the French text thereof to "régime de participation différée aux bénéfices ou à un régime dont l'agrément est retiré" were a reference to "régime d'intéressement différé ou à un régime révoqué".

(3) The election referred to in paragraph *b* of subsection 2 shall be made by a taxpayer by notifying the Minister of Revenue in writing, with supporting evidence, that the taxpayer has made a valid election with the Minister of National Revenue under paragraph *b* of subsection 15 of section 81 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 (S.C., 1991, chapter 49), concerning the application of paragraph *a* of the definitions of "investment expense" and "investment income" set forth in subsection 1 of section 110.6 of the Income Tax Act (Statutes of Canada), 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 such modifications as the circumstances require.

**265.** (1) Section 726.6.1 of the said Act is amended

(1) by replacing subparagraphs i and ii of subparagraph *c* of the definition of "qualified small business corporation share" in the first paragraph by the following subparagraphs:

"i. assets used principally in a qualified business carried on primarily in Canada by the corporation or by a corporation related to it;

“ii. shares of the capital stock or indebtedness of one or more other corporations that are connected, within the meaning of the regulations, with the corporation, if the following conditions are met:

(1) throughout that part of the 24 months immediately preceding the determination time that ends at the time the corporation acquired such a share or indebtedness, the share or indebtedness was not owned by anyone other than the corporation, a person or partnership related to the corporation or a person or partnership related to such a person or partnership;

(2) throughout that part of the 24 months immediately preceding the determination time while such a share or indebtedness was owned by the corporation, a person or partnership related to it or a person or partnership related to such a person or partnership, it was a share or indebtedness of a Canadian-controlled private corporation more than 50 % of the fair market value of the assets of which was attributable to assets described in subparagraph iii; or”;

(2) by replacing the definition of “share of the capital stock of a family farm corporation” in the first paragraph by the following definition:

“ “share of the capital stock of a family farm corporation” of an individual, other than a trust that is not a personal trust, at any time means a share of the capital stock of a corporation owned by the individual at that time, if the following conditions are met:

(a) throughout any 24-month period ending before that time, more than 50 % of the fair market value of the property owned by the corporation was attributable to

i. property used by a person or partnership referred to in any of subparagraphs 1 to 5 principally in the course of carrying on a business of farming in Canada in which an individual referred to in any of subparagraphs 2 to 4 was actively engaged on a regular and continuous basis:

(1) the corporation,

(2) the individual,

(3) where the individual is a personal trust, a beneficiary of the trust,

(4) the spouse, a child or the father or mother of the individual referred to in subparagraph 2 or 3, or

(5) a partnership an interest in which was an interest in a family farm partnership of an individual referred to in any of subparagraphs 2 to 4;

ii. shares of the capital stock or indebtedness of one or more corporations all or substantially all of the fair market value of the property of which was attributable to the property described in subparagraph iii; or

iii. property described in either subparagraph i or ii;

(b) at that time, all or substantially all of the fair market value of the property owned by the corporation was attributable to

i. property that has been used by the corporation or a person or partnership referred to in subparagraph i of subparagraph *a* principally in the course of carrying on a business of farming in Canada,

ii. shares of the capital stock or indebtedness of one or more corporations all or substantially all of the fair market value of the property of which was attributable to property described in subparagraph iii, or

iii. property described in either subparagraph i or ii.”;

(3) by replacing subparagraphs *a* to *c* of the second paragraph by the following subparagraphs:

“(a) where, for any period of time in the 24-month period ending at the determination time, all or substantially all of the fair market value of the assets of a particular corporation that is the corporation or another corporation that was connected with the corporation cannot be attributed to assets described in subparagraph i of subparagraph *c* of the said definition, shares or indebtedness of corporations described in subparagraph 2 of subparagraph ii of subparagraph *c* of the said definition, or any combination thereof, the reference in the said subparagraph 2 to “more than 50 %” shall, for the particular period of time, be read as a reference to “all or substantially all” in respect of each other corporation that was connected with the particular corporation and, for the purposes of this subparagraph, a corporation is connected with another corporation only where

i. the corporation is connected, within the meaning of the regulations, with the other corporation, and

ii. the other corporation owns shares of the capital stock of the corporation and, for the purposes of this subparagraph, the other



corporation is deemed to own the shares of the capital stock of any corporation that are owned by a corporation any shares of the capital stock of which are owned or are deemed by this subparagraph to be owned by the other corporation;

“(b) where, at any time in the 24-month period ending at the determination time, the share was substituted for another share, the share shall be considered to have met the requirements of the said definition only where the other share

i. was not owned by any person or partnership other than a person or partnership described in subparagraph *b* of the said definition throughout the period commencing 24 months before the determination time and ending at the time of substitution, and

ii. was a share of the capital stock of a corporation described in subparagraph *c* of the said definition throughout that part of the period referred to in subparagraph *i* during which such share was owned by a person or partnership described in subparagraph *b* of the said definition;

“(c) where, at any time in the 24-month period ending at the determination time, a share referred to in subparagraph *ii* of subparagraph *c* of the said definition was substituted for another share, that share shall be considered to have met the requirements of that subparagraph *ii* only where the other share

i. was not owned by any person or partnership other than a person or partnership described in subparagraph *1* of subparagraph *ii* of subparagraph *c* of the said definition throughout the period commencing 24 months before the determination time and ending at the time of substitution, and

ii. was a share of the capital stock of a corporation described in subparagraph *c* of the said definition throughout that part of the period referred to in subparagraph *i* during which such share was owned by a person or partnership described in subparagraph *1* of subparagraph *ii* of that subparagraph *c*;”;

(4) by replacing subparagraph *f* of the second paragraph by the following subparagraph:

“(f) a personal trust is deemed

i. to be related to a person or partnership for any period throughout which the person or partnership was a beneficiary of the trust, and

ii. in respect of a share of the capital stock of a corporation, to be related to the person from whom it acquired the share where, at the time the trust disposed of the share, all of the beneficiaries, other than registered charities, of the trust were related to that person or would have been so related if that person were living at that time;”;

(5) by replacing the period at the end of subparagraph *i* of the second paragraph by a semicolon;

(6) by adding, after subparagraph *i* of the second paragraph, the following subparagraph:

“(j) where, immediately before the death of an individual, a share would, but for subparagraph *a* of the said definition, be a qualified small business corporation share of an individual, the share is deemed to be a qualified small business corporation share of the individual if it was a qualified small business corporation share of the individual at any time in the 12-month period immediately preceding the death of the individual.”;

(7) by adding, after the second paragraph, the following paragraph:

“For the purposes of the definition of “qualified small business corporation share” in the first paragraph and of subparagraph *f* of the second paragraph, a personal trust is deemed to include a trust a trustee of which holds a share for an employee in accordance with section 53.”

(2) Paragraphs 1, 3 and 7 of subsection 1 apply in respect of dispositions of shares occurring after 17 June 1987.

(3) Paragraphs 2, 4, 5 and 6 of subsection 1 apply from the taxation year 1988.

**266.** (1) The said Act is amended by inserting, after section 726.6.1, the following section:

**“726.6.2** For the purposes of the definition of “qualified small business corporation” in section 1 and 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 for the purposes of the second paragraph of that section 726.6.1, 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, the following rules apply:

(a) 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

(b) the total fair market value of assets described in the second paragraph, other than assets described in subparagraphs i to iii of subparagraph *c* of the definition of "qualified small business corporation share" in the first paragraph of section 726.6.1, subparagraphs i to iii of subparagraph *b* of the definition of "share of the capital stock of a family farm corporation" in the said first paragraph, or subparagraphs *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.

The assets first referred to in subparagraph *b* of the first paragraph are

(a) the proceeds, the right to receive the proceeds or attributable to the proceeds of the life insurance policy of which the particular corporation was a beneficiary, and

(b) used, directly or indirectly, within the 24-month period commencing at the time of the death of the insured or, where written application therefor is made by the particular corporation within that period, within such longer period as the Minister considers reasonable in the circumstances, to redeem, acquire or cancel the particular shares owned by the insured immediately before the death of the insured."

(2) This section applies in respect of dispositions occurring after 17 June 1987. However, where subparagraph *b* of the second paragraph of section 726.6.2 of the Taxation Act, enacted by this section, applies in respect of dispositions occurring before 13 July 1990, the reference therein to "within the 24-month period commencing at the time of the death of the insured or, where written

application therefor is made by the particular corporation within that period, within such longer period” shall read as a reference to “before 13 July 1991 or, where written application therefor is made by the particular corporation before that date, before such date”.

**267.** (1) Sections 726.21 and 726.22 of the said Act are replaced by the following sections:

**“726.21** Where, throughout a period, referred to in this title as the “qualifying period”, of not less than six consecutive months commencing or ending in a taxation year subsequent to the taxation year 1994, a taxpayer who is an individual has resided in one or more particular areas each of which was a prescribed northern zone or prescribed intermediate zone for the year and has filed for the year a claim in prescribed form, the taxpayer may deduct, in computing his taxable income for the year, such of the amounts determined under section 726.22 as are applicable in his regard.

**“726.22** Subject to paragraph *f* of section 737.22, the amounts referred to in section 726.21 are the following:

(a) the aggregate of all amounts each of which is the product obtained by applying the specified percentage for the year for the particular area in which the taxpayer resided to the amount received or to the value of a benefit received or enjoyed, in the year by the taxpayer in respect of his employment in the particular area by a person with whom he was dealing at arm’s length in respect of travelling expenses incurred by the taxpayer or another individual who was a member of the taxpayer’s household during the part of the year in which the taxpayer resided in the particular area, to the extent that

i. the amount received or the value of the benefit, as the case may be, does not exceed a prescribed amount in respect of the taxpayer for the period of the year in which he resided in the particular area, is included and is not otherwise deducted in computing the taxpayer’s income for the year or any other taxation year, and is not included in determining an amount deducted under section 752.0.11 for the year or any other taxation year, and

ii. the travelling expenses were incurred in respect of trips made in the year by the taxpayer or another individual who was a member of the taxpayer’s household during the part of the year in which the taxpayer resided in the particular area;

(b) the lesser of

i. 20 % of the taxpayer’s income for the year, and

ii. the aggregate of all amounts each of which is equal to the amount obtained by applying the specified percentage for the year for the particular area in which the taxpayer resided to the aggregate of

(1) \$7.50 multiplied by the number of days in the year included in the qualifying period in which the taxpayer resided in the particular area, and

(2) \$7.50 multiplied by the number of days in the year included in that portion of the qualifying period throughout which the taxpayer maintained and resided in a self-contained domestic establishment in the particular area, except any day included in computing an amount deducted under this paragraph by another person who resided on that day in the establishment.

For the purposes of the first paragraph, the specified percentage for a taxation year for a particular area is

(a) 100 %, where the area is a prescribed northern zone for the year for the purposes of section 726.21; and

(b) 50 %, where the area is a prescribed intermediate zone for the year for the purposes of section 726.21."

(2) This section applies from the taxation year 1988. However,

(a) where section 726.21 of the Taxation Act, enacted by subsection 1, applies to the taxation years 1988 to 1994, it shall read as follows:

**"726.21** Where, throughout a period, referred to in this title as the "qualifying period", of not less than six consecutive months commencing or ending in a taxation year, a taxpayer who is an individual has resided in one or more particular areas each of which was a prescribed area for the year or for one of the two preceding taxation years, a prescribed northern zone for the year or a prescribed intermediate zone for the year and has filed for the year a claim in prescribed form, the taxpayer may deduct, in computing his taxable income for the year, such of the amounts determined under section 726.22 as are applicable in his regard.";

(b) where subparagraph b of the first paragraph of section 726.22 of the Taxation Act, enacted by subsection 1, applies to the taxation years 1988 to 1990, it shall read as follows:

"(b) subject to sections 726.23 and 726.23.2, the aggregate of all amounts each of which is equal to the amount obtained by applying

the specified percentage for the year for a particular area in which the taxpayer resided to the lesser of

i. 20 % of the taxpayer's income for the year, and

ii. the aggregate of

(1) \$450 multiplied by the quotient obtained when the number of days in the year included in that portion of the qualifying period throughout which the taxpayer maintained and resided in a self-contained domestic establishment in the particular area, except any day included in computing an amount deducted under this paragraph by another person who resided on that day in the establishment, is divided by 30, and

(2) \$225 multiplied by the amount by which the quotient obtained when the number of days in the year included in that portion of the qualifying period throughout which the taxpayer resided in the particular area is divided by 30, exceeds the quotient obtained under subparagraph 1.”;

(c) where the second paragraph of section 726.22 of the Taxation Act, enacted by subsection 1, applies to the taxation years 1988 to 1994, it shall read as follows:

“For the purposes of the first paragraph, the specified percentage for a taxation year for a particular area is,

(a) 100 %, where the area is a prescribed area or a prescribed northern zone for the year for the purposes of section 726.21;

(b) except as otherwise provided in subparagraph a, 66 2/3 %, where the area was a prescribed area for the immediately preceding taxation year for the purposes of section 726.21;

(c) except as otherwise provided in subparagraph a or b, 50 %, where the area is a prescribed intermediate zone for the year for the purposes of section 726.21;

(d) except as otherwise provided in subparagraph a, b or c, 33 1/3 %, where the area was a prescribed area for the second preceding taxation year for the purposes of section 726.21.”

(3) For the purposes of subparagraphs 1 and 2 of subparagraph ii of subparagraph b of the first paragraph of section 726.22 of the Taxation Act, enacted by paragraph b of subsection 2, the following rules apply:

(a) subject to paragraph *b*, where the quotient obtained is not a whole number, it shall be rounded to the nearest whole number or, where it is equidistant from two such consecutive whole numbers, it shall be rounded to the higher thereof;

(b) where, in a taxation year, a taxpayer resided in more than one particular area each of which is an area referred to in the second paragraph of the said section 726.22 for the year, for the purpose of computing the amount deductible under section 726.21 of the said Act in computing the taxpayer's taxable income for the year, the aggregate of all amounts each of which is a quotient obtained under the said subparagraph 1 or 2 in respect of any such area for the year shall not exceed the total of such amounts that would have been determined for the year if the taxpayer had resided in only one such area throughout the portion of the qualifying period included in the year;

(c) where two or more taxpayers not dealing with each other at arm's length resided in the same self-contained domestic establishment for periods in a taxation year, for the purpose of computing the amounts deductible under section 726.21 of the said Act in computing the taxable incomes of those taxpayers for the year, the total of all quotients obtained for the year under the said subparagraph 1 in respect of the establishment shall not exceed the amount that would be the quotient obtained under the said subparagraph 1 in respect of the establishment for the year if the establishment had been maintained by only one such taxpayer for the total of those periods.

**268.** (1) The said Act is amended by inserting, after section 726.22, the following section:

**"726.22.1** The aggregate of the amounts determined under subparagraph *a* of the first paragraph of section 726.22 for a taxpayer in respect of travelling expenses incurred in a taxation year in respect of an individual shall not be in respect of more than two trips made by the individual in the year, other than trips for the purpose of obtaining medical services that are not available in the locality in which the taxpayer resided."

(2) This section applies from the taxation year 1988.

**269.** (1) Section 726.23 of the said Act is replaced by the following section:

**"726.23** The amount determined under subparagraph ii of subparagraph *b* of the first paragraph of section 726.22 for a taxation

year for a taxpayer in respect of a particular area shall not exceed the amount by which the aggregate of the amounts otherwise determined under the said subparagraph ii for the year in respect of that particular area, exceeds the value of, or an allowance in respect of expenses incurred by the taxpayer for, the taxpayer's board and lodging in the particular area that

(a) would, but for subparagraph i of paragraph *a* of section 42, be included in computing his income for the year, and

(b) can reasonably be considered to be attributable to that portion of the qualifying period that is in the year and during which the taxpayer maintained a self-contained domestic establishment as his principal place of residence in an area other than a prescribed northern zone or a prescribed intermediate zone for the year for the purposes of section 726.21."

(2) This section applies from the taxation year 1988. However,

(a) where paragraph *a* of section 726.23 of the Taxation Act, enacted by subsection 1, applies to the taxation year 1988, the reference therein to "subparagraph i of paragraph *a* of section 42" shall read as a reference to "paragraph *a* of subsection 1 of section 42";

(b) where paragraph *b* of the said section 726.23 of the Taxation Act, enacted by subsection 1, applies to the taxation years 1988 to 1994, it shall read as follows:

"(b) can reasonably be considered to be attributable to that portion of the qualifying period included in the year and during which the taxpayer maintained a self-contained domestic establishment as his principal place of residence in an area other than a prescribed area, a prescribed northern zone or a prescribed intermediate zone for the year for the purposes of section 726.21."

**270.** (1) The said Act is amended by inserting, after section 726.23, the following section:

**"726.23.1** Where on any day an individual resides in more than one particular area referred to in section 726.22, for the purposes of that section, the individual is deemed to reside in only one such area on that day."

(2) This section applies from the taxation year 1988.

**271.** (1) Title VI.7 of Book IV of Part I of the said Act is repealed.



(2) This section applies in respect of amounts received after 31 December 1990.

**272.** (1) Section 729.1 of the said Act is amended by replacing that part preceding subparagraph *b* of the second paragraph by the following:

**“729.1** Notwithstanding section 729, the amount that may be deducted by reason of that section in computing the taxable income of a taxpayer for a particular taxation year is the aggregate of

(a) the lesser of

i. the excess contemplated in paragraph *b* of section 28 for the particular taxation year in respect of the taxpayer, and

ii. the aggregate of all amounts each of which is an amount determined by the formula

$$\frac{A \times B}{C}, \text{ and}$$

(b) where the taxpayer is an individual, the least of

i. \$1 000,

ii. his pre-1986 capital loss balance for the particular taxation year, and

iii. the amount by which the amount claimed in respect of the taxpayer's net capital losses under section 729 for the particular taxation year exceeds the aggregate of such amounts determined in respect of his net capital losses by the formula set forth in subparagraph ii of subparagraph *a*, that would be required to be claimed under section 729 for the particular taxation year to produce the amount determined under subparagraph *a* for the particular taxation year.

For the purposes of the formula set forth in subparagraph ii of subparagraph *a* of the first paragraph,

(a) *A* is the amount claimed for the particular taxation year by the taxpayer under section 729 in respect of a net capital loss for a taxation year, in this paragraph referred to as the “loss year”;

(2) This section applies from the taxation year 1985 in respect of the computation of a taxpayer's taxable income.

**273.** (1) Section 730.2 of the said Act is amended

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

“(a) the amount by which the individual’s net capital losses for taxation years ending before 1 January 1985 exceeds the aggregate of amounts claimed by him under this title, in respect of those losses, in computing his taxable income for taxation years preceding the particular taxation year; and”;

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

“(b) the amount by which the aggregate of amounts claimed by him under this title in respect of his net capital loss for the taxation year 1985 in computing his taxable income for a taxation year preceding the particular taxation year is exceeded by the lesser of”.

(2) This section applies from the taxation year 1985 in respect of the computation of a taxpayer’s taxable income.

**274.** (1) Section 734 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

“**734.** An amount in respect of a non-capital loss, a farm loss, a restricted farm loss or a limited partnership loss is deductible, and an amount in respect of a net capital loss may be claimed, for a particular taxation year under section 727, 728.1, 729, 731, 733.0.0.1 or 737 only to the extent that it exceeds the aggregate of”.

(2) This section applies from the taxation year 1985 in respect of the computation of a taxpayer’s taxable income. However, where that part of section 734 of the Taxation Act preceding paragraph *a*, enacted by this section, applies before 26 February 1986, it shall read without reference therein to limited partnership losses and to section 733.0.0.1 of the said Act.

**275.** (1) Section 736 of the said Act is amended

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

“(c) each capital property owned by the corporation immediately before that time, other than a property in respect of which an amount would, but for this subparagraph, be required by subparagraph *a* to be deducted in computing its adjusted cost base to the corporation or a depreciable property of a prescribed class to which, but for this subparagraph, paragraph *a* of section 736.0.2 would apply, as is

designated by the corporation in its fiscal return under this Part for the taxation year that ended immediately before that time or in a prescribed form filed with the Minister on or before the day that is 90 days after the day on which a notice of assessment of tax payable for the year or notification that no tax is payable for the year is mailed to the corporation, is deemed to have been disposed of by the corporation immediately before the time that is immediately before that time for proceeds of disposition equal to the lesser of the fair market value of the property immediately before that time and the greater of the adjusted cost base to the corporation of the property immediately before the disposition and such amount as is designated by the corporation in respect of the property, and is deemed, subject to the third paragraph, to have been reacquired by it at that time at a cost equal to the proceeds of disposition thereof;”;

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

“Notwithstanding subparagraph *c* of the second paragraph and for the purposes of Division II of Chapter II of Title III of Book III, sections 130, 130.1, 142 and 149 and any regulation made under paragraph *a* of section 130 or section 130.1, where the property is depreciable property of the corporation the capital cost of which to the corporation immediately before the disposition exceeds the proceeds of disposition determined under the said subparagraph *c*,

(a) the capital cost of the property to the corporation at that time is deemed to be the amount that was its capital cost immediately before the disposition, and

(b) the excess is deemed to have been allowed to the corporation in respect of the property under the regulations made under paragraph *a* of section 130 in computing its income for taxation years ending before that time.”

(2) This section applies in respect of acquisitions of control of a corporation occurring after 13 July 1990, other than acquisitions of control where the persons acquiring control were obliged on that date to acquire control pursuant to the terms of an agreement in writing entered into on or before that day.

**276.** (1) Section 737 of the said Act is replaced by the following section:

**“737.** Where a taxpayer dies in a taxation year, for the purposes of computing his taxable income for that year and the preceding taxation year, the following rules apply:

(a) section 729 shall read as follows:

**“729.** A taxpayer may deduct the taxpayer’s net capital losses for all his taxation years not claimed in computing the taxpayer’s taxable income for any other taxation year.”; and

(b) subparagraph *b* of the first paragraph of section 729.1 shall read as follows:

“(b) the amount by which the amount claimed in respect of the taxpayer’s net capital losses under section 729 for the particular taxation year exceeds the aggregate of

i. all amounts in respect of the taxpayer’s net capital losses that, using the formula in subparagraph ii of subparagraph *a*, would be required to be claimed under section 729 for the particular taxation year to produce the amount determined under subparagraph *a* for the particular taxation year, and

ii. all amounts each of which is an amount deducted by the taxpayer under Title VI.5 of Book IV in computing the taxpayer’s taxable income for a taxation year, except to the extent that, where the particular year is the year in which the taxpayer died, the amount claimed under section 729 for the preceding taxation year in respect of the taxpayer’s net capital losses exceeds the amount so determined under subparagraph i.”.

(2) This section applies from the taxation year 1985 in respect of the computation of a taxpayer’s taxable income.

**277.** (1) Section 737.1 of the said Act is amended by replacing subparagraph ii of paragraph *b* by the following subparagraph:

“ii. at the end of the taxation year ending before 1 January 1998 and in which he died, nil, where the tax payable by the individual under this Part for that year is computed under sections 758 to 766.1, and the excess determined under paragraph *a* of section 737.2, in any other case;”.

(2) This section applies from the taxation year 1988.

**278.** (1) Section 737.22 of the said Act, amended by section 53 of chapter 1 of the statutes of 1992, is again amended by replacing paragraph *f* by the following paragraph:

“(f) subparagraphs 1 and 2 of subparagraph ii of subparagraph *b* of the first paragraph of section 726.22 shall read as follows:

“(1) \$7.50 multiplied by the number of days in the year included in the qualifying period in which the taxpayer resided in the particular area, except any day included in his research activity period as defined in paragraph *c* of section 737.19;

“(2) \$7.50 multiplied by the number of days in the year included in that portion of the qualifying period throughout which the taxpayer maintained and resided in a self-contained domestic establishment in the particular area, except any day either included in his research activity period as defined in paragraph *c* of section 737.19 or included in computing an amount deducted under this paragraph by another person who resided on that day in the establishment.”.

(2) This section applies from the taxation year 1988. However, where paragraph *f* of section 737.22 of the Taxation Act, enacted by this section, applies to the taxation years 1988 to 1990, it shall read as follows:

“(f) subparagraphs 1 and 2 of subparagraph ii of subparagraph *b* of the first paragraph of section 726.22 shall read as follows:

“(1) \$450 multiplied by the quotient obtained when the number of days in the year included in that portion of the qualifying period throughout which the taxpayer maintained and resided in a self-contained domestic establishment in the particular area, except any day either included in his research activity period as defined in paragraph *c* of section 737.19 or included in computing an amount deducted under this paragraph by another person who resided on that day in the establishment, is divided by 30;

“(2) \$225 multiplied by the amount by which the quotient obtained when the number of days in the year included in that portion of the qualifying period throughout which the taxpayer resided in the particular area, except any day either included in his research activity period as defined in paragraph *c* of section 737.19, is divided by 30, exceeds the quotient obtained under subparagraph 1.”.

**279.** (1) Sections 743 to 744.1 of the said Act are replaced by the following sections:

“**743.** The amount of any loss sustained by a taxpayer arising from transactions relating to a share he owned that was not a capital property and in respect of which he received a dividend, is deemed to be equal to the amount by which the amount of that loss otherwise determined exceeds

(a) where the taxpayer is an individual and the corporation that paid the dividend is a taxable Canadian corporation, the aggregate

of all amounts each of which is a dividend, other than a capital gains dividend within the meaning of sections 1106 and 1116, on the share received by the taxpayer,

(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, on the share received by the taxpayer, and

(c) in any other case, nil.

The first paragraph does not apply in respect of the amount of a dividend received by a taxpayer on which the taxpayer was required to pay a prescribed tax.

**“744.** For the purposes of section 83 and the regulations made thereunder, where a taxpayer, other than a prescribed trust, or a partnership holds a share that is not a capital property and receives a dividend in respect of that share, there shall, in computing the fair market value of the share at any time after 12 November 1981, be added to such value otherwise computed, an amount equal to

(a) where the holder of the share is an individual and the corporation that paid the dividend is a taxable Canadian corporation, the aggregate of all amounts each of which is a dividend, other than a capital gains dividend within the meaning of sections 1106 and 1116, on the share received before that time by the holder or that would have been so received if this Part were read without reference to section 666,

(b) where the holder of the share is a corporation, the aggregate of all amounts each of which is a taxable dividend, 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, on the share received before that time by the holder,

(c) where the holder of the share is a partnership, the aggregate of all amounts each of which is a dividend, other than a capital gains dividend within the meaning of sections 1106 and 1116, on the share received before that time by the holder, and

(d) in any other case, nil.

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The first paragraph does not apply in respect of the amount of a dividend received by the holder of the share and on which he was required to pay a prescribed tax.

**“744.1** A taxpayer who is a member of a partnership and who receives a dividend in respect of a share that is not a capital property of the partnership shall compute his share of any loss of the partnership arising in respect of the share by subtracting from the amount of the loss, otherwise computed, an amount equal to

(a) where the taxpayer is an individual and the corporation that paid the dividend is a taxable Canadian corporation, the aggregate of all amounts each of which is a dividend, other than a capital gains dividend within the meaning of sections 1106 and 1116, on the share received by the taxpayer,

(b) where the taxpayer is a corporation, the aggregate of all amounts each of which is a taxable dividend, 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, on the share received by the taxpayer, and

(c) in any other case, nil.

The first paragraph does not apply in respect of the amount of a dividend received by a taxpayer on which the taxpayer was required to pay a prescribed tax.

(2) This section, where it replaces sections 743 and 744.1 of the Taxation Act, applies in respect of the determination of losses arising in taxation years ending after 31 December 1989 and also applies in respect of the determination of losses arising in a taxpayer's taxation years ending after 31 December 1984 and before 1 January 1990 where the taxpayer notifies the Minister of Revenue in writing, with supporting evidence, 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 (S.C., 1991, chapter 49), concerning the application of subsection 4 or 4.2 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 such modifications as the circumstances require.

(3) This section, where it replaces section 744 of the Taxation Act, applies to taxation years ending after 31 December 1989 and also applies to a taxpayer's taxation years ending after 31 December 1984 and before 1 January 1990 where the taxpayer notifies the Minister of Revenue in writing, with supporting evidence, 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 (S.C., 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 such modifications as the circumstances require.

**280.** (1) Section 752.0.8 of the said Act is amended by replacing the second paragraph by the following paragraph:

“The amounts to which the first paragraph refers are the amounts that are included in computing the income of an individual for the year under sections 92.11 to 92.19.”

(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.

**281.** (1) Section 752.0.11.1 of the said Act is amended

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

“(j) for or in respect of an artificial limb, iron lung, rocking bed for poliomyelitis victims, wheelchair, crutches, spinal brace, brace for



a limb, ileostomy or colostomy pad, truss for hernia, artificial eye, laryngeal speaking aid, aid to hearing or artificial kidney machine;”;

(2) by inserting, after paragraph *j*, the following paragraph:

“(j.1) for or in respect of diapers, disposable briefs, catheters, catheter trays, tubing or other products required by a person by reason of incontinence caused by illness, injury or affliction;”;

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

“(m) as remuneration for one full-time attendant on a person in respect of whom an amount would, but for paragraph *d* of section 752.0.14, be deductible by reason of sections 752.0.14 to 752.0.16 in computing an individual’s tax payable under this Part for the taxation year in which the expense was incurred if, at the time the remuneration is paid, the attendant is neither the person’s spouse nor under 18 years of age, or for the full-time care in a nursing home of such a person;”;

(4) by inserting, after paragraph *m*, the following paragraph:

“(m.1) as remuneration for an attendant for care provided in Canada to a person in respect of whom an amount may be deducted by reason of sections 752.0.14 to 752.0.16 in computing an individual’s tax payable under this Part for the taxation year in which the expense was incurred, to the extent that the total of amounts so paid does not exceed \$5 000, or \$10 000 where the person died in the year, if

(a) no amount is included in computing an amount deducted in respect of the person under Chapter VIII or IX.0.1 of Title VI of Book III or paragraph *k*, *l*, *m* or *n* for the taxation year in which the remuneration was paid,

(b) at the time the remuneration is paid, the attendant is neither the person’s spouse nor under 18 years of age, and

(c) each receipt filed with the Minister to prove payment of the remuneration was issued by the payee and contains, where the payee is an individual, the individual’s Social Insurance Number;”;

(5) by replacing paragraphs *n* and *o* by the following paragraphs:

“(n) as remuneration for one full-time attendant on a person in a self-contained domestic establishment in which the person receiving the care lives, if that person is, and has been certified by a practitioner to be, a person who, by reason of mental or physical infirmity, is and

is likely to be for a long-continued period of indefinite duration dependent on others for his personal needs and care if, at the time the remuneration is paid, the attendant is neither the person's spouse nor under 18 years of age and the receipt filed with the Minister to prove payment of the remuneration was issued by the payee and contains, where the payee is an individual, the individual's Social Insurance Number;

“(o) on behalf of a person who is totally blind or profoundly deaf or has a severe and prolonged impairment that markedly restricts the use of the person's arms or legs,

i. for an animal specially trained to assist the person in coping with the impairment and provided by a person or organization one of whose main purposes is such training of animals,

ii. for the care and maintenance of such an animal, including food and veterinarian care,

iii. for reasonable travelling expenses of the person incurred for the purpose of attending a school, institution or other facility that trains, in the handling of such animals, individuals who are so impaired, and

iv. for reasonable board and lodging expenses of the person incurred for the purpose of attending full-time courses at a place described in subparagraph iii;”;

(6) by replacing paragraphs *r* and *s* by the following paragraphs:

“(r) for reasonable expenses relating to renovations or alterations to a dwelling of a person who lacks normal physical development or has a severe and prolonged mobility impairment, to enable the person to gain access to, or to be mobile or functional within, the dwelling;

“(s) for any device or equipment not otherwise described in this section, if it is used by a person as prescribed by a practitioner, is prescribed by regulation and meets such conditions as may be prescribed as to its use or the reason for its acquisition.”

(2) Paragraphs 1 to 5 of subsection 1 and paragraph 6 of subsection 1, where it replaces paragraph *r* of section 752.0.11.1 of the Taxation Act, apply in respect of expenses incurred after 31 December 1990.

(3) Paragraph 6 of subsection 1, where it replaces paragraph *s* of section 752.0.11.1 of the Taxation Act, has effect from 17 December 1991.

**282.** (1) Section 752.0.14 of the said Act is amended

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

“(a) the individual has a severe and prolonged mental or physical impairment the effects of which are such that the individual’s ability to perform a basic activity of daily living is markedly restricted;”;

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

“(d) neither the individual nor any other person has included, in computing a deduction under section 752.0.11 for the year, otherwise than by reason of paragraph *m.1* of section 752.0.11.1, an amount in respect of remuneration for an attendant or care in a nursing home, in respect of the individual.”

(2) This section applies from the taxation year 1991.

**283.** (1) Section 752.0.15 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

**“752.0.15** An individual may deduct from his tax otherwise payable for a taxation year under this Part the excess of 20 % of an amount of \$2 200 over the taxes payable for the year under this Part, computed before making any deduction contemplated in this book, other than those contemplated in sections 752.0.1 to 752.0.10, by any person, other than a person in respect of whom the person’s spouse deducts for the year an amount under Chapter I.0.1 or I.0.4, who is resident in Canada at any time in the year and in respect of whom the individual has claimed a deduction for the year under section 752.0.1, pursuant to paragraphs *b* to *g* of the said section, or could have claimed such a deduction if such person had had no income during the year, if”.

(2) This section applies from the taxation year 1988.

**284.** (1) Section 752.0.17 of the said Act is replaced by the following section:

**“752.0.17** For the purposes of sections 42.0.1, 752.0.11 to 752.0.16 and this section,

(a) an impairment is prolonged where it has lasted, or may reasonably be expected to last, for a continuous period of a least 12 months;

(b) an individual's ability to perform a basic activity of daily living is markedly restricted only where all or substantially all of the time, even with therapy and the use of appropriate devices and medication, the individual is blind or unable, or requires an inordinate amount of time, to perform a basic activity of daily living;

(c) a basic activity of daily living of an individual means

- i. perceiving, thinking and remembering,
- ii. feeding and dressing oneself,
- iii. speaking so as to be understood, in a quiet setting, by another person familiar with the individual,
- iv. hearing so as to understand, in a quiet setting, another person familiar with the individual,
- v. eliminating (bowel or bladder functions), or
- vi. walking; and

(d) for greater certainty, no other activity, including working, housekeeping or a social or recreational activity, shall be considered as a basic activity of daily living.

The Minister may obtain the advice of an agency or of another department to determine whether an individual in respect of whom an amount has been deducted under section 752.0.14 or 752.0.15 has a severe and prolonged mental or physical impairment the effects of which are such that the individual's ability to perform a basic activity of daily living is markedly restricted, and any person referred to in that section shall, on request in writing by the agency or the other department for information with respect to an individual's impairment and its effect on the individual, provide the information so requested."

(2) This section applies from the taxation year 1991.

**285.** (1) Section 752.0.24 of the said Act is replaced by the following section:

**"752.0.24** Where an individual is resident in Canada during part of a taxation year and during some other part of the year is not

resident in Canada, is not employed in Canada and is not carrying on business in Canada, the following rules apply for the purpose of computing his tax payable under this Part for the year:

(a) no amount may be deducted by the individual under sections 752.0.1 to 752.0.19, except

i. such amount deductible under sections 752.0.8, 752.0.9 and 752.0.11 to 752.0.13.1 as may reasonably be considered wholly applicable to any period in the year throughout which the individual is resident in Canada, employed in Canada or carrying on business in Canada, computed as if such period were a whole taxation year, and

ii. such part of any amount deductible under sections 752.0.1 to 752.0.7 and 752.0.14 to 752.0.19 as may reasonably be considered applicable to any period contemplated in subparagraph i, computed as if such period were a whole taxation year; and

(b) such amount as is deductible for the year under each of sections 752.0.1 to 752.0.19 in respect of a period in the year that is not contemplated in subparagraph i of subparagraph *a* shall be computed as if such period were a whole taxation year.

Notwithstanding the foregoing, the amount deductible for the year by the individual under any of sections 752.0.1 to 752.0.19 shall not exceed the amount that would have been deductible under that section had the individual been resident in Canada throughout the year."

(2) This section applies from the taxation year 1988. However, where subparagraph i of subparagraph *a* of the first paragraph of section 752.0.4 of the Taxation Act, enacted by this section, applies to the taxation year 1988, the reference therein to "to 752.0.13.1" shall read as a reference to "to 752.0.13".

**286.** (1) The said Act is amended by inserting, after section 766.1, the following section:

## "CHAPTER II.1

### "ADDITION IN RESPECT OF RETROACTIVE PAYMENTS

**"766.2** Where, by reason of section 309.1, an individual does not include in computing his income for a particular taxation year a portion of any amount that relates to a preceding taxation year, the individual shall add to his tax otherwise payable under this Part for

the particular year the aggregate of all amounts each of which is the amount by which the amount that would have been the tax payable under this Part by the individual for the preceding year if that portion of the amount that relates to the preceding year had been included in computing his income for the preceding year, exceeds the tax payable under this Part by the individual for the preceding year.

For the purposes of the first paragraph, where an individual was resident in Canada but outside Québec on the last day of a preceding taxation year, the individual is deemed to have been resident in Québec on the last day of that preceding year.”

(2) This section applies from the taxation year 1990.

**287.** (1) Section 771.1.10 of the said Act, amended by section 68 of chapter 1 of the statutes of 1992, is again amended by replacing paragraph *a* by the following paragraph:

“(a) the aggregate of all amounts each of which is an amount in respect of a partnership of which the corporation was a member in the year equal to the lesser of

i. the aggregate of all amounts each of which is an amount in respect of an eligible business carried on in Canada by the corporation as a member of the partnership equal to the amount by which the aggregate of all amounts each of which is the corporation’s share of the income, determined in accordance with Title XI of Book III, of the partnership for a fiscal period ending in the year from the business exceeds the aggregate of all amounts each of which is an amount deducted in computing the corporation’s income for the year from the business, other than an amount that was deducted by the partnership in computing its income from the business, and

ii. that proportion of the lesser of \$200 000 and the product obtained when \$548 is multiplied by the number of days contained in a fiscal period of the partnership ending in the year that the aggregate of all amounts each of which is the corporation’s share of the income, determined in accordance with Title XI of Book III, of the partnership for a fiscal period ending in a fiscal period ending in the year from an eligible business carried on in Canada is of the aggregate of all amounts each of which is the income of the partnership for a fiscal period referred to in subparagraph i from an eligible business carried on by it in Canada, and”.

(2) This section applies from the taxation year 1989 of a corporation.

**288.** (1) Section 771.1.11 of the said Act is replaced by the following section:

**“771.1.11** For the purposes of this title, the expression “specified partnership loss” of a corporation for a taxation year means the aggregate of all amounts each of which is an amount in respect of a partnership of which the corporation was a member in the year equal to the aggregate of

(a) all amounts each of which is the corporation’s share of the loss, determined in accordance with Title XI of Book III, of the partnership for a fiscal period ending in the year from an eligible business carried on in Canada by the corporation as a member of the partnership, and

(b) all amounts each of which is the amount by which the aggregate of all amounts each of which is an amount deducted in computing the corporation’s income for the year from an eligible business carried on in Canada by the corporation as a member of the partnership, other than an amount that was deducted by the partnership in computing its income from the business, exceeds the aggregate of all amounts each of which is the corporation’s share of the income, determined in accordance with Title XI of Book III, of the partnership for a fiscal period ending in the year from the business.”

(2) This section applies from the taxation year 1989 of a corporation.

**289.** (1) Section 772.1 of the said Act is amended by replacing the second paragraph by the following paragraph:

“For the purposes of this section, tax otherwise payable for the year under this Part means the tax payable, computed pursuant to this Part, before making any deduction or addition under this section, and sections 752.1 to 752.5, 766.2, 767, 772, 776 to 776.1.5, 776.17, 776.29 to 776.40, 1183 and 1184.”

(2) This section applies from the taxation year 1990.

**290.** (1) Section 776.29 of the said Act, amended by section 171 of chapter 21 of the statutes of 1992, is again amended by inserting, after subparagraph iii of subparagraph c of the first paragraph, the following subparagraph:

“iii.1 any part of an amount relating to a preceding taxation year which is received by the individual in the year and which he has elected, under section 309.1, not to include in computing his income for the year;”.

(2) This section applies from the taxation year 1990.

**291.** (1) Section 776.45 of the said Act is amended

(1) by replacing the period at the end of paragraph *d* by a semicolon;

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

“(e) a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 for its taxation year in which the spouse referred to in the said subparagraph *a* dies.”

(2) This section applies from the taxation year 1986.

**292.** (1) Section 776.60 of the said Act, amended by section 83 of chapter 1 of the statutes of 1992, is again amended by replacing the second paragraph by the following paragraph:

“Notwithstanding the first paragraph, an amount otherwise deductible by the individual for the year in computing his taxable income or his taxable income earned in Canada, as the case may be, other than an amount referred to in this title, shall be equal to the amount that would otherwise be deductible were it not for this Book, except the amount deductible under section 725 which shall be equal to the amount that would be deductible under the said section 725 if section 776.56 applied in computing the individual’s income for the year.”

(2) This section applies from the taxation year 1986.

**293.** (1) Section 776.61 of the said Act is amended by replacing that part preceding paragraph *b* by the following:

**“776.61** For the purposes of section 776.51, the only amounts deductible by the individual for the year in computing his taxable income or his taxable income earned in Canada, as the case may be, under sections 727, 728.1, 729, 731 and 733.0.0.1 are

(a) as regards sections 727, 728.1, 731 and 733.0.0.1, the lesser of

i. the aggregate of all amounts deducted by him under the said sections for the year, and

ii. the aggregate of all amounts that would be deductible under the said sections for the year if sections 776.53, 776.54, 776.55 and



776.57 were applicable in computing the individual's non-capital loss, farm loss, restricted farm loss and the limited partnership loss for any taxation year commencing after 31 December 1985; and".

(2) This section applies to taxation years commencing after 31 December 1985.

**294.** (1) Section 797 of the said Act is amended by replacing paragraph *d* of subsection 2 by the following paragraph:

"(d) debt obligations of a bank, another credit union or a corporation licensed or otherwise authorized under the laws of Canada or of a province to offer in Canada its services as trustee, deposits with a bank or such a credit union or corporation, or debt obligations or deposits guaranteed by a bank or such a credit union or corporation;"

(2) This section has effect from 28 February 1992.

**295.** (1) Section 799 of the said Act is replaced by the following section:

"**799.** In computing the income of a credit union for its first taxation year that commences after 17 June 1987 and ends after 31 December 1987, the credit union shall include any amount deducted by it as a reserve under this section in computing its income for the preceding taxation year and may deduct its 1971 reserve adjustment within the meaning of the regulations."

(2) This section has effect from 14 December 1990.

**296.** (1) Section 803.1 of the said Act is replaced by the following section:

"**803.1** A credit union may, within 120 days after the end of its taxation year, elect in prescribed form to allocate in respect of the year to a member that is a credit union such portion of each of the following amounts as may be regarded as attributable to the member:

(a) the aggregate of all amounts each of which is the amount of a taxable dividend received by the credit union from a taxable Canadian corporation in the year;

(b) the amount by which the aggregate of all amounts each of which is the amount by which the credit union's capital gain from the disposition of a property in the year exceeds its taxable capital gain from the disposition of that property, exceeds the aggregate of all

amounts each of which is the amount by which the credit union's capital loss from the disposition of a property in the year exceeds its allowable capital loss from the disposition of that property; and

(c) each amount deductible under paragraph *c* of section 803.2 in computing the credit union's taxable income for the year."

(2) This section applies from the taxation year 1988.

**297.** (1) Section 803.2 of the said Act is amended by replacing paragraph *b* by the following paragraph:

"(b) the credit union must include in computing its income for the year the amounts referred to in paragraphs *b* and *c* of section 803.1 that it has elected to allocate in respect of the year; and".

(2) This section applies from the taxation year 1988.

**298.** (1) Section 805 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

"(b) any deposit, deposit certificate or guaranteed investment certificate with a bank, with a corporation licensed or otherwise authorized by or under the laws of Canada or a province to carry on in Canada or in a province the business of offering to the public its services as trustee, or with a central or a savings and credit union that is a member of the Canadian Payments Association or a savings and credit union that is a member or shareholder of a central that is itself a member of the Canadian Payments Association;"

(2) This section has effect from 28 February 1992.

**299.** (1) Section 824 of the said Act is amended by replacing subsection 1 by the following subsection:

"**824.** (1) Notwithstanding any other provision of this Part, the amount of the income of a life insurer resident in Canada resulting from the carrying on of an insurance business is the income resulting from the carrying on of that insurance business in Canada."

(2) This section applies from the taxation year 1990.

**300.** (1) Section 825 of the said Act is amended

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

“(a) all taxable dividends and amounts received or receivable as, on account of, in lieu of or in satisfaction of, interest, rentals or royalties included in its gross income for the year;”;

(2) by striking out the word “and” at the end of subparagraph *c* of the second paragraph;

(3) by replacing the period at the end of subparagraph *d* of the second paragraph by a semicolon and the word “and”;

(4) by adding, after subparagraph *d* of the second paragraph, the following subparagraph:

“(e) the amount by which the aggregate of all amounts included by reason of paragraph *c* of section 312 in computing its income for the year exceeds the aggregate of all amounts deducted under paragraph *f* of subsection 1 of section 336 in computing its income for the year.”

(2) This section applies from the taxation year 1990.

**301.** (1) Section 828 of the said Act is replaced by the following section:

“**828.** Notwithstanding any other provision of this Part, a life insurer resident in Canada that carries on an insurance business in Canada and elsewhere in a taxation year shall not include in computing its income for the year its taxable capital gains and allowable capital losses for the year resulting from the disposition of property used or held by it in the year in the course of carrying on an insurance business but not resulting from the disposition of property used or held by it in the year in the course of carrying on an insurance business in Canada.”

(2) This section applies from the taxation year 1990.

**302.** (1) Section 832.3 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) the transferor has, at the time referred to in subparagraph *a* or within 60 days thereafter, transferred all or substantially all of the property, in this section referred to as the “transferred property”, owned by it at that time and used or held by it in the year in the course of carrying on the insurance business in Canada referred to in subparagraph *a* to a corporation, in this section referred to as the “transferee”, that is a prescribed corporation which, immediately after that time, commenced to carry on that insurance business in

Canada, and the consideration for the transfer includes shares of the capital stock of the transferee;”.

(2) This section applies in respect of transfers of an insurance business occurring after 15 December 1987.

**303.** (1) Section 835 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

**“835.** In this title, sections 92.11 to 104, 130, 130.1, 135, 137 to 163.1, 176 to 179, 183, 428 to 451, 570 and 736.1 and Part II,”.

(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.

**304.** (1) The said Act is amended by inserting, after section 851.32, the following section:

**“851.33** For the purposes of sections 710 to 716.2, where a gift made in a taxation year by an *inter vivos* trust referred to in section 851.25 would, but for this section, be included in the aggregate of its gifts contemplated in section 710 for the year and the trust so elects in its fiscal return under this Part for the year,

(a) the trust is deemed not to have made the gift;

(b) each adult member of a family to whom an amount is deemed under section 851.31 to be payable in the year is deemed to have made, in the year, such a gift the fair market value of which is equal to the amount determined by the formula

$$\frac{A \times B}{C}.$$

For the purposes of the formula set forth in subparagraph *b* of the first paragraph,

(a) A is the fair market value of the gift made by the trust;

(b) B is the amount deemed under section 851.31 to be payable in the year in respect of the trust to the adult member; and

(c) C is the aggregate of all amounts deemed under section 851.31 to be payable in the year in respect of the trust to an adult member of a family.”

(2) This section applies from the taxation year 1990.

**305.** (1) Section 894 of the said Act is amended

(1) by replacing that part preceding paragraph *a* by the following:

**“894.** The plan shall provide that the property of any trust governed by the plan, after the payment of trustee and administration charges, is irrevocably held for any of the following purposes by a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering its services as a trustee:”;

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

**“(e)** payment of an amount to another trust irrevocably holding the property pursuant to a registered education savings plan for any of the purposes set out in paragraphs *a* to *d*.”

(2) Paragraph 1 of subsection 1 applies in respect of plans entered into after 20 February 1990.

(3) Paragraph 2 of subsection 1 has effect from 14 July 1990.

**306.** (1) Section 895 of the said Act is amended

(1) by replacing that part preceding paragraph *b* by the following:

**“895.** A plan shall be registered only if the following conditions are met:

(*a*) at the time of the application for registration, not fewer than 150 subscribers have entered into a contract contemplated in section 893 with the promoter establishing a plan which complied, at the time it was entered into, with the conditions set out in section 894 and the other conditions set out in this section as those sections read at that time;”;

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

**“(b)** the promoter and each trust governed by the plan are resident in Canada;”;

(3) by striking out the word “and” at the end of paragraph *d*;

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

“(e) at the termination of a trust governed by the plan, the property held by the trust is to be used for any of the purposes described in section 894;”;

(5) by adding, after paragraph *e*, the following paragraphs:

“(f) the plan provides that payment of financial assistance referred to in section 893 may be made to an individual only if the individual is, at the time the payment is made, in full-time attendance at a prescribed post-secondary educational institution, enrolled in a prescribed educational program at the institution and is not a prescribed tax-exempt person;

“(g) the plan provides that no payment may be made into the plan by or on behalf of a subscriber after the twenty-first year following the year in which the plan is entered into;

“(h) the plan provides that it must be terminated on or before the last day of the twenty-fifth year following the year in which the plan is entered into;

“(i) where the plan provides that a subscriber may name more than one beneficiary under the plan at any one time, the plan provides that each of the beneficiaries under the plan is required to be connected to the subscriber by blood relationship or adoption;

“(j) the plan provides that the total of all payments made by a subscriber into the plan in respect of a beneficiary for a year shall not exceed \$1 500;

“(k) the plan provides that the promoter shall, within 90 days after the time when an individual becomes a beneficiary under the plan, notify the individual or, where the individual is under 19 years of age at that time and ordinarily resides with a parent of the individual, that parent, in writing of the existence of the plan and the name and address of the subscriber in respect of the plan; and

“(l) the plan complies with prescribed conditions.”

(2) Paragraphs 1, 3 and 5 of subsection 1 apply in respect of plans entered into after 20 February 1990. However, paragraph *i* of section 895 of the Taxation Act, enacted by paragraph 5, does not apply in respect of plans entered into before 14 July 1990, and paragraph *k* of the said section 895, enacted by paragraph 5, does not apply in respect of plans entered into before 1 April 1991.

(3) Paragraphs 2 and 4 of subsection 1 have effect from 14 July 1990.

**307.** (1) The said Act is amended by inserting, after section 895, the following section:

**“895.1** For the purposes of this section and paragraphs *g* and *h* of section 895, where property irrevocably held by a trust governed by a registered education savings plan, in this section referred to as the “transferor plan”, is transferred to a trust governed by another registered education savings plan, in this section referred to as the “transferee plan”, the transferee plan is deemed to have been entered into on the earlier of the day on which the transferee plan was entered into and the day on which the transferor plan was entered into.”

(2) This section has effect from 21 February 1990.

**308.** (1) Section 897 of the said Act is replaced by the following section:

**“897.** Notwithstanding paragraph *d* of section 895, the Minister may approve for registration an education savings plan even though the promoter has not filed the prospectus contemplated therein in respect of the plan, if the promoter is not otherwise required by the laws of Canada or a province to file such a prospectus with a securities commission or a body performing a similar function in Canada and the plan complies with the other requirements contemplated in the said section 895 and in section 894.”

(2) This section applies in respect of education savings plans registered after 20 February 1990.

**309.** (1) Section 965.9.7 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) a bank;”.

(2) This section has effect from 28 February 1992.

**310.** (1) Section 965.11 of the said Act is 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 Canadian and British Insurance Companies Act (Statutes of Canada) or by the Act respecting insurance (R.S.Q., 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) This section has effect from 28 February 1992.

**311.** (1) Section 965.34.3 of the said Act, enacted by section 144 of chapter 1 of the statutes of 1992, is amended

(1) by striking out the word “and” at the end of subparagraph *b* of the first paragraph and by inserting, after subparagraph *b* of the first paragraph, the following subparagraph:

“(b.1) any government assistance or non-government assistance, within the meanings of section 1029.8.17, in respect of those expenses; and”;

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

“(c) any information relating either to expenses in respect of which the Québec business investment company has renounced an amount or the amount so renounced by the Québec business investment company, or to any government assistance or non-government assistance, within the meanings of section 1029.8.17, in respect of those expenses.”;

(3) by striking out the second paragraph.

(2) This section has effect from 3 May 1991.

**312.** (1) Section 966 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

“**966.** In this title and in sections 92.11 to 92.19,”.

(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.

**313.** (1) Section 966.1 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

“**966.1** For the purposes of this title and sections 92.11 to 92.19,”.

(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.

**314.** (1) Section 967 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

“**967.** For the purposes of sections 157.5, 968, 976 and 976.1,”.



(2) This section applies in respect of dispositions occurring after 31 December 1989.

**315.** (1) Section 971.1 of the said Act is replaced by the following section:

**“971.1** Notwithstanding any other provision of this title, where an interest in a life insurance policy other than an annuity contract has been transferred to the policyholder’s child for no consideration and a child of the policyholder or a child of the transferee is the person whose life is insured under the policy, the interest is deemed to have been disposed of by the policyholder for proceeds of disposition equal to the adjusted cost basis to the policyholder of the interest immediately before the transfer and the transferee is deemed to have acquired the interest at a cost equal to those proceeds.”

(2) This section applies in respect of transfers occurring after 31 December 1989.

**316.** (1) The said Act is amended by inserting, after section 971.1, the following sections:

**“971.2** Notwithstanding any other provision of this title, where an interest of a policyholder in a life insurance policy, other than a policy referred to in the second paragraph of section 968, has been transferred to the policyholder’s spouse, to a former spouse of the policyholder in settlement of rights arising out of their marriage, or to an individual of the opposite sex pursuant to an order for the support or maintenance of the individual made by a competent tribunal in accordance with the laws of a province, where the individual and the policyholder cohabited in a conjugal relationship before the date of the order, and both the policyholder and the transferee were resident in Canada at the time of the transfer, the interest is deemed to have been disposed of by the policyholder for proceeds of the disposition equal to the adjusted cost basis to the policyholder of the interest immediately before the transfer and to have been acquired by the transferee at a cost equal to those proceeds.

The first paragraph does not apply where the policyholder so elects in the policyholder’s fiscal return under this Part for the taxation year in which the interest was transferred.

**“971.3** Notwithstanding any other provision of this title, where, as a consequence of the death of a policyholder who was resident in Canada immediately before the policyholder’s death, an interest in a life insurance policy, other than a policy referred to in

the second paragraph of section 968, has been transferred or distributed to the policyholder's spouse who was resident in Canada immediately before the policyholder's death, the interest is deemed to have been disposed of by the policyholder immediately before the policyholder's death for proceeds of the disposition equal to the adjusted cost basis to the policyholder of the interest immediately before the transfer and to have been acquired by the spouse at a cost equal to those proceeds.

The first paragraph does not apply where an election to that effect is made in the policyholder's fiscal return under this Part for the taxation year in which the policyholder died."

(2) This section applies in respect of transfers or distributions occurring after 31 December 1989. However, in its application with respect to transfers and distributions occurring in 1990, an election referred to in the second paragraph of sections 971.2 and 971.3 of the Taxation Act, enacted by this section, is deemed to have been made in the policyholder's fiscal return under Part I of the said Act for the taxation year 1990 if the policyholder or the legal representative of a deceased policyholder notifies the Minister of Revenue in writing, with supporting evidence, that the policyholder has made a valid election with the Minister of National Revenue under subsection 7 of section 121 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 (S.C., 1991, chapter 49), concerning the application of subsections 8.1 and 8.2 of section 148 of the Income Tax Act (Statutes of Canada), 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 such modifications as the circumstances require.

**317.** (1) Section 976 of the said Act is amended

(1) by replacing that part preceding paragraph *a* by the following:

**"976.** In this title and in sections 92.11 to 92.19, the adjusted cost basis to the holder of life insurance policy of his interest in the

policy at a particular time means the amount by which the amount computed under section 976.1 is exceeded by the aggregate of:";

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

"(f) the amounts in respect of his interest in the policy that he included in computing his income for any taxation year ending before the particular time by virtue of section 92 or sections 92.11 to 92.19;"

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

"(h) in the case of an interest in a life annuity contract, within the meaning of the regulations under section 966, to which section 92.11 applies for the taxation year that includes the particular time or would apply if the contract had an anniversary day in the year at a time when the taxpayer held the interest, all amounts each of which is a mortality gain, within the meaning of the regulations and determined by the issuer of the contract in accordance with the regulations, in respect of the interest immediately before the end of the calendar year ending in a taxation year commencing before the particular time."

(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.

**318.** (1) Section 976.1 of the said Act is amended by replacing paragraph *f* by the following paragraph:

"(f) in the case of an interest in an annuity contract to which section 92.11 applies for the taxation year that includes the particular time, or would apply if the contract had an anniversary day in the year at a time when the taxpayer held the interest, the annuity payments paid, in respect of the interest, while the policyholder held the interest and before the particular time;"

(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.

**319.** (1) Section 985.22 of the said Act is replaced by the following section:

**"985.22** Every registered charity operating in Québec shall, within six months from the end of each of its taxation years, file with the Minister an information return for the year, in prescribed form and containing prescribed information, without notice or demand therefor."

(2) This section has effect from 14 July 1990.

**320.** (1) The said Act is amended by inserting, after section 985.23, the following:

“CHAPTER III.2

“REGISTERED NATIONAL ARTS SERVICE ORGANIZATIONS

“**985.24** Subject to the Minister’s power to revoke any registration, every national arts service organization validly registered as such under subsection 6.4 of section 149.1 of the Income Tax Act (Statutes of Canada) is deemed to be registered also as such with the Minister.

“**985.25** For the purposes of section 985.24, the following provisions apply, with such modifications as the circumstances require, to a registered national arts service organization as if it were a charity registered as a charitable organization:

(a) sections 710 to 716.1, Divisions I and III to VII of Chapter III.1, Title VIII of Book IX, and sections 1069 and 1071 to 1076;

(b) Division V of Chapter III of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).

“**985.26** This chapter does not apply to an artistic organization recognized by the Minister on the recommendation of the Minister of Cultural Affairs.”

(2) This section has effect from 14 July 1990.

**321.** (1) Section 998 of the said Act is amended by replacing paragraph *k* by the following paragraph:

“(k) an insurer engaged in no business other than insurance, if in the opinion of the Minister, on the advice of the Superintendent of Financial Institutions, within the meaning of section 835, at least 25 % of the total of the gross premium income earned in a taxation year by the insurer and, where the insurer is not a prescribed insurer, any other person described in section 999.0.3 was in respect of insurance on farm property, property used in fishing or residences of farmers or fishermen;”.

(2) This section applies from the taxation year 1989.

**322.** (1) Section 999.0.1 of the said Act is amended

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

**“999.0.1** Subject to section 999.0.2, section 980 applies in respect of an insurer described in paragraph *k* of section 998 only in respect of that proportion of the insurer’s taxable income for a taxation year that the part of the gross premium income earned in the year by the insurer that, in the opinion of the Minister, on the advice of the Superintendent of Financial Institutions, within the meaning of section 835, was in respect of insurance described in the said paragraph *k*, is of the gross premium income earned in the year by the insurer.”;

(2) by striking out the second paragraph.

(2) This section applies from the taxation year 1989.

**323.** (1) Sections 999.0.2 to 999.0.4 of the said Act are replaced by the following sections:

**“999.0.2** Section 999.0.1 does not apply in respect of an insurer described in paragraph *k* of section 998 in respect of the insurer’s taxable income for a taxation year where more than 90 % of the total of the gross premium income earned in the year by the insurer and, where the insurer is not a prescribed insurer, any other person described in section 999.0.3 was in respect of insurance referred to in the said paragraph *k*.

**“999.0.3** A person referred to in paragraph *k* of section 998 or section 999.0.2 is an insurance corporation that was a specified shareholder of the insurer described in the said paragraph *k* or the said section 999.0.2, as the case may be, or that was related to the insurer or, where the insurer is a mutual corporation, that was part of a group that controlled, directly or indirectly in any manner whatever, or was so controlled, by the insurer.

**“999.0.4** For the purposes of paragraph *k* of section 998 and sections 999.0.1 and 999.0.2, the gross premium income earned in a taxation year by an insurer or a person described in section 999.0.3 shall be established on the basis of the amount net of reinsurance ceded.”

(2) This section applies from the taxation year 1989.

**324.** (1) The said Act is amended by inserting, after section 999.0.4, the following section:

**“999.0.5** For the purposes of this Part, in computing the taxable income of an insurer for a particular taxation year, the insurer

is deemed to have deducted in each of the taxation years preceding the particular taxation year and in respect of which paragraph *k* of section 998 applied to the insurer, the greater of the amount it claimed or deducted under paragraph *a* of section 130, the second paragraph of section 152, section 832, paragraphs *a*, *a.1* and *d* of section 840 and paragraphs *a* and *b* of section 841, and the greatest amount that could have been claimed or deducted under those provisions to the extent that the total thereof does not exceed the amount that would be its taxable income for that preceding year if no amount had been claimed or deducted under those provisions.”

(2) This section applies from the taxation year 1989. However, where section 999.0.5 of the Taxation Act, enacted by this section, applies to the taxation years 1989 and 1990, it shall read as follows:

**“999.0.5** In computing the taxable income of an insurer described in paragraph *k* of section 998 for a taxation year in respect of which section 998 applies to the insurer, the insurer is deemed to have claimed or deducted in each of the taxation years preceding the year the greater of such amount as it claimed or deducted under paragraph *a* of section 130, the second paragraph of section 152, section 832, paragraphs *a*, *a.1* and *d* of section 840 and paragraphs *a* and *b* of section 841 and such amount as it may have been entitled to claim or deduct under those provisions to the extent that that amount does not exceed its taxable income otherwise determined for that preceding year.”

**325.** (1) Section 1000 of the said Act is amended by replacing paragraph *c* of subsection 2 by the following paragraph:

“(c) in the case of a person who has died without making the return, by his legal representatives, on or before the day that is six months after his death or on or before 30 April in the immediately following taxation year, whichever occurs later;”.

(2) This section applies in the case of a person who dies after 31 October 1990.

**326.** (1) Section 1012.1 of the said Act is amended by striking out paragraph *b.2*.

(2) This section applies in respect of amounts received after 31 December 1990.

**327.** (1) Section 1015 of the said Act is amended

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

“(f) an annuity payment or a payment in full or partial commutation of an annuity,”;

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

“(l) a payment out of or under a registered retirement income fund or a fund referred to in section 961.9 as an “amended fund”,”;

(3) by inserting, after paragraph *n*, the following paragraph:

“(n.1) an income assistance payment made pursuant to an agreement under section 5 of the Department of Labour Act (Statutes of Canada),”.

(2) This section applies in respect of payments made after 13 July 1990.

**328.** Section 1018 of the said Act is replaced by the following section:

**“1018.** Where an amount has been deducted or withheld in accordance with section 1015 from an amount received by an individual during a taxation year and the latter amount is equal to or greater than  $\frac{3}{4}$  of his income for the same year, such individual shall, on or before the day on or before which the individual must file his fiscal return for the year under section 1000, pay to the Minister the remainder of his tax for the year as estimated under section 1004.”

**329.** Section 1025 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) on or before the date on or before which the individual must file his fiscal return for the year under section 1000, the remainder of the tax so estimated.”

**330.** Section 1026 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) on or before the date on or before which the individual must file his fiscal return for the year under section 1000, the remainder of the tax so estimated.”

**331.** (1) The said Act is amended by inserting, after section 1026.1, the following section:

**“1026.2** Where an individual has died in a taxation year, paragraph *a* of each of sections 1025 and 1026 shall not require

payment of any amount in respect of the individual that would otherwise become due under either of those paragraphs on or after the day on which the individual died."

(2) This section applies from the taxation year 1990.

**332.** (1) Section 1029.8.5.1 of the said Act is amended by replacing subparagraph iii of paragraph *a* by the following subparagraph:

"iii. an amount referred to in any of sections 147, 148, 160, 161, 163, 176, 176.4 and 179;".

(2) This section has effect from 17 May 1989.

**333.** (1) Section 1029.8.15.1 of the said Act is amended by replacing subparagraph iii of paragraph *a* by the following subparagraph:

"iii. an amount referred to in any of sections 147, 148, 160, 161, 163, 176, 176.4 and 179;".

(2) This section has effect from 17 May 1989.

**334.** (1) The said Act is amended by inserting, after section 1029.8.21, the following section:

**"1029.8.21.1** For the purposes of Divisions II, II.1 and II.3, expenditures made by a taxpayer or a partnership to acquire property described in paragraph *a* of section 223 is deemed not to have been made before the property is considered to have become available for use by the taxpayer or the partnership, without reference to subparagraph *c* of the first paragraph of section 93.7 and subparagraph *d* of the first paragraph of section 93.8."

(2) This section applies in respect of expenditures made after 31 December 1989.

**335.** The said Act is amended by inserting, after section 1029.8.52, the following:

#### "DIVISION II.10

##### "CREDIT FOR CERTAIN MAINTENANCE PAYMENTS

**"1029.8.53** Subject to the second paragraph, where remission is granted to an individual under the Maintenance Payments



Remission Order (P.C. Order 1991-256) made on 14 February 1991 pursuant to the Financial Administration Act (Statutes of Canada), the individual is deemed, provided that the individual makes an application therefor in the fiscal return he is required to file under section 1000 for his taxation year 1991 or would be required to file if tax were payable under this Part by the individual for that year, to have paid to the Minister, on account of tax payable under this Part for the year, an amount equal to the aggregate of all amounts each of which is the amount by which the tax payable by the individual for a taxation year contemplated by the remission, referred to in this section as the "particular year", exceeds the tax that would have been payable by the individual for the particular year if there were deducted in computing the individual's income for the particular year the amount, referred to in this section as the "particular amount", paid by the individual in the particular year, after 11 December 1979 and before 11 February 1988, pursuant to an order made by a competent tribunal after 11 December 1979 and before 11 February 1988, in accordance with the laws of a province, as an allowance payable on a periodic basis for the maintenance of the recipient thereof, of a child of the recipient or of both the recipient and a child of the recipient if, at the time the payment was made and throughout the remainder of the particular year, the individual was living apart from the recipient.

The application referred to in the first paragraph shall be granted only on the condition that the individual does not commence any action or file any claim in any court, or make any complaint to any competent tribunal, or serve any objection on the Minister by which the individual seeks a reduction in the amount of, or any other relief or remedy relating to, taxes payable by the individual for the particular year in respect of the deductibility of the particular amount in computing the individual's income for the particular year and that, at the time the application is made by the individual, the individual has discontinued any such outstanding action or withdrawn any such outstanding claim, complaint or objection."

**336.** (1) Section 1040.1 of the said Act is amended by replacing the figure "5" in the fifth line by the figure "10".

(2) This section applies to any payment required to be made by an individual after 6 March 1992 and to any payment required to be made by a corporation in respect of a taxation year of the corporation commencing after 6 March 1992.

**337.** (1) Section 1041 of the said Act is repealed.

(2) This section applies from the taxation year 1988.

**333.** (1) Section 1049 of the said Act is amended

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

**“1049.** Every person who, knowingly or under circumstances amounting to gross negligence, makes or participates or acquiesces in the making of a false statement or omission in a return, certificate, statement or answer, in this section referred to as a “return”, made or filed under this Act in respect of a taxation year is liable to a penalty equal to the greater of \$100 and 50 % of the amount by which”;

(2) by replacing subparagraphs i and ii of subparagraph *a* of the first paragraph by the following subparagraphs:

“i. if his taxable income for the year, such as indicated by him in that return, were computed by adding that portion of the amount referred to in the second paragraph that is reasonably attributable to the false statement or omission, and

“ii. if his tax payable for the year were computed by subtracting from the deductions from his tax otherwise payable for the year that portion of any such deductions that is reasonably attributable to the false statement or omission, exceeds”;

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

“(a) the amount by which the aggregate of amounts that were not reported by him in his return and that were required to be included in computing his income for the year exceeds the aggregate of the amounts that were not deducted by him in computing his income for the year reported by him in his return, were deductible by him in computing his income under this Act and were wholly applicable to the amounts that were required to be so included therein;”;

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

“For the purpose of determining the amount referred to in the second paragraph in respect of a person for a taxation year, the following rules apply:

(a) the amount otherwise deductible under Division IV of Chapter IV of Title IV of Book I in respect of the person's precious property loss for a subsequent taxation year is deemed not to be deductible in computing the person's income for the year;

(b) the amount that may otherwise be excluded from the person's income by reason of Division XI of Chapter IV of Title IV of Book I in respect of the exercise of any option in a subsequent taxation year is deemed not to be excluded from the person's income for the year;

(c) the amount otherwise deductible in computing the person's income for the year by reason of an election made in a subsequent taxation year under paragraph *a* or *b* of section 1054 by the person's legal representative is deemed not to be deductible in computing the person's income for the year."

(2) Paragraphs 1 and 2 of subsection 1 have effect from 13 September 1988. However, where section 1049 of the Taxation Act, as amended by this section, applies to the period preceding 14 December 1990, the reference therein to "the greater of \$100 and 50 %" shall read as a reference to "25 %".

(3) Paragraph 4 of subsection 1 applies in respect of amounts described in the fourth paragraph of section 1049 of the Taxation Act, enacted by it, in respect of subsequent taxation years ending after 13 July 1990.

**339.** The said Act is amended by inserting, after section 1049.0.1, the following section:

**"1049.0.1.1** Every person who, knowingly or under circumstances amounting to gross negligence, makes, or participates or acquiesces in the making of, a false statement or omission in a prescribed form required to be filed under section 359.11.1 or 359.12.0.1 is liable to a penalty of 25 % of the amount by which the assistance required to be reported in respect of a person or partnership in the prescribed form exceeds the assistance reported in the prescribed form in respect of the person or partnership, as the case may be."

**340.** (1) The said Act is amended by inserting, after section 1056.3, the following:

## "TITLE VI.2

### "ELECTION

**"1056.4** The Minister may, on application by a taxpayer or a partnership, extend the time for making an election or grant permission to amend or revoke an election.

**"1056.5** The Minister shall, with dispatch, examine each application filed with him under section 1056.4 and, where the

application is granted by the Minister, determine the penalty payable and send a notice of assessment in that respect to the taxpayer or the partnership.

**“1056.6** For the purposes of section 1056.5, the penalty payable in respect of an election or of an amended or revoked election is equal to \$100 for each complete month from the day on or before which the election was required to be made to the day on which the application is made, up to \$5 000.

**“1056.7** Where the Minister has extended the time for making an election or granted permission to amend an election, the election or amended election is deemed to have been made in the form in which and on or before the day on or before which the election was required to be made.

In addition, where the Minister has granted permission to amend or revoke an election, the election is deemed never to have been made.

**“1056.8** Notwithstanding section 1010, where the Minister extends the time for making an election or grants permission to amend or revoke an election, he shall make a new assessment and again determine the tax, interest and penalties for any taxation year to take into account the election or the amended or revoked election.”

(2) This section applies to elections relating to the taxation year 1985 or to a subsequent taxation year.

**341.** (1) Section 1060.1 of the said Act is amended by adding, at the end, the following paragraphs:

“Similarly, no taxpayer may serve a notice of objection to a reassessment or determination under section 421.8, subparagraph i of paragraph a.1 of subsection 2 of section 1010 or sections 1012, 1056.8 and 1079.16, except in respect of the amounts to which those provisions apply.

However, the second paragraph does not apply where, at the time of issue of the notice of reassessment or determination, a preceding assessment or determination was the subject of an objection or appeal, or where the taxpayer’s time for serving a notice of objection or for filing an appeal in respect of a preceding assessment or determination had not expired.”

(2) This section applies in respect of notices of objection served after *(insert here the date of assent to this Act)*.

**342.** The said Act is amended by inserting, after section 1066.1, the following section:

**“1066.2** Notwithstanding section 1066, no taxpayer may appeal from a reassessment or determination under section 421.8, subparagraph *i* of paragraph *a.1* of subsection 2 of section 1010 or sections 1012, 1056.8 and 1079.16, except in respect of the amounts to which those provisions apply.

However, the first paragraph does not apply where the third paragraph of section 1060.1 is applicable.”

**343.** (1) Section 1079.6 of the said Act is replaced by the following section:

**“1079.6** In computing the amount of income, taxable income, taxable income earned in Canada of, tax or other amount payable by, or refundable to, a taxpayer under this Act for a taxation year, or any other amount that is relevant for the purposes of computing that amount, no amount may be deducted by the taxpayer in respect of an interest in a tax shelter unless he files with the Minister a prescribed form containing the identification number for the tax shelter and the prescribed information.”

(2) This section applies in respect of interests acquired after 31 December 1990.

**344.** (1) Section 1089 of the said Act is amended

(1) by replacing the period at the end of subparagraph *k* of the first paragraph by a semicolon;

(2) by adding, after subparagraph *k* of the first paragraph, the following subparagraph:

“(l) where the individual has been carrying on business in Canada in the year, the amounts relating to a Québec resource property within the meaning of subparagraph *d*, except where an amount in respect of the disposition of such property is deducted under section 412 or 418.6, to a Québec timber resource property within the meaning of subparagraph *e*, other than depreciable property, or to property, other than capital property, that is an immovable situated in Québec, to the extent that such amounts are not already included under subparagraph *b*, *d*, *e* or *j* in computing his income.”

(2) This section applies from the taxation year 1990 in respect of dispositions made after 20 February 1990, except such dispositions

made pursuant to an agreement in writing entered into before 21 February 1990.

**345.** (1) Section 1090 of the said Act is amended

(1) by replacing the period at the end of subparagraph *k* of the first paragraph by a semicolon;

(2) by adding, after subparagraph *k* of the first paragraph, the following subparagraph:

“(l) where the individual has been carrying on business in Canada in the year, the amounts relating to a Canadian resource property, except where an amount in respect of the disposition of such property is deducted under section 412 or 418.6, to a timber resource property, other than depreciable property, or to property, other than capital property, that is an immovable situated in Canada, to the extent that those amounts are not already included under subparagraph *b*, *d*, *e* or *j* in computing his income.”

(2) This section applies from the taxation year 1990 in respect of dispositions made after 20 February 1990, except such dispositions made pursuant to an agreement in writing entered into before 21 February 1990.

**346.** (1) The said Act is amended by inserting, after section 1090, the following sections:

**“1090.1** For the purposes of this Act, where an individual referred to in section 26 or a corporation referred to in the first paragraph of section 27 disposes, in a taxation year, of a Québec resource property within the meaning of subparagraph *d* of section 1089, except where an amount in respect of the disposition of such property is deducted under section 412 or 418.6, of a Québec timber resource property within the meaning of subparagraph *e* of section 1089, other than depreciable property, or of property, other than capital property, that is an immovable situated in Québec, the individual or the corporation is deemed, in respect of such disposition, to have been carrying on business in Canada during the year.

**“1090.2** For the purposes of subparagraph *l* of the first paragraph of sections 1089 and 1090, and section 1090.1, property that is an immovable or a timber resource property referred to therein includes, at a particular time, an interest in the property and an option in respect of the property, even if, in the case of an immovable, the property is not in existence at that time.”

(2) This section applies from the taxation year 1990 in respect of dispositions made after 20 February 1990, except such dispositions made pursuant to an agreement in writing entered into before 21 February 1990.

**347.** (1) Section 1096 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) a property mentioned therein is deemed to include, at a particular time, any interest therein or option in respect thereof, whether or not such property is in existence at that time.”

(2) This section has effect from 14 July 1990.

**348.** (1) Section 1102.1 of the said Act is replaced by the following section:

**“1102.1** Where a person who is not resident in Canada disposes or proposes to dispose to a taxpayer, in a taxation year, of a life insurance policy described in subparagraph *k* of section 1089, a Québec resource property within the meaning of subparagraph *d* of section 1089, a Québec timber resource property within the meaning of subparagraph *e* of section 1089, property, other than capital property, that is immovable property situated in Québec, or depreciable property that is or would be, if he disposed of it, a taxable Québec property and where to such effect, he pays to the Minister, on account of his tax payable for the year, an amount that the Minister considers reasonable taking into account the disposition or proposed disposition of such property or furnishes security acceptable to the Minister in respect of the disposition or proposed disposition, the Minister shall forthwith issue to that person and to the taxpayer a certificate in prescribed form indicating the amount of the proceeds of the disposition or proposed disposition of the property or such other amount as is reasonable in the circumstances.

For the purposes of the first paragraph, immovable property situated in Québec or a Québec timber resource property includes, at a particular time, any interest therein or option in respect thereof, whether or not such property is in existence at that time.”

(2) This section applies in respect of dispositions occurring after 20 February 1990, except dispositions pursuant to agreements in writing entered into before 21 February 1990.

**349.** (1) Section 1104 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(c) not less than 95 per cent of its income, determined without reference to section 295, for the year was derived from, or from dispositions of, property described in paragraph *b*;”.

(2) This section applies from the taxation year 1990.

**350.** (1) The said Act is amended by inserting, after section 1104, the following section:

**“1104.1** Where a corporation so elects in the fiscal return it is required to file under this Act for a taxation year, each property of the corporation that is a share or indebtedness of another Canadian corporation that is, at any time in the year, a subsidiary wholly-owned corporation of the corporation is deemed, for the purposes of paragraphs *b* and *f* of section 1104, not to be owned by the corporation at that time, and each property owned by the other corporation at that time is deemed, for the purposes of the said paragraphs, to be owned by the corporation at that time.”

(2) This section applies from the taxation year 1987. Furthermore, an election under section 1104.1 of the Taxation Act, enacted by this section, in respect of a corporation's taxation year for which a fiscal return under the said Act was filed on or before 17 December 1991 is deemed to have been made in the corporation's fiscal return for that year if the corporation notifies the Minister of Revenue in writing, with supporting evidence, that the corporation has made a valid election with the Minister of National Revenue under subsection 4 of section 109 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 (S.C., 1991, chapter 49), concerning the application of subsection 4 of section 130 of the Income Tax Act (Statutes of Canada), in which case, notwithstanding section 1010 of the Taxation Act, which is applicable by reason of section 1107 of the said 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 such modifications as the circumstances require.

**351.** (1) Section 1117 of the said Act is amended by replacing that part preceding paragraph *a* by the following:



**“1117.** Subject to section 1117.1, a corporation is a mutual fund corporation at any time in a taxation year if at that time:”.

(2) This section applies from the taxation year 1990.

**352.** (1) The said Act is amended by inserting, after section 1117, the following section:

**“1117.1** Where, at any time, it may reasonably be considered that a corporation, having regard to all the circumstances, including the terms and conditions of the shares of the capital stock of the corporation, was established or exists primarily for the benefit of persons not resident in Canada, the corporation is deemed not to be a mutual fund corporation after that time unless

(a) throughout the period commencing on the later of 21 February 1990 and the day of its incorporation and ending at that time, all or substantially all of its property consisted of property other than

i. immovable property situated in Canada, or any interest therein or option in respect thereof, whether or not such property is in existence, and

ii. property that would, if the corporation were not resident in Canada, section 1094 were read without reference to paragraphs *a* and *b* thereof and the property were disposed of, be taxable Canadian property of the corporation; or

(b) the corporation has not issued a share, other than a share issued as a stock dividend, of its capital stock after 20 February 1990 and before that time to a person that, after reasonable inquiry, it had reason to believe was not resident in Canada, except where the share was issued to that person pursuant to an agreement in writing entered into before 21 February 1990.”

(2) This section has effect from 21 February 1990.

**353.** (1) Section 1120 of the said Act is amended by replacing the first paragraph by the following paragraph:

**“1120.** Subject to section 1120.1, a trust is a mutual fund trust at any time if, at that time, it is a unit trust and if all holdings and transactions in its units are in accordance with the prescribed conditions relating to the number of its unit-holders, dispersal of ownership of its units and public trading of its units.”

(2) This section has effect from 21 February 1990.

**354.** (1) The said Act is amended by inserting, after section 1120, the following section:

**“1120.1** Where, at any time, it may reasonably be considered that a trust, having regard to all the circumstances, including the terms and conditions of the units of the trust, was established or exists primarily for the benefit of persons not resident in Canada, the trust is deemed not to be a mutual fund trust after that time unless

(a) throughout the period commencing on the later of 21 February 1990 and the day of its creation and ending at that time, all or substantially all of its property consisted of property other than

i. immovable property situated in Canada, or any interest therein or option in respect thereof, whether or not such property is in existence, and

ii. property that would, if the trust were not resident in Canada, section 1094 were read without reference to paragraphs *a* and *b* thereof and the property were disposed of, be taxable Canadian property of the trust; or

(b) the trust has not issued a unit, other than a unit issued to a person in satisfaction of the person's right under the trust to an amount referred to in paragraph *c* of section 663, of the trust after 20 February 1990 and before that time to a person that, after reasonable inquiry, it had reason to believe was not resident in Canada, except where the unit was issued to that person pursuant to an agreement in writing entered into before 21 February 1990.”

(2) This section has effect from 21 February 1990.

**355.** (1) Section 1130 of the said Act is amended by replacing the definition of the word “bank” by the following definition:

“ “bank” means a bank within the meaning assigned by section 1;”.

(2) This section has effect from 28 February 1992.

**356.** (1) The Act respecting the application of the Taxation Act (R.S.Q., chapter I-4) is amended by inserting, after section 88, the following section:

**“88.1** For the purposes of sections 86 and 87, where a taxpayer has acquired a particular property in circumstances to which any of sections 69, 86 and 87 applied and subsequently acquires, in consideration for the disposition of the particular property, another

property in circumstances to which either of sections 86 and 87 would have applied if the taxpayer had owned the particular property on 31 December 1971 and thereafter without interruption until the time of the subsequent acquisition, the taxpayer is deemed, in respect of that subsequent acquisition, to have owned the particular property on 31 December 1971 and thereafter without interruption until the time of the subsequent acquisition.”

(2) This section applies in respect of acquisitions of property occurring after 13 July 1990. However, a taxpayer may elect to have the rules set out in section 88.1 of the Act respecting the application of the Taxation Act, enacted by this section, apply in respect of acquisitions occurring after 6 May 1974 and before 14 July 1990 with respect to property that was owned by him on 13 July 1990 by notifying the Minister of Revenue in writing, with supporting evidence, that he has made a valid election with the Minister of National Revenue under subsection 2 of section 200 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 (S.C., 1991, chapter 49), concerning the application of subsection 28 of section 26 of the Income Tax Application Rules, 1971, 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 such modifications as the circumstances require.

**357.** (1) Section 14 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), amended by section 561 of chapter 67 of the statutes of 1991 and by section 213 of chapter 1 of the statutes of 1992, is again amended by replacing the first paragraph by the following paragraph:

**“14.** Before distributing the property under his control, every assignee or any other person, with the exception of a trustee in bankruptcy, who winds up, administers or controls the property, business, succession, income or commercial activities of another person on behalf of that other person or a creditor of that other person, shall give the Minister notice, by means of a prescribed form, of his intention to make such distribution.”

(2) This section applies in respect of a notice to be sent after *(insert here the date of assent to this Act)*.

**358.** Section 17 of the said Act is amended by replacing the first paragraph by the following paragraph:

**“17.** When the Minister has reasonable grounds to believe that a person has left or is about to leave Québec or dispose of his property to avoid payment of any duties, he may, before the day otherwise fixed for payment, by a notice served personally or sent to that person by registered or certified mail, require payment of all the duties, interest and penalties owed by that person or which would be owed by him if the date of payment had occurred and they must be paid immediately, notwithstanding any other provision of a fiscal law.”

**359.** (1) Section 21.1 of the said Act, replaced by section 566 of chapter 67 of the statutes of 1991, is amended

(1) by striking out the words “the second paragraph of” in the second line;

(2) by replacing the word “and” after the figure “1068” in the ninth line by the word “to”.

(2) This section has effect from 1 July 1992.

**360.** (1) Section 25.2 of the said Act, enacted by section 569 of chapter 67 of the statutes of 1991, is amended by inserting the words “determining or” after the word “when” in the second line.

(2) This section has effect from 1 July 1992.

**361.** (1) Section 51 of the Act to again amend the Taxation Act and other fiscal legislation (1988, chapter 18) is amended by replacing the second paragraph of subsection 2 by the following paragraph:

“For the purposes of subparagraph ii of subparagraph *b* of the first paragraph, “arm’s length” has the meaning it would have for the purposes of Part I of the Taxation Act if that Part were read without reference to paragraph *b* of section 20 thereof.”

(2) This section has effect from 17 June 1988.

**362.** (1) Section 52 of the said Act, amended by section 377 of chapter 59 of the statutes of 1990, is again amended

(1) by replacing subsection 3 by the following subsection:

“(3) For the purposes of subparagraph ii of paragraph *b* of subsection 2, “arm’s length” has the meaning it would have for the purposes of Part I of the Taxation Act if that Part were read without reference to paragraph *b* of section 20 thereof.”;

(2) by replacing that part of subsection 4 preceding paragraph *b* by the following:

“(4) Where the second paragraph of section 623 of the Taxation Act, replaced by subsection 1, applies to taxation years or fiscal periods ending after 31 December 1987 in respect of a property other than a property referred to in subsection 2, the reference therein to “one-half” shall, subject to paragraphs *a*, *b* and *c*, be a reference to “ $\frac{3}{4}$ ”. However, where the said second paragraph, as amended by this subsection, applies to a member who is

(*a*) an individual, for taxation years or fiscal periods ending after 31 December 1987 and before 1 January 1990, the reference in the said second paragraph to “ $\frac{3}{4}$ ” shall, in respect of the member for those taxation years or fiscal periods, read as a reference to “ $\frac{2}{3}$ ”;

(3) by replacing that part of paragraph *c* of subsection 4 preceding subparagraph i by the following:

“(c) a corporation other than a Canadian-controlled private corporation at any time in a taxation year ending after 31 December 1987 and commencing before 1 January 1990, the reference in the said paragraph to “ $\frac{3}{4}$ ” shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of”.

(2) This section has effect from 17 June 1988.

**363.** (1) Section 53 of the said Act is amended by replacing the second paragraph of subsection 2 by the following paragraph:

“For the purposes of subparagraph ii of subparagraph *b* of the first paragraph, “arm’s length” has the meaning it would have for the purposes of Part I of the Taxation Act if that Part were read without reference to paragraph *b* of section 20 thereof.”

(2) This section has effect from 17 June 1988.

**364.** (1) Section 54 of the said Act, amended by section 378 of chapter 59 of the statutes of 1990, is again amended

(1) by replacing subsection 3 by the following subsection:

“(3) For the purposes of subparagraph ii of paragraph *b* of subsection 2, “arm’s length” has the meaning it would have for the purposes of Part I of the Taxation Act if that Part were read without reference to paragraph *b* of section 20 thereof.”;

(2) by replacing that part of subsection 4 preceding paragraph *b* by the following:

“(4) Where subsection 2 of section 629 of the Taxation Act, replaced by subsection 1, applies to taxation years or fiscal periods ending after 31 December 1987 in respect of a property other than a property referred to in subsection 2 of this section, the reference therein to “one-half” shall, subject to paragraphs *a*, *b* and *c*, be a reference to “ $\frac{3}{4}$ ”. However, where the said subsection 2 of section 629, as amended by this subsection, applies to a member who is

(*a*) an individual, for taxation years or fiscal periods ending after 31 December 1987 and before 1 January 1990, the reference in that subsection 2 to “ $\frac{3}{4}$ ” shall, in respect of the member for those taxation years or fiscal periods, read as a reference to “ $\frac{2}{3}$ ”;

(3) by replacing, in the English text thereof, that part of paragraph *b* of subsection 4 preceding subparagraph i by the following:

“(b) a corporation that is a Canadian-controlled private corporation throughout its taxation year, for such taxation years ending after 31 December 1987 and commencing before 1 January 1990, the reference in that subsection 2 to “ $\frac{3}{4}$ ” shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of”;

(4) by replacing that part of paragraph *c* of subsection 4 preceding subparagraph i by the following:

“(c) a corporation other than a Canadian-controlled private corporation at any time in a taxation year ending after 31 December 1987 and commencing before 1 January 1990, the reference in that subsection 2 to “ $\frac{3}{4}$ ” shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of”.

(2) This section has effect from 17 June 1988.

**365.** (1) Section 21 of the Act to again amend the Taxation Act and other fiscal legislation (1990, chapter 59) is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of dividends received or deemed under the Taxation Act, as amended by this Act, to be received on shares acquired after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, that

(a) in the case of shares described in section 21.10 of the said Act, enacted by this section, were issued at any time;

(b) in the case of shares described in section 21.10.1 of the said Act, enacted by this section, are grandfathered shares, within the meaning of section 1 of the said Act, as amended by this Act, or were not issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 or deemed by section 740.3.1 of the said Act, as enacted by this Act, to have been issued after that time.”

(2) This section has effect from 14 December 1990.

**366.** (1) Section 55 of the said Act is amended

(1) by replacing that part of subsection 3 preceding paragraph *a* by the following:

“(3) Paragraph 2 of subsection 1 and paragraph 4 of the said subsection, where it enacts subparagraph *i* of paragraph *d* of section 99 of the Taxation Act, apply in respect of changes in use of property occurring after 22 May 1985, other than changes in use of property occurring before 1 January 1986 pursuant to an agreement entered into in writing before 23 May 1985. However, where subparagraph *ii* of paragraph *b* and subparagraph *i* of paragraph *d* of the said section 99, enacted by paragraphs 2 and 4, apply in respect of changes in use of property by”;

(2) by inserting, after subsection 4, the following subsection:

“(4.1) Paragraph 6 of subsection 1, where it enacts subparagraphs *i* and *ii* of paragraph *d.1* of section 99 of the Taxation Act, applies in respect of acquisitions of property occurring after 22 May 1985, other than acquisitions of property occurring before 1 January 1986 pursuant to an agreement entered into in writing before 23 May 1985. However, where subparagraphs *i* and *ii* of paragraph *d.1* of the said section 99, enacted by paragraph 6, apply in respect of property acquired

(a) from a person or partnership in taxation years or fiscal periods ending before 1 January 1988, the references in the said subparagraphs *i* and *ii* to “ $\frac{3}{4}$ ” and “ $\frac{4}{3}$  of” shall read as references to “ $\frac{1}{2}$ ” and “2 times”, respectively;

(b) from an individual or a partnership in taxation years or fiscal periods ending after 31 December 1987 and before 1 January 1990, the references in the said subparagraphs i and ii to “ $\frac{3}{4}$ ” and “ $\frac{4}{3}$ ” shall read as references to “ $\frac{2}{3}$ ” and “ $\frac{3}{2}$ ”, respectively;

(c) from a corporation in taxation years ending after 31 December 1987 and commencing before 1 January 1990 throughout which the corporation was a Canadian-controlled private corporation, the references in the said subparagraphs i and ii to “ $\frac{3}{4}$ ” shall read as references to the fraction determined as the aggregate of

i. that proportion of  $\frac{1}{2}$  that the number of days in the year that are before 1 January 1988 is of the number of days in the year,

ii. that proportion of  $\frac{2}{3}$  that the number of days in the year that are after 31 December 1987 but before 1 January 1990 is of the number of days in the year, and

iii. that proportion of  $\frac{3}{4}$  that the number of days in the year that are after 31 December 1989 is of the number of days in the year;

(d) from a corporation in taxation years ending after 31 December 1987 and commencing before 1 January 1990 where at any time in the year the corporation was not a Canadian-controlled private corporation, the references in the said subparagraphs i and ii to “ $\frac{3}{4}$ ” shall read as references to the fraction determined as the aggregate of

i. that proportion of  $\frac{1}{2}$  that the number of days in the year that are before 1 July 1988 is of the number of days in the year,

ii. that proportion of  $\frac{2}{3}$  that the number of days in the year that are after 30 June 1988 but before 1 January 1990 is of the number of days in the year, and

iii. that proportion of  $\frac{3}{4}$  that the number of days in the year that are after 31 December 1989 is of the number of days in the year.”

(2) This section has effect from 14 December 1990.

**367.** (1) Section 61 of the said Act is amended by replacing subparagraph ii of paragraph b of section 107 of the Taxation Act, enacted by subsection 2, by the following subparagraph:

“ii. the aggregate of all amounts each of which is  $\frac{3}{4}$  of the amount by which an amount which, as a result of a disposition occurring after 31 December 1971, becomes receivable by the taxpayer before the particular time but after the taxpayer’s



adjustment time, in respect of the business carried on or formerly carried on by him, where the consideration given by him therefor is such that, if any payment had been made by him after 31 December 1971 for that consideration, the payment would have been an intangible capital amount of the taxpayer in respect of the business, exceeds all expenses made or incurred by him for the purpose of giving that consideration, to the extent that they are not otherwise deductible in computing his income.”.

(2) This section has effect from 14 December 1990.

**368.** (1) Section 107 of the said Act is amended

(1) by replacing subsection 2 by the following subsection:

“(2) This section applies, subject to subsections 3 to 7, to fiscal periods commencing after 31 December 1988.”;

(2) by replacing that part of subsection 3 preceding subparagraph *c* of the second paragraph of section 194 of the Taxation Act, enacted by that subsection 3, by the following:

“(3) For a fiscal period of a taxpayer commencing after 31 December 1988 and before 1 January 1995, in respect of a farming business carried on by him before 1 January 1989, where the taxpayer so elects in his fiscal return filed under Part I of the Taxation Act for the taxation year in which the fiscal period ends, subparagraph *c* of the second paragraph of section 194 of the said Act, enacted by subsection 1, shall read as follows:”;

(3) by replacing that part of subsection 5 preceding subparagraph *c* of the second paragraph of section 194 of the Taxation Act, enacted by that subsection 5, by the following:

“(5) For a fiscal period of a taxpayer commencing after 31 December 1988 and before 1 January 1995, in respect of a farming business carried on by him before 1 January 1989, where the taxpayer does not make the election referred to in subsection 3, subparagraph *c* of the second paragraph of section 194 of the Taxation Act, enacted by subsection 1, shall read as follows:”.

(2) This section has effect from 14 December 1990.

**369.** (1) Section 110 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies to fiscal periods commencing after 31 December 1988.”

(2) This section has effect from 14 December 1990.

**370.** (1) Section 155 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies from the taxation year 1988. However, no amount in respect of fees paid for an individual’s tuition may be included in computing an amount deductible for the taxation year 1988 under section 337 of the Taxation Act, as amended by this section, to the extent that it was deducted in computing the individual’s income for the taxation year 1987.”

(2) This section has effect from 14 December 1990.

**371.** (1) Section 156 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies from the taxation year 1988. However, no amount in respect of fees paid for an individual’s tuition may be included in computing an amount deductible for the taxation year 1988 under section 338 of the Taxation Act, as amended by this section, to the extent that it was deducted in computing the individual’s income for the taxation year 1987.”

(2) This section has effect from 14 December 1990.

**372.** (1) Section 206 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of windings-up commencing after 31 December 1987.”

(2) This section has effect from 14 December 1990.

**373.** (1) Section 2 of the Act to again amend the Taxation Act and other fiscal legislation (1991, chapter 25) is amended by replacing subsection 8 by the following subsection:

“(8) Paragraph 12 of subsection 1 applies in respect of investment contracts or life insurance policies last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**374.** (1) Section 5 of the said Act is amended by replacing that part of subsection 3 preceding section 21.33 of the Taxation Act, enacted by that subsection 3, by the following:

“(3) This section, where it enacts section 21.33 of the Taxation Act, applies in respect of payments made after 30 June 1989. However, where the said section 21.33 applies in respect of such payments made before 1 January 1993 by a person who is registered or licensed under the laws of a province to trade in securities, it shall read as follows:”.

(2) This section has effect from 20 June 1991.

**375.** (1) Section 24 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of investment contracts last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**376.** (1) Section 25 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of investment contracts last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**377.** (1) Section 26 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of investment contracts last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**378.** (1) Section 27 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of investment contracts last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**379.** (1) Section 28 of the said Act is amended by replacing subsection 3 by the following subsection:

“(3) This section, where it replaces that part of section 92.7 of the Taxation Act preceding paragraph *a* and paragraph *b* of the said section, applies in respect of investment contracts last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**380.** (1) Section 29 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of investment contracts last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**381.** (1) Section 30 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

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

“(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**383.** (1) Section 32 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**384.** (1) Section 33 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**385.** (1) Section 34 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**386.** (1) Section 36 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**387.** (1) Section 38 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of contracts or life insurance policies last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**388.** (1) Section 39 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**389.** (1) Section 49 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**390.** (1) Section 52 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of contracts or life insurance policies last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**391.** (1) Section 54 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section, where it strikes out in paragraph *a* of section 167.1 of the Taxation Act, replaced by this section, the reference to section 87.1, applies from the taxation year 1979 and, where it strikes out in the said paragraph *a*, the reference to section 92.8, it applies

in respect of investment contracts last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**392.** (1) Section 62 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) Paragraphs 1 and 2 of subsection 1 apply in respect of contracts last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**393.** (1) Section 90 of the said Act is amended by replacing subsection 3 by the following subsection:

“(3) Paragraph 2 of subsection 1 applies in respect of contracts or life insurance policies last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**394.** (1) Section 94 of the said Act is replaced by the following section:

“**94.** (1) Section 776.52 of the said Act is amended

(1) by replacing that part preceding paragraph *a* by the following:

“**776.52** For the purposes of section 776.51, the aggregate of all amounts deductible by the individual in computing his income for the year, under paragraph *c* of section 70 and paragraphs *b* and *d* to *d.2* of section 339, shall be established as if it were equal to the lesser of the following amounts:”;

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

“(b) the aggregate of the following amounts:

i. the amount otherwise so deductible for the year under paragraph *b* of section 339 by reason of section 923.5,

ii. the aggregate of all amounts each of which is an amount included in computing his income for the year and is a single payment out of or under a deferred profit sharing plan, a pension plan or a foreign retirement arrangement

(1) as a consequence of the death, withdrawal from the plan or arrangement or termination of employment of a person,

(2) on the winding-up of the plan or arrangement in full satisfaction of all rights of the beneficiary under the plan or arrangement, or

(3) to which the individual is entitled by reason of an amendment to the plan or arrangement.”

(2) This section applies from the taxation year 1990. However, where section 776.52 of the Taxation Act, amended by subsection 1, applies to the taxation year 1990,

(a) that part of the said section 776.52 preceding paragraph *a* shall read as follows:

“**776.52** For the purposes of section 776.51, the aggregate of all amounts deductible by the individual in computing his income for the year, under paragraph *c* of section 70, section 72.1 and paragraphs *b* and *d* to *d.2* of section 339, shall be established as if it were equal to the lesser of the following amounts:”;

(b) paragraph *b* of the said section 776.52 shall read as follows:

“(b) the aggregate of all amounts each of which is an amount included in computing his income for the year and is a single payment out of or under a deferred profit sharing plan, a pension plan or a foreign retirement arrangement

i. as a consequence of the death, withdrawal from the plan or arrangement or termination of employment of a person,

ii. on the winding-up of the plan or arrangement in full satisfaction of all rights of the beneficiary under the plan or arrangement, or

iii. to which the individual is entitled by reason of an amendment to the plan or arrangement.” ”

(2) This section has effect from 20 June 1991.

**395.** (1) Section 142 of the said Act is amended by replacing that part of subsection 2 preceding subparagraph *d* of the second paragraph of section 961.6 of the Taxation Act, enacted thereby, by the following:

“(2) This section has effect from 1 January 1991. Furthermore,

(a) in respect of arrangements in connection with a registered retirement income fund entered into after 13 July 1990 and before 1

January 1991, section 961.5 of the Taxation Act, repealed by this section, is amended

i. by replacing the third paragraph by the following paragraph:

“The fund shall also provide that, at the direction of the annuitant, the carrier shall, in prescribed form and manner, transfer all or part of the property held in connection with the fund, or an amount equal to its value at the time of such direction, other than property required to be retained by the carrier in accordance with the rule set out in the fifth paragraph, together with all information necessary for the continuance of the fund, to any person who has agreed to be a carrier of another registered retirement income fund of the annuitant.”;

ii. by adding, after the fourth paragraph, the following paragraph:

“The fund shall also provide that where the annuitant, at any time, directs that the carrier transfer all or part of the property held in connection with the fund, or an amount equal to its value at that time, to any person who has agreed to be a carrier of another registered retirement income fund of the annuitant, in accordance with the rule set out in the third paragraph, the carrier shall retain an amount equal to the lesser of the fair market value of such portion of the property as would, if the fair market value thereof does not decline after the transfer, be sufficient to ensure that the minimum amount under the fund for the year in which the transfer is made may be paid to the annuitant in the year, and the fair market value of all the property.”

(b) where subparagraph *d* of the second paragraph of section 961.6 of the Taxation Act, repealed by this section, applies after 31 December 1987 and before 1 January 1991, it shall read as follows:”.

(2) This section has effect from 20 June 1991.

**396.** (1) Section 158 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of contracts or life insurance policies last acquired after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**397.** (1) Section 159 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of life insurance policies last acquired after 31 December 1989.”



(2) This section has effect from 20 June 1991.

**398.** (1) Section 161 of the said Act is amended by replacing subsections 2 and 3 by the following subsections:

“(2) Paragraphs 1 and 2 of subsection 1 apply in respect of contracts or life insurance policies last acquired after 31 December 1989.

“(3) Paragraph 3 of subsection 1 applies in respect of policies last issued after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**399.** (1) Section 162 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of policies last issued after 31 December 1989.”

(2) This section has effect from 20 June 1991.

**400.** (1) Section 16 of the Act to amend the Taxation Act and other fiscal legislation (1992, chapter 1) is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of shares acquired after 2 May 1991. However, where section 49.1 of the Taxation Act, repealed by this section, applies in respect of shares acquired after 31 December 1987 and before 3 May 1991, paragraphs *a* to *c* thereof shall read as follows:

“(a) the amount payable by the employee to acquire the share 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 employee to acquire the right to acquire the share, or where the rights under the agreement were acquired by the employee as a result of one or more dispositions of rights in respect of which section 49.4 applied, the amount payable by the employee to acquire the old share under the exchanged option 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 employee to acquire the right to acquire the old share;

“(b) the share was acquired by an employee who, immediately after the agreement was made, and where the rights under the

agreement were acquired by the employee as a result of one or more dispositions in respect of which section 49.4 applied, at the time that the agreement in respect of the exchanged option was made and at the time immediately after each disposition, was dealing at arm's length with the particular corporation contemplated in section 48, with the corporation a share of the capital stock of which the particular corporation contemplated in section 48 has agreed to sell or to issue, and with the corporation of which he is an employee; and

“(c) the share is a share contemplated in subparagraph ii of paragraph *d* of subsection 1 of section 110 of the Income Tax Act (Statutes of Canada).”.

(2) This section has effect from 18 March 1992.

**401.** This Act comes into force on (*insert here the date of assent to this Act*).

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