

NATIONAL ASSEMBLY

FOURTH SESSION

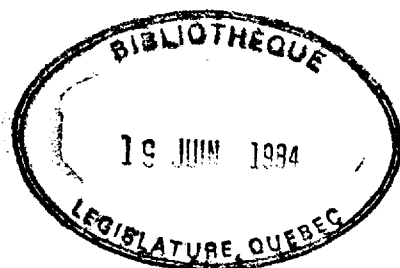
THIRTY-SECOND LEGISLATURE

Bill 69

**An Act to amend the Taxation Act and the
Act respecting the application of the
Taxation Act**

Introduction

**Introduced by
Mr Robert Dean
Minister of Revenue**



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EXPLANATORY NOTES

This bill gives effect to the Ministerial Statement of 17 December 1982 by the Minister of Finance, and to Appendix I to the Budget Speech of 10 May 1983 delivered by the same Minister, concerning concordance between the federal and Québec tax systems.

It makes amendments to the Taxation Act and the Act respecting the application of the Taxation Act similar to those made to the Income Tax Act and the 1971 Income Tax Application Rules by federal Bill C-139, assented to 30 March 1983 (S.C., 1980-81-82-83, chapter 140), part of which was the subject of concordance measures in Bill 44, assented to 21 December 1983.

This bill also contains concordance measures announced in the Ministerial Statement of 17 December 1982 in respect of the following federal bills:

(1) C-95, assented to 29 June 1983 (S.C., 1980-81-82-83, chapter 161, section 34), respecting capital gain or loss from the disposition of a chance to win a prize or bet, or of a right to receive an amount as a prize or as winnings on a bet;

(2) C-112, assented to 29 June 1982 (S.C., 1980-81-82, chapter 104, section 31), respecting the exclusion, in computing income, of certain amounts that are subject to tax assessed under the Petroleum and Gas Revenue Tax Act;

(3) C-115, assented to 17 July 1982 (S.C., 1980-81-82, chapter 109, section 19), respecting the substitution of the expressions "a training allowance" and "National Training Act" for the expressions "an adult training allowance" and "Adult Occupational Training Act".

Finally, the bill makes a certain number of technical amendments for the purpose of clarifying or correcting some of the existing provisions of the Taxation Act, which are not wholly consistent with the stated aims of the fiscal policy they were intended to implement, particularly in the matter of stock savings plans.

ACTS AMENDED BY THIS BILL

- (1) The Taxation Act (R.S.Q., chapter I-3);
- (2) The Act respecting the application of the Taxation Act (R.S.Q., chapter I-4).

Bill 69

An Act to amend the Taxation Act and the
Act respecting the application of the
Taxation Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 13 of chapter 44 of the statutes of 1983, is again amended

(1) by inserting, after the definition of the expression “shareholder”, the following definition:

““short-term preferred share” has the meaning assigned by sections 21.11.1 to 21.11.10;”;

and by replacing the definition of the expression “term preferred share” by the following definition:

““term preferred share” has the meaning assigned by sections 21.5 to 21.9.5;”;

(2) by replacing the definition of the expression “retiring allowance” by the following definition:

““retiring allowance” means an amount, other than an amount paid as the consequence of the death of an employee or than as a superannuation or pension benefit, paid to a taxpayer or, after his death, to a dependent or a relative of the taxpayer or to the legal representative of the taxpayer:

(a) upon or after retirement of the taxpayer from an office or employment in recognition of his long service, or

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

(3) by replacing the definition of the expression “property” by the following definition:

““property” means property of any kind whatever whether real or personal, corporeal or incorporeal, and also includes a share, a right of any kind whatever and the work in progress of a business that is a profession;”;

(4) by inserting, after the definition of the expression “life insurance business”, the following definition:

““life insurance capital dividend” has the meaning assigned by section 502.1;”;

(5) by replacing paragraph *a* of the definition of the expression “amount” by the following paragraph:

“(a) in the case of a dividend contemplated in sections 740.1, 740.3 and 740.4, the greater of the amount of the increase in the paid-up capital of the corporation by virtue of the payment of the dividend and the fair market value of the share or shares paid as a stock dividend at the time of payment; and”;

(6) by inserting, after the definition of the expression “sister”, the following definition:

““small business bond” has the meaning assigned by paragraph *d* of section 119.15;”;

(7) by striking out the definition of the expression “termination payment”;

(8) by replacing paragraph *b* of the definition of the expression “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 sections 89, 92, 92.1, 92.4 or 92.9 to 92.20;”;

(9) by inserting, after the definition of the expression “depreciable property”, the following definition:

““development bond” has the meaning assigned by paragraph *f* of section 119.2;”.

(2) Paragraphs 1 and 5 of subsection 1 have effect from 13 November 1981, except that where the said paragraph 1 enacts the definition of the expression “term preferred share”, it has effect from 17 November 1978.

(3) Paragraphs 2 and 7 of subsection 1 apply in respect of an amount received as the result of the termination, after 12 November 1981, of an office or employment.

(4) Paragraph 3 of subsection 1 applies from the taxation year 1982.

(5) Paragraph 4 of subsection 1 has effect from 29 June 1982.

(6) Paragraph 8 of subsection 1 applies from the taxation year 1983.

(7) Paragraphs 6 and 9 of subsection 1 have effect from 12 December 1979.

2. (1) The said Act is amended by inserting, after section 1.2, the following section:

“**1.3** For the purposes of this Part, where a corporation issues shares of a class of its capital stock in series, a reference to the class shall be read, with such modifications as are required, as a reference to a series of the class.”

(2) This section has effect from 13 November 1981.

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

“**2.2** For the purposes of paragraphs *a* and *b* of section 312, section 313, subparagraphs *a* and *b* of paragraph 1 and of paragraph 2 of section 336, section 454 and the first paragraph of section 913, the expressions “spouse” and “former spouse” include a spouse or former spouse who is a party to a void or voidable marriage.”

(2) This section has effect from 1 January 1982.

4. (1) Section 19 of the said Act is amended by adding the following paragraph:

“(3) Where there has been an amalgamation within the meaning of section 544 and the new corporation would have been related to any predecessor corporation immediately before the amalgamation if the new corporation were in existence immediately before the amalgamation and if it had had the same shareholders at that time as it had immediately after the amalgamation, the new corporation and the predecessor corporation are deemed to have been related persons.”

(2) This section has effect from 13 November 1981.

5. (1) Sections 21.1 and 21.2 of the said Act are replaced by the following sections:

“21.1 Sections 21.2 and 21.3 apply in respect of the control of a corporation for the purposes of sections 384, 384.1, 547.1, 564.2 to 564.4.2, and 727 to 737.

Section 21.4 applies in respect of the control of a corporation for the purposes of this Part.

Section 21.4.1 applies in respect of the control of a corporation for the purposes of sections 384, 384.1 and 727 to 737.

“21.2 Where there has been an amalgamation, within the meaning of section 544, of several corporations after 12 November 1981, and a person or a group of persons controlling the new corporation immediately after the amalgamation did not control a particular predecessor corporation immediately before the amalgamation, that person or group of persons is deemed to have acquired control of the particular predecessor corporation immediately before the amalgamation, unless control would not have been acquired even if the person or group of persons had acquired all of the shares of the predecessor corporation immediately before the amalgamation.”

(2) This section has effect from 13 November 1981; however, where it replaces the third paragraph of section 21.1 of the Taxation Act, it applies to taxation years ending after 12 November 1981.

6. (1) Section 21.4.1 of the said Act is replaced by the following section:

“21.4.1 A taxpayer who acquires a right referred to in paragraph *b* of section 20 is deemed to acquire at that time the shares to which the right is attached if it can reasonably be concluded that one of the main purposes of the acquisition of the right was to avoid any limitation on the deductibility of any net capital loss, non-capital loss or any amount referred to in section 384 or 384.1, or to avoid the application of section 736.02.”

(2) This section applies to taxation years ending after 12 November 1981.

7. (1) Section 21.5 of the said Act is replaced by the following sections:

“21.5 A share of a class of the capital stock of a corporation is a term preferred share of the corporation if

(a) the share was issued or acquired after 28 June 1982 and, at the time the share was issued or acquired, the existence of the corporation is, or there is an existing agreement under which it could be, limited;

(b) it is issued after 16 November 1978, the owner thereof acquired it after 23 October 1979 and is a corporation, trust or partnership described in section 21.5.1 that either alone or together with any such corporations, partnerships or trusts controls directly or indirectly or has an absolute or contingent right to control directly or indirectly or to acquire direct or indirect control of the corporation; or

(c) it is issued between 16 November 1978 and 24 October 1979, between 23 October 1979 and 13 November 1981 or after 12 November 1981 and under its terms or conditions, an agreement in respect of the share or a modification of such terms or conditions or such agreement, the share is convertible, directly or indirectly, into debt or into a share that, if issued, would be a term preferred share, or one or other of the provisions described in section 21.5.2, 21.5.3 or 21.5.4 applies.

“21.5.1 For the purposes of paragraph *b* of section 21.5, the owner of the share must be

(a) an insurance corporation or a corporation described in paragraphs *b* to *f* of section 250.3,

(b) a corporation that is controlled directly or indirectly by one or more corporations described in paragraph *a*,

(c) a corporation that acquired the share after 11 December 1979 and is associated, within the meaning of section 230.2, with a corporation referred to in paragraph *a* or *b*, or

(d) a partnership or trust of which a corporation referred to in paragraph *a* or *b* or a person related thereto is a member or a beneficiary.

“21.5.2 The provisions referred to in paragraph *c* of section 21.5 are, in the case of a share issued between 16 November 1978 and 24 October 1979, the following:

(a) the owner thereof may, within 10 years from its date of issue, cause the share to be redeemed, acquired or cancelled or cause its paid-up capital to be reduced,

(b) the 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, within 10 years from its date of issue, otherwise than pursuant to a requirement of the corporation to acquire, cancel or redeem, annually, not more than 5% of the issued and fully paid shares of that class, or

(c) a person is or may be required to provide a guarantee or a similar covenant, including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the owner thereof or any person related thereto, with respect to the share.

“21.5.3 The provisions referred to in paragraph c of section 21.5 are, in the case of a share issued between 23 October 1979 and 13 November 1981 or a share issued between 12 November 1981 and 1 January 1983 pursuant to an agreement in writing to that effect entered into before 13 November 1981, the following:

(a) the owner thereof may, within 10 years of the date of issue, cause the share to be redeemed, acquired or cancelled 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 of the date of issue, 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 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

(c) a person provides or may be required to provide a guarantee or similar indemnity or covenant, including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the owner thereof or any person related thereto, with respect to the share.

“21.5.4 The provisions referred to in paragraph c of section 21.5 are, in the case of a share issued between 12 November 1981 and 1 January 1983 otherwise than pursuant to an agreement referred to in section 21.5.3 or a share issued after 31 December 1982, the following:

(a) the owner thereof may cause the share to be redeemed, acquired or cancelled or cause its paid-up capital to be reduced,

(b) a person or partnership is or may be required to redeem, acquire or cancel, in whole or in part, the share or to reduce its paid-up capital, or

(c) a person or partnership provides or may be required to provide a guarantee or similar indemnity or covenant, including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the holder thereof or any person related thereto, with respect to the share.”

(2) This section has effect from 17 November 1978.

8. (1) Section 21.6 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(c) a share described in section 21.6.1;”.

(2) This section has effect from 17 November 1978.

9. (1) The said Act is amended by inserting, after section 21.6, the following section:

“**21.6.1** A share is not a term preferred share, for 10 years from its date of issue, that was issued between 16 November 1978 and 13 November 1981 or, for 5 years from its date of issue, if it was issued after 12 November 1981, and that was issued by a corporation resident in Canada and, in the case of a share issued after 23 October 1979, the proceeds from the issue may reasonably be regarded as having been used by the corporation or a corporation with which it was not dealing at arm’s length in the financing of its business carried on or, in the case of a share issued after 12 November 1981, carried on in Canada, immediately before the share was issued, and that was issued

(a) as part of a proposal to, or an arrangement with, its creditors that had been approved by a competent court under the Bankruptcy Act (Statutes of Canada),

(b) at a time when all or substantially all of its assets were under the control of a receiver, receiver-manager, sequestrator or trustee in bankruptcy, or

(c) at a time when, by reason of financial difficulty, the corporation or another corporation resident in Canada with which it does not deal at arm’s length was in default, or could reasonably be expected to default, on a debt obligation held by a person with whom the corporation or the other corporation was dealing at arm’s length and the share was issued, in whole or in part, directly or indirectly in exchange or substitution for that obligation.»

(2) This section has effect from 17 November 1978.

10. (1) Sections 21.8 and 21.9 of the said Act are replaced by the following sections:

“**21.8** Where the redemption date of a share was extended or the terms or conditions relating to its redemption, acquisition, cancellation or conversion or reduction of its paid-up capital were changed, the share is, for the purposes of determining whether it is a term preferred share, deemed to have been issued at the time of the extension or change otherwise than pursuant to an agreement referred to in section 21.5.3 or in paragraph *a* of section 21.6.

“21.9 The rule provided by section 21.8 applies where the change or extension occurs after 16 November 1978 in the case of a share issued before 17 November 1978, or after 12 November 1981 in the case of a share issued between 16 November 1978 and 13 November 1981 or a share issued between 12 November 1981 and 1 January 1983 pursuant to an agreement referred to in section 21.5.3.

“21.9.1 Subject to section 21.9.2, the rule provided by section 21.8 also applies, with such modifications as are required, in the following cases:

(a) where the terms or conditions of a share issued pursuant to an agreement referred to in paragraph *a* of section 21.6 or those of any agreement relating to such a share have been changed;

(b) where the owner of a share may, alone or together with one or more taxpayers, require the acquisition, cancellation, conversion or redemption of the share or the reduction of its paid-up capital

i. after 16 November 1978 under the terms or conditions of a share issued before 17 November 1978 and not listed on 16 November 1978 on a prescribed stock exchange in Canada, of a share issued pursuant to an agreement referred to in paragraph *a* of section 21.6, of any agreement between the issuer and the owner of such a share, or any agreement relating to such a share made after 23 October 1979;

ii. after 12 November 1981 in the case of a share issued between 16 November 1978 and 13 November 1981, except a share described in section 21.6.1 or a share listed on 13 November 1981 on a prescribed stock exchange in Canada, or a share issued between 12 November 1981 and 1 January 1983 pursuant to an agreement referred to in section 21.5.3;

(c) where a specified financial institution or a partnership or trust of which a specified financial institution or a person related thereto is a member or a beneficiary acquires,

i. between 23 October 1979 and 13 November 1981, from a person, a share issued before 17 November 1978 or a share issued pursuant to an agreement referred to in paragraph *a* of section 21.6;

ii. after 12 November 1981, from a person or a partnership, a share issued before 13 November 1981 or a share issued pursuant to an agreement referred to in section 21.5.3.

“21.9.2 The rule provided by section 21.8 does not apply, in the case provided for by paragraph *b* of section 21.9.1, where the owner could exercise his right by reason of a default under the terms or conditions of the share or any agreement that related to, and was entered into at the time of, the issuance of the share.

The same applies, in the case provided for in paragraph *c* of the said section 21.9.1, where

(*a*) the share described in subparagraph i of the said paragraph *c* is a share issued to a corporation referred to in paragraph *a* or *b* of section 740.1, is acquired pursuant to an agreement in writing made before 24 October 1979 or is acquired from a corporation referred to in paragraph *a* or *b* of section 740.1;

(*b*) the share described in subparagraph ii of the said paragraph *c* is, in the case of a share issued before 13 November 1981, a share described in section 21.6.1, is acquired pursuant to an agreement in writing made before 24 October 1979 or an agreement referred to in section 21.5.3 or is acquired from a corporation referred to in paragraph *a* or *b* of section 740.1 and such acquisition is subject to a guarantee agreement, as described in section 740.2, entered into after 12 November 1981.

“21.9.3 Where a share of the capital stock of a corporation is issued or its terms or conditions are modified and it may reasonably be considered, having regard to all circumstances, including the rate of interest on any debt or the dividend provided on any term preferred share, that but for the existence of the debt or the term preferred share, the share would not have been issued or its terms or conditions modified, and one of the main purposes for its issue or for the modification of its terms or conditions was to avoid or limit the application of section 740.1, the share is deemed, from 1 January 1983, to be a term preferred share of the corporation.

“21.9.4 Where the terms or conditions of a share of the capital stock of a corporation are modified or established after 28 June 1982 and as a consequence thereof the corporation, any person related thereto or any partnership or trust of which the corporation or a person related thereto is a member or a beneficiary, may reasonably be expected to redeem, acquire or cancel, in whole or in part, the share or to reduce its paid-up capital, the share is deemed as from the date of the modification or establishment to be a share described in paragraph *c* of section 21.5.

“21.9.5 For the purposes of this chapter, Chapter VII and sections 508 and 740.2, a person who, after 12 November 1981, has an interest in a trust, whether directly or indirectly and in any manner whatever, is deemed to be a beneficiary of the trust.”

(2) This section has effect from 17 November 1978.

11. (1) The said Act is amended by inserting, after section 21.11, the following:

“CHAPTER VI.1

“SHORT-TERM PREFERRED SHARES

“**21.11.1** A share of the capital stock of a corporation is a short-term preferred share of the corporation if

(a) it is issued after 12 November 1981;

(b) the corporation, any person related to the corporation or any partnership or trust of which the corporation or a person related thereto is a member or beneficiary is or may be required to redeem, acquire or cancel, in whole or in part, the share or to reduce its paid-up capital at any time within 18 months from the date of its issue, and

(c) the share is issued in order to obtain funds for a person or partnership referred to in paragraph *b* and may reasonably be regarded as having been issued by such a person or partnership in lieu of a short-term debt instrument that would otherwise have been issued or sold on the money market by such a person or partnership had the person or partnership borrowed the funds.

“**21.11.2** A share of the capital stock of a corporation is a short-term preferred share of the corporation also if

(a) it is a share described in paragraph *c* of section 21.11.1; and

(b) it is convertible, directly or indirectly, into debt or into a share that, if issued, would be a share to which paragraph *b* of the said section 21.11.1 would apply.

“**21.11.3** For the purposes of sections 21.11.1 and 21.11.2, a short-term preferred share does not include

(a) a share issued between 12 November 1981 and 1 January 1983 pursuant to an agreement in writing to do so made before 13 November 1981;

(b) a share described in section 21.6.1; or

(c) a prescribed share.

“**21.11.4** For the purposes of determining whether a share issued before 13 November 1981 or a share described in paragraph *a* of section 21.11.3 is a short-term preferred share if, after 12 November 1981, its redemption date was extended or the terms or conditions relating to its redemption, acquisition, cancellation, conversion or reduction of its paid-up capital by the corporation were changed, the share is deemed to have been issued at the time of the extension or change.

“21.11.5 Where a share issued after 12 November 1981 by a person or partnership referred to in paragraph *b* of section 21.11.1 to another such person or partnership is subsequently sold by such a person or partnership to a person with whom such person or partnership would, but for paragraph *b* of section 20, be dealing at arm's length, the share is deemed to have been issued at the time the share was sold.

“21.11.6 Where a share of the capital stock of a corporation is issued or its terms or conditions are modified and it may reasonably be considered, having regard to all circumstances, including the rate of interest on any debt or the dividend provided on any short-term preferred share, that but for the existence of the debt or the short-term preferred share, the share would not have been issued or its terms or conditions modified, and one of the main purposes for the issue of the share or the modification of its terms or conditions was to avoid or limit the application of section 740.4, the share is, from 1 January 1983, deemed to be a short-term preferred share of the corporation.

“21.11.7 Where a share of the capital stock of a corporation is substituted or exchanged for a short-term preferred share, the share is deemed to be a short-term preferred share.

“21.11.8 Where a share of the capital stock of a corporation is issued after 28 June 1982 and at the time the share was issued the existence of the corporation is, or there is an existing arrangement under which it could be, limited to a period that is within 18 months from the date of its issue, the share is deemed to be a share to which paragraph *b* of section 21.11.1 applies.

“21.11.9 Where the terms or conditions of a share of the capital stock of a corporation are modified or established after 28 June 1982 and as a consequence thereof any person or partnership referred to in paragraph *b* of section 21.11.1 may reasonably be expected to redeem, acquire or cancel, in whole or in part, the share, or to reduce its paid-up capital, within 18 months from the date of its issue, the share is deemed as from the date of the modification or establishment to be a share to which paragraph *b* of section 21.11.1 applies.

“21.11.10 For the purposes of this chapter, a person having an interest in a trust, whether directly or indirectly, in any manner whatever is deemed to be a beneficiary of the trust.”

(2) This section has effect from 13 November 1981.

12. (1) Section 21.12 of the said Act is amended by replacing that part of paragraph *c* which precedes subparagraph *i* by the following:

“(c) issued, for a term that in no circumstances may exceed five years, by a corporation that is resident in Canada, the proceeds from

the issue of which, in the case of a bond or debenture issued after 12 November 1981, may reasonably be regarded as having been used by the particular corporation or a corporation with which it was not dealing at arm's length in the financing of its business carried on in Canada immediately before it was issued and that was issued".

(2) This section applies in respect of an income bond or an income debenture issued after 16 November 1978 otherwise than pursuant to an agreement in writing to that effect entered into before 17 November 1978, except that where it changes the terms or conditions of use of the proceeds of the issue of an income bond or income debenture, it has effect from 13 November 1981.

13. (1) Section 21.15 of the said Act is amended

(1) by striking out the word "or" at the end of paragraph *b*;

(2) by replacing the period at the end of paragraph *c* by the following: "; or";

(3) by adding the following paragraph:

"(d) where, at a particular time after 12 November 1981, a specified financial institution or a trust or partnership, a beneficiary or member of which is a specified financial institution or a person related to such an institution, acquires a bond or debenture that is not described in paragraph *c* from a corporation referred to in paragraph *a* or *b* of section 740.1 and that acquisition is subject to a guarantee agreement, as it would be described in section 740.2 if that section applied to an income bond or income debenture, entered into after 12 November 1981."

(2) This section has effect from 13 November 1981.

14. (1) Section 22 of the said Act is amended by replacing the second paragraph by the following paragraph:

"The tax payable by an individual contemplated in the first paragraph, carrying on a business outside Québec in Canada, is equal to the proportion of the tax established under sections 750 to 752 and 758 to 767 that his income earned in Québec is of his income earned in Québec and elsewhere, as established by the regulations."

(2) This section applies from the taxation year 1982.

15. (1) Section 25 of the said Act is amended by replacing the second paragraph by the following paragraph:

"Such tax is equal to the proportion of the tax that the individual would pay under sections 750 to 752 and 758 to 767 on his taxable

income as it would be determined under section 24 if he were resident in Québec, that his income earned in Québec is of what his income would have been if he had resided in Québec on the last day of the taxation year. However, such tax must not exceed the amount that the individual would pay if he were resident in Québec.”

(2) This section applies from the taxation year 1982.

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

“78.1 An individual may deduct an amount paid by him or on his behalf in the year pursuant to an agreement under which the taxpayer is required to reimburse any amount paid to him for a period throughout which he did not perform the duties of his office or employment, to the extent that the amount so paid to him for the period was included in computing his income from an office or employment.

Notwithstanding the foregoing, the individual shall not deduct that part of amounts so reimbursed which exceeds the aggregate of amounts received by him for such a period.”

(2) This section applies from the taxation year 1981.

17. (1) Section 85.1 of the said Act is replaced by the following section:

“85.1 For the purposes of section 83, the fair market value of the property described in the inventory of a taxpayer means, in the case of work in progress at the end of a taxation year of a business that is a profession, the amount that can reasonably be expected to become receivable in respect thereof after the end of the year and, in other cases, the replacement cost of the property.”

(2) This section applies from the taxation year 1983.

18. (1) Section 85.3 of the said Act is replaced by the following section:

“85.3 Without restricting the generality of this chapter, property, other than capital property, of a taxpayer that is work in progress of a business that is a profession, advertising or packaging material, parts or supplies must be included in his inventory and anything used primarily for the purpose of advertising or packaging property that is included in the inventory of a taxpayer is deemed not to be property held for sale or lease or for any of the purposes referred to in section 85.2.”

(2) This section applies from the taxation year 1983.

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

(1) by replacing paragraphs *b* and *c* by the following paragraphs:

“(b) any amount receivable in respect of property sold or services rendered in the course of a business in the year, even if that amount or any part thereof is not due until a subsequent year, unless the method adopted for computing his income from the business and accepted for the purposes of this Part does not require him to include, in computing his income for a taxation year, an amount not received in the year and, for the purposes of this paragraph, an amount is deemed to have become receivable in respect of services rendered in the course of a business on a day that is the earlier of the day upon which the account in respect of the services was rendered and the day upon which that account would have been rendered had there been no undue delay;

“(c) any amount received or receivable in the year as interest, depending on the method he regularly follows in computing his profit, unless it was included in computing his income for a preceding taxation year;”;

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

“ii. under sections 150.1 and 152; or”;

(3) by replacing paragraph *j.1* by the following paragraph:

“(j.1) the amount by which the aggregate of amounts received by him in the year out of or under an employee benefit plan to which he has contributed as an employer, other than amounts included in computing his income by virtue of paragraph *n*, exceeds the amount by which the aggregate of all amounts so contributed by him to the plan, or included in computing his income for any preceding taxation year by virtue of this paragraph, exceeds the aggregate of all amounts deducted by him in respect of his contributions to the plan in computing his income for the year or any preceding taxation year, or received by him out of or under the plan in any preceding taxation year, other than amounts included in computing his income by virtue of paragraph *n*;”;

(4) by replacing paragraph *u* by the following paragraph:

“(u) the prescribed amount deducted in computing the taxpayer’s tax payable for the year under a prescribed law, to the extent that such amount is not included in an amount determined under subparagraph vii of paragraph *e* of section 93, section 101 or 225, subparagraph vi of paragraph *l* of section 257 or subparagraph ii of paragraph *n* of section 257.”

(2) Paragraph 1 of subsection 1, where it replaces paragraph *b* of section 87 of the Taxation Act, applies to taxation years ending after 31 December 1982 and, where it replaces paragraph *c* of the said section 87, applies from the taxation year 1982.

(3) Paragraph 2 of subsection 1 applies from the taxation year 1979.

(4) Paragraph 3 of subsection 1 applies from the taxation year 1980.

(5) Paragraph 4 of subsection 1 applies from the taxation year 1982.

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

“89. A taxpayer shall include in computing his income from a business or property for a taxation year, any amount that becomes receivable in the year, by virtue of an obligation imposed by statute or a contractual obligation substituted for an obligation imposed by statute, by a person referred to in section 90, as or as an amount that may reasonably be regarded as being in lieu of a royalty, tax, rental or bonus, that may reasonably be regarded as being in relation to the acquisition, development or ownership of a Canadian resource property or a property that would have been a Canadian resource property if it had been acquired after 31 December 1971, or to the production in Canada of petroleum, natural gas or other related hydrocarbons from a mineral resource or an oil or gas well, or metal or minerals to any stage that is not beyond the prime metal stage or its equivalent, from a mineral resource, if the oil or gas well or mineral resource is situated on property in Canada in which the taxpayer had an interest, including the right to take or remove such substance.”

(2) This section applies with regard to an amount that becomes receivable after 31 December 1982 in respect of the period subsequent to that date.

21. (1) Sections 91 to 92.3 of the said Act are replaced by the following sections:

“91. Section 89 does not apply to an amount described in subsection 1 of section 144 and paid or payable by the taxpayer, to a tax or portion thereof that may reasonably be considered to be a school or municipal tax, or to a prescribed amount.

“92. Notwithstanding paragraph *c* of section 87, in computing its income for a taxation year, a corporation, partnership, unit trust or any trust of which a corporation or a partnership is a beneficiary, shall include any interest that accrued to it to the end of the year, or became receivable or was received by it before the end of the year on a debt obligation, to the extent that such interest was not included in computing its income for a previous taxation year.

The first paragraph does not apply to interest accrued, received or that became receivable in respect of an income bond, an income debenture, a small business bond or a development bond.

“92.1 Where in a taxation year a taxpayer, other than a corporation, partnership, unit trust or any trust of which a corporation or partnership is a beneficiary, holds an interest in an investment contract on any third anniversary of the contract and in the year or any preceding taxation year he has not made an election under section 92.4 with respect to his interest, there shall be included in computing his income for the year the interest that accrued to him to that time with respect to the investment contract to the extent that the interest was not otherwise included in computing his income for the taxation year or any preceding taxation year, and to the extent that the interest accrued to him after 31 December 1981.

“92.2 Section 92 does not apply to a corporation, partnership or trust, in respect of taxation years ending before 31 December 1984 or of interest accrued before the beginning of its first taxation year commencing after 12 November 1981, in respect of an interest in a debt obligation last acquired by it before 29 October 1980, unless the obligation was issued by a person with whom the corporation or trust or any member of the partnership was not dealing at arm's length.

The first paragraph does not apply to a corporation described in any of paragraphs *b* to *d* of section 250.3, a life insurance corporation or any other corporation, other than a mutual fund corporation or a mortgage investment corporation, whose principal business is the making of loans or that borrows money from the public in the course of carrying on a business the principal purpose of which is the making of loans.

“92.3 Section 92 does not apply in computing the income for a taxation year of a taxpayer, if the interest of the taxpayer in the debt obligation was last acquired before 29 October 1980 and

(a) the taxpayer could not, between 28 October 1980 and the end of the taxation year, require the repayment, acquisition, cancellation or conversion of the interest in the debt obligation other than by reason of a failure or default under the terms or conditions thereof,

(b) the maturity date of the debt obligation has not been extended and the terms or conditions relating to payments with respect to interest in the obligation have not been changed between 28 October 1980 and the end of the taxation year, and

(c) the debt obligation was issued by a person with whom the taxpayer or, where the taxpayer is a partnership, each member thereof, was dealing at arm's length.

The first paragraph does not apply to a corporation described in the second paragraph of section 92.2.

“92.4 Where a taxpayer who holds an interest in a debt obligation elects in respect of the interest in a taxation year by notifying the issuer thereof in writing, he shall, in computing his income for the year and each subsequent taxation year during which he holds an interest in the debt obligation, include the interest accrued to him on the debt obligation to the end of the year to the extent that the interest was not included in computing his income for the year or any preceding taxation year.

“92.5 For the purposes of sections 92, 92.1, 92.4, 92.7 and 167, where a taxpayer acquires an interest in a prescribed debt obligation, interest in respect thereof computed in prescribed manner is deemed to accrue to the taxpayer in each taxation year during which he holds the interest.

“92.6 Section 92.1 does not apply in computing the income of a taxpayer for a taxation year if the interest of the taxpayer in the investment contract was last acquired by him before 13 November 1981 and

(a) the taxpayer could not, between 12 November 1981 and the end of the taxation year, require the repayment, acquisition, cancellation or conversion of his interest, other than by reason of a failure or default under the terms or conditions thereof, and

(b) the maturity date of the contract has not been extended and the terms or conditions relating to payments in respect of his interest have not been changed between 12 November 1981 and the end of the taxation year.

“92.7 For the purposes of sections 92 to 92.8,

(a) “investment contract”, in relation to a taxpayer, means any debt obligation, other than an income bond, an income debenture, a development bond, a small business bond or an obligation in respect of which the taxpayer has, at periodic intervals of less than three years, included, in computing his income throughout the period in which he held an interest in the obligation, the income accrued thereon for such intervals; and

(b) “third anniversary” of an investment contract means the end of the day that is three years after the end of the calendar year of issue of the contract, and the end of the day that occurs at every successive three year interval from the third anniversary determined in the first instance under this paragraph.

“92.8 For the purposes of paragraph *b* of section 92.7, where before 1 January 1985 a taxpayer has not disposed of an interest in an investment contract last acquired by him before 1 January 1982, the contract is deemed to have been issued on 31 December 1984.

“92.9 Where, in a taxation year, a corporation, partnership, unit trust or any trust of which a corporation or partnership is a beneficiary holds an interest in a life insurance policy last acquired after 1 December 1982, or an interest in an annuity contract last acquired after 19 December 1980 and before 2 December 1982 under which annuity payments did not commence before 2 December 1982, it shall, in computing its income for the taxation year, include the amount by which the accumulating fund at the end of the calendar year ending in the taxation year, as determined in prescribed manner, in respect of the interest exceeds the adjusted cost basis of the interest to the corporation, partnership, unit trust or trust.

The first paragraph does not apply in respect of an interest in

(a) an exempt policy, or

(b) an annuity contract under which the policy-holder has, under the terms and conditions of a life insurance policy that was not an annuity contract and that was last acquired before 2 December 1982, received the proceeds therefrom in the form of an annuity contract.

“92.10 Where, before 1 January 1985, a person or partnership described in section 92.9 has not disposed of an interest in an annuity contract that was last acquired by the person or partnership before 20 December 1980, section 92.9 shall for taxation years ending after 30 December 1984, with respect to that interest, be read without reference to the words “after 19 December 1980 and”, and as if the amount which that person or partnership shall include under section 92.9 in computing its income for a taxation year were the amount by which the accumulating fund at the end of the calendar year ending in the taxation year, as determined in prescribed manner, in respect of the interest exceeds the aggregate of the adjusted cost basis of the interest to the person or partnership and the amount of unallocated income accrued in respect of the interest before 1 January 1982, as determined in prescribed manner.

“92.11 Where in a taxation year a taxpayer, other than a person or partnership described in section 92.9, holds an interest in a life insurance policy last acquired after 1 December 1982, or an annuity contract last acquired before 2 December 1982 under which annuity payments did not commence before 2 December 1982, on a third anniversary of the policy or contract and in the taxation year or any preceding taxation year he has not made an election under section 92.12

in respect of his interest, he shall include in computing his income for the year the amount by which the accumulating fund on that third anniversary, as determined in prescribed manner, in respect of his interest exceeds the aggregate of the adjusted cost basis of the interest to the taxpayer and the amount of unallocated income accrued in respect of the interest before 1 January 1982, as determined in prescribed manner.

The first paragraph does not apply to an interest in

(a) an exempt policy,

(b) a prescribed annuity contract, or

(c) an annuity contract described in paragraph *b* of the second paragraph of section 92.9.

“92.12 Where in a taxation year a taxpayer who holds an interest in a life insurance policy, other than an annuity contract, last acquired after 1 December 1982, or an annuity contract, other than a contract under which annuity payments have commenced, elects under this section in respect of the interest by notifying the issuer thereof in writing, he shall, in computing his income for the taxation year and each subsequent taxation year during which he holds the interest, include the amount by which the accumulating fund at the end of the taxation year, as determined in prescribed manner, in respect of his interest exceeds the aggregate of the adjusted cost basis to him of the interest, and the amount of unallocated income accrued in respect of the interest before 1 January 1982, as determined in prescribed manner.

“92.13 Where in a taxation year section 92.9, 92.11 or 92.12 applies with respect to a taxpayer’s interest in an annuity contract, or would apply if the contract had a third anniversary in the year, and at the end of the year the aggregate determined under section 976.1 in respect of his interest exceeds the aggregate determined under section 976 in respect of his interest, the taxpayer shall include the excess in computing his income for the year.

“92.14 Section 92.9 does not apply in computing the income of a taxpayer for a taxation year if his interest in the annuity contract was last acquired by him before 20 December 1980, and

(a) he could not, in the period commencing 19 December 1980 and ending before the end of the taxation year, require the repayment, acquisition, cancellation or conversion of his interest, other than by reason of a failure or default under the terms or conditions thereof, and the maturity date of the contract has not been extended and the terms or conditions relating to payments in respect of his interest have not been changed in that period; or

(b) the cash surrender value of his interest has not, in the period referred to in paragraph *a*, exceeded the aggregate of premiums paid in respect of the interest.

“92.15 Section 92.11 does not apply in computing the income of a taxpayer for a taxation year if his interest in the annuity contract was last acquired before 2 December 1982 and if the conditions that would be described in paragraph *a* or *b* of section 92.14 if the reference to 19 December 1980 in the said paragraph *a* were replaced by a reference to 1 December 1982, are fulfilled.

“92.16 For the purposes of sections 92.9 to 92.20, where the first premium under an annuity contract last acquired by a taxpayer before 2 December 1982 was not fixed before that date and was paid on or after that date by or on behalf of the taxpayer, the premium is deemed to have been paid to acquire, at the time it 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 2 December 1982, and each subsequent premium paid under the contract is deemed to have been paid under such separate contract to the extent that the amount of the premium was not fixed before 2 December 1982.

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, 92.9, 92.11 or 92.12 applies or would apply in a year if the contract had a third anniversary in the year.

“92.17 Where, at any time after 1 December 1982, a prescribed premium, other than a premium referred to in section 92.16, has been paid by or on behalf of a taxpayer in respect of an interest in a life insurance policy last acquired on or before that date, this Part applies after that time in respect of the interest of the taxpayer in the policy as if

(a) sections 92.9, 92.11, 92.12 and 977.1, subparagraph iv of paragraph *b.4* of section 966 and subparagraph i of paragraph *b* of section 967 were read without reference to the words “last acquired after 1 December 1982”;

(b) the second paragraph of section 92.9 were read without reference to paragraph *b* thereof;

(c) the second paragraph of section 92.11 were read without reference to paragraph *c* thereof;

(d) subparagraph v of paragraph *a* of section 966 were read without reference to the words “last acquired before 2 December 1982 or”;

(e) paragraph *b.3* of section 966 were read with all that portion preceding subparagraph *i* and following the words “but does not include” replaced by the following: “that portion of any amount paid, after the later of 31 May 1985 and the time at which section 92.17 first applied in respect of the interest, under the policy in respect of”;

(f) section 970 were not applicable;

(g) paragraph *e* of section 976.1 were read as follows: “(e) in the case of an interest in a life insurance policy other than an annuity contract, the aggregate of all amounts each of which is the net cost of pure insurance in respect of the interest, as determined in prescribed manner, immediately before the end of the calendar year ending in a taxation year commencing after the later of 31 May 1985 and the end of the year preceding the year in which section 92.17 first applied in respect of the interest, and before that time,”.

The first paragraph applies only if the policy is not an exempt policy or if there has been a prescribed increase in any benefit on death under the policy.

For the purposes of this section, the second paragraph of section 966.1 shall be read without reference to the expression “other than a conversion into an annuity contract”.

“92.18 For the purposes of this Part, any rider added at any time after 1 December 1982 to a life insurance policy, other than an annuity contract, last acquired before 2 December 1982 that provides for additional life insurance, other than an accidental death benefit, is deemed to be a separate life insurance policy issued at that time.

“92.19 For the purposes of sections 92.9 to 92.20, 160 and 161, paragraphs *c* and *c.1* of section 312 and sections 966 to 977.1,

(a) “exempt policy” has the meaning prescribed by regulation; and

(b) “third anniversary” of a life insurance policy means the end of the day that is three years after the end of the calendar year of issue of the policy, and the end of the day that occurs at every successive three year interval from the third anniversary determined in the first instance under this paragraph.

“92.20 For the purposes of paragraph *b* of section 92.19, where before 1985 a taxpayer has not disposed of an interest in an annuity contract last acquired by him before 2 December 1982, the contract is deemed to have been issued on 31 December 1984.”

(2) This section, where it replaces section 91 of the Taxation Act, applies in respect of amounts paid or that become payable after 31 December 1982 in respect of the period subsequent to that date.

(3) This section, where it replaces sections 92 to 92.3 of the Taxation Act and where it enacts sections 92.4, 92.6, 92.9, 92.11 to 92.15 and 92.18 of the said Act, applies to taxation years commencing after 31 December 1982.

(4) This section, where it enacts sections 92.5, 92.7 and 92.8 of the Taxation Act, applies to taxation years commencing after 31 December 1981.

(5) This section, where it enacts sections 92.10, 92.16, 92.17, 92.19 and 92.20 of the Taxation Act, has effect from 30 March 1983.

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

“93.1 For the purposes of subparagraph iv of paragraph e of section 93 and of Title IV, sections 93.2 and 93.3 apply, notwithstanding sections 99 and 251, where in a taxation year a taxpayer disposes of a building of a prescribed class and the proceeds of disposition of the building determined without reference to sections 93.1 to 93.3 are less than the cost amount to the taxpayer of the building immediately before its disposition.

“93.2 Where in the same taxation year as that referred to in section 93.1 the taxpayer or a person with whom he is not dealing at arm's length disposes of the land subjacent to, or immediately contiguous to and necessary for the use of, the building, the following rules apply:

(a) the proceeds of disposition of the building are deemed to be the lesser of

i. the amount by which the aggregate of the proceeds of disposition of the building and of the land determined without reference to sections 93.1 to 93.3 exceeds the lesser of the cost amount to the vendor of the land, and its fair market value, immediately before its disposition, and

ii. the greater of the fair market value of the building immediately before its disposition, and the cost amount to the taxpayer of the building immediately before its disposition;

(b) the proceeds of disposition of the land are deemed to be the amount by which the aggregate of the proceeds of disposition of the building and of the land determined without reference to sections 93.1 to 93.3 exceeds the proceeds of disposition of the building as determined under paragraph a.

“93.3 Where section 93.2 does not apply with respect to the disposition referred to in section 93.1 and where before the disposition the taxpayer or a person with whom he was not dealing at arm's length

owned the land subjacent to, or immediately contiguous to and necessary for the use of, the building, the proceeds of disposition of the building are deemed to be an amount equal to the aggregate of the proceeds of disposition of the building determined without reference to sections 93.1 to 93.3, and 1/2 of the amount by which the greater of the cost amount to the taxpayer of the building immediately before its disposition, and the fair market value of the building immediately before its disposition exceeds the proceeds of disposition, determined without reference to sections 93.1 to 93.3.”

(2) This section applies in respect of a disposition made after 12 November 1981, but not to a disposition made in accordance with an agreement in writing entered into before 13 November 1981.

23. (1) The said Act is amended by inserting, after section 97.4, the following sections:

“97.5 Where, before the disposition of a capital property that was depreciable property of a taxpayer, the taxpayer, or any person with whom he was not dealing at arm’s length, was entitled to a deduction in computing his income in respect of any outlay or expense made or incurred for the use of, or the right to use, during a period of time, that capital property, other than an outlay or expense made or incurred by the taxpayer or a person with whom he was not dealing at arm’s length before the acquisition of the property, except where the taxpayer disposes of the property to a person with whom he is not dealing at arm’s length and that person is subject to the provisions of sections 97.2 and 97.4 with respect to the acquisition by him of the property, the following rules apply:

(a) the person who owned the property immediately before the disposition shall at that time add to the capital cost of the property the lesser of

i. the aggregate of all amounts, other than amounts paid or payable to the taxpayer or a person with whom the taxpayer was not dealing at arm’s length, each of which was a deductible outlay or expense made or incurred before the disposition by the taxpayer, or by a person with whom he was not dealing at arm’s length, for the use of, or the right to use, during the period of time, the property, and

ii. the amount by which the fair market value of the property at the earlier of the time of the expiration of the last period of time in respect of which the deductible outlay or expense referred to in subparagraph i was made or incurred, and the disposition exceeds the capital cost to the taxpayer of the property immediately before that time; and

(b) the taxpayer shall add, immediately before the disposition, to the total depreciation allowed to him before the disposition in respect of the prescribed class to which the property belongs, the amount added to the capital cost to him of the property pursuant to paragraph *a*.

“97.6 For the purposes of section 97.5, an amount deductible by a taxpayer under paragraph *g* or *g.1* of section 157 is deemed not to be an outlay or expense that was made or incurred by him for the use of, or the right to use, the property.”

(2) This section applies in respect of a property owned by a taxpayer after 12 November 1981.

24. (1) Section 101.3 of the said Act is replaced by the following section:

“101.3 For the purposes of section 101, where a prescribed amount is required to be added in computing a prescribed tax deduction to which a member of a partnership or beneficiary of a trust, as the case may be, is entitled at the end of his taxation year, such portion of that amount as can reasonably be considered to relate to depreciable property is deemed to have been received by the partnership or trust, as the case may be, at the end of its fiscal period ending in that taxation year, as assistance from a government for the acquisition of depreciable property.”

(2) This section has effect from 13 November 1981.

25. (1) Sections 113 to 118 of the said Act are replaced by the following sections:

“113. A person or partnership that is a shareholder of a corporation, is a person that does not deal at arm’s length with that shareholder or is a member of a partnership, or a beneficiary of a trust, that is a shareholder of a corporation shall include in computing his or its income for a taxation year the amount of any indebtedness he or it incurs in the year towards the corporation or any other corporation related thereto, or towards a partnership of which either of such corporations is a member.

“114. Section 113 does not apply if the debt was incurred in the ordinary course of the creditor’s business, and *bona fide* arrangements were made, at the time the indebtedness was incurred, for repayment thereof within a reasonable time and, in the case of a loan, if the lending of money is part of the creditor’s ordinary business.

Nor does section 113 apply if such arrangements are made and the indebtedness is incurred by an employee of the lender or creditor

to enable or assist the employee to acquire an automobile to be used by him in the performance of the duties of his office or employment, or, where the lender or creditor is a corporation, to acquire for himself from the corporation fully paid shares of the capital stock of the corporation, or to acquire from a corporation related thereto fully paid shares of the capital stock of the related corporation, to be held by him for his own benefit, or by an employee of the creditor or the spouse of such an employee to enable or assist that person to acquire a dwelling for his habitation.

“115. Section 113 does not apply if the indebtedness is repaid within one year from the end of the taxation year of the creditor in which it was incurred and it is established that the repayment was not made as part of a series of transactions and repayments.

“116. Section 113 does not apply where the indebtedness is incurred by a corporation resident in Canada or a partnership each member of which is such a corporation, nor between persons not resident in Canada, nor, in the case where the indebtedness is incurred by a person that does not deal at arm’s length with a shareholder of a corporation, where such person is a foreign affiliate of such corporation or a foreign affiliate of a person resident in Canada who does not deal at arm’s length with that corporation.

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

“118. Sections 111 to 117 apply to the computing, for the purposes of this Part, of the income of a shareholder, of a person or of a partnership, whether or not the corporation or the creditor, as the case may be, has resided or carried on business in Canada.”

(2) This section applies in respect of indebtedness incurred after 31 December 1981, except that where it replaces section 117 of the Taxation Act, it applies from the taxation year 1982.

26. (1) Section 119.2 of the said Act is amended

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

“(e) “qualifying debt obligation” of a corporation at any particular time means an obligation that is a bond, debenture, bill, note, hypothec,

mortgage or similar obligation, the principal amount of which is not less than \$10 000 or more than \$500 000, issued between 11 December 1979 and 1 January 1984 for a term of not less than one year, except in the event of a failure or default under the terms or conditions of the obligation, nor more than five years, if the obligation is issued by the corporation in any of the circumstances described in subparagraphs i to iii of paragraph *c* of section 119.5 or if all of the proceeds from the issuance of the obligation before 1 February 1982 are used by the corporation

i. to acquire between 11 December 1979 and 1 February 1982 property that is specified property of the corporation;

ii. to finance prescribed expenditures made by the corporation between 11 December 1979 and 1 February 1982 in respect of scientific research;

iii. to repay before 1 February 1982, in whole or in part, one or more obligations of the corporation to the extent of an amount not exceeding the cost to the corporation of property referred to in subparagraph i or the amount of the expenditures referred to in subparagraph ii that was acquired or that were incurred by the corporation between 11 December 1979 and the time of such repayment, or

iv. for any combination of purposes described in subparagraphs i to iii;"

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

"(f) "development bond" at any time means an obligation that is at that time a qualifying debt obligation issued before 1 January 1982 by a Canadian-controlled private corporation in respect of which a joint election was made that is within 90 days after the later of its issue date and 26 February 1981 or that is at that time a qualifying debt obligation issued after 31 December 1981 by such a corporation and in respect of which a joint election was made within 90 days after the later of its issue date and 30 March 1983."

(2) This section has effect from 30 March 1983.

27. (1) Section 119.5 of the said Act is amended by replacing that part of paragraph *c* which precedes subparagraph i by the following:

"(c) all or substantially all of the proceeds from the issue of a bond that is a debt cannot reasonably be regarded as having been used by the issuer or a corporation with which it was not dealing at arm's length in the financing of a qualified business, within the meaning of paragraph *e* of section 451, carried on in Canada immediately before the time of its issuance, if the bond was issued".

(2) This section applies in respect of a development bond issued after 31 December 1981.

28. (1) The said Act is amended by inserting, after section 119.10, the following:

“119.11 Where a corporation or any corporation associated with the corporation, within the meaning of section 230.2, has made a joint election in respect of a development bond, section 119.9 does not apply with respect to the corporation and any corporation associated with that corporation that would, but for the said section 119.9, be an eligible corporation in respect of any obligation issued at any particular time after 12 November 1981 in circumstances described in any of subparagraphs i to iii of paragraph *c* of section 119.5.

The first paragraph applies only if the issue price of any such bond does not exceed the amount by which \$500 000 exceeds the aggregate of all amounts each of which is the issue price

(*a*) of a development bond issued before the particular time by the corporation, or at or before the particular time by a corporation associated with the corporation, or

(*b*) a small business bond issued at or before the particular time by an individual who controls or is a member of a related group that controls the corporation, or by a partnership any member of which is a person who is a majority interest partner therein, within the meaning assigned by section 616, and who controls, or is a member of a related group that controls, the corporation.

“119.12 Notwithstanding paragraph *f* of section 119.2, where the holder of a qualifying debt obligation issued by a Canadian-controlled private corporation has not filed with the Minister a joint election within the time referred to in that paragraph *f*, the obligation is deemed to be a development bond if

(*a*) it is reasonable to consider that the corporation and the holder intended that this division would apply to the obligation having regard to such factors as may be relevant, including the rate of interest stipulated under the terms of the obligation and the manner in which the corporation and the holder have treated the obligation for the purposes of this Act; and

(*b*) the holder files with the Minister a joint election within 90 days from the later of 30 March 1983 and the date of notification by the Minister that a joint election in respect of the obligation has not been filed pursuant to paragraph *f* of section 119.2.

The first paragraph applies only if, after the issue of the qualifying debt obligation, the corporation has not issued a development bond, other than a development bond that is a qualifying debt obligation issued in one of the circumstances described in subparagraphs i to iii of paragraph *c* of section 119.5.

“119.13 For the purposes of section 1050, where an amount is added to the taxable income of a corporation by virtue of section 119.8, the amount is deemed to be a penalty assessed by the Minister under sections 1048, 1049 and 1050.

“119.14 Where, at any time after 11 December 1979, an amount has become receivable by a corporation as proceeds of disposition, within the meaning assigned by subparagraphs ii to iv of paragraph *f* of section 93 or section 251 where it refers to such subparagraphs, of specified property and the corporation has, before the end of the first taxation year following the taxation year in which an amount in respect of the disposition of the specified property has become receivable, acquired a replacement property, within the meaning assigned by subsection 3 of section 96 or section 280.2 that is specified property, the cost to the corporation of its replacement property is deemed to be, for the purposes of section 119.6, an expense incurred by it in disposing of the specified property.

“DIVISION IV.2

“SMALL BUSINESS BOND

“119.15 For the purposes of this division,

(a) “joint election” means, in respect of any obligation, an election made in prescribed form jointly by the issuer of the obligation and the holder thereof at the election time and filed with the Minister by the holder in which the issuer and the holder elect that the provisions of this division apply with respect to that obligation and in which the issuer declares that it is an eligible issuer, and the requirements of paragraph *b* have been met;

(b) “qualifying debt obligation” of an individual or partnership means an obligation that is a bill, note, mortgage, hypothec or similar obligation issued between 12 November 1981 and 1 January 1984, the principal amount of which is not less than \$10 000 or more than \$500 000, that is issued for a term of not more than five years and, except in the event of a failure or default under the terms or conditions of the obligation, not less than one year, if the funds from the issuance thereof are used in Canada in a business of the individual or partnership carried on immediately before the time of issuance; and the obligation is issued by the individual or partnership

i. as part of a proposal to, or an arrangement with, his or its creditors, as the case may be, that has been approved by a competent court under the Bankruptcy Act (Statutes of Canada),

ii. at a time when all or substantially all of his or its assets, as the case may be, are under the control of a receiver, receiver-manager, sequestrator or trustee in bankruptcy, or

iii. at a time when, by reason of financial difficulty, the individual or partnership is in default, or could reasonably be expected to default, on a debt incurred in the course of his or its business, as the case may be, and held by a person with whom the individual or each member of the partnership was dealing at arm's length and it is issued, in whole or in part, directly or indirectly in exchange or substitution for that debt;

(c) "eligible issuer" means

i. an individual other than a trust resident in Canada who has not, or is not a majority interest partner within the meaning assigned by section 616 of a partnership that has previously made a joint election in respect of a small business bond or who does not control or is not a member of a related group that controls a corporation that has previously made such an election, or

ii. a partnership, all the members of which are individuals described in subparagraph i;

(d) "small business bond" means an obligation that is a qualifying debt obligation issued by an individual or partnership in respect of which a joint election was made within 90 days after the later of its issue date and 30 March 1983.

"119.16 Where an individual or partnership pays any amount to a taxpayer as or on account of interest in respect of a small business bond, the amount is deemed to have been received by the taxpayer as a taxable dividend from a taxable Canadian corporation.

"119.17 Where an individual or partnership has issued a small business bond, notwithstanding any other provision of this Part, in computing his or its income for a taxation year, no deduction may be made in respect of any amount paid or payable as or on account of interest on the bond.

"119.18 Notwithstanding any other provision of this Part, where an individual or partnership has issued a small business bond, the issuer shall add to his or its tax otherwise payable for a taxation year under this Part an amount equal to 33% of the amount of interest payable in respect of the bond for any period in the year during which

(a) the issuer is not an eligible issuer, or

(b) all or substantially all of the proceeds from the issue of an obligation issued in circumstances described in subparagraphs i to iii of paragraph *b* of section 119.15 is not used by the eligible issuer in the financing of qualified business, within the meaning of the regulations under paragraph *e* of section 451, taking into account the necessary modifications, carried on by it in Canada immediately before the time of the issuance of the obligation.

“119.19 Notwithstanding any other provision of this Part, an amount paid or payable by a taxpayer pursuant to a legal obligation to pay interest on borrowed money used for the purpose of acquiring a small business bond is deemed to be an amount paid or payable, on borrowed money used for the purpose of earning income from a business or property.

“119.20 Where an individual or partnership knowingly or under circumstances amounting to gross negligence makes a false declaration in a joint election in respect of an obligation that was issued by the individual or partnership, the reference in section 119.18 to “33%” shall be read as a reference to “99%”.

“119.21 For the purposes of section 119.18, in the case of an issuer that is a partnership, the expression “the issuer shall add” shall be read as a reference to the “each member of the partnership shall add” and each member shall add to his tax otherwise payable for the taxation year that includes the period described in section 119.18 the amount that can reasonably be regarded as his share of the amount determined under that section 119.18 with respect to the partnership.

“119.22 Where an individual, a partnership of which the individual is a majority interest partner, within the meaning assigned by section 616, or a corporation that is controlled by the individual, a related group of which the individual is a member, or a member of the partnership who is a majority interest partner of the partnership has previously made a joint election in respect of a small business bond or, in the case of a corporation, a development bond, the individual and any partnership of which the individual is a majority interest partner is deemed to be an eligible issuer in respect of any additional small business bond that the individual or partnership may issue if at the particular time of its issue the issue price of such additional bond does not exceed the amount by which \$500 000 exceeds the aggregate described in the second paragraph.

The aggregate referred to in the first paragraph is,

(a) where the issuer is an individual, the aggregate of all amounts each of which is the issue price of

i. another small business bond issued before the particular time by the individual, or at or before the particular time by a partnership of which the individual is a majority interest partner, or

ii. a development bond issued at or before the particular time by a corporation that is controlled by the individual, or by a related group of which the individual is a member, or a corporation that is associated with such a corporation, within the meaning assigned by section 230.2, or

(b) where the issuer is a partnership, the aggregate of all amounts each of which is the issue price of

i. another small business bond issued before the particular time by the partnership, or at or before the particular time by an individual who is a majority interest partner of the partnership, and

ii. a development bond issued at or before the particular time by a corporation that is controlled by the individual referred to in subparagraph i or by a related group of which the individual is a member, or a corporation that is associated with such a corporation, within the meaning assigned by section 230.2.

“119.23 Notwithstanding paragraph *d* of section 119.15, where the holder of a qualifying debt obligation issued by an individual or a partnership has not filed with the Minister a joint election within the time referred to in that paragraph *d*, the obligation is deemed to be a small business bond if

(a) it is reasonable to consider that the issuer and the holder intended that this division would apply to the obligation having regard to such factors as may be relevant, including the rate of interest stipulated under the terms of the obligation and the manner in which the issuer and the holder have treated the obligation for the purposes of this Act; and

(b) the holder files with the Minister a joint election within 90 days after the date of notification by the Minister that a joint election in respect of the obligation has not been filed pursuant to paragraph *d* of section 119.15.

“119.24 For the purposes of section 1050, where an amount is added to the tax otherwise payable by an issuer by virtue of section 119.20, the amount is deemed to be a penalty assessed by the Minister under sections 1048, 1049 and 1050.”

(2) This section, where it enacts section 119.11 of the Taxation Act, applies in respect of development bonds issued after 12 November 1981.

(3) This section, where it enacts sections 119.12 and 119.13 of the Taxation Act, applies in respect of qualifying debt obligations issued after 11 December 1979.

(4) This section, where it enacts section 119.14 of the Taxation Act, has effect from 30 March 1983.

(5) This section, where it enacts Division IV.2 of Chapter II of Title III of Book III of Part I of the Taxation Act and sections 119.15 to 119.24 of the said Act, applies in respect of a qualifying debt obligation issued after 12 November 1981.

29. (1) Section 120 of the said Act is replaced by the following section:

“120. Except in the cases in which section 123 applies, where a payment under a contract or other arrangement may reasonably be regarded as being in part a payment of capital and in part a payment of interest or other payment of the nature of income, such last mentioned part shall, irrespective of when the contract or arrangement was made or the form or legal effect thereof, be included in computing the recipient's income from property for the taxation year in which it was received to the extent that it was not otherwise included in computing the recipient's income.”

(2) This section applies from the taxation year 1981.

30. (1) Section 121 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) in satisfaction of his rights under an annuity contract.”

(2) This section applies in respect of dispositions occurring after 12 November 1981.

31. (1) Section 133.3 of the said Act is replaced by the following section:

“133.3 A taxpayer shall not deduct the amounts paid by him as legal or extra-legal expenses incurred in respect of a divorce, a judicial separation, a written separation agreement, a right to receive an original amount that he would be required to include in computing his income under paragraph *a*, *b* or *b.1* of section 312 or under section 313 if it were received or of an original obligation to pay an amount allowable as a deduction in that computation under paragraph *a*, *a.1* or *b* of subsection 1 of section 336 or under subsection 2 of the said section 336 if it were paid.”

(2) This section applies from the taxation year 1978.

32. (1) The said Act is amended by inserting, after section 135.2, the following sections:

“135.3 A taxpayer shall not deduct an amount paid or payable for the cancellation of a lease of property of the taxpayer leased by him to another person, except to the extent permitted by paragraph *g* or *g.1* of section 157.

“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 virtue of paragraph *a* of section 130 or paragraph *h* of section 157, that

(a) may reasonably be regarded as a cost incurred during the period of construction, renovation or alteration of a building and that relates thereto or a cost incurred during that period relating to the ownership, during that period, of land that is subjacent to the building or contiguous to that land and that is 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; and

(b) was made or incurred before the completion of the construction, renovation or alteration of the building.

“135.5 The amount contemplated in section 135.4 shall be included in computing the cost or the capital cost to the taxpayer of the land or building, as the case may be.

“135.6 For the purposes of sections 135.4 and 135.5, costs relating to the construction, renovation or alteration of a building or to the ownership of land include

(a) interest paid or payable by a taxpayer in respect of borrowed money that cannot be identified with a particular building or particular land, but that can reasonably be considered, having regard to all the circumstances, as interest on borrowed money used by the taxpayer in respect of the construction, renovation or alteration of a building or the ownership of land; and

(b) interest paid or payable by a taxpayer in respect of borrowed money that can reasonably be considered, having regard to all the circumstances, to have been used to assist, directly or indirectly, another person or a partnership, with whom the taxpayer does not deal at arm’s length, or a corporation of which the taxpayer is a specified shareholder, within the meaning of the regulations made under paragraph *e* of section 451, to construct, renovate or alter a building or to purchase land, except where the assistance is in the form of a loan to that other person, partnership or corporation and a reasonable rate of interest thereon is charged by the taxpayer.

“135.7 For the purposes of sections 135.4 and 135.5, the construction, renovation or alteration of a building is completed at the earlier of the day on which the construction, renovation or alteration is actually completed and the day on which all or substantially all of the building is used for the purpose for which it was constructed, renovated or altered.

“135.8 Sections 135.4 and 135.5 do not apply to a corporation whose principal business was throughout the year the leasing, rental or sale, or the development for lease, rental or sale, or any combination thereof, of immovable property owned by it, to or for a person with whom the corporation was dealing at arm's length.

Nor do they apply to a partnership each member of which is a corporation described in the first paragraph if the principal business of the partnership was throughout the year the leasing, rental or sale, or the development for lease, rental or sale, or any combination thereof, of immovable property held by it, to or for a person with whom each member of the partnership was dealing at arm's length.

“135.9 Sections 135.4 and 135.5 do not apply in respect of an outlay or expense in respect of a building or the land described in paragraph *a* of the said section 135.4

(*a*) where the construction, renovation or alteration of the building was in progress on 12 November 1981;

(*b*) where the installation of the footings or other base support of the building commenced between 12 November 1981 and 1 January 1982;

(*c*) if, in the case of a new building being constructed in Canada or an existing building being renovated or altered in Canada, arrangements, evidenced in writing, for such construction, renovation or alteration were substantially advanced before 13 November 1981 and the installation of footings or other base support for the new building or the renovation or alteration of the existing building, as the case may be, commenced before 1 June 1982; or

(*d*) if, in the case of a new building being constructed in Canada, the taxpayer was obligated to construct the building under the terms of an agreement in writing entered into before 13 November 1981, and arrangements, evidenced in writing, respecting the construction of the building were substantially advanced before 1 June 1982 and the installation of footings or other base support therefor commenced before 1 January 1983.

The first paragraph applies only if the construction, renovation or alteration of the building proceeds after 31 December 1982 without

undue delay, having regard to fortuitous events, labour disputes, fire, accidents or unusual delay by common carriers or suppliers of materials or equipment.

“135.10 For the purposes of section 135.9, where more than one building is being constructed under any of the circumstances described in that section on one site or on contiguous sites, no undue delay is regarded as occurring in the construction of any such building if construction of at least one such building proceeds after 31 December 1982 without undue delay and continuous construction of all other such buildings proceeds after 31 December 1983 without undue delay.

“135.11 For the purposes of sections 135.4 to 135.10, the installation of footings or other base support for a building is deemed to commence on the first placement of concrete, pilings or other material that is to provide permanent support for the building.”

(2) This section, where it enacts section 135.3 of the Taxation Act, applies in respect of lease cancellations occurring after 1 December 1982, except if the cancellation is made pursuant to an agreement in writing entered into before 2 December 1982.

(3) This section, where it enacts sections 135.4 to 135.11 of the Taxation Act, applies in respect of outlays and expenses made or incurred after 31 December 1981.

33. (1) Section 144 of the said Act is replaced by the following section:

“144. (1) No taxpayer may deduct an amount paid or payable by virtue of an obligation imposed by statute or a contractual obligation substituted for an obligation imposed by statute, to a person contemplated in section 90, as a royalty, tax, rental or bonus, or as an amount that may reasonably be regarded as being in lieu of any such amount, and that may reasonably be regarded as being in relation to the acquisition, development or ownership of a Canadian resource property or a property that would have been a Canadian resource property if it had been acquired after 31 December 1971 or the production in Canada of petroleum, natural gas or related hydrocarbons from a mineral resource in Canada or an oil or gas well in Canada or metal or minerals, to any stage that is not beyond the prime metal stage or its equivalent, from a mineral resource in Canada.

(2) Subsection 1 does not apply to a prescribed amount for the purposes of section 91 or to a tax or part thereof that may reasonably be considered to be a municipal or school tax.”

(2) This section applies to an amount paid or which becomes payable after 31 December 1982 in respect of the period after that date.

(3) Where section 144 of the Taxation Act, as it read before being replaced by this section, is applicable with respect to an amount paid or that becomes payable before 1 January 1983 but after 6 May 1974 in respect of the period after that date, in the case of an oil business, or after 31 March 1975 in respect of the period after that date in the case of a mining business, the said section 144 must be read as if the words "paid or that becomes payable in the year" were replaced by the words "paid or payable".

34. (1) The said Act is amended by inserting, after section 150, the following section:

"150.1 Where an amount described in paragraph *a* of section 87 has been included in computing a taxpayer's income from a business for the year or a preceding taxation year, the taxpayer may deduct a reasonable amount as a reserve in respect of goods or services that it is reasonably anticipated will have to be delivered or rendered after the end of the year pursuant to an agreement for an extended warranty entered into by the taxpayer with a person with whom he was dealing at arm's length, and under which the only obligation of the taxpayer is to provide such goods or services with respect to property manufactured by the taxpayer or by a corporation related to the taxpayer.

In no case may the reserve exceed that portion of the amount paid or payable by the taxpayer to an insurer that carries on an insurance business in Canada to insure his liability under the agreement in respect of an outlay or expense made or incurred after 11 December 1979 and in respect of the period after the end of the year."

(2) This section applies from the taxation year 1979.

35. (1) Section 153 of the said Act is amended by replacing the second paragraph by the following paragraph:

"However, no deduction is allowed to a taxpayer under this section in respect of a property sold in the course of the business if the taxpayer, at the end of the taxation year or in the following taxation year, was exempt from tax under any provision of this Part, or was not resident in Canada and did not carry on the business in Canada, or the sale occurred more than 36 months before the end of the year."

(2) This section applies in respect of the sale of property after 12 November 1981, except if it is made pursuant to the terms in existence on that date of an offer or agreement in writing made or entered into before 13 November 1981.

36. (1) Section 157 of the said Act is amended by replacing paragraph *g* by the following paragraphs:

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

“(g.1) an amount not otherwise deductible that was paid or that became payable by the taxpayer before the end of the year to a person for the cancellation of a lease of property of the taxpayer leased by him to that person, to the extent of the amount thereof or, in the case of capital property, 1/2 of the amount thereof that was not deductible by him under paragraph g in computing his income for any preceding taxation year in any case where the property was not owned at the end of the year by the taxpayer or by a person with whom the taxpayer was not dealing at arm’s length, and no part of the amount was deductible by the taxpayer under this paragraph in computing his income for any preceding taxation year;”.

(2) This section applies in respect of lease cancellations occurring after 12 November 1981, except a cancellation pursuant to an agreement in writing entered into before 13 November 1981.

37. (1) Section 157.3 of the said Act is replaced by the following section:

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

(2) This section applies to taxation years commencing after 31 December 1982.

38. (1) The said Act is amended by inserting, after section 157.4, the following sections:

“**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 an annuity contract under which annuity payments have not commenced and in respect of which an amount was included in

computing his income for a taxation year by virtue of section 92.9, 92.11 or 92.12 or paragraph c. 1 of section 312 in respect of that interest, there may be deducted in computing his income for the year in which the disposition occurs an amount equal to the lesser of

(a) the aggregate of each amount included by virtue of the said sections, the said paragraph or section 92.13 in respect of that interest in computing his income for the year or a preceding taxation year, and

(b) an amount determined in prescribed manner.

“157.6 Where a taxpayer disposes of 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 year in which the disposition occurs the amount by which the aggregate of each amount included in computing his income for the year or a preceding taxation year as interest on the obligation exceeds the aggregate of each amount which is,

(a) the portion of an amount that was received or became receivable by him at or before that time as can reasonably be considered to be interest on the obligation, or

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

“157.7 Notwithstanding sections 137, 137.1 and 139, where one or more members of a related group of employers have contributed to one or more registered pension funds or plans with respect to a particular individual or deceased individual, the amount deductible by that member with respect to the individual in computing the income of the member for taxation years ending in a calendar year shall not exceed,

(a) in the case of an amount deductible under sections 137 and 137.1, the lesser of

i. the amount paid by the member with respect to the individual that would be deductible under the said sections 137 and 137.1 if this Act were read without reference to this section, and

ii. \$5 500 less the aggregate of each amount deducted in any such taxation year under sections 137 and 137.1 with respect to the individual by any other member of the group; and

(b) in the case of an amount deductible under section 139, the lesser of

i. the amount paid by the member with respect to the individual that would be deductible under the said section 139 if this Act were read without reference to this section, and

ii. the member's portion of the amount contemplated in section 157.8.

“157.8 The amount contemplated in subparagraph ii of paragraph *b* of section 157.7 is the amount by which

(a) the amount that would be approved by the Minister with respect to the individual for the purposes of section 139 if the individual were a member of a registered pension plan that provides the maximum benefits available under a registered pension plan and

i. the individual's eligible service in respect of the registered pension plans of all members were eligible service in respect of such a plan,

ii. all the remuneration received by the individual in respect of eligible service under the registered pension plans of all members were his remuneration in respect of eligible service under such a plan, and

iii. the benefits under such a plan in respect of the individual were funded or insured to the same extent that the aggregate of the individual's benefits under the registered pension plans of all members are funded or insured, exceeds

(b) the aggregate of each amount deducted with respect to the individual by a member of the group under sections 137 and 137.1 in computing the member's income for a taxation year ending in the calendar year.

“157.9 For the purposes of subparagraph ii of paragraph *b* of section 157.7, a “member's portion” of an amount shall be deemed to be such portion of the amount as may reasonably be determined to be the member's portion thereof having regard to the remuneration received by the individual from, and his eligible service with, the member.”

(2) This section applies to taxation years commencing after 31 December 1982, except that where it enacts sections 157.7 to 157.9 of the Taxation Act, it applies to taxation years commencing after 12 November 1981.

39. (1) Section 160 of the said Act is amended

(1) by striking out the word “or” at the end of paragraph *b*;

(2) by replacing the period at the end of paragraph *c* by the following:
“; or”;

(3) by adding the following paragraph:

“(d) borrowed money used to acquire an interest in an annuity contract to which sections 92.9 to 92.20 apply, or would apply if the contract had a third anniversary in the year; however, 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 or paragraph c.1 of section 312 in computing the taxpayer’s income for the year with respect to his interest in the contract.”

(2) This section applies in respect of acquisitions occurring after 28 June 1982.

40. (1) Section 167 of the said Act is replaced by the following section:

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

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

(2) This section applies in respect of dispositions occurring after 12 November 1981.

41. (1) Section 168 of the said Act is repealed.

(2) This section applies in respect of dispositions occurring after 12 November 1981.

42. (1) Sections 171 and 172 of the said Act are replaced by the following sections:

“**171.** The outstanding debts contemplated in sections 169 and 170 mean the aggregate of each amount outstanding at the particular time in respect of any debt or other obligation to pay an amount payable by the corporation to a person who was, in the year, a specified person not resident in Canada, on which interest paid or payable is or would be, but for section 169, deductible in computing the income of the corporation for the year.

However, where the corporation is controlled by a life insurance corporation not resident in Canada, the outstanding debts contemplated in sections 169 and 170 shall not include an amount outstanding in respect of a debt or other obligation to pay an amount to that life insurance corporation, to the extent that, by virtue of an election mentioned in section 825, that debt or other obligation has been included by the life insurance corporation as property held by it in the course of carrying on its insurance business in Canada in its taxation year that includes the particular time, and the life insurance corporation has included the revenue therefrom in computing its income for the year from that business.

“172. For the purposes of this section, of sections 169 to 171 and 174 and the regulations made under section 170:

(a) “specified shareholder” of a corporation at any time means a shareholder of the corporation who at that time, either alone or together with persons with whom he is not dealing at arm’s length, owns 25% or more of the issued shares of any class of the capital stock of the corporation;

(b) “specified shareholder not resident in Canada” of a corporation at any time means a specified shareholder of the corporation who was at that time a person not resident in Canada or an investment corporation owned by persons not resident in Canada;

(c) “specified person not resident in Canada” means

i. a specified shareholder not resident in Canada of the corporation;
or

ii. a person not resident in Canada or an investment corporation owned by persons not resident in Canada not dealing at arm’s length with a specified shareholder of the corporation.”

(2) This section applies to taxation years commencing after 12 November 1981.

43. (1) Section 174 of the said Act is replaced by the following section:

“174. For the purposes of sections 169 to 171, where a specified shareholder not resident in Canada of a corporation makes a loan to a person on condition that a person make a loan to a corporation resident in Canada, the lesser of these two loans is deemed to be a debt incurred by the corporation towards that specified shareholder not resident in Canada.”

(2) This section applies to taxation years commencing after 12 November 1981.

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

“175.2 Notwithstanding any other provision of this Part, in computing the income of a taxpayer for a taxation year, no amount shall be deducted under section 147, 160, 163, 176 or 178 in respect of indebtedness incurred for the purpose of

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

(b) paying a premium under a registered retirement savings plan after 12 November 1981;

(c) making a contribution to a registered pension plan or a deferred profit sharing plan after 12 November 1981, other than a contribution described in paragraph *b* or *c* of section 71 that was required to be made pursuant to an obligation entered into before 13 November 1981, or an amount deductible by the taxpayer under section 137, 137.1 or 139 or paragraph *b* of section 158; or

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

(2) This section has effect from 30 March 1983; however, where it enacts paragraph *d* of section 175.2 of the Taxation Act, it has effect from the taxation year 1982.

45. (1) Section 177 of the said Act is replaced by the following section:

“177. A taxpayer may deduct the part of any indebtedness repaid by him in the year which had, under section 113, to be included in computing his income for a preceding taxation year, if it is established that such repayment has not been made as part of a series of transactions and repayments.

This section applies only to the extent that the amount of the indebtedness was not deductible for purposes of computing the taxable income of the taxpayer for that preceding taxation year.”

(2) This section applies from the taxation year 1982.

46. (1) Section 180 of the said Act is replaced by the following section:

“180. A taxpayer who borrows money to acquire depreciable property or must pay an amount for such acquisition may elect in the fiscal return that he is required to file under this Part for the year, to add to the capital cost of such property, such amount as he specifies and which would but for this section or section 135.4 be deductible for the year or for one or more of the preceding 3 taxation years under sections 160, 163 and 176 in computing his income.”

(2) This section applies in respect of any outlay or expense made or incurred after 31 December 1981.

47. (1) Section 182 of the said Act is replaced by the following section:

“182. Where a taxpayer has made an election under section 180 or 181 for a preceding taxation year and, in each subsequent year immediately preceding the taxation year, has so elected by limiting the total amount that, but for section 180 or 181 or section 135.4, be deductible for the taxation year in computing his income under sections 160, 163 and 176, he may again so elect by limiting it in the same manner.”

(2) This section applies in respect of any outlay or expense made or incurred after 31 December 1981.

48. (1) Section 190 of the said Act is amended by adding the following subsection:

“(3) For the purposes of computing the income of a taxpayer for the fiscal period of a business to which subsection 1 applies, Division II of Chapter II shall be read without reference to the exception provided for in paragraph *a* of section 95 and sections 188 and 189 shall be read without reference to paragraph *d* of the said section 188.”

(2) This section applies in respect of elections made after 31 December 1979.

49. (1) Section 209.3 of the said Act is replaced by the following section:

“209.3 The custodian of an employee benefit plan shall allocate each year to persons who have made contributions to the plan in respect of their employees or former employees the amount by which the aggregate of all payments made in the year out of or under the plan to or for the benefit of their employees or former employees other than

the portion of such payments that, by virtue of section 47.2, a taxpayer is not required to include in computing his income and which constitutes a return of amounts paid by that taxpayer or by a deceased employee of whom that taxpayer is an heir or legal representative and all payments made in the year out of or under the plan to the heirs or the legal representatives of their employees or former employees, exceeds the income of the plan for the year.”

(2) This section applies from the taxation year 1980.

50. (1) Section 215 of the said Act is amended by replacing what precedes paragraph *a* by the following:

“**215.** In computing the income of a taxpayer for a taxation year from a business that is the professional practice of an accountant, dentist, lawyer, physician, veterinarian or chiropractor, the following rules apply:”.

(2) This section applies from the taxation year 1983.

51. (1) The said Act is amended by inserting, after section 217, the following section:

“**217.1** For the purpose of computing the income of a taxpayer from a business that is a profession, the amount of the cost of his work in progress, and the amount of the fair market value thereof is deemed to be at the end of his 1982 taxation year, nil, and at the end of his 1983 taxation year, 1/2 of the amount thereof determined without reference to this section, if an election under paragraph *c* of section 215 is applicable in respect of the business for his 1982 taxation year.”

(2) This section has effect from 30 March 1983.

52. (1) Section 225 of the said Act is replaced by the following section:

“**225.** The aggregate of the amounts that may be deducted by a taxpayer under sections 222 to 224 shall be reduced by the aggregate of the amount prescribed, the amounts paid to him in the year or in a preceding taxation year ending after 31 December 1973 on the terms and conditions contemplated in the regulations made under section 224, and the amounts deducted under paragraph *a* of section 135 and sections 222 to 224 in computing his income for a preceding taxation year, except amounts described in section 229.”

(2) This section applies to taxation years ending after 12 January 1981.

53. (1) Section 232 of the said Act is amended by replacing the first paragraph by the following paragraph:

“232. A capital gain or a capital loss arises from the disposition of any property other than intangible capital property, timber resource property, property contemplated in section 328 or an insurance policy including a life insurance policy within the meaning of paragraph *e* of section 835, except that part of a life insurance policy in respect of which a policyholder is deemed, by section 851.11, to have an interest in a related segregated fund trust contemplated in section 851.2.”

(2) This section applies in respect of dispositions occurring after 12 November 1981, except that in respect of the disposition of insurance policies other than life insurance policies, it applies from the taxation year 1980.

54. (1) Section 234 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) subject to section 234.1, an amount not exceeding the lesser of

i. the amount which the taxpayer may reasonably claim as a reserve in respect of the part of the gain that is proportional to the part of the proceeds becoming due after the end of the year compared to the total proceeds of disposition; or

ii. an amount equal to the product obtained when $\frac{1}{5}$ of the gain is multiplied by the amount, if any, by which 4 exceeds the number of preceding taxation years of the taxpayer ending after the disposition of the property.”

(2) This section applies in respect of dispositions occurring after 12 November 1981 otherwise than pursuant to the terms in existence on that date of an offer or agreement in writing made or entered into before 13 November 1981 or otherwise than by virtue of an event referred to in subparagraph ii, iii or iv of paragraph *f* of section 93 of the Taxation Act that occurred before 13 November 1981.

55. (1) The said Act is amended by inserting, after section 234, the following section:

“234.1 In computing the reserve that a taxpayer may claim under subparagraph *b* of the first paragraph of section 234, that subparagraph shall be read as if the references therein to “ $\frac{1}{5}$ ” and “4” were references to “ $\frac{1}{10}$ ” and “9” respectively where the property referred to therein is property that the taxpayer disposed of to his child, who was resident in Canada immediately before the disposition, and was

(a) any land in Canada or depreciable property in Canada of a prescribed class that was then used by the taxpayer, his spouse, or any of his children in the business of farming;

(b) a share of the capital stock of a family farm corporation of the taxpayer within the meaning of paragraph *a* of section 451 or an interest in a family farm partnership of the taxpayer within the meaning of paragraph *f* of the said section 451; or

(c) a share of the capital stock of a small business corporation within the meaning of paragraph *c* of section 451.”

(2) This section applies in respect of dispositions occurring after 12 November 1981 otherwise than pursuant to the terms in existence on 12 November 1981 of an offer or agreement in writing made or entered into before 13 November 1981 or otherwise than by virtue of an event referred to in subparagraph ii, iii or iv of paragraph *f* of section 93 of the Taxation Act that occurred before 13 November 1981.

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

“(a) is a deemed disposition under section 242, 281, 283, 299, 300, 436, 440, 444, 653, 832.1, 861, 862 or 999.1;”.

(2) This section has effect from 13 November 1981.

57. (1) The said Act is amended by inserting, after section 247, the following section:

“247.1 Where at any time a corporation becomes resident in Canada and immediately before that time the corporation was a foreign affiliate of a taxpayer resident in Canada, for the purposes of sections 571 to 598 the following rules apply:

(a) the taxation year of the corporation that would otherwise have included that time shall be deemed to have ended immediately before that time and a new taxation year shall be deemed to have commenced at that time;

(b) the corporation shall be deemed to have been a controlled foreign affiliate of the taxpayer within the meaning of section 572 at the end of the taxation year that is deemed by paragraph *a* to have ended immediately before that time;

(c) such amount as is prescribed shall be included in the foreign accrual property income within the meaning of section 579 of the foreign affiliate for the taxation year that is deemed by paragraph *a* to have ended immediately before that time.”

(2) This section applies in respect of corporations that become resident in Canada after 12 November 1981.

58. (1) Section 248 of the said Act is amended by replacing paragraph *c* of subsection 1 by the following paragraph:

“(c) any conversion of a share pursuant to an amalgamation or merger;”.

(2) This section applies in respect of share conversions occurring after 12 November 1981.

59. (1) Section 250.1 of the said Act is replaced by the following section:

“**250.1** Subject to section 250.3, where a Canadian security has been disposed of by a taxpayer in a taxation year, the taxpayer may elect, in prescribed form, in his fiscal return filed under this Part for that year, that every Canadian security owned by him during that year and every Canadian security owned by him in a subsequent taxation year be deemed to be a capital property owned by him and that every disposition by the taxpayer of any such security be deemed to be a disposition by him of capital property.”

(2) This section applies in respect of elections made for taxation years ending after 30 March 1983.

60. (1) Section 250.3 of the said Act is amended by replacing paragraphs *e* and *f* by the following paragraphs:

“(e) an insurance corporation;

“(f) a corporation whose principal business is the lending of money or the purchasing of debt obligations, or a combination thereof; or”.

(2) This section has effect from 13 November 1981.

61. (1) Section 251 of the said Act is replaced by the following section:

“**251.** The proceeds of disposition of property include, for the purposes of this Title, the same elements as the proceeds of disposition of property referred to in paragraph *f* of section 93 and any amount deemed not to be a dividend under paragraph *b* of section 568; it does not include an amount deemed to be a dividend received under section 508 to the extent that it refers to a dividend deemed paid under sections 505 and 506 and not deemed not to be a dividend under paragraph *a* of section 308.1 or under paragraph *b* of section 568, nor a prescribed amount.”

(2) This section applies in respect of dividends paid after 12 November 1981.

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

(1) by replacing subparagraphs i and ii of paragraph *i* by the following subparagraphs:

“i. an amount in respect of each fiscal period of the partnership ending after 31 December 1971 and before the particular time, equal to the taxpayer’s share, other than a share under an agreement referred to in section 608, of the income of the partnership from any source for that fiscal period computed as if this Part were construed without reference to the words “one-half of” in section 105 as it applied to a fiscal period of the partnership ending before 1 April 1977, and sections 107, 231 and 265 and as if paragraph *l*, sections 89 to 91, 144, 144.1, 145, 308 to 308.6, 425 and 427.1, paragraph *j* of section 157, paragraph *b* of each of sections 200 and 201, subsection 2 of section 497 and the provisions of the Act respecting the application of the Taxation Act (1972, chapter 24), in respect of income from the operation of new mines, did not exist;

“ii. the share of the taxpayer in any capital dividend and any life insurance capital dividend received by the partnership before the particular time in respect of a share of the capital stock of a corporation while the partnership owned such share;”;

(2) by striking out the word “and” at the end of subparagraph viii of paragraph *i*;

(3) by adding, after subparagraph ix of paragraph *i*, the following subparagraph:

“x. any amount required by sections 614 to 617 to be added before that particular time in computing the adjusted cost base to the taxpayer of the interest in the partnership;”;

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

(5) by striking out what follows paragraph *l*.

(2) Paragraph 1 of subsection 1, where it replaces subparagraph i of paragraph *i* of section 255 of the Taxation Act, applies to taxation years ending after 31 January 1982 and, where it replaces subparagraph ii of the said paragraph *i*, has effect from 29 June 1982.

(3) Paragraphs 2 to 5 of subsection 1 apply in respect of dispositions occurring after 12 November 1981.

63. (1) Section 257 of the said Act is amended

(1) by replacing subparagraph i of paragraph *g* by the following subparagraph:

“i. any amount received by the taxpayer after 31 December 1971 and before the particular time as a dividend other than a taxable dividend or a dividend in respect of which the corporation has elected in accordance with section 502 or 502.1 and section 503 in respect of the full amount thereof;”;

(2) by adding, after subparagraph iii of paragraph *g*, the following subparagraph:

“iv. any amount, to the extent that such amount is not proceeds of disposition of a share, received by the taxpayer before that particular time that would, but for section 510.1, be deemed by section 508 to be a dividend received by him;”;

(3) by replacing paragraph *k* and the heading preceding it by the following:

“(j.1) where the property is a share of a class of the capital stock of a corporation acquired by the taxpayer as a consequence of the death of a person otherwise than by way of purchase, a share of such a class acquired by the taxpayer after the death of that person, or a share substituted for any of such shares, the aggregate of each dividend thereon received by the taxpayer on or before that particular time, otherwise than pursuant to a transaction described in section 505, that can reasonably be considered to be proceeds of a disposition and in respect of which the corporation has made an election under section 502.1;

“DEBT OBLIGATIONS

“(k) where the property is a debt obligation, any amount that was deductible by virtue of sections 167 and 168 for any taxation year commencing before that particular time;”;

(4) by replacing subparagraphs i and ii of paragraph *l* by the following subparagraphs:

“i. an amount in respect of each fiscal period of the partnership ending after 31 December 1971 and before the particular time, equal to the taxpayer’s share, other than a share under an agreement referred to in section 608, of any loss of the partnership from any source for that fiscal period, computed as if this Part were construed without reference to the words “one-half of” in section 105, as it applied to each fiscal period of the partnership ending before 1 April 1977, and

in sections 107 and 231, and as if sections 89 to 91, 144, 144.1, 145, 205 to 207, 235, 236.2 to 241, 264, 271, 273, 288, 293, 308 to 308.6, 425, 427.1 and 744.1 and paragraph *j* of section 157 and the second paragraph of section 741 did not exist;

“ii. an amount with respect to each fiscal period of the partnership ending after 31 December 1971 and before the particular time, except a fiscal period subsequent to that in which the taxpayer ceased to be a member of the partnership, equal to the share of the taxpayer in the aggregate of Canadian exploration and development expenses within the meaning of section 364, foreign exploration and development expenses within the meaning of section 372, Canadian exploration expenses within the meaning of sections 395 and 396, Canadian development expenses within the meaning of sections 408 and 409 and Canadian oil and gas property expenses within the meaning of sections 418.2 and 418.3 incurred by the partnership in the fiscal period which, but for paragraph *d* of section 600, would be deductible in computing the income of the partnership for the fiscal period under the Act respecting the application of the Taxation Act (1972, chapter 24) in respect of exploration and development expenses;”;

(5) by adding, after subparagraph iv of paragraph *l*, the following subparagraphs:

“v. any amount required by sections 614 to 617 to be deducted before that particular time in computing the adjusted cost base to him of his interest in the partnership;

“vi. an amount equal to that portion of all prescribed amounts deducted in computing the tax otherwise payable by the taxpayer under a prescribed Act for his taxation years ending before that particular time that may reasonably be attributed to amounts added under a prescribed provision of the said Act in computing a prescribed amount relating to the taxpayer;”;

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

“(n) where the property is a capital interest in a trust that was purchased by the taxpayer or a unit of a unit trust,

i. any amount paid to the taxpayer by the trust after 31 December 1971 and before the particular time as payment or distribution of capital otherwise than as proceeds of disposition of the interest or unit or of a part thereof;

ii. an amount equal to that portion of all prescribed amounts deducted in computing the tax payable by the taxpayer under a prescribed Act for his taxation years ending before the particular time that may reasonably be attributed to amounts added under a prescribed

provision of the said Act in computing a prescribed amount relating to the taxpayer;”;

(7) by replacing the semicolon at the end of paragraph *q* by a period;

(8) by striking out what follows paragraph *q*.

(2) Paragraphs 1, 7 and 8 of subsection 1 and paragraph 3 of subsection 1, where it enacts paragraph *j.1* of section 257 of the Taxation Act, have effect from 29 June 1982.

(3) Paragraph 2 of subsection 1 applies in respect of an amount received after 12 November 1981.

(4) Paragraph 3 of subsection 1, where it replaces paragraph *k* of section 257 of the Taxation Act, and paragraph 5 of subsection 1, where it enacts subparagraph *v* of paragraph *l* of the said section 257, apply in respect of dispositions occurring after 12 November 1981.

(5) Paragraph 4 of subsection 1, where it replaces subparagraph *i* of paragraph *l* of the Taxation Act, applies to a taxation year ending after 31 January 1982, except where subparagraph *i* of paragraph *l* of section 257 of the Taxation Act, enacted by the said paragraph, refers to the second paragraph of section 741 and to section 744.1 of the said Act, in which case it applies in determining the adjusted cost base of partnership interests after 12 November 1981.

(6) Paragraph 4 of subsection 1, where it replaces subparagraph *ii* of paragraph *l* of section 257 of the Taxation Act, applies to taxation years ending after 11 December 1979.

(7) Paragraph 5 of subsection 1, where it enacts subparagraph *vi* of paragraph *l* of section 257 of the Taxation Act, and paragraph 6 of subsection 1 apply in respect of a prescribed amount deducted from the taxation year 1982.

64. (1) Section 274 of the said Act is replaced by the following sections:

“274. The principal residence of an individual for a taxation year, for the purposes of this Title, is the housing unit, including a leasehold interest in that housing unit, ordinarily inhabited in the year by him, his spouse or former spouse or his child who, during the year, is wholly dependent upon him for support and is less than 16 years of age or, if he is 16 years of age or over, is a person described in paragraph *c* of section 695, or in respect of which he has made the election contemplated in sections 284 to 286 for the year, if, in every case,

(a) he owns such housing unit or leasehold interest, alone or jointly with another person;

(b) he has designated in prescribed form and manner the housing unit or leasehold interest to be his principal residence for that year; and

(c) no other such housing unit or leasehold interest has been designated for that year by

i. the individual;

ii. a person who was throughout the year his spouse other than a spouse who was throughout the year living apart and separated from the individual pursuant to a judicial separation or a written separation agreement;

iii. his child other than a child who was during the year a married person or a person 18 years of age or over; or

iv. where the individual was not during the year a married person or a person 18 years of age or over, a person who was his mother or father, or his brother or sister and who was not during the year a married person or a person 18 years of age or over.

“274.1 Where a property was owned by an individual, whether jointly with another person or otherwise, at the end of 1981 and continuously thereafter until disposed of by him, the gain determined under section 271 in respect of the disposition of that property shall not exceed the amount by which the aggregate of

(a) his gain calculated in accordance with section 271 on the assumption that he had disposed of the property on 31 December 1981 for proceeds of disposition equal to its fair market value on that date, and

(b) his gain calculated in accordance with section 271 on the assumption that this last section applied and were read without reference to subsection 2 of the said section 271 and if the individual had acquired the property on 1 January 1982 at a cost equal to its proceeds of disposition as contemplated in paragraph *a*, exceeds

(c) the amount by which the fair market value of the property on 31 December 1981 exceeds the proceeds of disposition of the property determined without reference to this section.”

(2) This section, where it replaces section 274 of the Taxation Act, applies in respect of designations made in respect of a taxation year subsequent to the taxation year 1981, and where it enacts section 274.1 of the said Act, it applies in respect of dispositions of property occurring after 31 December 1981.

65. (1) Section 277 of the said Act is replaced by the following section:

“277. The principal residence of an individual is deemed to include the land subjacent to it and such contiguous land as is reasonably necessary for the use and enjoyment of the housing unit as a residence, up to one-half hectare or, the burden of proof being on the individual, up to such greater area as is necessary for that purpose.”

(2) This section applies in respect of dispositions occurring after 31 December 1981.

66. (1) Section 279 of the said Act is amended by replacing that part of paragraph *a* which precedes subparagraph *i* by the following:

“(a) the gain for a particular taxation year from the disposition of his former property is deemed to be equal to the amount by which either of the following amounts, as the case may be, exceeds the amount that the taxpayer may claim, not exceeding, subject to section 279.1, the lesser of a reasonable amount as a reserve in respect of such proceeds of disposition of the former property that are not due to him until after the end of the particular year as may reasonably be regarded as a portion of the amount determined under subparagraph *i* in respect of the property, and an amount equal to the product obtained when $\frac{1}{5}$ of the amount determined under that subparagraph *i* in respect of the property is multiplied by the amount by which 4 exceeds the number of preceding taxation years of the taxpayer ending after the disposition of the property:”.

(2) This section applies in respect of dispositions occurring after 12 November 1981 except if it is made pursuant to the terms in existence on that date of an offer or agreement in writing made or entered into before 13 November 1981 or by virtue of an event referred to in subparagraph *ii*, *iii* or *iv* of paragraph *f* of section 93 of the Taxation Act that occurred before 13 November 1981.

67. (1) The said Act is amended by inserting, after section 279, the following section:

“279.1 In computing the amount of any claim in respect of property contemplated in paragraph *a* of section 279, that paragraph shall be read as if the references therein to “ $\frac{1}{5}$ ” and “4” were references to “ $\frac{1}{10}$ ” and “9” respectively, where the property referred to therein is property that the taxpayer disposed of to his child, who was resident in Canada immediately before the disposition, and was property, immediately before the disposition, contemplated in paragraphs *a* to *c* of section 234.1.”

(2) This section applies in respect of dispositions occurring after 12 November 1981, except if it is made pursuant to the terms in existence on that date of an offer or agreement in writing made or entered into

before 13 November 1981 or by virtue of an event contemplated in subparagraph ii, iii or iv of paragraph *f* of section 93 of the Taxation Act that occurred before 13 November 1981.

68. (1) Section 293 of the said Act is replaced by the following section:

“293. The gain or loss of a taxpayer from the disposition of a chance to win a prize or bet, or a right to receive an amount as a prize or as winnings on a bet, in connection with a lottery scheme or a pool system of betting referred to in section 188.1 of the Criminal Code (Statutes of Canada), is deemed nil.”

(2) This section has effect from 8 December 1983.

69. (1) Section 308.2 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) as part of a transaction or event or a series of transactions or events that commenced after 21 April 1980, one of the purposes of which or, in the case of a dividend referred to in section 506, one of the results of which was to effect a significant reduction in the portion of the capital gain that, but for such dividend, would have been realized on a disposition at fair market value of any share of the capital stock of a corporation immediately before the dividend was paid of a share of the capital stock of a corporation and that could reasonably be considered to be attributable to anything other than income earned or realized by any corporation after 1971 and before the operation or event or the commencement of the series of transactions or events referred to in paragraph *b*; and”.

(2) This section applies in respect of dividends received after 12 November 1981.

70. (1) Sections 308.3 and 308.4 of the said Act are replaced by the following sections:

“308.3 Section 308.1 does not apply in the case of a dividend received by a corporation in the course of a series of transactions or events the principal purpose of which was to effect a reorganization in order to transfer, directly or indirectly, property of a particular corporation to one or more beneficiary corporations, if, in the course of the series of transactions or events, no person other than the beneficiary corporation owned immediately before the series of transactions or events and if, in respect of each type of property transferred by the particular corporation, the fair market value thereof received by each beneficiary corporation was equal to or approximated the proportion of the fair market value of all property of that type owned

by the particular corporation immediately before the series of transactions or events that the aggregate of the fair market value at that time of all shares of the capital stock of the particular corporation owned by the beneficiary corporation is of the fair market value, at that time, of all the issued shares of the capital stock of the particular corporation.

“308.4 (1) For the purposes of section 308.3, a series of transactions or events is deemed to include any related transactions or events completed in contemplation of the series.

(2) Where an individual owns shares of a particular corporation immediately before a series of transactions or events and transfers all such shares to a corporation all the shares and rights to shares of which are owned by the individual and no person other than the corporation owned any of the transferred shares from the time of the transfer until the time of the completion of the series, the corporation shall be deemed for the purposes of section 308.3 to have owned the transferred shares immediately before the series and the transferred shares shall be deemed not to have been owned by the individual.”

(2) This section applies in respect of transfers of property occurring after 28 June 1982.

71. (1) Section 311 of the said Act is amended

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

“(e) a benefit under the Labour Adjustment Benefits Act (Statutes of Canada);

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

“(k.1) compensation received under an employee’s or workmen’s compensation law of Canada or a province in respect of an injury, disability or death.”;

(3) by striking out paragraph *l*.

(2) Paragraph 1 of subsection 1 applies in respect of an amount received after 31 December 1981 as a benefit under the Labour Adjustment Benefits Act (Statutes of Canada); however, where paragraph *e* of section 311 of the Taxation Act, enacted by the said paragraph, applies to the taxation year 1982, it must be read as follows:

“(e) a benefit under any law of Canada providing for a scheme of adjustment assistance benefits to persons employed in the production of textile and clothing goods or leather footwear or in the leather tanning industry, or a benefit under the Labour Adjustment Benefits Act (Statutes of Canada);”.

(3) Paragraph 2 of subsection 1 is applicable from the taxation year 1982.

(4) Paragraph 3 of subsection 1 applies in respect of a payment received in respect of any termination of an office or employment occurring after 12 November 1981.

72. (1) The said Act is amended by inserting, after section 311, the following section:

“311.1 The taxpayer shall also include any amount he receives in the year as a social assistance payment based on a means, needs or income test or received as such in the year by his spouse who resides with him at the time of payment and whose income for the year, determined without taking account of this section or section 313.1, is less than his income so determined for the year, except where the taxpayer resides with his spouse at the time of payment and the income of the taxpayer for the year, determined without taking account of this section and section 313.1, is less than the income so determined of his spouse for the year.”

(2) This section applies from the taxation year 1982.

73. (1) Section 312 of the said Act is amended

(1) by replacing paragraphs *b* and *c* by the following paragraphs:

“(b) an amount received pursuant to an order of a competent court as an allowance payable on a periodic basis for the maintenance of the taxpayer, his children, or both the taxpayer and his children, if, at the time the payment was received and throughout the remainder of the year, the taxpayer was living apart from his spouse required to make the payment;

“(b.1) an amount received pursuant to an order of a competent court, in accordance with a law of a province, as an allowance payable on a periodic basis for the maintenance of the taxpayer, his children, or both the taxpayer and his children, if, at the time the payment was received and throughout the remainder of the year, the taxpayer was living apart from the person required to make the payment and is an individual belonging to a prescribed class of persons described in a law of the said province;

“(c) an amount received as an annuity payment, except an amount

i. that must otherwise be included in computing his income for the year;

ii. with respect to an interest in an annuity contract to which section 92.9 applies or would apply if the interest had been last acquired between 19 December 1980 and 2 December 1982, other than a contract to which section 92.9 does not apply in the year by reason of section 92.14;

iii. with respect to an interest in an annuity contract to which section 92.11 applies or would apply if the contract had a third anniversary in the year; or

iv. with respect to an interest in an annuity contract to which section 92.12 applies;

“(c.1) an amount paid as an annuity payment with respect to an annuity contract held by the taxpayer at the time of the payment, except to the extent that the aggregate of such amounts with respect to such an interest in a particular annuity contract exceeds the amount by which the accumulating fund with respect to the interest at the end of the calendar year ending in the year, as determined in prescribed manner, exceeds the aggregate of the adjusted cost basis to him of the interest and the amount of unallocated income accrued in respect of the interest before 1 January 1982, as determined in prescribed manner, if it concerns

i. an interest in an annuity contract other than a contract to which section 92.11 does not apply in the year by virtue of section 92.15 to which section 92.11 does not apply but would apply if the contract had a third anniversary in the year; or

ii. an interest in an annuity contract other than a contract to which section 92.9 does not apply in the year by virtue of section 92.14 to which section 92.9 does not apply but would apply if the interest had been last acquired between 19 December 1980 and 2 December 1982;

“(c.2) any amount received out of or under, or as proceeds of disposition of, an annuity where the payment made for the acquisition of the annuity was deductible in computing his income by virtue of paragraph *f* of section 339;”;

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

“(e) an allowance on account of training paid under the National Training Act (Statutes of Canada), except to the extent that such allowance is paid for personal or living expenses while the recipient lives elsewhere than at his place of residence;”.

(2) Paragraph 1 of subsection 1, where it enacts paragraphs *b* and *b.1* of section 312 of the Taxation Act, applies in respect of an amount received either after 11 December 1979, in the case of an order made after that date, or from the taxation year in which the taxpayer and the person required to make the payment agree thereto in writing, in other cases.

(3) Paragraph 1 of subsection 1, where it enacts paragraphs *c* and *c.1* of section 312 of the Taxation Act, has effect from 2 December 1982 and, where it enacts paragraph *c.2* of the said Act, it applies from the taxation year 1982.

(4) Paragraph 2 of subsection 1 has effect from 2 August 1982.

74. (1) Sections 313 and 313.1 of the said Act are replaced by the following sections:

“313. Where, after 6 May 1974, a decree, order, judgment or written agreement described in paragraph *a*, *b* or *b.1* of section 312, or any variation thereof, has been made providing for the periodic payment of an amount to the taxpayer by a person who is his spouse, former spouse or an individual within a prescribed class of persons described in the laws of a province, or for the benefit of the taxpayer or children in the custody of the taxpayer, the amount or any part thereof, when paid, is deemed, for the purposes of paragraphs *a*, *b* or *b.1*, to have been paid to and received by the taxpayer if, at the time the amount was paid and throughout the remainder of the year in which the amount was paid, the taxpayer was living apart from the person.

“313.1 The taxpayer must also include the amount of any grant received by him in the year under a prescribed program relating to home insulation or energy conversion or so received in the year by his spouse who resided with him at the time of payment and whose income for the year, determined without reference to this section and section 311.1, 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 and section 311.1, is less than the spouse's income so determined for the year.”

(2) This section, where it replaces section 313 of the Taxation Act, applies in respect of a payment made either after 11 December 1979, in the case of an order made after that date, or from the taxation year in which the taxpayer and the person required to make the payment agree thereto in writing, in other cases and, where it replaces section 313.1 of the said Act, it applies from the taxation year 1982.

75. (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, but not including that part of the 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."

(2) This section applies from the taxation year 1982.

76. (1) Section 336 of the said Act is amended

(1) by inserting, after paragraph *a* of subsection 1, the following paragraph:

"(a.1) an amount paid by an individual in the year, pursuant to an order made in accordance with the laws of a province by a competent tribunal, as an allowance payable on a periodic basis for the maintenance of the recipient, thereof, a child of the recipient, or both at the same time, if, at the time the payment is made and throughout the remainder of the year, the individual lives apart from the recipient who is an individual within a prescribed class of persons described in the laws of the province;"

(2) by replacing paragraphs *b* and *b.1* of subsection 1 by the following paragraphs:

"(b) an amount paid by an individual in the year, pursuant to an order of a competent tribunal, as an allowance payable on a periodic basis for the maintenance of the recipient thereof, a child of the recipient or both at the same time, if at the time the payment is made and throughout the remainder of the year, the individual lives apart from the recipient who is his spouse and to whom he is required to make such payment;

"(b.1) an amount paid by the taxpayer as legal or extra-legal expenses incurred either for the purpose of collecting an amount owing to him that he would have to include in computing his income under paragraph *a*, *b* or *b.1* of section 312 or section 313 if it were received, for the purpose of obtaining a review of the right to receive or the obligation to pay an amount which would be referred to in the said paragraphs or in the said section 313 or in paragraph *a*, *a.1* or *b* or in subsection 2 if it were received or paid, as the case may be, to the extent that the taxpayer has not been reimbursed, is not entitled to be reimbursed, and has not deducted that amount in computing his income for a preceding taxation year;"

(3) 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, 1971 (Statutes of Canada), received by an individual in a prior taxation year, up to the amount reimbursed by him in the year otherwise than as a deduction or withholding made on any other payment made to him in the year or under Part VIII of the Unemployment Insurance Act, 1971;”;

(4) by replacing that part of paragraph *f* of subsection 1 which precedes subparagraph *i* by the following:

“(f) in the case of an annuity payment included under paragraph *c* of section 312 in computing the taxpayer’s income for the year, the capital element corresponding:”;

(5) by replacing subparagraph *i* of paragraph *g* of subsection 1 by the following subparagraph:

“i. such amount has been included in his income for a previous year as an amount contemplated in paragraph *g* or *h* of section 312 paid to him by such person;”;

(6) by replacing subsection 2 by the following subsection:

“(2) Where, after 6 May 1974, a decree, order, judgment or written agreement contemplated in paragraph *a*, *a.1* or *b* of subsection 1, or any variation thereof, has been made providing for the periodic payment of an amount by the taxpayer to or for the benefit of a person who is his spouse, former spouse or an individual within a prescribed class of persons described in the laws of a province, or for the benefit of such a person or a child in the custody of such a person, such payment or any part thereof, when paid, is deemed, for the purposes of paragraphs *a*, *a.1* and *b* of subsection 1, to have been made to and received by that person if the taxpayer was living apart from that person at the time the payment was made and throughout the remainder of the year in which the payment was made.”;

(7) by striking out subsection 3.

(2) Paragraph 1, paragraph 2, where it replaces paragraph *b* of subsection 1 of section 336 of the Taxation Act, and paragraph 6 of subsection 1 apply in respect of a payment made either after 11 December 1979, in the case of an order made after that date, or from the taxation year in which the recipient and the taxpayer agree thereto in writing in other cases.

(3) Paragraph 2 of subsection 1, where it replaces paragraph *b.1* of subsection 1 of section 336 of the Taxation Act, applies from the taxation year 1978.

(4) Paragraph 3 of subsection 1 applies in respect of an amount repaid after 31 December 1981.

(5) Paragraphs 4 and 7 of subsection 1 have effect from 2 December 1982.

(6) Paragraph 5 of subsection 1 applies from the taxation year 1981.

77. (1) Section 337 of the said Act is amended by replacing subparagraph iv of paragraph *a* by the following subparagraph:

“iv. an institution recognized by the Minister to be an institution by which courses other than courses designed for university credit, are conducted that provide or improve the qualifications necessary for employment;”.

(2) This section applies from the taxation year 1982.

78. (1) Section 338 of the said Act is replaced by the following section:

“338. The deduction provided in section 337 is allowable only if the amount of the tuition fees exceeds \$ 100; moreover, if an amount for that purpose has been paid on his behalf by his employer or by the employer of his father or mother, an individual may claim a deduction provided for in the said section in respect of the said amount only up to the amount included for that purpose in computing his income or that of his father or mother, as the case may be, for the year in which it has been made.”

(2) This section applies from the taxation year 1982.

79. (1) Section 339 of the said Act, amended by section 25 of chapter 44 of the statutes of 1983, is again amended

(1) by replacing that part of paragraph *d* which precedes subparagraph i by the following:

“(d) such part of the aggregate of each amount included in computing his income for the year, under section 317 or 885, and each prescribed refund of deductions as deferred pay, as is designated by the taxpayer in his fiscal return for the year under this Part and that does not exceed the aggregate of each amount, to the extent that it was not deducted in computing his income for a preceding taxation year, paid by him in the year or within 60 days after the end of the year”;

(2) by inserting, after paragraph *d*, the following paragraph:

“(d.1) such part of the aggregate of each amount paid to the taxpayer by an employer as a retiring allowance and included in computing his income for the year under paragraph *a* of section 311, as is designated by the taxpayer in his fiscal return for the year under this Part and that is not greater than the lesser of the excess described in section 339.1 and the aggregate of every amount, to the extent that it was not deducted in computing his income for a previous taxation year, paid by him in the year or within 60 days after the end of the year

i. as a contribution to or under a registered retirement plan, other than the portion thereof deductible under paragraph *c* of section 70 or paragraph *d*; or

ii. as a premium under a registered retirement savings plan under which he is the annuitant, within the meaning of paragraph *b* of section 905.1, other than the portion of such premium that has been designated for the purposes of paragraph *d* or *f*.”;

(3) by replacing subparagraph iii of paragraph *e* by the following subparagraph:

“iii. the excess of the aggregate of the amounts included in computing his income for the year under sections 317 and 885 over the amount deductible in computing his income for the year under paragraph *d*.”;

(4) by replacing paragraph *f* by the following paragraph:

“(f) such part as is designated by the taxpayer in his fiscal return filed for the year under this Part, of the aggregate of every amount, to the extent that it was not deducted in computing his income for a previous taxation year, paid by him in the year or within 60 days after the end of the year as a premium to a registered retirement savings plan under which he is the annuitant within the meaning of paragraph *b* of section 905.1, or in order to acquire, from a person licensed or otherwise authorized by the laws of Canada or a province to carry on an annuities business in Canada or a province, an annuity under which he is the annuitant for his life or for a term of years equal to the number by which 90 exceeds his age at the time of the acquisition and that does not provide for any other payment than a single payment made by the taxpayer and equal annuity payments that are to be made annually or at more frequent periodic intervals and that commence not later than one year after the date of the single payment, if such part does not exceed

i. in the case of an amount paid as a premium under a registered retirement savings plan, the amount included in computing his income for the year as a refund of premiums within the meaning of subsection

2 of section 908 out of a registered retirement savings plan under which the taxpayer's spouse was the annuitant; or

ii. in other cases, the amount included in computing his income for the year as a refund of premiums, within the meaning of subsection 2 of section 908, where the taxpayer was either dependent on the annuitant, within the meaning of paragraph *b* of section 905.1, of the registered retirement savings plan out of which the refund of premiums was paid by reason of physical or mental infirmity, or was the spouse of the annuitant and before the end of the year had attained the age of 71 years."

(2) Paragraphs 1 to 3 of subsection 1 apply in respect of a retirement occurring after 12 November 1981, except a retirement occurring before 1 January 1982 in accordance with an agreement made before 13 November 1981.

(3) Paragraph 4 of subsection 1 applies from the taxation year 1982.

80. (1) The said Act is amended by inserting, after section 339, the following sections:

"339.1 The excess contemplated in paragraph *d.1* of section 339 is the amount by which the aggregate

(a) of the product of \$2 000 times the number of years during which the employee or former employee in respect of whom the payment was made as a retiring allowance contemplated in paragraph *d.1*, referred to in this section and section 339.2 as the "retiree" was employed by the employer or a person related to the employer; and

(b) of the product of \$1 500 times the number by which the number of years contemplated in paragraph *a* exceeds the number that can reasonably be regarded as the equivalent number of years in respect of which employer contributions under either a pension plan or a deferred profit sharing plan of the employer or a person related to the employer had vested in the retiree at the time of the payment described in paragraph *a*; exceeds

(c) the aggregate of amounts deducted under paragraph *d.1* in respect of amounts paid before the year by the employer or a person related to the employer in respect of the retiree.

"339.2 For the purposes of section 339.1, the expression "person related to the employer" includes any person whose business was acquired or continued by the employer, and a previous employer of the retiree whose service therewith is recognized in determining the retiree's pension benefits."

(2) This section applies in respect of a retirement occurring after 12 November 1981, except a retirement occurring before 1 January 1982 in accordance with an agreement made before 13 November 1981.

81. (1) Section 343 of the said Act is replaced by the following section:

“343. To be entitled to the deduction provided in section 342, the individual must acquire the income-averaging annuity by

(a) a single payment described in the second paragraph and made under the terms of a contract

i. which entitles him to receive, during a period beginning not later than ten months after the date of such payment, either an annuity for life or such annuity with a guaranteed term for a number of years not exceeding the lesser of 15 and the difference between 85 and his age at the time the annuity commences to be paid to him, or an annuity for such guaranteed term; and

ii. which shall not provide for payments other than the single payment by the individual and the equal annuity payments which must be paid to him annually or at more frequent periodic intervals; or

(b) a single payment made in respect of his taxation year 1981, other than a single payment contemplated in subparagraph *a* according to the terms of a contract

i. providing that all the payments to the individual under the contract must be made before 1 January 1983; and

ii. providing no other payment than the single payment by the individual and the payments described in subparagraph i.

The single payment contemplated in subparagraph *a* of the first paragraph is a single payment made

(a) before 13 November 1981; or

(b) after 12 November 1981 in accordance with an agreement in writing entered into before 13 November 1981 to make such a payment in respect of his taxation year 1981, or pursuant to an arrangement in writing made before that date to have funds withheld before 1 January 1982 from any of the individual's remuneration described in paragraph *a* of section 344 and earned or received before the latter date and to be paid by or on behalf of the individual.”

(2) This section has effect from 13 November 1981.

82. (1) Section 351 of the said Act is amended by replacing subparagraph iii of subparagraph *b* by the following subparagraph:

“iii. to enroll in an occupational training course for which he received an allowance under the National Training Act (Statutes of Canada); or”.

(2) This section has effect from 2 August 1982.

83. (1) Sections 357 and 358 of the said Act are repealed.

(2) This section applies in respect of a disposition occurring after 12 November 1981, except if it is made in accordance with the terms and conditions in existence on that date of an offer or agreement made or entered into in writing before 13 November 1981.

84. (1) Section 359 of the said Act is amended

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

“(a) “outlay” or “expense” made or incurred by a taxpayer before a particular time does not include any amount paid or payable for services to be rendered after that time or any amount paid or payable as rent for a period after that time, but includes an amount designated by him at that time, under paragraph *b* of section 622, as a cost in respect of property that is Canadian resource property or a foreign resource property;”;

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

“(d) “oil or gas well” means any well, except an exploratory probe, drilled for the purpose of producing petroleum or natural gas or of determining the existence, location, extent or quality of a petroleum or natural gas deposit.”

(2) This section has effect from 1 January 1981.

85. (1) Section 380 of the said Act is amended by replacing subsection 4 by the following subsection:

“(4) Section 378.1 applies, *mutatis mutandis*, to the deductions provided for in subsections 1 and 3 and section 379 applies, *mutatis mutandis*, to the deduction in respect of foreign exploration and development expenses.”

(2) This section applies in respect of an acquisition of property occurring after 16 November 1978.

86. (1) Section 384 of the said Act is amended by replacing the part preceding paragraph *a* by the following:

“384. Where control of a corporation has, after 31 March 1977 but before 13 November 1981, been acquired by a person or persons who did not control the corporation at the time it last ceased to carry on a qualified business, within the meaning of paragraph *e* of section 451, the following rules apply:”.

(2) This section applies to a taxation year ending after 12 November 1981.

87. (1) The said Act is amended by inserting, after section 384, the following sections:

“384.1 Where at any time after 12 November 1981, control of a corporation has been acquired by one or several persons, or a corporation ceases to be exempt from tax under this Part on its taxable income, for the purposes of determining the deductions provided for by this Act in respect of Canadian exploration and development expenses, foreign exploration and development expenses, Canadian exploration expenses, Canadian development expenses and Canadian oil and gas property expenses, in this section and section 384.2 referred to as “exploration and development expenses” incurred by the corporation before that time, the following rules apply:

(a) the corporation is deemed to be, after that time, a corporation that jointly elected with another corporation mentioned in paragraph *b* in the form prescribed under section 378.1, subsection 4 of section 380 and sections 404.1, 415.3 and 418.11, to the extent that the paragraph and the sections refer to an election in respect of an acquisition of property contemplated in section 376, subsection 1 of section 380 and sections 402, 415 and 418.8 respectively;

(b) the corporation is deemed to have acquired at that time all or substantially all of the property of another corporation that used the property in a business described in paragraphs *a* to *g* of section 363 that it carried on immediately before that time; and

(c) the exploration and development expenses incurred by the corporation before that time are deemed not to have been incurred by the corporation but to have been incurred by the other corporation mentioned in paragraph *b* before that time.

“384.2 (1) Where a corporation acquires, after 12 November 1981, in any way whatsoever, including by an amalgamation contemplated in section 544, all or substantially all of the property of another corporation that used the property in a business described in paragraphs *a* to *g* of section 363 that it carried on in Canada and section 384.1 applies in respect of the deduction of exploration and development expenses contemplated in the latter section incurred by the corporation from which the property is acquired, the following rules apply:

(a) for the purposes of section 376, subsection 1 of section 380 and sections 402, 415 and 418.8, the acquiring corporation is deemed, after that time, with respect to the exploration and development expenses of the corporation from which the property is acquired, to have acquired the property of the latter according to the said subsection or sections; and

(b) the provisions that apply in respect of the deduction of the exploration and development expenses, by reason of applying section 384.1, apply in respect of the deduction of the expenses by the acquiring corporation.

(2) Where the acquisition of property contemplated in subsection 1 results from a transaction other than an amalgamation or winding-up, the said subsection applies only if the corporations referred to therein jointly make an election to that effect in prescribed form not later than the day on which one of them must first file its fiscal return under section 1000 for the taxation year in which the acquisition which is the object of the election takes place.

“384.3 For the purposes of sections 384 and 384.1, where a corporation acquires control of another corporation between 12 November 1981 and 1 January 1983 by reason of the acquisition of shares of the other corporation pursuant to an agreement in writing concluded on or before 12 November 1981, it is deemed to have acquired control of it not later than 12 November 1981.”

(2) This section applies to a taxation year ending after 12 November 1981.

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

(1) by replacing that part of paragraph *b* which precedes subparagraph i by the following:

“(b) any expense incurred before 1 January 1984, in drilling or completing an oil or gas well in Canada, or in building a temporary access road to, or preparing a site in respect of, any such well, incurred by him in the year or in any previous year, and included by him in computing his Canadian development expenses for a previous taxation year, if the drilling of the well is completed within six months after the end of the year and:”;

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

“(b.1) any expense incurred after 31 December 1983, in drilling or completing an oil or gas well in Canada, or in building a temporary access road to, or preparing a site in respect of, any such well, incurred by him in the year or in any previous year, and included by him in

computing his Canadian development expenses for a previous taxation year, if the drilling of the well is completed within six months after the end of the year and the well is abandoned within six months after the end of the year and within twelve months after the drilling of the well is completed;”;

(3) by replacing that part of paragraph *b.2* which precedes subparagraph *i* by the following:

“(b.2) any expense incurred after 31 December 1983, in drilling or completing an oil or gas well in Canada, or in building a temporary access road to, or preparing a site in respect of, any such well,”;

(4) by replacing paragraph *e* by the following paragraph:

“(e) an expense described in paragraphs *a* to *c.1* incurred by him pursuant to an agreement with a corporation under which he incurs that expense solely as consideration for a share of the capital stock of that corporation, except a prescribed share, or an interest in such share or a right thereto.”

(2) Paragraphs 1 to 3 of subsection 1 apply in respect of an outlay or expense, made or incurred after 31 December 1981 and paragraph 4 of subsection 1 applies in respect of an outlay or expense made or incurred after 31 December 1982.

89. (1) Section 408 of the said Act is amended by replacing paragraph *e* by the following paragraph:

“(e) an expense described in paragraphs *a* to *c* incurred by him pursuant to an agreement with another corporation, under which agreement he so incurs such expense solely as consideration for a share of the capital stock of that corporation, except a prescribed share, or for an interest in that share or a right thereto.”

(2) This section applies in respect of an outlay or expense made or incurred after 31 December 1982.

90. (1) Section 412 of the said Act is amended by replacing paragraph *g* by the following paragraph:

“(g) the amount by which the aggregate of each amount determined under section 418.12 in respect of taxation years of the taxpayer ending at or before that time exceeds the aggregate of all amounts each of which is

i. the lesser of the amount, by which the amount determined under paragraph *a* of subsection 1 of section 415 in respect of the acquisition of property by the taxpayer acquired from a particular corporation before

that time, in accordance with section 415, exceeds the aggregate of amounts contemplated in paragraph *b* of the said subsection 1 that became receivable at or before that time by the taxpayer in respect of the disposition of such property, and the amount, by which the aggregate of the amounts contemplated in paragraph *b* of section 418.8 that became receivable at or before that time by the taxpayer in respect of the disposition of property acquired, in accordance with section 418.8, from the particular corporation exceeds the amount determined under paragraph *a* of section 418.8 in respect of the acquisition of such property; or

ii. the lesser of the amount, by which the amount determined under paragraph *a* of subsection 1 of section 415.1 in respect of the acquisition of property by the taxpayer acquired from a particular corporation before that time in accordance with section 415.1, from a first successor corporation, exceeds the aggregate of amounts contemplated in paragraph *b* of the said subsection 1 that became receivable at or before that time by the taxpayer or the first successor corporation in respect of the disposition of property contemplated therein of the particular corporation, and the amount, by which the aggregate of the amounts contemplated in paragraph *b* of section 418.9 that became receivable at or before that time by the taxpayer or the first successor corporation in respect of the disposition of property contemplated therein of the particular corporation, exceeds the amount determined under paragraph *a* of section 418.9 in respect of the acquisition of such property; and”.

(2) This section applies to a taxation year ending after 11 December 1979.

91. (1) Section 418.2 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(c) any expense described in paragraph *a* incurred by the taxpayer pursuant to an agreement with a corporation under which the taxpayer incurred the expense solely as consideration for a share of the capital stock of the corporation, except a prescribed share, issued to him or any interest in such a share or right thereto.”

(2) This section applies in respect of an outlay or expense made or incurred after 31 December 1982.

92. (1) Section 419 of the said Act is replaced by the following section:

“419. Any share of the capital stock of a corporation or any interest in such share or any right thereto acquired by a taxpayer under circumstances referred to in paragraph *e* of section 395 or 408, or in paragraph *c* of section 418.2 is deemed, if it was acquired before 13

November 1981, not to be a capital property of the taxpayer but to be inventory of the taxpayer acquired at a cost to him of nil, and, if it was acquired after 12 November 1981, to have been acquired at a cost to him of nil.”

(2) This section applies in respect of property acquired after 12 November 1981.

93. (1) Section 424 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) Where in a taxation year of the corporation such property is appropriated in any manner whatever to, or for the benefit of, a shareholder upon the winding-up of the corporation, sections 527.1, 527.2 and 535 do not apply in respect of the winding-up and, for the purpose of computing the corporation’s income for the year, it is deemed to have sold that property immediately before the winding-up and to have received the fair market value thereof at that time and section 239 does not apply in computing the loss therefrom.”

(2) This section applies in respect of an appropriation occurring after 12 November 1981.

94. (1) The said Act is amended by inserting, after section 427, the following sections:

“427.1 Where in a month a taxpayer disposes of aviation turbine fuel, he is deemed to receive, for each cubic metre of aviation turbine fuel used on an international flight within the meaning of section 427.3, and for which an export licence is required under the National Energy Board Act (Statutes of Canada), proceeds of disposition equal to the aggregate of the proceeds of disposition determined without reference to this section, and the amount prescribed in respect of a cubic metre of aviation turbine fuel for that month.

“427.2 For the purposes of section 427.1, aviation turbine fuel is deemed to be used on an international flight if

(a) it is purchased in Canada by an air carrier that is resident in Canada and it is specified, on a prescribed certificate, to be fuel used on an international flight; or

(b) it is purchased in Canada by an air carrier that is not resident in Canada, unless it is purchased in respect of an aircraft having a maximum take-off weight not exceeding 34 000 kilograms.

“427.3 For the purposes of sections 427.1 and 427.2, an international flight does not include any flight of an aircraft having a maximum take-off weight not exceeding 34 000 kilograms.”

(2) This section applies in respect of a disposition occurring after 31 January 1982; however, in respect of a disposition occurring between 31 January 1982 and 1 March 1982, section 427.1 of the Taxation Act, as enacted by this section, shall be read without taking into account the words “and for which an export licence is required under the National Energy Board Act (Statutes of Canada)”.

95. (1) Section 428 of the said Act is replaced by the following section:

“428. In computing the income of an individual for the taxation year in which he died, an amount of interest, rent, royalty, annuity, remuneration from an office or employment, or other amount payable periodically, except an amount with respect to an interest in an annuity contract to which paragraph *b* of section 967 applies, that was not paid before his death, is deemed to have accrued up to that time in equal daily amounts in the period for which such amount was payable and shall be included in computing his income.”

(2) This section has effect from 13 November 1981.

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

“432. For the purposes of this division, a right or property does not include an interest in a life insurance policy, other than an annuity contract of a taxpayer where the payment made by him for its acquisition was deductible in computing his income under paragraph *f* of section 339, intangible capital property, land included in the inventory of a business or property described in section 328.”

(2) This section has effect from 13 November 1981.

97. (1) Section 440 of the said Act is amended

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

“440. Notwithstanding sections 436 and 438, where property contemplated in such sections is, on or after the death of an individual who was resident in Canada immediately before his death, transferred or assigned by reason of such death or a disclaimer or renunciation by a person who was a beneficiary under the individual's will or intestacy, to his spouse who was resident therein immediately before such death or to a trust created by his will, which was resident therein immediately after the time when the property was indefeasibly vested in him:”;

(2) by striking out the word “and” at the end of subparagraph ii of paragraph *a*;

(3) by replacing the period at the end of paragraph *b* by the following: “; and”;

(4) by adding the following paragraph:

“(c) notwithstanding any other provision of this Act, where the transfer or distribution of the property occurs as a consequence of a renunciation, the renunciation with respect to the property is deemed not to be a disposition of the property.”

(2) This section has effect from 1 January 1981.

98. (1) Section 441 of the said Act is replaced by the following section:

“**441.** For the purposes of sections 440 and 443 and subparagraph *a* of the first paragraph and the second paragraph of section 653, a trust is deemed to be created by an individual’s will if the trust is created by an order of a court in relation to the testator’s estate made pursuant to any law of a province providing for the relief or support of a testator’s dependant.”

(2) This section has effect from 1 January 1981.

99. (1) The said Act is amended by inserting, after section 450.1, the following section:

“**450.2** For the purposes of sections 436, 438, 439, 444.1 and 450.1, the fair market value, immediately before the death of the taxpayer referred to in any of those sections, of any share of the capital stock of a corporation deemed to have been disposed of as a consequence of his death shall, where the corporation is a beneficiary of a life insurance policy under which the taxpayer is the person whose life is insured, be determined as though the fair market value of the policy at that time were the cash surrender value of the policy at that time.”

(2) This section applies in respect of a death occurring after 1 December 1982.

100. (1) Section 451 of the said Act is amended by replacing what precedes paragraph *a* by the following:

“**451.** For the purposes of this division and sections 234 to 236, 236.2, 237, 239 to 241, 261, 264, 271 to 273, 274.1, 275, 278 to 280.4, 288, 293, 428 to 430, 432 to 435, 454 to 455.1, 459 to 462 and 463.1:”.

(2) This section applies in respect of a disposition occurring after 12 November 1981, except if it is made in accordance with the terms and conditions existing on that date of an offer or agreement in writing

made or entered into before 13 November 1981 or pursuant to an event referred to in subparagraphs ii, iii and iv of paragraph *f* of section 93 of the Taxation Act that occurs before 13 November 1981.

101. (1) Section 453 of the said Act is amended

- (1) by replacing the period at the end of paragraph *b* by a semicolon;
- (2) by adding the following paragraph:

“(c) notwithstanding paragraphs *a* and *b*, where the taxpayer had disposed of property, the beneficiary is deemed, for the purposes of any disposition he may claim, under section 153, subparagraph *b* of the first paragraph of section 234 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 has effect from 13 November 1981.

102. (1) Section 455.1 of the said Act is repealed.

- (2) This section has effect from 1 January 1982.

103. (1) Section 484 of the said Act is amended by replacing paragraph *d* by the following paragraph:

“(d) the creditor is deemed to have acquired or reacquired the property at the amount by which the cost at that time of his claim exceeds either of the amounts described in paragraph *c* in respect of such property;”.

- (2) This section applies in respect of an acquisition or reacquisition occurring after 12 November 1981.

104. (1) The said Act is amended by inserting, after section 485, the following sections:

“485.1 Where an obligation of a corporation to pay an amount to another corporation is settled or extinguished on or by virtue of an amalgamation, the obligation is deemed to have been settled or extinguished immediately before the time that is immediately before the amalgamation by a payment made by the corporation and received by the other corporation of an amount that would be equal to the cost amount of the obligation, for the other corporation if the definition of the expression “cost amount” in section 1 were read without reference to paragraph *e* thereof.

“485.2 Where an obligation of a subsidiary to pay an amount to the parent is settled or extinguished on the winding-up to which sections 556 to 565 apply, without any payment by the subsidiary or by the payment of an amount less than both the principal of the obligation and the amount contemplated in the second paragraph, the obligation is deemed to be settled or extinguished on the winding-up by a payment made by the subsidiary and received by the parent of an amount equal to the amount contemplated in the second paragraph.

The amount contemplated in the first paragraph is the amount that would have been the parent's cost amount of the obligation immediately before the winding-up if the definition of the expression “cost amount” in section 1 were read without reference to paragraph *e* thereof.

The rule prescribed in the first paragraph applies only if the parent so elects in prescribed form not later than the day the parent is required to file a fiscal return pursuant to section 1000 for the taxation year in which the obligation is settled or extinguished.”

(2) This section, where it enacts section 485.1 of the Taxation Act, applies to an amalgamation occurring after 12 November 1981 and where it enacts section 485.2 of the said Act, it applies to a winding-up occurring after that date, except that a corporation may make an election under the latter section at any time before 1 January 1984.

105. (1) Section 489 of the said Act is amended

- (1) by striking out paragraph *c*;
- (2) by replacing the period at the end of paragraph *f* by a semicolon;
- (3) by adding, after paragraph *f*, the following paragraphs:

“(g) an amount determined under section 83.1 of the Petroleum and Gas Revenue Tax Act (Statutes of Canada) for the year, computed without taking into account paragraph *c* of subsection 1 of the said section;

“(h) the amount by which the amount of an incremental resource royalty, within the meaning of the Petroleum and Gas Revenue Tax Act (Statutes of Canada), received by the taxpayer in the year exceeds the aggregate of all incremental payouts by him, within the meaning of the said Act, in respect of the royalty.”

(2) This section applies from the taxation year 1982.

106. (1) Section 491 of the said Act is amended by striking out paragraph *d*.

(2) This section applies from the taxation year 1982.

107. (1) Section 503 of the said Act is replaced by the following sections:

“502.1 Where a dividend becomes payable after 28 June 1982 by a private corporation on a share of its capital stock, the corporation may elect that the following rules apply:

(a) the dividend is deemed a life insurance capital dividend to the extent of its life insurance capital dividend account immediately before the dividend becomes payable; and

(b) no portion of the dividend shall be included in computing the income of a shareholder of the corporation.

“503. The election referred to in sections 502 and 502.1 is valid only if it is made in prescribed manner and form for the total amount of the dividend.”

(2) This section applies in respect of a dividend paid after 28 June 1982.

108. (1) Section 503.1 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Sections 111 to 119.1 and 487.1 to 487.5 do not apply to a loan contemplated in the first paragraph.”

(2) This section applies to taxation years ending after 31 December 1981.

109. (1) The said Act is amended by inserting, after section 510, the following section:

“510.1 A dividend is deemed to be received by a shareholder of a public corporation, under sections 504 to 506, 507 and 508, only if, at the time the dividend is paid, the shareholder is

(a) a person not resident in Canada;

(b) a person resident in Canada who does not deal at arm's length with the corporation;

(c) a private corporation;

(d) a corporation that is not a private corporation and the dividend is received in the course of a series of transactions or events to which sections 308.1 and 308.2 would, but for section 308.3, apply; or

(e) a corporation that would not, in respect of the dividend, be entitled to a deduction under sections 738 to 745 and 845 in computing its taxable income.”

(2) This section applies in respect of a dividend paid after 12 November 1981.

110. (1) Section 517.3 of the said Act is replaced by the following section:

“517.3 In computing the adjusted cost base to the taxpayer referred to in section 517.1, at any time after the disposition referred to therein, of any property received by him as consideration for the share so disposed of that is a debt owing by, or a share of the capital stock of, the other corporation, the taxpayer must deduct from the adjusted cost base to him of the property otherwise determined an amount equal to that proportion of the amount by which the lesser of the amount referred to in paragraph *a* of section 517.2 and the aggregate of the amount referred to in paragraph *b* of the said section, the principal amounts of all the debts so received and the amount of the increase, following the issue of the shares so received, of the paid-up capital in respect of all the shares of the capital stock of the other corporation, exceeds the greater of the amount referred to in the said paragraph *b* and the paid-up capital referred to in the said section 517.2 that the cost to him of the debt or share, as the case may be, so received is of the aggregate of the cost to him of all the debts and shares so received.”

(2) This section applies in respect of a disposition occurring after 12 November 1981.

111. (1) Section 527 of the said Act is replaced by the following sections:

“527. For the purposes of sections 93 to 104, 130 and 130.1 and of the regulations made under paragraph *a* of section 130, where this chapter applies to the disposition of depreciable property to a person or partnership and the capital cost of that property to the transferor exceeds the proceeds of disposition, the following rules apply:

(*a*) the capital cost of the property to the transferee is deemed to be the capital cost of the property to the transferor; and

(*b*) the excess is deemed to have been allowed to the transferee as depreciation in respect of the property for the taxation years preceding the acquisition of the property by the transferee.

“527.1 Where a person or a partnership disposes of any depreciable property of a prescribed class of the person or partnership to a transferee and the fair market value of the property at the time of the disposition is less than both the cost to the transferor of the property and the proportionate amount in respect of the property, the following rules apply:

(a) the first paragraph of section 518 and sections 521 to 526, 528 and 529 and 614 to 617 do not apply in respect of the disposition;

(b) the lesser of the cost to the transferor of the property and the proportionate amount in respect of the property is deemed to be the transferor's proceeds of disposition and the transferee's cost of the property;

(c) where several depreciable properties of a prescribed class of the transferor are disposed of at the same time, paragraph *b* applies as if each property so disposed of was separately disposed of in the order designated by him or, if he does not so designate any such order, in the order designated by the Minister; and

(d) the cost to the transferor of any property received by him as consideration for the disposition is deemed to be an amount equal to the lesser of the fair market value of the property at the time of the disposition, and that proportion of the fair market value, at the same time, of the property disposed of by him that the fair market value, at that time, of the property received by him is, at the same time, of all the property received by him as consideration for the disposition."

"527.2 For the purposes of section 527.1,

(a) "transferee" means

i. a corporation that, immediately after the disposition, is controlled, directly or indirectly in any manner whatever, by the transferor, his spouse or a person, group of persons or partnership by whom the transferor was so controlled;

ii. a person, spouse of a person, member of a group of persons or partnership that immediately after the disposition controls the transferor, directly or indirectly in any manner whatever; or

iii. a partnership in which the transferor's interest as a member of the partnership is, immediately after the disposition, as described in paragraph *a* or *b* of section 616;

(b) "proportionate amount" in respect of depreciable property of a prescribed class of the transferor means the proportion of the undepreciated capital cost to the transferor of all property of that class immediately before the disposition that the fair market value of the property at the time of the disposition is of the fair market value of all property of that class at the time of disposition."

(2) This section applies in respect of a disposition occurring after 12 November 1981, other than a disposition occurring after that date pursuant to an agreement in writing entered into not later than that date.

112. (1) Section 541 of the said Act is replaced by the following sections:

“540.1 Section 540 does not apply in respect of a disposition by a taxpayer of a share of the capital stock of a foreign affiliate of the taxpayer, all or substantially all of the property of which at that time is excluded property within the meaning of section 576.1, to another foreign affiliate of the taxpayer where the disposition is part of a series of transactions or events for the purpose of disposing of the share to a person who, immediately after the series of transactions or events, is a person other than a foreign affiliate of the taxpayer, with whom the taxpayer is dealing at arm’s length.

“541. This chapter applies where at a particular time after 6 May 1974, in the course of a reorganization of the capital of a corporation, a taxpayer disposes to such corporation of all the shares of a particular class of the capital stock of the corporation that are then owned by him, that are capital property to him, for consideration receivable by him from the corporation that includes another share of such capital stock, except where any of sections 301, 301.1, 518 to 526 or 528 to 533 applies.”

(2) This section, where it enacts section 540.1 of the Taxation Act, applies in respect of a disposition occurring after 12 November 1981 and, where it replaces section 541 of the said Act, it applies in respect of an exchange of capital property after 11 December 1979.

113. (1) Section 544 of the said Act is amended

(1) by replacing subsection 4 by the following subsections:

“(4) Where there has been an amalgamation of a particular corporation and one or more of its subsidiary wholly-owned corporations and the new corporation makes such election in its fiscal return filed under section 1000 for its first taxation year ending after 28 October 1980, the following rules apply for that year and subsequent taxation years of the new corporation:

(a) the new corporation is deemed, in respect of exploration and development expenses contemplated in section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24) and the expenses contemplated in sections 362 to 418.14 of the particular corporation or of the corporation from which the particular corporation acquired all or substantially all the property in the same way as prescribed in section 376 or 378, to continue the corporate existence of the particular corporation; and

(b) the new corporation is deemed, for the purposes of section 86 of the Act respecting the application of the Taxation Act (1972, chapter

24) and sections 376, 378, 380, 402, 403, 415, 415.1, 418.8 and 418.9, not to be, in respect of the expenses of the particular corporation contemplated in paragraph *a*, a corporation acquiring as a result of the amalgamation all or substantially all the property of the particular corporation.

“(4.1) Where there has been an amalgamation of a particular corporation that is a shareholder of a joint exploration corporation, within the meaning of subsection 1 of section 383, and one or more of its subsidiary wholly-owned corporations, for the purposes of sections 362 to 418.14, the new corporation is deemed to be a corporation that is a shareholder of the joint exploration corporation and to continue the corporate existence of the particular corporation.”;

(2) by replacing that part of subsection 5 which precedes paragraph *a* by the following:

“(5) For the purposes of subsections 3 to 4.1 and this subsection, and notwithstanding section 1, the expression “subsidiary wholly-owned corporation” of a particular corporation means a corporation all the issued and outstanding shares of the capital stock of which are owned by”.

(2) This section applies in respect of an amalgamation occurring after 14 December 1975.

114. (1) Section 547.1 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**547.1** Where a predecessor corporation had a non-capital loss or a net capital loss for a taxation year any portion of which was not deductible by it in computing its taxable income for any taxation year, but would have been so for its first taxation year beginning at the time of amalgamation if such a year had existed and if the corporation had then had a sufficient income, these losses are deemed to have been those of the new corporation and the amounts deductible in their respect in computing the taxable income of the predecessor corporation for a taxation year ending before the amalgamation are deemed to have been so deductible in computing the taxable income of the new corporation for such a year, for the purposes of determining either the non-capital loss or the net capital loss, as the case may be, of the new corporation for any taxation year preceding any taxation year of the new corporation, or the extent to which sections 734 to 736.01 have the effect of restricting the deductibility by the new corporation of such a loss.”

(2) This section has effect from 13 November 1981.

115. (1) Section 550 of the said Act is replaced by the following section:

“550. For the purposes of this Part, the amount for the new corporation, at a particular time, of its capital dividend account, its life insurance capital dividend account and its capital gains dividend account designates the amount determined under the rules prescribed for such purposes.”

(2) This section has effect from 29 June 1982.

116. (1) Section 550.3 of the said Act is amended by replacing what precedes paragraph *a* by the following:

“550.3 For the purposes of sections 21.5 to 21.9.5, where, following an amalgamation occurring after 16 November 1978, a particular share of any class of the capital stock of the new corporation is issued in consideration for the disposition of a share of any class of the capital stock of a predecessor corporation and the terms and conditions of the particular share are similar to the terms and conditions of the share so disposed of, the following rules apply:”.

(2) This section has effect from 6 December 1979.

117. (1) Section 555 of the said Act is replaced by the following sections:

“555. This division applies *mutatis mutandis* to a taxpayer in respect of a share of the capital stock of a corporation, where there is, after 12 November 1981, a foreign merger and where, by reason of the merger, a share owned by a taxpayer of the capital stock of a predecessor foreign corporation immediately before the merger is exchanged for or becomes a share of the capital stock of the new foreign corporation.

Notwithstanding the foregoing, the taxpayer may elect, in the fiscal return he must file for the taxation year in which the foreign merger occurs, that the first paragraph do not apply.

“555.01 For the purposes of this chapter and sections 571 to 576.1, 578, 579, 583 and 598, “foreign merger” means a merger or combination of corporations which were, immediately before the merger or combination, resident in a country other than Canada, in this chapter and the said sections referred to as a “predecessor foreign corporation”, which are replaced to form one corporate entity resident in the other country, in this chapter and the said sections referred to as the “new foreign corporation” in such manner that, by reason of the merger or combination and otherwise than as a result of a distribution to a single corporation of the property of another corporation upon its winding-up,

(a) all or substantially all of the property, except any amount receivable from any predecessor foreign corporation or share of the capital stock of any predecessor foreign corporation, of the predecessor foreign corporations immediately before the merger or combination becomes property of the new foreign corporation;

(b) all or substantially all of the liabilities, except any amount payable to any predecessor foreign corporation, of the predecessor foreign corporations immediately before the merger or combination become liabilities of the new foreign corporation; and

(c) all or substantially all of the shares of the capital stock of the predecessor foreign corporations, except any such shares owned by any predecessor foreign corporation, are exchanged for or become shares of the capital stock of the new foreign corporation.”

(2) This section applies in respect of a foreign merger occurring after 12 November 1981.

118. (1) Section 559 of the said Act is amended

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

“**559.** The cost to the parent of each property of the subsidiary distributed to the parent on the winding-up is deemed equal to the proceeds of the disposition, as provided in section 557, plus, in the case of capital property, other than depreciable property or property transferred in the course of a series of transactions or events to which sections 308.1 and 308.2 would, but for section 308.3, apply, 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 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”;

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

“(b) of the aggregate of all amounts each of which is in respect of any share of the capital stock of the subsidiary so disposed of by the parent on 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 in respect of that share or of a share, hereinafter called a “replaced share”, that has replaced that share or a replaced share or that has been 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 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 a prescribed tax, either as a capital dividend or as a life insurance capital dividend.”

(2) Paragraph 1 of subsection 1 applies in respect of a distribution occurring after 28 June 1982.

(3) Paragraph 2 of subsection 1 has effect from 29 June 1982.

119. (1) Section 560.2 of the said Act is amended by replacing the first paragraph by the following paragraph:

“560.2 For the purposes of this section and sections 559 to 560.1, the time that the taxpayer last acquired control of a subsidiary, where a share of the subsidiary was acquired, otherwise than by way of succession or will, from a person with whom he was not dealing at arm’s length, is deemed to be the earlier of the time that the person last acquired control of the subsidiary within the meaning of paragraph *b* of section 739 *mutatis mutandis*, and the time that the person is deemed by this section to have last acquired control.”

(2) This section applies in respect of a winding-up commencing after 12 November 1981.

120. (1) Section 561 of the said Act is replaced by the following section:

“561. Sections 505, 527.1 and 527.2 and sections 36 to 41.2 of the Act respecting the application of the Taxation Act (R.S.Q., chapter I-4) do not apply to a winding-up described in section 556.”

(2) This section applies in respect of a winding-up commencing after 12 November 1981, except that where section 561 of the Taxation Act, which it replaces, refers to sections 41.1 and 41.2 of the Act respecting the application of the Taxation Act (R.S.Q., chapter I-4), it applies in respect of an acquisition made after 31 December 1971.

121. (1) Section 563 of the said Act is replaced by the following section:

“563. For the purposes of computing an amount deductible under section 710 in computing the taxable income of the parent for one of its taxation years ending after the winding-up of the subsidiary, gifts made by the subsidiary in one of its particular taxation years are deemed, to the extent that they were not deductible under section 710 in computing the taxable income of the subsidiary for any taxation year, to have been made by the parent in its taxation year in which the particular taxation year of the subsidiary ended and not to have been so deductible for any taxation year of the parent ending not later than the day the subsidiary is wound-up.”

(2) This section applies in respect of gifts made from the taxation year 1981.

122. (1) Section 564.2 of the said Act is replaced by the following section:

“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 commencing after 31 March 1977, such portion of any non-capital 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 of the subsidiary from any other source for any such year or the net capital loss sustained by the subsidiary for any such year is deemed, for the purposes of sections 727, 729, 734 and 735, to be a non-capital loss from the operation of a particular business of the subsidiary, a non-capital loss of the parent from the source from which the subsidiary sustained the loss or a net capital loss, respectively, sustained by the parent for its taxation year during which the particular taxation year of the subsidiary ended and that was not deductible in computing the taxable income of the parent for any taxation year that commenced before the commencement of the winding-up.”

(2) This section applies in respect of a winding-up commencing after 12 November 1981, except where control of the parent or subsidiary was last acquired by one or several persons before 13 November 1981, or after 12 November 1981 and before 1 January 1983 if, in the latter case, the arrangements therefor were substantially advanced and evidenced in writing on 12 November 1981.

123. (1) Sections 564.4 and 564.5 of the said Act are replaced by the following sections:

“564.4 Section 564.2 does not have the effect of enabling the parent, for the purposes of computing its taxable income for any particular taxation year, to deduct the net capital loss of the subsidiary for any taxation year if the control of the parent or of the subsidiary has been acquired before the end of the particular taxation year by one or several persons who did not control the parent or subsidiary, as the case may be, at the end of the taxation year of the subsidiary during which that loss was sustained.

“564.4.1 Where section 564.2 applies and where, at any time, control of the parent or subsidiary has been acquired by one or several persons each of whom is in section 564.4.2 referred to as the “purchaser”, the portion of the subsidiary’s non-capital loss for a taxation year ending before that time as may reasonably be regarded as its loss from carrying on a particular business is deductible by the parent for

a taxation year ending after that time only if throughout the year and after that time the particular business was carried on by the subsidiary or parent for profit or with a reasonable expectation of profit, and up to the amount contemplated in section 564.4.2.

“564.4.2 The amount contemplated in section 564.4.1 is the aggregate of

(a) the parent’s income for the year from the particular business and any other business substantially all the income of which was derived from the sale, leasing, rental or development of property or the rendering of services that are similar to the properties sold, leased, rented or developed, or the services rendered in the course of carrying on the particular business before the time contemplated in the said section, or where the subsidiary was wound-up before that time, before the time of the commencement of the winding-up; and

(b) the amount by which

i. the aggregate of the parent’s taxable capital gains for the year from the disposition of property owned by the subsidiary at the time contemplated in the said section or, where the subsidiary was wound-up before that time, at the time of the commencement of the winding-up, other than property that was acquired from the purchaser or from a person that did not deal at arm’s length with the purchaser, exceeds

ii. the amount, by which the aggregate of the parent’s allowable capital losses for the year from the disposition of property described in subparagraph i exceeds the aggregate of its allowable business investment losses from the disposition of such property.

“564.5 For the purposes of sections 563, 564.2 to 564.4.2, 564.7, 710 to 712, 727, 729, 734 to 735.1 and 1029.1 to 1029.6, a parent corporation incorporated or otherwise formed after the end of a taxation year during which one of its subsidiaries sustained a loss or made a gift is deemed, for the purposes of computing its taxable income for any taxation year and computing the amount deemed to have been paid by the parent corporation to the Minister pursuant to section 1029.2 in respect of that loss on the last day of any taxation year, to have been in existence during the period commencing immediately before the end of the first year during which the subsidiary sustained a loss or made a gift, as the case may be, and ending immediately after its incorporation, to have had throughout that period fiscal periods ending on the day of the year on which its first fiscal period ended and to have been controlled throughout that period by the person or group of persons who controlled it immediately after its incorporation.”

(2) This section, where it enacts sections 564.4, 564.4.1 and 564.4.2 of the Taxation Act and where section 564.5 of the said Act, which

it enacts, refers to sections 564.4.1 and 564.4.2, applies in respect of a winding-up commencing after 12 November 1981, except where control of the parent or subsidiary was last acquired by one or several persons before 13 November 1981, or after 12 November 1981 and before 1 January 1983 if, in the latter case, the arrangements therefor were substantially advanced and evidenced in writing on 12 November 1981.

(3) This section, where it enacts section 564.5 of the Taxation Act, applies in respect of gifts made from the taxation year 1981.

124. (1) Section 568 of the said Act is amended by replacing paragraphs *b*, *c* and *d* by the following paragraphs:

“(a.1) the portion of the dividend equal to the lesser of the life insurance capital dividend account of the corporation, immediately before the particular time, and the amount by which the dividend exceeds the portion that has been the subject of an election under section 502 is deemed to be a separate dividend;

“(b) the portion of the dividend equal to the lesser of its pre-1972 capital surplus on hand within the meaning of the regulations made under section 567, immediately before the particular time, and the amount by which the dividend exceeds the portion that has been the subject of an election under section 502 or 502.1 is deemed not to be a dividend;

“(c) the portion of the dividend that exceeds the aggregate of the amount deemed, under paragraph *a* or *a.1*, to be a separate dividend for all purposes and the portion deemed under paragraph *b* not to be a dividend is deemed, notwithstanding paragraph *g* of section 570, to be a separate dividend that is a taxable dividend;

“(d) every person who holds shares of that class at that particular time is deemed to receive the proportion of any separate dividend determined under paragraph *a*, *a.1* or *c* represented by the proportion between the number of shares of that class held by him immediately before the particular time and the number of shares of that class then issued and outstanding.”

(2) This section applies in respect of any winding-up ending after 28 June 1982.

125. (1) Section 569 of the said Act is amended by replacing that part which precedes paragraph *a* by the following:

“**569.** Where, as a result of the dissolution of a controlled foreign affiliate, within the meaning of section 572, of a taxpayer, the latter receives a share of the capital stock of another foreign affiliate of the taxpayer:”.

(2) This section applies in respect of any dissolution occurring after 12 November 1981, other than a dissolution that was part of a reorganization which was substantially advanced before 13 November 1981.

126. (1) Section 570 of the said Act is amended

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

“(b.1) “life insurance capital dividend account” of a corporation at any particular time means the amount determined according to the rules prescribed for that purpose;”;

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

“(g) “taxable dividend” means a dividend other than a dividend in respect of which the corporation paying it elects in accordance with section 501 as it reads before 1 January 1979, or with section 502 or 502.1, or other than a dividend contemplated in section 501.1;”.

(2) Paragraph 1 of subsection 1 has effect from 29 June 1982.

(3) Paragraph 2 of subsection 1 applies in respect of a dividend paid after 28 June 1982.

127. (1) The said Act is amended by inserting, after section 576, the following section:

“576.1 For the purposes of this title, any excluded property of a foreign affiliate of a taxpayer means any property used or held by it principally for the purpose of gaining income from a qualified business within the meaning of paragraph *e* of section 451, or any property that is a share of the capital stock of another foreign affiliate of the taxpayer where all or substantially all of the property of the other foreign affiliate is excluded property, or an amount receivable the interest on which is, under a prescribed provision, income from such a qualified business or would be such income if interest were payable on the amount.

For the purposes of this section, where a foreign affiliate of a taxpayer has an interest in a partnership and the fair market value of the interest is at least 10% of the fair market value of the aggregate of the interests in the partnership, the partnership is deemed to be a foreign affiliate of the taxpayer.”

(2) This section has effect from 13 November 1981.

128. (1) Section 583 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) the aggregate of any amount prescribed in respect of the affiliate that is applicable to the amount and of any income or profits tax paid by the affiliate, or by another foreign affiliate of the taxpayer in respect of a dividend received from the affiliate, that is reasonably applicable to the amount, to the extent that the aggregate was not deductible under this section for a preceding year multiplied by the prescribed tax factor; or”.

(2) This section applies from the taxation year 1982.

129. (1) Section 589 of the said Act is amended by adding the following paragraph:

“Where a foreign affiliate of a corporation resident in Canada has disposed of excluded property that is a share of the capital stock of another foreign affiliate of the corporation, the corporation is deemed, except in the case of a prescribed disposition, to have made an election under the first paragraph, at the time of the disposition, in respect of the share disposed of, and, in the election, to have designated an amount equal to such amount as is prescribed.”

(2) This section applies in respect of any disposition occurring after 12 November 1981.

130. (1) Sections 593 and 594 of the said Act are replaced by the following sections:

“593. For the purposes of this chapter,

(a) “foreign trust” means a trust that is not resident in Canada in a taxation year and of which a beneficiary, at any time in the year, is a person resident in Canada, a corporation or trust with which such a person is not dealing at arm’s length or a controlled foreign affiliate of such a person;

(b) “beneficiary” of a trust means a person having an immediate or future right, whether absolute or contingent or whether conditional on or subject to the exercise of a discretionary power by any person or persons, to receive any of the income or capital of the trust either directly from the trust or indirectly through one or more other trusts.

“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 or other than a testamentary trust that arose as a consequence of the death of an individual before 1 January 1976, 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 acquired property, in any manner whatever, from

(a) a person who

i. was the beneficiary referred to in paragraph *a* of section 593, was related to that beneficiary or was the uncle, aunt, nephew or niece of that beneficiary;

ii. was resident in Canada in the eighteen months before the end of the year or before that person ceased to exist, as the case may be; and

iii. in the case of an individual, had before the end of that year been resident in Canada for a period of, or periods the aggregate of which is more than 60 months; or

(b) a trust or corporation that acquired the property in any manner whatever from a person described in subparagraph *a* with whom it was not dealing at arm's length.

The rules also apply for a taxation year of a foreign trust where, before the end of the year, all or any part of the interest of the beneficiary in the trust was acquired by the beneficiary by way of purchase, gift, succession or will from a person referred to in subparagraph *a* or *b* of the first paragraph or by way of the exercise of a power of appointment by a person referred to in either subparagraph."

(2) This section applies to taxation years of a trust commencing after 12 November 1981.

131. (1) Section 596 of the said Act is amended by replacing that part which precedes paragraph *a* by the following:

"**596.** For the purposes of sections 571 to 576.1, 578 to 583 and 598, where the distribution of the income or capital to the beneficiary of a foreign trust to which this chapter applies for a taxation year of the trust does not depend upon the exercise or the failure to exercise any discretionary power:".

(2) This section has effect from 13 November 1981.

132. (1) Section 614 of the said Act is amended by replacing the second paragraph by the following paragraph:

"Notwithstanding any other provision of this Act other than sections 527.1 and 527.2, where a taxpayer disposes, after 12 November 1981, of capital property, property contemplated in section 328, intangible capital property or property included in an inventory to a partnership that immediately after the disposition is a Canadian partnership of which the taxpayer is a member, the taxpayer and all the other members of the partnership may elect jointly in prescribed form and within the time referred to in section 604 that the following rules apply:

(a) sections 522 to 526 and paragraph *a* of section 528 apply with the replacement therein of

i. the word “corporation” by the word “partnership”;

ii. the expressions “a share of the capital stock of the corporation” and “a right to receive such share” by the expressions “an interest in the partnership” and “a right to receive such interest”;

iii. the words “and a corporation” by the words “and all the other members of a partnership”; and

iv. the expression “shareholder of the corporation” by the expression “member of the partnership”; and

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

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

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

(c) where the taxpayer disposes of any taxable Canadian property as consideration for an interest in the partnership, the interest is deemed to be such property.”

(2) This section applies in respect of any disposition occurring after 12 November 1981 except where it occurs before 1 January 1983 and the arrangements therefor were substantially advanced and evidenced in writing on 12 November 1981.

133. (1) Sections 615 and 616 of the said Act are replaced by the following sections:

“615. Where a taxpayer disposes, after 12 November 1981, of capital property to a partnership of which he is a majority interest partner immediately after the disposition and where, but for this section, the taxpayer would have had a capital loss in respect of the disposition, the following rules apply:

(a) notwithstanding any other provision of this Act, the capital loss is deemed to be nil;

(b) in computing, after the disposition, the adjusted cost base to him of his interest in the partnership immediately after the disposition, he shall add the amount by which the cost amount to him, immediately before the disposition, of the property exceeds the proceeds of the disposition.

“616. For the purposes of section 615, a taxpayer is deemed to be a majority interest partner of a partnership if

(a) the aggregate of his share, the share of his spouse and the share of a person or group of persons that in any manner whatever control or are controlled by the taxpayer, of the income of the partnership from any source for the fiscal period of the partnership in which it acquires the property, exceeds one-half of the income; or

(b) the aggregate of his share, of the shares of persons and the group of persons contemplated in paragraph *a*, of the aggregate amount that would be paid to all members of the partnership if it were wound up immediately after the acquisition of the property by the partnership, otherwise than as a share of any income of the partnership, exceeds one-half of the aggregate amount.”

(2) This section applies in respect of any disposition occurring after 12 November 1981, except where it occurs before 1 January 1983 and the arrangements therefor were substantially advanced and evidenced in writing on 12 November 1981.

134. (1) Section 637 of the said Act is amended by replacing that part which precedes paragraph *a* by the following:

“637. Notwithstanding section 231, a taxpayer’s taxable capital gain from the disposition of an interest in a partnership to any person exempt from tax under sections 980 to 999.1 is deemed to be:”.

(2) This section has effect from 30 March 1983.

135. (1) The said Act is amended by inserting, after section 638, the following section:

“638.1 Notwithstanding the second paragraph of section 231, the capital loss of a corporation from the disposition at any time of an interest in a partnership shall be deemed to be the amount of the loss otherwise determined minus the aggregate of all amounts each of which is the amount by which the corporation’s share of the partnership’s loss, in respect of a share of the capital stock of a corporation that is property of the partnership at that time, would be reduced pursuant to the second paragraph of section 741 or 744.1 had the fiscal period of the partnership ended immediately before that time and had the partnership disposed of the share immediately before the end of that fiscal period for its fair market value at that time.”

(2) This section applies in respect of any disposition occurring after 12 November 1981.

136. (1) Section 650 of the said Act is replaced by the following section:

“650. For the purposes of section 443, the second paragraph of section 454, paragraph *a* of section 653 and paragraph *a* of section 683, the income of a trust is computed without reference to the provisions of this Part minus, except in the case of paragraph *a* of section 683, any dividend which is otherwise included therein and which is referred to in sections 501 to 502.1, 1106 or 1116.”

(2) This section applies in respect of dividends paid after 28 June 1982.

137. (1) The said Act is amended by inserting, after section 651, the following section:

“651.1 Except as otherwise provided in this Part and without restricting the application of sections 456 to 458, 466 and 467, an amount included in computing the income for a taxation year of a beneficiary of a trust by virtue of sections 659 and 661 to 663 shall be deemed to be income of the beneficiary for the year from property that is an interest in the trust and not from any other source, and an amount deductible in computing the amount that would, but for paragraphs *a* and *b* of section 657, be the income of a trust for a taxation year shall not be deducted by a beneficiary of the trust in computing his income for a taxation year.”

(2) This section applies in respect of amounts included or deductible in computing the income of a taxpayer for any taxation year commencing after 12 November 1981.

138. (1) Section 653 of the said Act is amended by replacing that part of the first paragraph which precedes subparagraph *a* by the following:

“653. A trust is deemed to dispose of and immediately reacquire all its capital property, all its property contemplated in paragraphs *a* to *e* of section 328 and all its land included in the inventory of a business of the trust on the following days:”.

(2) This section has effect from 13 November 1981.

139. (1) Section 654 of the said Act is replaced by the following section:

“654. Where the property contemplated in section 653 is not depreciable property of a prescribed class of the trust, the trust is deemed to dispose of it for proceeds equal to its fair market value on the day of such disposition and to reacquire it immediately after for the same amount.”

(2) This section has effect from 13 November 1981.

140. (1) Section 657 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) that part of the amount that would be, but for this paragraph, paragraph *b*, and, where the trust is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653, sections 653 to 656.1 and section 691, its income for that year, to the extent that such part is payable in the year to a beneficiary resident in Canada at that time, or even outside Canada, if, in such last mentioned case, the trust is resident at that time in Canada, or to the extent that it was included in computing the income of such beneficiary under section 662;”.

(2) This section applies in respect of any disposition occurring after 12 November 1981.

141. (1) Section 657.1 of the said Act is replaced by the following section:

“657.1 Notwithstanding paragraph *a* of section 657, where the said section applies to an employee trust, the amount that the trust may deduct under the said paragraph *a* is equal to the amount by which the amount that would, but for this section and the said paragraph *a*, be its income for the year exceeds the amount, for the year, by which the aggregate of its income from a business exceeds the aggregate of its losses therefrom and, where it applies to a trust governed by an employee benefit plan, the amount that may be so deducted by the last mentioned trust is equal to that part of the amount which would be, but for this section and the said paragraph *a*, its income for the year, to the extent that the part is paid to the beneficiary in the year.”

(2) This section applies from the taxation year 1981, except that where section 657.1 of the Taxation Act refers to an employee trust, it applies from the taxation year 1980.

142. (1) Section 658 of the said Act is amended by replacing subsection 3 by the following subsection:

“(3) The accumulating income of a trust for a taxation year is, for the purposes of this chapter, the amount which, but for paragraph *b*

of section 657, would represent its income for the year less, where the trust is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653, the amount included in computing the income of the trust for the taxation year under a disposition deemed to have been made after 12 November 1981 under sections 653 to 656.1 or section 691.”

(2) This section has effect from 13 November 1981.

143. (1) Section 663 of the said Act is replaced by the following section:

“**663.** The income of a trust for a taxation year, before any deduction under section 130.1, paragraphs *a* and *b* of section 657 or the regulations made under paragraph *a* of section 130, must also, in the case of a trust other than a trust governed by an employee benefit plan, be included in computing the income of a beneficiary for the year to the extent that it has become payable to him in the year, whether or not it is paid to him, and must not be included for any subsequent year in which payment is made and, in the case of a trust governed by such a plan, of a person who has contributed to the plan as an employer to the extent that it was paid in the year to that person.”

(2) This section applies from the taxation year 1980.

144. (1) Section 665 of the said Act is replaced by the following sections:

“**665.** A taxpayer who has included in computing his income for a taxation year, under section 663 or 684, an amount in respect of his income interest in the trust may deduct, for the same year, the lesser of such amount and the excess of the cost of his interest over the aggregate of the amounts deductible as such under this section in computing his income for previous taxation years.

“**665.1** For the purposes of section 665 and notwithstanding paragraph *a* of section 422, the cost to a taxpayer of an income interest in a trust, other than an interest acquired by the taxpayer from a person who was the beneficiary in respect of the interest immediately before the acquisition thereof by the taxpayer, is deemed to be nil.”

(2) This section has effect from 13 November 1981.

145. (1) Section 666 of the said Act is amended by replacing subsection 1 by the following subsection:

“**666.** (1) For the purposes of this Part, the portion of taxable dividends received by a trust that may, having regard to the

circumstances and the terms and conditions of a trust arrangement, be reasonably regarded as a part of the amount included under sections 659 or 661 to 663 in computing the income of a particular beneficiary for the year, is deemed to be received in the year by him and not by the trust.”

(2) This section applies in respect of designations made after 12 November 1981.

146. (1) The said Act is amended by inserting, after section 669, the following sections:

“669.1 The amount that would otherwise be included under section 317 in computing the income of a testamentary trust for a taxation year is deemed, for the purposes of sections 707 to 709, where the particular beneficiary was the spouse of the individual upon and in consequence of whose death the trust arose, this section and paragraph *d* of section 339, to be included under the said section 317 in computing the income for the year of a particular beneficiary in the trust and not to be so included in computing the income of the trust to the extent that the amount may, having regard to all the circumstances including the terms and conditions of the trust arrangement, reasonably be considered to be part of the amount included, under section 663, in computing the income of a particular beneficiary for the taxation year and if the amount has been designated by the trust exclusively to the particular beneficiary in the return of its income for the year.

“669.2 The amount received by a testamentary trust in a taxation year upon or after the death of an employee in recognition of his service in an office or employment shall be deemed to be an amount received by a particular beneficiary in the trust at the particular time upon or after the death of the employee in recognition of the employee’s service in an office or employment and not to have been received by the trust to the extent that the amount may reasonably be considered, having regard to all the circumstances including the terms and conditions of the trust arrangement, to be paid or payable at the particular time to the particular beneficiary.”

(2) This section applies to taxation years ending after 12 November 1981.

147. (1) The said Act is amended by inserting, after section 670, the following section:

“670.1 Notwithstanding paragraph *a* of section 664 and section 670, no effect shall be given to a designation by a trust in a taxation year under the said paragraph *a* or to a determination by a trust in a taxation year under the said section 670 if such a designation or

determination results in a beneficiary in the trust being able to deduct in computing his income for any period while he is so beneficially interested a portion of an amount that, but for the said paragraph *a* or section 670, would be deductible by the trust in such a period that is greater than the portion of such amount that

(*a*) the beneficiary's share of the amount determined in paragraph *b* is of

(*b*) the amount that would be the total income of the trust for the period if no deduction were made under section 130.1, paragraph *a* or *b* of section 657 or the regulations made under paragraph *a* of section 130 or under section 360 for any taxation year of the trust ending in or coinciding with the period."

(2) This section applies to taxation years commencing after 12 November 1981.

148. (1) Section 671 of the said Act is amended

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

"**671.** For the purposes of this section and sections 146.1 and 772, the following rules apply:";

(2) by replacing paragraphs *b* and *c* by the following paragraphs:

"(*b*) the beneficiary contemplated in paragraph *a* is deemed to have paid for that taxation year to the government of the country or subdivision contemplated therein and from which the income designated to him is derived, that proportion of the amount by which the tax paid by the trust for the year to that government exceeds the amount deductible in respect of that tax in computing the income of the trust for the year under section 146 or deducted therein under section 146.1 that the portion of the income contemplated in paragraph *a* that may be designated to him for the year under section 659 or 663 is of the total income of the trust for the year from sources in such foreign country or subdivision, before any deduction under paragraph *a* or *b* of section 657; and

"(*c*) the income of a trust from sources situated in a foreign country or a political subdivision of such a country, for a taxation year, is the income therefrom less that which is deemed to be the income of any beneficiary, under paragraph *a*; likewise, the tax paid by it is deemed to be the tax which it has paid, less the amount deductible, in respect of the tax, in computing the income of the trust for the year under section 146 or deducted therein under section 146.1 and less that which is deemed to have been paid by any beneficiary under paragraph *b*."

(2) This section applies to taxation years ending after 12 November 1981.

149. (1) Section 672 of the said Act is replaced by the following section:

“672. This chapter applies to a trust that is not a mutual fund trust, where an amount is payable in respect of the income of the trust for a taxation year to a beneficiary who, at the time when the amount becomes so payable, is a person not resident in Canada, a non-resident-owned investment corporation or trust that is not exempt from tax, resident in Canada, one of the beneficiaries under which was not resident in Canada throughout the period commencing on 6 May 1974 and ending at the time the amount becomes so payable.

This chapter also applies to a trust described in subparagraph *a* of the first paragraph of section 653 and in the second paragraph of that section where an amount is included in computing the income of the trust for a taxation year under a disposition deemed to have been made, after 12 November 1981, under sections 653 to 656.1 or 691 and the trust and a preferred beneficiary of the trust have made the election described in section 659 in respect of the year.”

(2) This section has effect from 13 November 1981; however, in respect of a testamentary trust, it applies to taxation years commencing after 12 November 1981.

150. (1) Section 674 of the said Act is amended by replacing the first paragraph by the following paragraph:

“674. The amount that must be deducted by a trust from the aggregate determined in section 673 is the aggregate of

(*a*) where the trust is a trust described in subparagraph *a* of the first paragraph of section 653 and in the second paragraph of that section, the proportion of the amount by which the amount included in computing its income for the taxation year under a disposition deemed to have been made, after 12 November 1981, under sections 653 to 656.1 or section 691 exceeds the amount by which its income for the taxation year before any deduction under section 130.1, paragraph *a* or *b* of section 657 or under the regulations made under paragraph *a* of section 130, exceeds the amount determined in the second paragraph, that the amount determined in paragraph *a* of section 673 is of the amount determined in the second paragraph; and

(*b*) that proportion of the amount by which its designated income for the taxation year that is not a designated income arising, in the case of the trust described in subparagraph *a*, from any disposition

described in subparagraph *a* or, in the case of a testamentary trust, from any disposition made before 13 November 1981, exceeds the amount by which its income for the taxation year before any deduction under section 130.1, paragraph *a* or *b* of section 657 or under the regulations made under paragraph *a* of section 130, minus the amount determined in the second paragraph, exceeds the amount included in computing its income for the taxation year under any disposition described in subparagraph *a*, that part of its income for the taxation year, before any deduction under section 130.1, paragraph *a* or *b* of section 657 or the regulations made under paragraph *a* of section 130, that would be payable in the taxation year to a beneficiary in the trust contemplated in the first paragraph of section 672, but for section 673, is of the amount determined in the second paragraph.”

(2) This section has effect from 13 November 1981; however, in respect of a testamentary trust, it applies to taxation years commencing after 12 November 1981.

151. (1) Section 676 of the said Act is replaced by the following sections:

“676. For the purposes of section 663, such portion of the amount which, where sections 672 to 674 apply to the trust, is contemplated in subparagraph *a* of the first paragraph of section 674 or which otherwise is the amount by which the amount described in section 663 exceeds the amount deductible, under paragraph *a* of section 657 as may reasonably be considered to be part of the amount that by virtue of section 663 was included in computing the income for the year of a particular beneficiary and as was not designated by the trust in respect of any other beneficiary, if such part was so designated in respect of him by the trust in the return of its income for the year under this Part, is deemed not to be payable in a taxation year of a trust to any particular beneficiary in the trust.

“676.1 Such portion of the amount contemplated in subparagraph *b* of the first paragraph of section 674 as may reasonably be considered to be part of the amount that by virtue of section 663 was included in computing the income for a taxation year of a particular beneficiary under the trust contemplated in the first paragraph of section 672 and as was not designated by the trust in respect of any other such beneficiary, is deemed, for the purposes of section 663, not to be payable in the year to a particular beneficiary if that part was so designated in respect of him by the trust in the return of its income for the year under this Part.”

(2) This section has effect from 13 November 1981.

152. (1) Section 677 of the said Act is replaced by the following section:

“677. Notwithstanding any inconsistent provision of this Part, the rules provided in this chapter apply to a testamentary trust.

For the purposes of this chapter, “testamentary trust” in a taxation year means a trust or estate that arose upon and in consequence of the death of an individual, including a trust contemplated in section 441, but does not include

(a) a trust created by a person other than the individual,

(b) a trust created after 12 November 1981 if, before the end of the taxation year, property has been contributed to the trust otherwise than by an individual on his death, and

(c) a trust created before 13 November 1981 if after 28 June 1982 property has been contributed to the trust otherwise than by an individual on his death, or if before the end of the taxation year, the fair market value of the property owned by the trust that was contributed to the trust otherwise than by an individual on his death and the property owned by the trust that was substituted for such property exceeds the fair market value of the property owned by the trust that was contributed by an individual on his death and the property owned by the trust that was substituted for such property, and for the purposes of this paragraph, the fair market value of any property shall be determined as at the time it was acquired by the trust.”

(2) This section applies to taxation years commencing after 12 November 1981.

153. (1) Section 686 of the said Act is amended by inserting, after subsection 2, the following subsection:

“(3) Where a corporation disposes of all or part of the capital interest in a trust that is not a prescribed trust, its capital loss from the disposition is deemed to be the amount of its loss otherwise determined minus the amounts received by the trust before the disposition and designated by it in respect of the corporation under section 666 or 667.”

(2) This section applies in respect of dispositions occurring after 12 November 1981.

154. (1) Section 687 of the said Act is replaced by the following section:

“687. For the purposes of section 686 and notwithstanding paragraph *a* of section 422, the cost to a taxpayer of a capital interest in a trust, other than an interest acquired by the taxpayer from a person who was the beneficiary in respect of the interest immediately before the acquisition thereof by the taxpayer or an interest issued to the

taxpayer for consideration paid by him that is equal to the fair market value thereof at the time of issuance, shall be deemed to be nil.”

(2) This section has effect from 13 November 1981.

155. (1) Section 691 of the said Act is amended by replacing that part which precedes paragraph *a* by the following:

“**691.** Notwithstanding paragraphs *a* to *c* of section 688, if the trust contemplated in the said section is a trust described in subparagraph *a* of the first paragraph of section 653 and in the second paragraph of that section, if the property is capital property, property contemplated in paragraphs *a* to *e* of section 328 or land included in the inventory of a business of the trust, if the taxpayer to whom the property is transferred is not the spouse and if the spouse is alive at the time of the transfer, the following rules apply:”.

(2) This section has effect from 13 November 1981.

156. (1) Section 694 of the said Act is replaced by the following section:

“**694.** For the purposes of computing the taxable income of a taxpayer for a taxation year and of computing his accumulated averaging amount within the meaning of paragraph *b* of section 737.1 at the end of a taxation year, the following rules apply:

(a) any deduction granted to the taxpayer under a provision of a prescribed law in computing his taxable income for a previous taxation year in respect of which he was not subject to taxation provided in this Part, is deemed, unless otherwise prescribed, to have been also granted to him under the corresponding provision of this Part in computing his taxable income for such previous year;

(b) any amount included by the taxpayer under a provision of a prescribed law in computing his taxable income for a previous taxation year described in paragraph *a* following a designation he made in an election for that year under a provision of that law is deemed, unless otherwise prescribed, to have been also included under the corresponding provision of this Part in computing his taxable income for such previous year following a designation he made in an election for that year under the corresponding provision of this Part.”

(2) This section applies from the taxation year 1982.

157. (1) Section 694.1 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(c) the amount of \$3 600 referred to in section 726;”.

(2) This section applies from the taxation year 1982.

158. (1) Section 695 of the said Act is amended

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

“ii. maintains, alone or jointly with one or more persons, a self-contained domestic establishment where he lives and supports a person wholly dependent on him or upon him and them and connected with him or with him and such one or more other persons by blood relationship, marriage or adoption and, except in the case of a child of the individual, is resident in Canada;”;

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

“(e) any amount expended by the individual during the year for the support, during that year, of a person resident in Canada and who is

i. his father, mother, grandfather or grandmother dependent upon him by reason of mental or physical infirmity or his sister or brother who meets the conditions contemplated in subparagraph i of paragraph *c*, up to \$900 less that part of the income of the dependent person which, for the year, exceeds \$2 000;

ii. his sister or brother who fulfils the conditions contemplated in subparagraph ii of paragraph *c*, up to \$550 less that part of the income of the dependent person which, for the year, exceeds \$2 000;”.

(2) This section applies from the taxation year 1982.

159. (1) Section 703 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) an annuity payment under a deferred profit sharing plan, a plan revoked in accordance with section 876 or 876.1, a registered retirement savings plan, a new plan referred to in section 914 to which the first paragraph of the said section 914 applied before 26 May 1976 or a registered retirement income fund;”.

(2) This section has effect from 30 March 1983.

160. (1) Section 704 of the said Act is amended

(1) by striking out the word “and” at the end of paragraph *a*;

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

“(b) the amount by which any annuity payment included therein under paragraph *c* of section 312 exceeds the capital element of such payment as determined in paragraph *f* of subsection 1 of section 336; and”;

(3) by adding the following paragraph:

“(c) any amount included therein under sections 92.9 to 92.20 or paragraph *c.1* of section 312.”

(2) This section applies from the taxation year 1983.

161. (1) Section 705 of the said Act is replaced by the following section:

“**705.** For the purposes of this title, a grossed-up dividend means the amount that must be included, by virtue of subsections 1 and 2 of section 497, in computing the income of an individual for a taxation year, but does not include any such amount in respect of a dividend received by him from a corporation with which he does not deal at arm’s length or that he is deemed to receive by virtue of sections 504 to 510.1 and 517.”

(2) This section applies in respect of dividends paid after 12 November 1981.

162. (1) Sections 707 and 708 of the said Act are replaced by the following sections:

“**707.** An individual who has attained the age of 65 years before the end of the year may deduct, up to a maximum of \$1 000, the aggregate of the amounts contemplated in the second paragraph and any amount received by him in the year

(a) as a payment of a life annuity under or out of a retirement plan;

(b) as an annuity payment under a registered retirement savings plan or under a new plan referred to in section 914 or an annuity in respect of which an amount is included in computing his income under paragraph *c.2* of section 312;

(c) as a payment under or out of a registered retirement income fund;

(d) as an annuity payment under a deferred profit sharing plan or under a plan revoked by virtue of section 876 or 876.1 or as a payment referred to in paragraph *a* of section 873; or

(e) as an amount by which an annuity payment included in computing his income for the year under paragraph *c* of section 312

exceeds the capital element of that payment as determined in paragraph *f* of subsection 1 of section 336, if the individual has attained the age of 65 years before the end of the year unless he elects, in his fiscal return filed for the year in accordance with section 1000, to include that excess and any similar excess in computing his income for the year as interest for the purposes of section 702.

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 92.9 to 92.20 or paragraph *c.1* of section 312, if the individual has attained the age of 65 years before the end of the year, except where he elects, in his fiscal return filed for the year in accordance with section 1000, to include all the amounts as interest in computing his income for the year for the purposes of section 702.

“703. An individual who has not attained the age of 65 years before the end of the year, who is not a trust and who, before the end of the year, meets one of the conditions described in the second paragraph may deduct, up to a maximum of \$1 000, the aggregate of any amount described in subparagraph *a* of the first paragraph of section 707 received by him in the year and any amount, described in subparagraphs *b* to *e* of that first paragraph and in the second paragraph of the said section or that would be described therein if the reference to the age of the individual were not taken into account, received by him in the year by reason of the death of his spouse.

The deduction described in this section is allowed only if the individual, before the end of the year,

(a) has attained the age of 60 years;

(b) has received a disability pension or survivor's pension under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or any equivalent plan within the meaning of the said Act; or

(c) has not attained the age of 60 years and does not deduct in computing his income for the year any amount under paragraph *d* of section 339, other than in respect of an amount he has included in computing his income under section 885, and that he has received in satisfaction of all his rights under a deferred profit sharing plan.”

(2) This section applies from the taxation year 1982.

163. (1) Section 710 of the said Act is amended by replacing that part which precedes paragraph *a* by the following:

“710. A taxpayer may deduct the aggregate of gifts made by him in the year and the gifts he made during the preceding five taxation years to the extent that the amount of such gifts was not deductible for any preceding taxation year, to”.

(2) This section applies in respect of gifts made after the taxation year 1980.

164. (1) Section 713 of the said Act is replaced by the following sections:

“712.1 For the purposes of sections 710 to 712, a gift made by an individual in the year of his death is deemed to have been made by him in the preceding year to the extent that the amount thereof is not deductible in computing his taxable income for the year of his death.

“713. For the purposes of sections 710 to 712, a taxpayer shall not deduct an amount for gifts contemplated in paragraphs *a* to *j* of section 710 which he makes during a taxation year until the amount deductible under each of the said paragraphs for the gifts which he made during all the preceding taxation years has been deducted.”

(2) This section applies in respect of gifts made after the taxation year 1980.

165. (1) Section 725 of the said Act is replaced by the following section:

“725. An individual may deduct any amount he includes in computing his income for the year that is

(*a*) an amount exempt from income tax in Canada by virtue of a provision contained in a tax convention or agreement with another country that has the force of law in Canada,

(*b*) compensation received under an employees' or workmen's compensation law of Canada or a province in respect of an injury, disability or death, except any such compensation received by a person as the employer or former employer of the person in respect of whose injury, disability or death the compensation was paid, or

(*c*) a social assistance payment made on the basis of a means, needs or income test by a registered charity or under a program, other than a prescribed program, provided for by an Act of Canada or a law of a province.”

(2) This section applies from the taxation year 1982.

166. (1) Section 726 of the said Act is amended

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

“(a) the aggregate of the amount described in the second paragraph and of the amounts his spouse may claim as a deduction for the year under paragraph *h* of section 695 or section 723, exceeds”;

(2) by adding the following paragraph:

“The amount to which subparagraph *a* of the first paragraph refers is an amount equal to the lesser of the following amounts:

(a) the aggregate of amounts the spouse of the individual may claim for the year under sections 702 to 709;

(b) the amount by which the maximum deduction allowable under paragraph *a* of section 695 for the year exceeds the amount deducted by the individual for the year under that paragraph.”

(2) This section applies from the taxation year 1982.

167. (1) Section 736 of the said Act is replaced by the following sections:

“**736.** Section 729 does not have the effect of permitting a corporation to deduct an amount as a net capital loss of a preceding year if control of the corporation has been acquired before the end of the taxation year by a person or persons who did not control such corporation at the end of that preceding year.

“**736.01** Where control of a corporation was acquired at any time by one or several purchasers, the corporation shall not deduct, for any taxation year ending after that time, as a non-capital loss, such portion of the loss in a taxation year ending before that time as may be considered as a loss from carrying on a particular business.

If throughout the year and after that time the business was carried on by the corporation for profit or with a reasonable expectation of profit, the corporation may deduct for that year an amount not exceeding the aggregate of

(a) the corporation’s income for the year from the business and any other business substantially all the income of which was derived from the sale, leasing, rental or development of properties, or the rendering of services that are similar to the properties sold, leased, rented or developed, or the services rendered in the course of carrying on the particular business before that time; and

(b) the amount by which the corporation’s taxable capital gains exceed the amount by which the aggregate of the corporation’s allowable capital losses exceeds its allowable business investment losses for the year from the disposition of property owned by the corporation when

the control was acquired and that the corporation had not acquired from a purchaser referred to in the first paragraph or a person who did not deal at arm's length with such a purchaser.

“736.02 Where, at any time, control of a corporation that is not exempt from tax immediately before that time under this Part is acquired and the undepreciated capital cost to the corporation of depreciable property of a prescribed class would exceed at that time, but for this section, the fair market value of all the property of that class or the eligible intangible capital amount in respect of a business would exceed at that time, but for this section, 50% of the fair market value of the aggregate of its intangible capital amounts in respect of the business, the following rules apply:

(a) the former excess amount is deemed to have been deductible by the corporation in respect of property of the class under regulations made under paragraph *a* of section 130 in computing its income for taxation years ending before that time;

(b) the latter excess amount is deemed to have been deducted by the corporation under paragraph *b* of section 130 in computing its income from the business for taxation years ending before that time;

(c) each excess amount is deemed to be the non-capital loss or is added to such a loss of the corporation for the taxation year immediately preceding that of the acquisition of control as a loss from carrying on either the business in which the depreciable property is used at that time or the business to which the intangible capital amount is related, as the case may be;

(d) no part of the excess amounts is deductible in computing the taxable income of the corporation for a taxation year preceding that of the acquisition of control.

“736.03 For the purposes of section 736.02, where the taxation year in which the acquisition of control took place is the first taxation year of the corporation, the corporation is deemed to have had a preceding taxation year.

“736.04 Where control of a corporation has been acquired at any time by a person or persons, such portion of the corporation's non-capital loss for a taxation year ending before that time to the extent that it was not deductible in computing the corporation's income for such a year and may be considered such a loss of a subsidiary, within the meaning of section 556, from carrying on a particular business and in respect of which sections 564.2, 564.3 and 564.4 apply, as they read on 12 November 1981, is deemed to be a non-capital loss of the corporation from carrying on the particular business of the subsidiary.”

(2) This section applies in respect of acquisitions of control of a corporation occurring after 12 November 1981, other than acquisitions occurring before 1 January 1983 where the arrangements therefor were substantially advanced and evidenced in writing on 12 November 1981; however, section 736.04 of the Taxation Act enacted by it has effect from 13 November 1981.

168. (1) The said Act is amended by inserting, after section 737, the following:

“TITLE VII.1

“FORWARD AVERAGING

“CHAPTER I

“INTERPRETATION

“737.1 In this Title and in sections 752.1 to 752.5,

(a) “year of averaging” means a taxation year for which an individual deducts an amount under section 737.4;

(b) “accumulated averaging amount” of an individual at the end of a taxation year means,

i. in the case of a taxation year that is not the year in which he died, the product determined under section 737.2;

ii. in the case of the taxation year in which he died, the excess amount described in paragraph *a* of section 737.2;

(c) “adjusted income” of an individual for a taxation year means the product determined under section 737.3.

“CHAPTER II

“GENERAL PROVISIONS

“737.2 The accumulated averaging amount of an individual at the end of a taxation year, other than the taxation year in which he died, is obtained by multiplying

(a) the amount by which the aggregate of his accumulated averaging amount at the end of the preceding taxation year and the amount he deducts for the year under section 737.4 exceeds the amount he designates in his election for the year under section 737.8, by

(b) the ratio that the Consumer Price Index for Canada published by Statistics Canada under the Statistics Act (Statutes of Canada) for the twelve-month period ending on 30 September of that year bears to the Consumer Price Index so published for the period ending 30 September of the preceding year, which ratio must be adjusted in such manner as may be prescribed and rounded to the nearest one-thousandth or, where the ratio is equidistant from two one-thousandths, to the greater thereof.

“737.3 The adjusted income of an individual for a taxation year is obtained by multiplying his income for the year by the ratio that the Consumer Price Index for Canada, published by Statistics Canada under the Statistics Act (Statutes of Canada) for the twelve-month period ending on 30 September preceding the year of averaging bears to the Consumer Price Index so published for the twelve-month period ending 30 September preceding the taxation year, which ratio must be adjusted and rounded in the manner mentioned in paragraph *b* of section 737.2.

“CHAPTER III

“DEDUCTION

“737.4 An individual who is not a trust and who was resident in Canada throughout a year of averaging and the two preceding taxation years may deduct in computing his taxable income for the year of averaging an amount that is not less than \$1 000 nor more than the lesser of the following amounts:

(a) his taxable income for the year determined before any deduction under this section;

(b) the greater of the amounts determined under paragraphs *a* and *b* of section 737.5.

“737.5 The amounts to which section 737.4 refers are the following amounts:

(a) the aggregate of

i. the aggregate of the incomes of the individual for the year of averaging from the production of a literary, dramatic, musical or artistic work or from his activities as an athlete, a musician or a public entertainer, such as a theatre, motion picture, radio or television artist, and

ii. one-half of the amount by which the aggregate of amounts included under the second paragraph of section 234 or subparagraph ii of paragraph *a* of section 279 in computing the gain of the individual for the year of averaging from the disposition of a property exceeds

the aggregate of amounts he has deducted in computing such gain under section 234 or paragraph *a* of section 279;

(*b*) the amount by which the income of the individual for the year of averaging exceeds 110% of the quotient obtained by dividing:

i. the aggregate of his adjusted incomes for the three taxation years immediately preceding the year of averaging throughout which he was resident in Canada; by

ii. the number of taxation years referred to in subparagraph i.

“737.6 Section 737.4 applies only if the individual files with his return of income under this Part for the year of averaging an election in prescribed form with the Minister on or before the day on which he is required to file the return.

“737.7 The election referred to in section 737.6 is not valid for a year of averaging unless the following conditions are met:

(*a*) the individual remits to the Minister, within thirty days from the day of mailing of the first notice of assessment under this Part in respect of his income for the year, all the assessed tax, interest and penalties then remaining unpaid for the year, whether or not an objection to, an appeal or a summary appeal from the assessment, under chapter IV of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), is outstanding; and

(*b*) the individual files with the Minister, on or before the day on which the election must be filed,

i. a return of income for each taxation year referred to in subparagraph i of paragraph *b* of section 737.5 for which tax was payable by him under this Part, and

ii. with his return of income for the year of averaging, a prescribed form for each taxation year referred to in subparagraph i of paragraph *b* of section 737.5 for which no tax was payable by him under this Part and no return of income has been filed by him with the Minister.

“CHAPTER IV

“INCLUSION

“737.8 An individual who is resident in Canada throughout a taxation year may add in computing his taxable income for the year such portion of his accumulated averaging amount at the end of the preceding taxation year as he specifies in an election in prescribed form filed by him with the Minister, with his return of income for the year

under this Part, on or before the day on which he is required to file the return or would be so required if tax were payable by him for the year under this Part.

“CHAPTER V

“SPECIAL CASES

“737.9 Chapters III and IV apply only to a separate return of income filed under the second paragraph of section 429 or sections 681 and 1003.

“737.10 In no case may an individual make an election described in section 737.6 for a taxation year ending in a calendar year in which he is a bankrupt within the meaning of section 777.

“737.11 For the purposes of chapters III and IV, an individual who dies in a taxation year is deemed to have been resident in Canada throughout the year if he was resident in Canada throughout the period commencing on the first day of that year and ending at the time of his death.

“737.12 Where the amount deducted by an individual under section 737.4 in respect of a year of averaging exceeds the amount deductible by him for the year under that section, the following rules apply:

(a) such excess is deemed not to be included in the amount deducted under section 737.4; and

(b) that portion of the amount that would, but for paragraph *a*, be the amount determined under section 752.2 for the year that can reasonably be considered to be attributable to the excess referred to in paragraph *a* is deemed to be an amount paid by him, on account of his tax under this Part for the year, on the day that is the later of

i. the day on which he was required to file the election under section 737.6, and

ii. the day on which all the assessed tax, interest and penalties then remaining unpaid in respect of the year are remitted by him to the Minister.”

(2) This section applies from the taxation year 1982; however, where section 737.4 of the Taxation Act enacted by it applies to the taxation year 1982, the said section 737.4 is read with the replacement of the words “the two preceding taxation years” by the words “the preceding taxation year”.

169. (1) Section 738 of the said Act is replaced by the following section:

“738. A corporation may deduct from its income for a taxation year the amount of any taxable dividend it receives in the year from a taxable Canadian corporation or a corporation controlled by it, resident in Canada, other than a non-resident-owned investment corporation or a corporation exempt from tax under this Part.”

(2) This section applies in respect of dividends received after 12 November 1981.

170. (1) Section 740.3 of the said Act is amended

(1) by striking out the word “or” at the end of paragraph *b*;

(2) by replacing the period at the end of paragraph *c* by the following:“; or”;

(3) by adding the following paragraph:

“(d) that is a prescribed share.”

(2) This section applies in respect of dividends received after 23 October 1979.

171. (1) The said Act is amended by inserting, after section 740.3, the following section:

“740.4 Sections 738 and 740 do not apply in respect of a dividend received by a corporation on a share that is, at the time the dividend is paid, a short-term preferred share of another corporation.

The sections referred to in the first paragraph do apply if the other corporation, at the time the dividend is paid, is not dealing at arm's length with the corporation otherwise than by virtue of a right referred to in paragraph *b* of section 20.”

(2) This section applies in respect of dividends received after 12 November 1981.

172. (1) Sections 741 and 742 of the said Act are replaced by the following sections:

“741. A corporation that receives a taxable dividend, a capital dividend or a life insurance capital dividend in respect of a share that it owns and that is a capital property shall subtract from the amount, otherwise computed, of the loss of the corporation arising from transactions with reference to the share, the aggregate of the amounts received by it in respect of the share as

(a) a taxable dividend to the extent that the amount of the dividend was deductible from its income for any taxation year by virtue of sections 738 to 745 or section 845 and was not an amount on which the corporation was required to pay any prescribed tax;

(b) a capital dividend or a life insurance capital dividend.

The same rule applies in respect of the computation of the corporation's share of any loss of a partnership arising in respect of a share that is a capital property of the partnership, where the corporation is a member of the partnership and receives a taxable dividend, a capital dividend or a life insurance capital dividend in respect of the share.

"742. A trust, other than a prescribed trust, that owns a share that is capital property and a beneficiary of which is a corporation that receives a taxable dividend on the share, pursuant to a designation under section 666 or to which a designation of capital dividend or life insurance capital dividend on the share is made under section 667, shall subtract from the amount, otherwise computed, of the loss of the trust arising in respect of the share, the aggregate of amounts designated to a corporation that was one of its beneficiaries, under section 666 or 667, in respect of the share as a taxable dividend, a capital dividend or a life insurance capital dividend."

(2) This section applies in respect of dispositions occurring after 12 November 1981.

173. (1) Sections 744 and 745 of the said Act are replaced by the following sections:

"744. For the purposes of section 83 and the regulations made thereunder, a taxpayer, trust, other than a prescribed trust, or partnership, holding a share that is not a capital property and that receives a dividend in respect of the share shall, in computing at any particular time after 12 November 1981 the fair market value of the share, add to such value otherwise computed the aggregate of all amounts, determined without reference to section 666, he has received before that time as dividends on the share, other than capital gains dividends within the meaning of sections 1106 and 1116.

"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 the loss of the partnership arising in respect of the share by subtracting from the amount of the loss, otherwise computed, the aggregate of amounts received by him in respect of the share as dividends other than capital gains dividends within the meaning of sections 1106 and 1116, to the extent that the amounts were not amounts on which he was required to pay a prescribed tax.

“744.2 A trust, other than a prescribed trust, that owns a share that is not capital property and of which a beneficiary is a taxpayer who receives a taxable dividend on the share following a designation under section 666 or to which a designation of dividend, other than a taxable dividend, on the share is made under section 667, shall subtract from the amount, otherwise computed, of the loss of the trust arising in respect of the share, the aggregate of amounts designated to the taxpayer under section 666 or 667 in respect of the share as dividends other than capital gains dividends within the meaning of sections 1106 and 1116.

“744.3 The rules provided by sections 741 to 744.2 do not apply where the corporation, in the case of sections 741 and 742, the holder, in the case of section 744, or the taxpayer, in the case of sections 743, 744.1 and 744.2 establishes

(a) that the share was owned by the taxpayer referred to in section 743, by the corporation referred to in the first paragraph of section 741 or by the trust referred to in section 742 or 744.2, as the case may be, for 365 days or longer before the loss or that the share was held for 365 days or longer either before the time referred to in section 744 by the holder referred to in the last mentioned section, or before the loss to the partnership referred to in the second paragraph of section 741 or in section 744.1, as the case may be;

(b) that on the date the dividend was received, not more than 5% of the issued shares of any class of the capital stock of the corporation by which the dividend was paid was owned in the aggregate, as the case may be,

i. by the corporation referred to in the first paragraph of section 741 and by persons who were not dealing at arm's length with the corporation;

ii. by the trust and the corporation referred to in section 742 and by persons who were not dealing at arm's length with the corporation;

iii. by the taxpayer referred to in section 743 and by persons who were not dealing at arm's length with the taxpayer; or

iv. by the trust and the taxpayer referred to in section 744.2 and by persons who were not dealing at arm's length with the taxpayer; or

(c) that on the date the dividend was received, not more than 5% of the issued shares of any class of the capital stock of the corporation that paid the dividend was held in the aggregate, as the case may be,

i. by the partnership and the corporation referred to in the second paragraph of section 741 and by persons who were not dealing at arm's length with the corporation;

ii. by the holder referred to in section 744 and by persons who were not dealing at arm's length with the holder; or

iii. by the partnership and the taxpayer referred to in section 744.1 and by persons who were not dealing at arm's length with the taxpayer.

"745. Section 741 or 742 applies to a share acquired at any time by a corporation, a partnership or a trust in exchange for another share following a transaction to which sections 301, 301.1 or 536 to 555.4 apply as though the two shares were the same share.

Notwithstanding the first paragraph, the amounts that must be subtracted from a loss in respect of a share so acquired, to the extent that they are not amounts on which the acquirer was required to pay a prescribed tax, are the following amounts:

(a) the amounts that would reduce the loss under the said sections 741 and 742 in respect of the taxable dividends, capital dividends or life insurance capital dividends received or designated by the acquirer in respect of the share only;

(b) the product obtained by multiplying the amounts received or designated by the acquirer as a taxable dividend, capital dividend or life insurance capital dividend in respect of all the exchanged shares at that time by the ratio that the adjusted cost base of the acquired share to the acquirer, immediately after the exchange, is of the adjusted cost base of all the acquired shares at the same time."

(2) This section applies in respect of dispositions occurring after 12 November 1981; however, where it enacts section 744 of the Taxation Act, it applies to taxation years commencing after 31 December 1981 and, where it enacts section 745 of the said Act, it applies in respect of share exchanges occurring after 12 November 1981.

174. (1) Section 746 of the said Act is amended by adding the following paragraph:

"In addition, for the purposes of this section and sections 571 to 598, the corporation may make such elections as may be prescribed."

(2) This section applies in respect of elections made after 31 December 1975.

175. (1) The said Act is amended by inserting, after section 752, the following:

“CHAPTER I.1

“RULES RESPECTING FORWARD AVERAGING

“DIVISION I

“DEDUCTION

“752.1 An individual may deduct from his tax otherwise payable for a taxation year under this Part, computed without taking account of this chapter, an amount equal to the product obtained when

(a) the amount specified in his election for the year under section 737.8 and, where he died in the year and was resident in Canada, his accumulated averaging amount at the end of the year is multiplied by

(b) the percentage referred to in paragraph *u* of section 750.

Notwithstanding the foregoing, an individual referred to in the second paragraph of section 22 or 25 may deduct only the portion of the amount determined under the first paragraph represented by the proportion described in the second paragraphs of those sections.

“DIVISION II

“ADDITIONAL TAX

“752.2 An individual shall add to his tax otherwise payable for a taxation year under this Part, computed without taking account of this chapter, an amount equal to the aggregate of the following amounts:

(a) the product obtained when the amount he deducted for the year under section 737.4 is multiplied by the percentage referred to in paragraph *u* of section 750;

(b) where he died in the year and was resident in Canada, the amount by which

i. the aggregate of his tax that would otherwise have been payable under this Part, computed without taking account of sections 752.1 to 776.1.5 and the proportion contemplated in the second paragraph of section 22 or 25, for each of the three taxation years immediately preceding the year of his death if he had been resident in Québec throughout those years, had derived all that income for those years from sources situated in Québec and had specified for each of those years, in elections made under section 737.8, 1/3 of his accumulated averaging amount at the end of the year in which he died, exceeds

ii. the aggregate of his tax that would otherwise have been payable under this Part, computed in the manner described in subparagraph i, for each of the three preceding taxation years referred to in the said subparagraph i, if he had been resident in Québec throughout those years and had derived all that income for those years from sources situated in Québec.

Notwithstanding the foregoing, an individual contemplated in the second paragraph of section 22 or 25 shall add only the part of the amount determined under the first paragraph represented by the proportion contemplated in the second paragraphs of those sections.

“DIVISION III

“SPECIAL CASES

“**752.3** Divisions I and II do not apply to separate fiscal returns filed under the second paragraph of section 429 or sections 681 and 1003.

“**752.4** Where the amount an individual may deduct under section 752.1 for a taxation year exceeds the amount of his tax otherwise payable for the year, computed without taking account of the said section, the excess amount is deemed to be an amount paid by him, on the day he was required to file the election under section 737.8, on account of his tax for the year under this Part.

“**752.5** This chapter does not apply to an individual described in subparagraph *b* of the first paragraph of section 752.2 who was not resident in Québec throughout each of the taxation years referred to in the said subparagraph unless his legal representatives file with the Minister his return of income under this Part for each of those taxation years.

The returns of income must be in the same form and contain the same information as those the individual or his legal representatives would have been required to file under this Part if the individual had been resident in Québec throughout each of those years and if tax had been payable by him under this Part for each of those years.

The returns of income must be filed with the Minister on or before the day on which the legal representatives of the individual are required to file his fiscal return under this Part for the year in which he died, or would have been required to do so had tax been payable by him for the year under this Part.”

(2) This section applies from the taxation year 1982, except that where section 752.2 of the Taxation Act enacted by this section applies to the taxation year 1982, the said section shall be read with the

replacement of the reference to section 776.1.5 in subparagraphs i and ii of paragraph *b* of the first paragraph by a reference to section 776.1.

176. (1) Division I of Chapter II of Title I of Book V of Part I of the said Act, including sections 753 to 757, is repealed.

(2) This section applies from the taxation year 1982.

177. (1) Section 762 of the said Act is replaced by the following section:

“762. An election under section 758 may be made only if the following conditions are fulfilled:

(a) the earliest of the preceding years is one of the six years immediately preceding the year of averaging;

(b) no year included in the averaging period has already been included in another averaging period pursuant to a previous election of the individual under this Division which has not been revoked under section 763;

(c) no amount has been added or deducted by the individual under Title VII.1 of Book IV in computing his taxable income for a year included in the averaging period.”

(2) This section applies from the taxation year 1982.

178. (1) Section 767 of the said Act is replaced by the following section:

“767. An individual may deduct from his tax otherwise payable under this Part, computed without taking account of sections 752.1 to 752.5, fifty per cent of the amount he is required to include in computing his income for the year under subsection 2 of section 497.”

(2) This section applies from the taxation year 1982.

179. (1) The said Act is amended by inserting, after section 771.2, the following section:

“771.3 For the purposes of subparagraph i of each of paragraphs *c* and *d* of subsection 1 of section 771, the excess amount referred to in either said subparagraph i for a taxation year is deemed, in the case of a corporation whose income for the year is not from an eligible business carried on by it, not to be less than the amount used as a basis for computing the amount that the corporation may deduct for the year under subsection 1 of section 125 of the Income Tax Act (Statutes of Canada).”

(2) This section applies from the taxation year 1982.

180. (1) Section 776.1 of the said Act is replaced by the following section:

“776.1 An individual may deduct from his tax otherwise payable for a taxation year under this Part, computed without taking account of sections 752.1 to 752.5 and after any other deduction allowed for the year under this Part, an amount equal to 3% of the amount of that tax otherwise payable for the year.”

(2) This section applies from the taxation year 1982.

181. (1) Section 805 of the said Act is amended by replacing what precedes paragraph *a* of the first paragraph by the following:

“805. The deposit insurance corporation defined in paragraph *b* of section 804 qualifies as such for a taxation year only if it was incorporated primarily to provide or administer a stabilization, liquidity or mutual aid fund for a savings and credit union and to assist in the payment of any losses suffered by the members of such a union in liquidation and if throughout the year it is a Canadian corporation to which the cost amount of all its property consists at least 50 per cent of the cost amount of property other than a debt obligation issued by a member institution while it was in financial difficulty and which is:”.

(2) This section applies from the taxation year 1981.

182. (1) Section 808 of the said Act is amended by replacing the second paragraph by the following paragraph:

“No amount shall however be included in such computation with regard to a premium or any other assessment it receives or receivable by it from a member institution during the year.”

(2) This section applies from the taxation year 1981.

183. (1) The said Act is amended by inserting, after section 818, the following section:

“818.1 Notwithstanding any other provision of this Part, an insurance corporation other than a life insurance corporation that would, but for this section, be a private corporation is, for the purposes of section 308.6 and paragraphs *b* and *b.1* of section 570, deemed not to be a private corporation.”

(2) This section applies from the taxation year 1981.

184. (1) Section 825 of the said Act is amended by replacing paragraph *d* of the second paragraph by the following paragraph:

“(d) all amounts required by sections 92 and 167 to be included in computing its income for the year, except to the extent that such amounts have been included in computing its gross investment income by virtue of paragraph *a*.”

(2) This section applies in respect of dispositions occurring after 12 November 1981.

185. (1) The said Act is amended by inserting, after section 832, the following sections:

“832.1 For the purposes of this Part, except subparagraph *i* of paragraph *e* of section 93, subparagraph *iv* of the said paragraph *e* where it refers to the capital cost of property and the regulations under section 818, a life insurer resident in Canada, or a non-resident insurer, that carries on an insurance business in Canada and in a country other than Canada, that acquires property for some other purpose and that at a later time commences to use or hold it in the year in carrying on its insurance business in Canada, is deemed to dispose of the property at that later time at its fair market value at that time and to immediately thereafter reacquire the property at a cost equal to that fair market value.

The same rule applies where an insurer acquires property for the purposes of using or holding it in the year in carrying on its insurance business in Canada and at a later time commences to use it for some other purpose.

“832.2 Notwithstanding any other provision of this Act, an insurer that, by virtue of section 832.1, realizes an otherwise deductible loss shall deduct the loss only in the taxation year in which it disposes of the property otherwise than by virtue of the said section 832.1.

“832.3 Section 832.1 does not apply in respect of transferred property referred to in subparagraph *b* of an insurer not resident in Canada if that insurer

(a) ceases to carry on its insurance business in Canada in a taxation year or is entitled to make a prescribed election in respect of a taxation year;

(b) transfers all the property it uses or holds in the year in carrying on an insurance business in Canada to a prescribed corporation or to a corporation resident in Canada that carries on an insurance business in Canada and is a subsidiary wholly-owned corporation of the prescribed corporation; and

(c) has jointly made an election with the corporation to which the property was transferred, in prescribed form and not later than the day that is the earliest of the days on which the insurer or the corporation

is required to file its fiscal return for the taxation year in which the transactions to which the election relates occurred.

In addition, where the insurer and the corporation to which the property was transferred have not made the election prescribed in section 518 in respect of the transferred property, the proceeds of disposition thereof to the insurer and the cost thereof to the corporation to which the property was transferred are both equal to the cost amount to the insurer of the transferred property.”

(2) This section applies to taxation years commencing after 12 November 1981, except that where it enacts section 832.1 of the Taxation Act, it applies in respect of changes in use of property occurring in taxation years commencing after 12 November 1981, and in its application to transfers of property made before 1 April 1983, subparagraph *b* of the first paragraph of section 832.3 of the said Act enacted by it shall be read with the words “all the property” replaced by the words “any property”.

186. (1) Section 834 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Similarly, no part of such amount is deemed to have been paid to the shareholders for the purposes of sections 846 to 850 or to have been received as a dividend for the purposes of sections 504 to 510.1 and 517.”

(2) This section has effect from 13 November 1981.

187. (1) Section 835 of the said Act is amended

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

“**835.** In this title, sections 92.9 to 104, 130, 130.1, 135, 137 to 163.1, 176 to 179, 183, 428 to 451, 570, 736.1, 828 and 1087 to 1102.3:”;

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

“(c) “Canadian security” means a bond, debenture, mortgage, hypothec or agreement of sale or any other indebtedness not included in a segregated fund and which is a property an insurer uses or holds in the year in the course of carrying on his life insurance business in Canada;”.

(2) Paragraph 1 of subsection 1 has effect from 13 November 1981.

(3) Paragraph 2 of subsection 1 applies in respect of dispositions occurring after 12 November 1981.

188. (1) Section 836 of the said Act is replaced by the following section:

“836. For the purposes of sections 259 and 260, any property of a life insurer that would otherwise be a property identical to any other such property is deemed not to be so unless both properties are properties not included in a segregated fund and are both used or held during the year by the insurer, in carrying on a life insurance business in Canada or in carrying on an insurance business in Canada which is not a life insurance business.”

(2) This section applies to taxation years commencing after 12 November 1981.

189. (1) Section 841 of the said Act is amended

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

“ii. the excess of the aggregate of its income, computed in accordance with prescribed rules, for the year and the preceding taxation years ending after 31 December 1968 from its participating life insurance business carried on in Canada, over the aggregate of the amounts deductible, under this paragraph or paragraph *d* of section 840, in computing its income for the preceding taxation years;”;

(2) by striking out, at the end of paragraph *e*, the word “and”;

(3) by replacing the period at the end of paragraph *f* by a semicolon;

(4) by adding the following paragraph:

“(g) for its taxation year ending after 12 November 1981, the aggregate of interest on a policy loan included by it in computing its income for a taxation year ending before 13 November 1981,

i. to the extent that the interest had accrued to it before the commencement of its taxation year 1969, or

ii. to the extent that the interest had been included in computing its income for a preceding taxation year.”

(2) Paragraph 1 of subsection 1 applies from the taxation year 1981.

(3) Paragraphs 2 to 4 of subsection 1 have effect from 30 March 1983.

190. (1) Sections 842, 842.1 and 843 of the said Act are replaced by the following sections:

“842. Notwithstanding any other provision of this Act,

(a) an insurer referred to in section 823 shall not make any deduction under sections 140 or 210 to 214 in computing its income for a taxation year from its life insurance business in Canada in respect of a premium or other consideration for a life insurance policy in Canada or in respect of a Canadian security or interest thereon;

(b) an insurer not resident in Canada or a life insurer resident in Canada that carries on part of its insurance business for a taxation year outside Canada shall not make any deduction under section 160 or 163 in computing its income for a taxation year from carrying on an insurance business in Canada, except to the extent provided for in section 842.1.

“842.1 For the purposes of paragraph *b* of section 842, an insurer may claim a deduction under section 160 or 163 in computing its income for a taxation year from carrying on its insurance business in Canada, in respect of interest on

(a) borrowed money used to acquire property used or held by it in the year in carrying on its insurance business to the extent that the interest is paid or payable in respect of that portion of the year during which the property is so used or held;

(b) an amount payable for the property it uses or holds in the year in carrying on that business, to the extent that the interest is paid or payable in respect of that portion of the year during which the property is so used or held;

(c) a deposit it receives or another amount it holds in connection with life insurance policies in Canada or with policies insuring Canadian risks.

“843. In no case may a life insurer resident in Canada, in computing its income, make any deduction under section 146.1 in respect of foreign taxes attributable to its insurance business, nor make any deduction under section 772 in computing its income in respect of foreign taxes attributable to income from its insurance business.”

(2) This section applies to taxation years ending after 12 November 1981, except that paragraphs *a* and *b* of section 842.1 and the second paragraph of section 843 of the Taxation Act enacted by it apply to taxation years commencing after 12 November 1981 and, in its application to taxation years commencing before 1 April 1983, the first paragraph of the said section 843 shall be read with the words “insurance business” replaced by the words “insurance business carried on outside Canada”.

191. (1) Section 872 of the said Act is amended

(1) by striking out the word “and” at the end of paragraph *h*;

(2) by replacing the period at the end of subparagraph iv of paragraph *i* by a semicolon;

(3) by adding the following paragraphs:

“(j) no benefit or loan may be extended by reason of the existence of the plan to a beneficiary or a person with whom he is not dealing at arm’s length, except a benefit which must be included in computing the beneficiary’s income, an amount referred to in paragraph *a* or *b* of section 885, an amount allocated under this section or a benefit from the provision of administrative or investment services in respect of the plan; and

“(k) no individual may become a beneficiary of the plan if he is related to the employer, to a beneficiary or member of a trust or partnership which is the employer if he is a specified shareholder within the meaning of the regulations under paragraph *e* of section 451, of the employer or of a corporation related to the employer, if he is related to such a shareholder or if he is a beneficiary of a trust which is the employer.”

(2) This section applies in respect of plans registered after 31 March 1983; except that for the purposes of the first paragraph of section 881 and of section 885.1, paragraph *k* of section 872 of the Taxation Act enacted by it has effect from 1 January 1982.

192. (1) The said Act is amended by inserting, after section 876, the following section:

“**876.1** The registration of a plan may be revoked where a benefit or a loan is extended or continues to be extended at a particular time after 30 June 1982 by reason of the existence of the plan and the benefit or loan would be prohibited if the plan satisfied the requirement described in paragraph *j* of section 872 respecting the registration.

In the case of the first paragraph, the revocation takes effect from the particular time or from any subsequent date specified by the Minister in a notice given by registered or certified mail to the trustee and to an employer of employees who are beneficiaries under the plan.”

(2) This section has effect from 30 March 1983.

193. (1) Section 881 of the said Act is amended

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

“**881.** An employer may deduct in computing his income for a taxation year an amount which he pays to a trust under a deferred profit sharing plan in that year or within 120 days thereafter, unless the amount

was deductible in computing his income for a previous taxation year or had been paid in respect of a beneficiary described in paragraph *k* of section 872.”;

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

“(b) \$5 500, minus the aggregate of all amounts required to be paid to a registered retirement plan of the employer or a person related to the employer or under such plan in order to provide benefits thereunder to the employee in respect of services rendered by that employee in the year and that, if paid in the year, would be deductible by the payer under sections 137 and 137.1, or 139 if, in the latter case, the employer had sought the approval required by that section; or”.

(2) Paragraph 1 of subsection 1 applies to taxation years commencing after 31 December 1981.

(3) Paragraph 2 of subsection 1 applies to taxation years commencing after 12 November 1981.

194. (1) The said Act is amended by adding, after section 885, the following section:

“885.1 A beneficiary described in paragraph *k* of section 872 shall include in computing his income for a taxation year the aggregate of amounts allocated to him in respect of a prescribed amount or an amount paid by an employer after 1 December 1982 to a trust governed by a deferred profit sharing plan or a plan whose registration has been revoked in accordance with sections 876 or 876.1 and 877.”

(2) This section applies to taxation years commencing after 31 December 1981.

195. (1) Section 905.1 of the said Act is amended

(1) by replacing the period at the end of paragraph *b* by a semicolon;

(2) by adding the following paragraph:

“(c) “issuer” means the person referred to in section 907 with whom an annuitant has a contract or arrangement that is a retirement savings plan.”

(2) This section has effect from 13 November 1981.

196. (1) Section 908 of the said Act is amended by replacing paragraph *a* of subsection 1 by the following paragraph:

“(a) before the date provided for the first payment of benefits other than refund of premiums or other than a payment of the whole or part of the excess referred to in section 924 or of the amount by which, for a year, at a particular time, the aggregate of the amounts, other than those contemplated in paragraph *d*, *d*.1 or *f* of section 339, or in section 913 apply or would apply if the individual was resident in Canada throughout the year, that the individual has paid during the year, and before the particular time, to all of the registered retirement savings plans under which he or his spouse is the annuitant, and the gifts made in the year and before the particular time, to such plans under which the taxpayer is the annuitant, other than the gifts made by his spouse, exceeds the sum of \$5 500 plus the amounts that the individual is entitled to deduct in computing his income for the preceding year in respect of such aggregate, although such payment must not exceed the part of that aggregate paid into the plan; or”.

(2) This section applies from the taxation year 1981.

197. (1) Section 910 of the said Act is replaced by the following section:

“910. The plan must provide

(a) that no annuity payable thereunder to an annuitant under the plan is capable either in whole or in part of assignment, commutation or surrender;

(b) for the compulsory commutation of each annuity that would otherwise become payable to a person other than an annuitant under the plan;

(c) for the payment in whole or in part of the excess amount referred to in paragraph *a* of subsection 1 of section 908;

(d) no benefit may be extended by reason of the existence of the plan to an annuitant or to a person with whom he is not dealing at arm's length, except a benefit, an amount that but for subparagraphs i and iii of paragraph *a* of section 905.1 would be a benefit and an advantage arising from the registration as a retirement savings plan of the savings portion of a life insurance policy, from life insurance in effect on 31 December 1981 or from the provision of administrative or investment services in respect of the plan.”

(2) This section applies in respect of plans issued after 31 March 1983.

198. (1) Section 911 of the said Act is amended

(1) by striking out the word “and” at the end of paragraph *f*;

(2) by inserting, after paragraph *f*, the following paragraph:

“(f.1) that the periodic payment of an annuity to the annuitant must be increased annually to the extent the amount or rate of return that would have been earned on a pool of investment assets available for purchase by the public and specified in the contract exceeds the amount or rate specified in the plan and that no other increase may be made in the periodic payment;”.

(2) This section applies in respect of annuities paid after 12 November 1981.

199. (1) Section 913 of the said Act is replaced by the following section:

“**913.** Notwithstanding any other provision of this title, a registered retirement savings plan may be revised or amended to provide for the payment or transfer of funds of the plan by the issuer on behalf of the individual who is the annuitant under the plan

(a) to any issuer under another registered retirement savings plan under which the annuitant is the individual, the spouse or former spouse of the individual, from whom he is living apart, where in the latter case the payment or transfer is made pursuant to a decree, order or judgment of a competent tribunal, or a written separation agreement, relating to a division of property between the individual and his spouse or former spouse in settlement of rights arising out of their marriage, on or after the breakdown of the marriage;

(b) as a contribution to a registered retirement plan or under such a plan; or

(c) after the earliest of the days mentioned in the third paragraph of section 909, to a person or corporation referred to in section 961.3 under a registered retirement income fund under which the individual is a beneficiary.

In computing his income for a taxation year, where a payment or transfer referred to in the first paragraph is made before the year in which the individual who is an annuitant under the plan attains 72 years of age, the individual, his spouse or his former spouse shall not include, under section 929, by the mere fact of such payment or transfer, the amount so paid or transferred, and no deduction may be made in computing the income of any taxpayer under section 59, 339, 922, 923 or 924 in respect of the amount so paid or transferred.”

(2) This section applies from the taxation year 1982.

200. (1) The said Act is amended by inserting, after section 914, the following section:

“914.1 For the purposes of section 914, where a benefit is extended or continues to be extended at a particular time after 30 June 1982 by reason of the existence of a registered retirement savings plan and that benefit would be prohibited if the plan met the requirement described in paragraph *d* of section 910 respecting the registration, the plan is deemed to become a new plan from that particular time or any subsequent day that is specified by the Minister and whereof he gives notice by registered or certified mail to the issuer and to the annuitant.”

(2) This section has effect from 30 March 1983.

201. (1) Section 922 of the said Act is amended by replacing what precedes subparagraph *b* by the following:

“922. An individual who is an annuitant in a taxation year or becomes an annuitant within 60 days thereafter may deduct in computing his income for the year the amount of a premium that he pays into a registered retirement savings plan in the year or within 60 days thereafter to the extent that he neither did so for a previous taxation year nor designated the amount of that premium under paragraph *d*, *d.1* or *f* of section 339, up to

(a) an amount that does not exceed, with the deduction permitted by section 71, the lesser of \$ 3 500 and 20 per cent of his earned income, where the individual was employed in the year and

i. as a consequence thereof is entitled or may be entitled to the payment of a pension benefit under a retirement plan that provides for such a payment to the individual in whole or in part out of the contributions that have been or will be paid to the plan or out of the amounts that have been or will be credited as a replacement for those contributions by a person other than the individual in respect of his employment during that year,

ii. as a consequence thereof was a person in respect of whom a contribution was made by an employer to a deferred profit sharing plan in the year, or

iii. paid a contribution in the year to a deferred profit sharing plan under which he was a beneficiary, or”.

(2) This section applies in respect of contributions paid to a registered retirement savings plan for a taxation year after the taxation year 1981.

202. (1) Section 924 of the said Act is amended by replacing paragraph *a* of the second paragraph by the following paragraph:

“(a) the lesser of \$ 5 500 and the amount by which the amounts, other than those referred to in paragraph *d*, *d. 1* or *f* of section 339 or in section 913, that the individual has paid in the year to all the registered retirement savings plans under which the taxpayer or his spouse is an annuitant exceeds the aggregate of the amounts deducted in computing the income of the individual for the preceding year in respect of such amounts; exceeds”.

(2) This section applies from the taxation year 1981.

203. (1) Section 925 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) The aggregate of the losses from a business which the individual carries on alone or as a partner actively engaged therein, losses from the rental of immovable property and amounts deductible in computing the income of the individual under paragraph *d*, *d. 1* or *f* of section 339 or sections 340, 926 and 928 must be subtracted from the amounts contemplated in subsection 1.”

(2) This section applies from the taxation year 1981, except that in its application to the taxation years 1981 and 1982, subsection 2 of section 925 of the Taxation Act shall be read without taking account of paragraph *f* of section 339 of the said Act.

204. (1) Section 938 of the said Act is amended

- (1) by striking out the word “and” at the end of paragraph *d*;
- (2) by replacing the period at the end of paragraph *e* by a semicolon;
- (3) by adding the following paragraph:

“(f) no benefit or loan by reason of the existence of the plan may be extended to the beneficiary or to a person with whom he is not dealing at arm’s length, other than an amount which is required to be included in computing the beneficiary’s income, an amount referred to in any of paragraphs *a* to *d* of section 955 and the benefit derived from the provision of administrative or investment services in respect of the plan.”

(2) This section applies in respect of plans issued after 31 March 1983.

205. (1) Section 944 of the said Act is amended in the first paragraph

- (1) by striking out the word "or" at the end of subparagraph *b*;
- (2) by replacing the period at the end of subparagraph *c* by the following: "; or ";
- (3) by adding the following subparagraph:

"(d) on any day after 30 June 1982 a benefit or loan is extended or continues to be extended as a consequence of the existence of the plan and that benefit or loan would be prohibited if the plan met the requirement for registration contained in paragraph *f* of section 938."

- (2) This section has effect from 30 March 1983.

206. (1) Section 945 of the said Act is replaced by the following section:

"**945.** The Minister shall give notice by registered or certified mail to the trust or the depositary, as the case may be, and to the beneficiary, of the revocation contemplated in the first paragraph of section 944 which shall take effect as of the day fixed by the Minister; such day shall not, however, in the case contemplated in paragraph *a* of the said paragraph, be prior to the day following the 120 days contemplated therein and, in the case contemplated in paragraph *d* of the said paragraph, be prior to the particular date contemplated therein."

- (2) This section has effect from 30 March 1983.

207. (1) Section 951 of the said Act is replaced by the following section:

"**951.** For the purposes of section 950, income of a trust includes dividends described in sections 501 to 502.1 and shall be computed without reference, in applying section 231, to the expression "one-half" where it appears therein."

- (2) This section has effect from 29 June 1982.

208. (1) Section 961.4 of the said Act is replaced by the following section:

"**961.4** The amount contemplated in section 961.3 for a year is that which would be payable in the year under a single premium annuity contract purchased at a cost equal to the fair market value of the property held in connection with the arrangement at the beginning of the year if

- (a) equal annual payments were provided for throughout the term of the annuity;

(b) the interest rate used in computing the annual payment were such rate as the individual designates in respect of the year, not exceeding 6%, and

(c) the term of the annuity in years were equal to the number by which 90 exceeds the age in whole years of the individual at the beginning of the year, regardless of his death, if that is the case or, if the spouse is younger than the individual and he so elects before the first complete calendar year after the date of the arrangement, the age in whole years of the spouse at the beginning of the year, regardless of the latter's death, if that is the case.

However, that amount shall not exceed the value of the property held in connection with the arrangement immediately before the time of the payment."

(2) This section applies from the taxation year 1982.

209. (1) Section 961.5 of the said Act is amended by adding the following paragraph:

"The fund must also provide that no benefit or loan by reason of the existence of the plan may be extended to the beneficiary or a person with whom he is not dealing at arm's length, except an amount which is required to be included in computing the beneficiary's income, an amount referred to in paragraph *a* or *b* of the first paragraph of section 961.17 or the benefit derived from the provision of administrative or investment services in respect of the fund."

(2) This section applies in respect of plans issued after 31 March 1983.

210. (1) Section 961.9 of the said Act is amended by replacing the first paragraph by the following paragraphs:

"961.9 The registration of a retirement income fund may be revoked at any time where the Minister is satisfied that the requirements of sections 961.5 to 961.7 and of the regulations made under subsection 1 of section 961.2 were not complied with at the time the fund was registered or that the fund subsequently failed to comply with the requirements; the Minister shall give notice of his action by registered or certified mail to the parties to the arrangement.

Similarly, where on a particular date after 30 June 1982 a benefit or loan is extended or continues to be extended as a consequence of the existence of the fund and that benefit or loan would be prohibited if the fund met the requirement for registration set out in the fourth paragraph of section 961.5, the Minister may revoke the registration of the fund and if so he shall, by registered or certified mail, notify

the parties to the arrangement of the revocation, which takes effect on a date not earlier than the particular date, fixed by the Minister.”

(2) This section has effect from 30 March 1983.

211. (1) Section 961.16 of the said Act is replaced by the following section:

“961.16 For the purposes of section 961.15, income of a trust includes dividends described in sections 501 to 502.1 and shall be computed without reference, in applying section 231, to the expression “one-half” where it appears therein.”

(2) This section has effect from 29 June 1982.

212. (1) Section 965.1 of the said Act, enacted by section 37 of chapter 44 of the statutes of 1983, is amended by replacing paragraph *b* by the following paragraphs:

“(b) “qualifying share” means a share or stock of an individual meeting the requirements of section 965.7, 965.8, 965.9 or 965.9.1;

“(b.1) “common share with full voting rights” means a common share carrying a number of voting rights in the issuing corporation, in all circumstances and regardless of the number of shares held, that is not lower than the number attached to any other share of the capital stock of that corporation;

“(b.2) “subordinate voting share” means a common share carrying a right to vote in all circumstances in the issuing corporation that is not a common share with full voting rights;”.

(2) This section applies in respect of a public issue of shares regarding which the receipt for the final prospectus or exemption from a prospectus was issued after 3 May 1984.

213. (1) The said Act is amended by inserting, after section 965.4.1, the following section:

“965.4.2 For the purposes of sections 965.3 and 965.4, where any of the computations referred to therein must be made, after 10 May 1983, in respect of a corporation that is in its first fiscal period, the reference to its financial statements submitted to the shareholders for its last taxation year ended before the date of the receipt for the final prospectus or of the application for a prospectus exemption shall be replaced by a reference to its financial statements at the beginning of its first fiscal period.”

(2) This section has effect from 21 December 1983.

214. (1) Section 965.6 of the said Act, enacted by section 37 of chapter 44 of the statutes of 1983, is amended

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

“(a) 150% in the case of a qualifying share of a developing corporation that is not a subordinate voting share or a preferred share convertible to a subordinate voting share;”;

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

“(c) 100%, 75% or 50% in the case of a qualifying share acquired by the individual in 1983, in 1984 or after 1984 respectively and issued by a corporation whose assets are \$1 000 000 000 or over;

“(c.1) 75% in the case of a subordinate voting share acquired by the individual and issued after 1984 by a corporation whose assets are under \$1 000 000 000 and that is not a developing corporation; or”.

(2) This section applies in respect of a public issue of shares regarding which the receipt for the final prospectus or the exemption from a prospectus was issued after 3 May 1984, except that where it replaces paragraph *c* of section 965.1 of the Taxation Act, it has effect from 21 December 1983.

215. (1) Section 965.7 of the said Act, enacted by section 37 of chapter 44 of the statutes of 1983, is amended

(1) by replacing paragraphs *a* and *b* by the following paragraphs:

“(a) it is a common share which carries voting rights and

i. where the public share issue relating to the share commenced between 10 May 1983 and 21 December 1983, carries voting rights that may be exercised under any circumstances;

ii. where the public share issue relating to the share commenced after 20 December 1983, carries voting rights that may be exercised under any circumstances in the issuing corporation;

“(b) the number of voting rights attached thereto is equal to or greater than that attached to any other share of the capital stock of the issuing corporation, except if the share was issued as part of a public share issue in respect of which, before 22 December 1983, a receipt for a preliminary prospectus or the final prospectus or a prospectus exemption was granted;”;

(2) by striking out the word “and” at the end of paragraph *f*;

(3) by replacing the period at the end of paragraph *g* by the following: “; and”;

(4) by adding the following paragraph:

“(h) it is issued as part of a public share issue in respect of which the receipt for the final prospectus or a prospectus exemption was granted before 4 May 1984.”

(2) Paragraph 1 of subsection 1 has effect from 21 December 1983 and paragraphs 2, 3 and 4 of the said subsection 1 have effect from 4 May 1984.

216. (1) Section 965.9 of the said Act, enacted by section 37 of chapter 44 of the statutes of 1983, is amended by replacing subparagraphs *a* to *d* of the first paragraph by the following subparagraphs:

“(a) a common share that meets the requirements of paragraphs *a* and *b* of section 965.7 or a preferred share that can be converted at any time by its holder into such a common share;

(b) a share issued by a developing corporation; and

(c) a share that meets the requirements of paragraphs *c* to *h* of section 965.7, *mutatis mutandis*.”

(2) This section has effect from 21 December 1983, except that, where section 965.9 of the Taxation Act applies in respect of a public issue of shares for which a receipt for the final prospectus or the prospectus exemption was granted before 4 May 1984, the reference in paragraph *c* of the said section to paragraphs *c* to *h* of section 965.7 must be replaced by a reference to paragraphs *c* to *g* of the said section 965.7.

217. (1) The said Act is amended by inserting, after section 965.9, the following sections:

“**965.9.1** A share also qualifies for a stock savings plan if it meets the requirements of paragraphs *c* to *g* of section 965.7, with the required adjustments, it is issued as part of a public share issue in respect of which the receipt for the final prospectus or the prospectus exemption was granted after 3 May 1983, and it is

(a) a common share with full voting rights issued by a qualified corporation or a developing corporation;

(b) a subordinate voting share issued by a qualified corporation or a developing corporation;

(c) a preferred share issued by a developing corporation and convertible at any time by its holder into only a common share with full voting rights or a subordinate voting share.

For the purposes of this section, a share issued by a developing corporation described in section 965.14 or 965.16 is a qualifying share even if the corporation does not meet the requirement of paragraph *e* of section 965.10.

“965.9.2 Notwithstanding section 965.9.1, a subordinate voting share is not a qualifying share for a stock savings plan if, in the opinion of the Commission des valeurs mobilières du Québec, its terms and conditions do not provide that its holder may participate fully and equitably in a public offer regarding the common shares of the issuing corporation and that any transaction intended to convert or subdivide common shares with full voting rights into subordinate voting shares must be approved by the majority of the minority shareholders.

“965.9.3 For the purposes of this title, a share that would otherwise be a share with voting rights in all circumstances if the voting rights attached thereto did not involve any restriction based on the citizenship or the residence of the shareholder, on a shareholding ceiling or on the regulations governing a sector of activities is a share carrying voting rights in all circumstances if the Government, by regulation, or the Commission des valeurs mobilières du Québec so decides.

The same applies in the case of a subordinate voting share the voting right of which involves a restriction required by an exceptional or unusual situation.”

(2) This section applies in respect of a public share issue regarding which the receipt for the final prospectus or a prospectus exemption was granted after 3 May 1984.

218. (1) The said Act is amended by inserting, after section 965.10, the following section:

“965.10.1 For the purposes of paragraph *d* of section 965.10, where the date of the receipt for the final prospectus or of the application for a prospectus exemption is prior to 21 December 1983, the words “the value of the property as shown in its financial statements submitted to the shareholders for its last taxation year ended before that date is constituted” must be replaced by the words “its property is constituted”.”

(2) This section has effect from 21 December 1983.

219. (1) Section 965.16.1 of the said Act, enacted by section 37 of chapter 44 of the statutes of 1983, is replaced by the following section:

“965.16.1 A qualified corporation resulting from an amalgamation within the meaning of section 544 that makes a public share issue after 15 November 1983 during its first fiscal period is a developing corporation if,

(a) on the date of the receipt for the final prospectus or of the application for a prospectus exemption it meets the requirements of paragraphs *a*, *b*, *d* and *e* of section 965.13 or *a* and *b* of the said section 965.13 and *b* and *c* of section 965.15;

(b) it meets the requirement of paragraph *e* of section 965.10 throughout the period extending from the date of amalgamation to the date of the receipt for the final prospectus or of the application for a prospectus exemption; and

(c) immediately before the amalgamation, one of the predecessor corporations met all the requirements to qualify as a developing corporation, assuming, if so, that that notion existed before the amalgamation.”

(2) This section has effect from 21 December 1983.

220. (1) Section 965.22 of the said Act, enacted by section 37 of chapter 44 of the statutes of 1983, is amended by replacing the first paragraph by the following paragraph:

“**965.22** The splitting or replacement, without any consideration other than a share, following a transaction occurring after 10 May 1983 and described either in section 301, in respect of a preferred share contemplated in subparagraph *a* of the first paragraph of section 965.9 or subparagraph *c* of the first paragraph of section 965.9.1, or in section 536, 541 or 544 in respect of a common share, of a share included in a stock savings plan does not entail the withdrawal of the share from the plan if the requirement set out in paragraph *g* of section 965.7 is met in relation to each share issued in respect of the split or replaced share.”

(2) This section has effect from 21 December 1983, except that where section 965.22 of the Taxation Act refers to a preferred share contemplated in subparagraph *c* of the first paragraph of section 965.9.1 of that Act, it has effect from 4 May 1984.

221. (1) The said Act is amended by inserting, after section 965.27, the following section:

“**965.28** The Commission des valeurs mobilières du Québec may refuse to recognize, as a common share with full voting rights or as a preferred share convertible to a common share with full voting rights, a share that, while conforming to the letter of the law, does not, in the opinion of the Commission, guarantee its holder the full rights or the exercise of the full rights ordinarily attaching to such a share.

Without restricting the generality of the foregoing, the Commission may act as there provided more particularly where

(a) the shares are issued in such circumstances that their holders are unable to exercise any real influence over the management of the corporation, from the fact that the issue is preceded or may be followed by the issue of shares by which voting rights are procurable at considerably lower cost per right to a vote;

(b) the issued shares are common shares with full voting rights carrying a profit-sharing right or a right to partition in case of dissolution, which is restricted by comparison with that attached to common shares with full voting rights of another class;

(c) the issued shares are preferred shares referred to in section 965.9.1 that are convertible to common shares with full voting rights according to a conversion ratio such that it appears improbable that the conversion will be of any interest for the two years following the issue.

In exercising the power described herein, the Commission shall take account of current practice in the financial markets in Canada.”

(2) This section applies in respect of a public share issue regarding which the receipt for the final prospectus or the prospectus exemption was granted after 3 May 1984.

222. (1) Section 966 of the said Act is amended

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

“**966.** In this title, sections 92.9 to 92.20 and paragraph *c.1* of section 312,

(a) “disposition”, in relation to an interest in a life insurance policy, includes the surrender of the policy, a policy loan made after 31 March 1978 in respect of the policy, the dissolution of that interest by virtue of the maturity of the policy, the disposition of that interest by operation of law only, and a particular payment which is not an annuity payment, a policy loan or a policy dividend and which is paid by the insurer in respect of the policy where the latter is not a policy contemplated in the second paragraph of section 968 and is a life annuity contract, within the meaning of the regulations, entered into after 16 November 1978 and before 13 November 1981, but does not include

i. a payment under a policy as a disability benefit or as an accidental death benefit;”;

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

“iv. an annuity payment;

“v. a payment made under the policy in consequence of the death of any person whose life was insured under the policy if the policy is not an annuity contract and if it was last acquired before 2 December 1982 or is an exempt policy;”;

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

“(a.1) “insurer” or “life insurer” includes a person who is licensed or otherwise authorized under a law of Canada or a province to issue contracts that are annuity contracts;”;

(4) by replacing paragraph *b.3* by the following paragraph:

“(b.3) “premium” under a life insurance policy includes a prepaid premium under the policy which is refundable only on termination or cancellation of the policy and interest paid after 31 December 1977 to a life insurer in respect of a policy loan in respect of such policy, except such interest deductible after 31 December 1980 in accordance with sections 160 to 163.1 but does not include, where the interest in the policy was last acquired after 1 December 1982, that portion of any amount paid after 31 May 1985 under the policy with respect to

- i. an accidental death benefit;
- ii. a disability benefit;
- iii. an additional risk as a result of insuring a substandard life;
- iv. an additional risk in respect of the conversion of a term insurance policy into another insurance policy after the end of the year;
- v. an additional risk under a settlement option;
- vi. an additional risk under a guaranteed insurability benefit; or
- vii. any other prescribed benefit that is ancillary to the policy;”;

(5) by striking out the word “and” at the end of subparagraph ii of paragraph *b.4*;

(6) by adding, after subparagraph iii of paragraph *b.4*, the following subparagraph:

“iv. in respect of a deemed disposition described in paragraph *b* of section 967, the accumulating fund in respect of the interest, as determined in prescribed manner, immediately before the time of death in respect of a life insurance policy other than an annuity contract, last acquired after 1 December 1982, or immediately after the time of death in respect of an annuity contract;”;

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

“(d) “cash surrender value” at a particular time of a life insurance policy means its cash surrender value at that time computed without regard to any policy loans made under the policy, any policy dividends, other than paid-up additions, payable under the policy or any interest payable on such dividends.”.

(2) Paragraphs 1 and 2 of subsection 1 apply in respect of dispositions occurring after 12 November 1981, except that where paragraph 1 replaces what precedes paragraph *a* of section 966 of the Taxation Act, it applies to taxation years commencing after 31 December 1982.

(3) Paragraphs 3 and 4 of subsection 1 have effect from 13 November 1981.

(4) Paragraphs 5 and 6 of subsection 1 apply in respect of dispositions occurring after 1 December 1982.

(5) Paragraph 7 of subsection 1 has effect from 1 January 1972.

223. (1) The said Act is amended by inserting, after section 966, the following section:

“966.1 For the purposes of this title and sections 92.9 to 92.20,

(a) a policyholder who holds an interest in a life insurance policy since its issue is deemed to have acquired the interest on the later of the date on which the policy came into force and the date on which the application in respect of the policy signed by the policyholder was filed with the insurer; and

(b) except as otherwise provided, a policyholder is deemed not to have acquired or disposed of an interest in a life insurance policy, other than an annuity contract, as a result only of the exercise of any provision of the policy, other than a conversion of the policy into an annuity contract.”

(2) This section has effect from 13 November 1981; however, where it enacts paragraph *b* of section 966.1 of the Taxation Act, it has effect from 1 January 1972.

224. (1) Sections 967 to 968.1 of the said Act are replaced by the following sections:

“967. For the purposes of sections 968, 976 and 976.1,

(a) a policyholder who becomes entitled to receive, under a life insurance policy, an amount as, on account or in lieu of payment of, or in satisfaction of, a policy dividend is deemed to dispose at that time

of an interest in the policy and that amount is deemed to be the proceeds that he is entitled to receive from the disposition of that interest;

(b) where in a taxation year, the holder of an interest in a life insurance policy or in an annuity contract dies or where the person whose life was insured or who was an annuitant under the contract or policy dies,

i. the policyholder, where the policy was last acquired after 1 December 1982 and is not an annuity contract or an exempt policy on 31 December of the preceding taxation year, is deemed to dispose of his interest in the policy immediately before the death and the policy holder immediately after such death is deemed to have acquired the interest at a cost equal to the accumulating fund in respect of that interest, as determined in prescribed manner, immediately after the death; and

ii. the holder of the contract other than an annuity contract within the meaning of the regulations under section 966, entered into before 13 November 1981, is deemed to dispose of his interest in the contract immediately before the death and the holder of the contract immediately after the death is deemed to have acquired the interest at a cost equal to the accumulating fund in respect of that interest, as determined in prescribed manner, immediately after the death;

(c) where a life insurance policy last acquired after 1 December 1982, or a life insurance policy to which section 92.17 applies by virtue of a prescribed increase of a death benefit under the policy, ceases to be an exempt policy, the policyholder is deemed to dispose of his interest in the policy at that time for proceeds of disposition equal to the accumulating fund with respect to the interest, as determined in prescribed manner, at that time and to reacquire the interest immediately after that time at a cost equal to such proceeds unless the policy ceased to be an exempt policy in consequence of the death of an individual whose life was insured under the policy or at a time when that individual was totally and permanently disabled.

“CHAPTER II

“COMPUTATION OF THE POLICYHOLDER’S INCOME AND ABATEMENT

“968. A policyholder must include in computing his income for a taxation year in respect of the disposition of an interest in a life insurance policy, the excess of the proceeds of disposition of such interest in the policy that the holder, beneficiary or assignee, as the case may be, of the policy becomes entitled to receive in the year over the adjusted cost base, to the holder, of such interest immediately before the disposition.

For the purposes of the first paragraph, a “life insurance policy” does not include a policy that is a registered retirement plan, a registered retirement savings plan, a deferred profit sharing plan or an income-averaging annuity, an annuity contract the holder of which may deduct the cost under paragraph *f* of section 339 in computing his income or a policy that is issued pursuant to such a plan, such an annuity or such a contract.

“968.1 A taxpayer must include in computing his income for a taxation year in respect of the disposition of an interest in a life insurance policy that is a policy referred to in section 968 and, which is a life annuity contract, within the meaning of the regulations under section 966 entered into after 16 November 1978 and before 13 November 1981, the amount by which a particular payment referred to in paragraph *a* of section 966 that he becomes entitled to receive in the year exceeds the amount that would be the adjusted cost base to him of his interest in the policy immediately before the disposition if, for the purposes of sections 976 and 976.1, he were, in respect of that interest in the policy, the policyholder.”

(2) This section applies in respect of dispositions occurring after 12 November 1981.

225. (1) Sections 970 and 971 of the said Act are replaced by the following sections:

“970. Where the holder of a life insurance policy, other than an annuity contract, last acquired before 2 December 1982 becomes, under the terms of the policy, entitled to receive from the insurer, at any time before the death of the person insured under such policy, all of the proceeds payable at that time, other than policy dividends, under the policy in the form of an annuity contract or annuity payments, the following rules apply:

(a) the payments shall be regarded as annuity payments made under an annuity contract;

(b) the purchase price of the annuity contract is deemed to be the adjusted cost base of the policy to the holder immediately before the first payment under that contract becomes payable; and

(c) the annuity contract or annuity payments are deemed not to be the proceeds of disposition of an interest in the policy.

“971. A holder of a life insurance policy who disposes in any manner whatever of his interest in the policy to a person with whom he is not dealing at arm’s length or who disposes, by gift *inter vivos* or by will, by distribution from a corporation or by operation of law only, of the said interest to a person is deemed thereupon to be entitled

to receive proceeds of disposition equal to the value of the interest at the time of the disposition, and the person to whom the disposition is made is deemed to acquire the interest at a cost equal to such value.

Notwithstanding any provision therein, the first paragraph does not apply in the case of a deemed disposition described in paragraph *b* of section 967."

(2) This section, where it replaces section 970 of the Taxation Act, has effect from 2 December 1982, and where it replaces section 971 of the said Act, it applies in respect of dispositions occurring after 12 November 1981.

226. (1) Section 976 of the said Act is amended

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

"**976.** In this title, sections 92.9 to 92.20 and paragraph *c.1* of section 312, the adjusted cost base to the holder of a 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, exceeds the aggregate";

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

"(c) the amounts in respect of the disposition of an interest in the policy before that particular time that he was required to include in computing his income or his income earned in Canada as determined under Part II for a taxation year;";

(3) by striking out the word "and" at the end of paragraph *e*;

(4) by replacing paragraph *f* by the following paragraphs:

"(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 sections 92 or 92.9 to 92.20 or paragraph *c.1* of section 312;

"(g) the amounts paid to him in respect of his interest in the policy to the extent to which prescribed tax was imposed on them before the particular time; and

"(h) in the case of an interest in a life annuity contract, within the meaning of the regulations under section 966, to which section 92.9, 92.11 or 92.12 applies for the taxation year that includes the particular time or would apply if the contract had a third anniversary in the year, all amounts each of which is a mortality gain in respect of the interest as determined in prescribed manner, immediately before the end of

the calendar year ending in a taxation year commencing before the particular time."

(2) This section applies to taxation years commencing after 31 December 1982; however, where it replaces paragraphs *c* and *f* of section 976 of the Taxation Act and where it enacts paragraph *g* of the said section 976, it has effect from 13 November 1981.

227. (1) The said Act is amended by inserting, after section 976, the following section:

"976.1 The amount that the holder of a life insurance policy shall subtract from the aggregate determined under section 976 is the aggregate of the following amounts:

(a) the total proceeds of the disposition of his interests in the policy that he became entitled to receive before the particular time;

(b) the amount payable on 31 March 1978 in respect of a policy loan in respect of the policy;

(c) the amount received before the particular time in respect of the policy that he was entitled to deduct under paragraph *f* of subsection 1 of section 336 in computing his income for a taxation year;

(d) the amounts in respect of his interest in the policy that he deducted under section 157.3 in computing his income for a taxation year commencing before the particular time;

(e) in the case of an interest in a life insurance policy, other than an annuity contract, that was last acquired after 1 December 1982 by the policyholder, all amounts each of which is the net cost of pure insurance in respect of the interest, determined in prescribed manner immediately before the end of the calendar year ending in a taxation year commencing after 31 May 1985 and before the particular time;

(f) in the case of an interest in an annuity contract to which section 92.9, 92.11 or 92.12 applies or would apply if the contract had a third anniversary in the taxation year that includes that time, the annuity payments paid, in respect of the interest, while the policyholder held the interest and before that time;

(g) in the case of an interest in a contract described in paragraph *h* of section 976, all amounts each of which is a mortality loss in respect of the interest, determined in prescribed manner before the particular time."

(2) This section applies to taxation years commencing after 31 December 1982.

228. (1) The said Act is amended by inserting, after section 977, the following section:

“977.1 For the purposes of computing a taxpayer’s income from the disposition of a part of his interest in an annuity contract or in a life insurance policy other than an annuity contract last acquired after 1 December 1982, the adjusted cost basis to him, immediately before the disposition of that part is obtained by multiplying the adjusted cost basis to him of his interest immediately before the disposition, by the ratio between the proceeds of the disposition of the part of his interest and the accumulating fund with respect to his interest, as determined in prescribed manner, immediately before the disposition.

The first paragraph does not apply, however, if the disposition is a policy loan granted after 31 March 1978 in respect of the policy or is a deemed disposition under paragraph *a* of section 967.”

(2) This section applies in respect of dispositions occurring after 12 November 1981.

229. (1) Section 998 of the said Act is amended, in paragraph *c.2*,

(1) by replacing what precedes subparagraph *i* by the following:

“(c.2) a corporation all of the shares, and rights to acquire shares, of the capital stock of which were owned by one or more registered retirement plans, by one or more trusts all the beneficiaries of which are registered pension plans or by one or more segregated fund trusts, within the meaning of paragraph *k* of section 835, all the beneficiaries of which are registered retirement plans or, in the case of a corporation without share capital, all the property of which was held exclusively for the benefit of one or more such plans and, in either case, without interruption from the later of the date on which the corporation was incorporated and 16 November 1978, is a corporation that”;

(2) by replacing subparagraphs *ii* and *iii* by the following subparagraphs:

“*ii.* has limited, without interruption since the later of the date on which it was incorporated and 16 November 1978, its activities to acquiring, holding, maintaining, improving, leasing or managing capital property that is real property or an interest therein owned by the corporation, a registered retirement plan or another corporation described in this subparagraph, other than a corporation without share capital, borrowed money solely for the purpose of earning income from real property or an interest therein and made no investments other than investments in real property or an interest therein or investments that a registered retirement plan is permitted to make under the Pension Benefits Standards Act (Statutes of Canada) or a similar law of a province; or

“iii. has made no investments other than investments that a registered retirement plan is permitted to make under the Pension Benefits Standards Act (Statutes of Canada) or a similar law of a province, and whose assets where at least 98 per cent cash and investments, that has not issued debt obligations or accepted deposits, and has derived at least 98 per cent of its income for the period referred to in section 980 that is a taxation year of the corporation from, or from the disposition of, investments; or

“iv. throughout the period contemplated in section 980, has limited its activities to acquiring Canadian resource properties by purchase or by incurring Canadian exploration expenses or Canadian development expenses, or holding, exploring, developing, maintaining, improving, managing, operating or disposing of its Canadian resource properties, borrowed money solely for the purpose of earning income from Canadian resource properties and made no investments other than in Canadian resource properties, in property to be used in connection with Canadian resource properties acquired by purchase or by incurring Canadian exploration expenses or Canadian development expenses, in loans secured by Canadian resource properties for the purpose of acquiring, holding, exploring, developing, maintaining, improving, managing, operating or disposing of a Canadian resource property or in investments that a pension plan is permitted to make under the Pension Benefits Standards Act (Statutes of Canada) or of a similar law of a province;”.

(2) This section applies to taxation years commencing after 31 December 1978.

230. (1) The said Act is amended by inserting, after section 999, the following section:

“999.1 Where a corporation ceases to be exempt from tax on its taxable income under this Part, at any time after 12 November 1981, otherwise than by reason of control of the corporation being acquired by any person or persons pursuant to an agreement in writing entered into before 13 November 1981, the following rules apply:

(a) the taxation year of the corporation that would otherwise include that time is deemed to end at that time and a new taxation year is deemed to commence immediately thereafter;

(b) the corporation is deemed, immediately before that time, to dispose, for an amount equal to its fair market value at that time, of any property, other than property described in paragraphs *a* to *e* of section 328, that was owned by it immediately before that time for an amount equal to its fair market value at that time and to reacquire it immediately thereafter at a cost equal to its fair market value;

(c) for the purposes of sections 93 to 104, 130 and 130.1 and of the regulations under paragraph *a* of section 130, where paragraph *b* applies in respect of depreciable property of the corporation and the capital cost, to the corporation, of the property immediately before that time exceeds the fair market value of the property at that time, the capital cost of the property to the corporation immediately after that time is deemed to be its capital cost immediately before that time and the excess is deemed to have been allowed to the corporation as depreciation in respect of the property in computing its income for taxation years ending before that time."

(2) This section has effect from 30 March 1983.

231. (1) Section 1015 of the said Act is amended

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

"(a) salary or wages or other remuneration,";

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

"(j) an allowance under the National Training Act (Statutes of Canada),";

(3) by repealing paragraph *m*;

(4) by adding the following paragraphs:

"(n) an amount as a benefit under the Labour Adjustment Benefits Act (Statutes of Canada),

"(o) an amount or amounts to an individual who has elected for the year in prescribed form in respect of all such amounts."

(2) Paragraph 1 of subsection 1 has effect from 30 March 1983.

(3) Paragraph 2 of subsection 1 has effect from 2 August 1982.

(4) Paragraph 3 of subsection 1 applies in respect of a payment made after 12 November 1981 respecting a cessation of office or employment occurring after that date.

(5) Paragraph 4 of subsection 1, where it enacts paragraph *n* of section 1015 of the Taxation Act, applies in respect of an amount paid after 31 December 1981 and, where it enacts paragraph *o* of the said section 1015, it has effect from 30 March 1983.

232. (1) Section 1025 of the said Act, amended by section 13 of chapter 49 of the statutes of 1983, is again amended by replacing what precedes paragraph *a* by the following:

“1025. Every individual, other than an individual referred to in section 1018, whose chief source of income is farming or fishing shall pay to the Minister:”.

(2) This section has effect from 30 March 1983.

233. (1) Section 1029.3 of the said Act, replaced by section 42 of chapter 44 of the statutes of 1983, is again replaced by the following section:

“1029.3 Section 1029.2 does not apply, for a taxation year, in respect of a corporation that is exempt from tax for that year nor in respect of the portion of a non-capital loss that the corporation, but for section 735.1, would not be allowed to deduct for the year by reason of section 564.4.1 or 736.01, even if the aggregate described in section 564.4.2 or the second paragraph of section 736.01, as the case may be, were sufficient.”

(2) This section applies in respect of a portion of a non-capital loss of a corporation the control of which is acquired after 12 November 1981, unless it is acquired before 1 January 1983 in accordance with arrangements which were very substantially advanced and evidenced in writing on 12 November 1981, except that where section 1029.3 of the Taxation Act enacted thereby refers to a corporation that is exempt from tax for a year, it applies to taxation years ending after 10 May 1983.

234. (1) Section 1034 of the said Act is amended by replacing subsections 1 and 2 by the following subsections:

“1034. (1) Where a person transfers property, directly or indirectly, by means of a trust or by any means whatever to a person with whom he is not dealing at arm's length, a person who is under 18 years of age, or his spouse or a person who, after the transfer, becomes his spouse, the transferee and transferor are jointly and severally liable to pay a part of the transferor's tax for each taxation year equal to the amount by which the tax for the year is greater than it would have been if it were not for the operation of sections 454 to 468, in respect of any income from, or gain from the disposition of, the property so transferred or property substituted therefor.

(2) The transferee and transferor are also jointly and severally liable to pay under this Act an amount equal to the lesser of the following amounts:

(a) the amount by which the fair market value of the property at the time it was transferred exceeds the fair market value at that time of the consideration given for the property;

(b) the aggregate of the amounts that the transferor is liable to pay under this Act in respect of the taxation year in which the property was transferred or of any preceding taxation year.”

(2) This section applies in respect of the transfer of property occurring after 12 November 1981.

235. (1) The said Act is amended by inserting, after section 1042, the following section:

“**1042.1** Where the tax payable under this Part by a taxpayer for a taxation year is increased by virtue of an adjustment of an income or profits tax payable by him in a year to the government of a foreign country or a political subdivision of any such country, no interest is payable in respect of the amount of the increase for the period ending 90 days following the date on which he is first notified of the amount of the adjustment.”

(2) This section applies in respect of notices sent after 31 December 1980.

236. (1) Section 1089 of the said Act is amended

- (1) by striking out the word “and” at the end of paragraph *i*;
- (2) by replacing the period at the end of paragraph *j* by a semicolon;
- (3) by adding the following paragraph:

“(k) the amount that, if the individual had been resident in Québec throughout the year, would be included under section 968 or 968.1 in computing his income in respect of an interest in 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.”

(2) This section applies in respect of dispositions occurring after 12 November 1981.

237. (1) Section 1090 of the said Act is amended

- (1) by striking out the word “and” at the end of paragraph *i*;
- (2) by replacing the period at the end of paragraph *j* by a semicolon;
- (3) by adding the following paragraph:

“(k) the amount that, under section 968 or 968.1, would be included in computing his income in respect of an interest in a life insurance policy in Canada, within the meaning of the regulations under section 818, if he had been resident in Canada throughout the year.”

(2) This section applies in respect of dispositions occurring after 12 November 1981.

238. (1) Section 1091 of the said Act is replaced by the following section:

“1091. The taxable income earned in Canada by an individual contemplated in section 26 is equal to the income contemplated in section 1090 less the aggregate of

(a) the deductions permitted by sections 710 to 712, 723 and 725.1;

(b) such of the deductions from income permitted by sections 727 to 737 as may reasonably be considered to be applicable to the services he rendered in an office or employment in Canada, to an establishment in Canada of a business carried on by him in Canada or to a disposition of property, any profit or gain on which would have been required to be included in computing his income earned in Canada under section 1090; and

(c) where all or substantially all of the individual's income for the year, as determined under section 28, is composed of the income described in paragraph *a* or *b* of section 1090 or, to the extent to which it refers to paragraphs *g* and *h* of section 312, in subparagraph ii of paragraph *b* of section 1092, such of the other deductions from income permitted for the purpose of computing taxable income as may reasonably be considered wholly applicable.”

(2) This section applies from the taxation year 1982.

239. (1) Section 1092 of the said Act is amended, in paragraph *b*

(1) by striking out the word “and” at the end of subparagraph i;

(2) by adding the following subparagraph:

“iii. amounts described in paragraph *e* of section 1093 received by him in the year, except to the extent that they are otherwise required to be included in computing his income earned in Québec for the year; and”.

(2) This section applies in respect of amounts received after 12 November 1981.

240. (1) Section 1093 of the said Act is amended

(1) by striking out the word “or” at the end of paragraph *c*;

(2) by replacing the period at the end of paragraph *d* by the following: “; or”;

(3) by adding the following paragraph:

“(e) an individual who receives in the year an amount, under a contract, that is or will be deductible in computing the income of a taxpayer subject to tax under Part I and that can, irrespective of the contract, reasonably be regarded as having been received, in whole or in part

i. as remuneration from an office or employment or compensation for services rendered in Québec; or

ii. as consideration for entering into a contract of service or an agreement to render such service in Québec, or for undertaking not to enter into such a contract or agreement with a third party.”

(2) This section applies in respect of amounts received after 12 November 1981.

241. (1) Section 1094 of the said Act is amended by replacing paragraph *b* by the following paragraphs:

“(b) any capital property used in Québec in carrying on a business other than an insurance business;

“(b.1) any capital property that is property used or held in Québec by an insurer in the year in carrying on an insurance business in Canada within the meaning of the regulations under section 818;”.

(2) This section applies in respect of dispositions of property occurring after 12 November 1981.

242. (1) Section 1102 of the said Act is amended by replacing what precedes paragraph *a* of the first paragraph by the following:

“**1102.** Where a person who is not resident in Canada disposes or proposes to dispose of a life insurance policy described in paragraph *k* of section 1089, a Québec resource property within the meaning of paragraph *d* of section 1089 or any property that would be such a property if it had been acquired after 31 December 1971, or a property which is or would be, if he disposed of it, a taxable Québec property that is depreciable property or that is referred to in section 1097, to any person with whom he is not dealing at arm’s length, for no consideration or for consideration less than its fair market value at the time of the disposition or proposed disposition, or to any person by way of gift *inter vivos*, the following rules apply:”.

(2) This section has effect from 30 March 1983.

243. (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 paragraph *k* of section 1089, a Québec resource property within the meaning of paragraph *d* of section 1089 or any property that would be such a property if it had been acquired after 31 December 1971, 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.”

(2) This section has effect from 30 March 1983.

244. (1) The said Act is amended by inserting, after section 1102.2, the following section:

“1102.3 Where a person who is not resident in Canada has disposed of a life insurance policy described in paragraph *k* of section 1089, by virtue of section 967 or of a surrender, a policy loan, the dissolution of an interest in the policy by virtue of the maturity of the policy or a particular payment referred to in paragraph *a* of section 966, the insurer is, for the purposes of sections 1102.1 and 1102.2, deemed to be the taxpayer who acquired the property for an amount equal to the proceeds of disposition as determined under sections 966 to 977.1.”

(2) This section has effect from 30 March 1983.

245. (1) The Act respecting the application of the Taxation Act (R.S.Q., chapter I-4) is amended by inserting, after section 51, the following section:

“51.1 This chapter does not apply in respect of the disposition, deemed or not deemed, of a property that a taxpayer is deemed to have reacquired previously under section 832.1 of the Taxation Act.”

(2) This section applies in respect of taxation years commencing after 12 November 1981.

246. (1) Section 68 of the said Act is amended by replacing subparagraph *c* of the first paragraph by the following subparagraph:

“(c) the amount by which the aggregate of the proceeds of disposition of capital property and of the amounts required to be

deducted by section 257 of the Taxation Act in computing the adjusted cost base to the taxpayer immediately before the disposition and of the amounts described in paragraph *e* of section 70 and relevant to such computation at that time, exceeds the aggregate of the amounts required to be included by section 255 of the said Act, without taking account of its paragraphs *c.1* and *f.1*, in such computation at the same time and of the amounts described in paragraph *b* of section 70 and relevant to that computation at the same time.”

(2) This section applies in respect of dispositions occurring after 12 November 1981.

247. (1) Section 70 of the said Act is amended by replacing paragraph *d* by the following paragraph:

“(d) a capital loss or an amount that would but for sections 239 or 534 and 535 of the said Act be such a loss, from the disposition after 1971 of capital property to a corporation by the person described in paragraph *a*;”.

(2) This section applies in respect of dispositions occurring after 12 November 1981.

248. Section 81 of the said Act is amended by replacing the second paragraph by the following paragraph:

“In addition, for the purposes of the computation described in the first paragraph after 28 October 1980 or of computing the adjusted cost base of such an interest that a taxpayer disposed of after 31 December 1976 and before 29 October 1980 if, in the latter case, the taxpayer, within 90 days after 18 March 1982, made an election under subsection 3 of section 58 or 59 of chapter 5 of the statutes of 1982, subparagraph *i* of paragraph *l* of section 257 of the said Act shall be read with the replacement of what follows the figure “744.1” by the following: “paragraph *j* of section 157, the second paragraph of section 741 and the provisions of the Act respecting the application of the Taxation Act that regard sections 105 to 110.1, did not exist;”.

249. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

250. This Act comes into force on the day of its sanction.