

1994, chapter 22

AN ACT TO AMEND THE TAXATION ACT, THE ACT RESPECTING THE QUÉBEC SALES TAX AND OTHER FISCAL PROVISIONS

Bill 15

Introduced by Mr André Vallerand, Minister of Revenue

Introduced 12 May 1994

Passage in principle 1 June 1994

Passage 17 June 1994

Assented to 17 June 1994

Coming into force: 17 June 1994

Acts amended:

Act to promote industrial development by means of fiscal advantages (R.S.Q., chapter D-9)

Land Transfer Duties Act (R.S.Q., chapter D-17)

Act respecting municipal taxation (R.S.Q., chapter F-2.1)

Retail Sales Tax Act (R.S.Q., chapter I-1)

Tobacco Tax Act (R.S.Q., chapter I-2)

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

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

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

Act respecting real estate tax refund (R.S.Q., chapter R-20.1)

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

Fuel Tax Act (R.S.Q., chapter T-1)

Telecommunications Tax Act (R.S.Q., chapter T-4)

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

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

Act to again amend the Taxation Act and various legislative provisions (1993, chapter 64)





CHAPTER 22

An Act to amend the Taxation Act, the Act respecting the Québec sales tax and other fiscal provisions

[Assented to 17 June 1994]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT TO PROMOTE INDUSTRIAL DEVELOPMENT BY MEANS OF FISCAL ADVANTAGES

c. D-9, s. 2,
am.

1. Section 2 of the Act to promote industrial development by means of fiscal advantages (R.S.Q., chapter D-9) is amended by replacing subsection 2 by the following subsection:

Deduction
authorized

“(2) Every company engaged in the operation of a manufacturing or processing business in Québec may, in computing its taxable income, deduct an amount equal to 30 % of the investments made by it in Québec in such business during the period commencing on 1 April 1968 and ending on 31 March 1971.”

LAND TRANSFER DUTIES ACT

c. D-17, s. 1,
am.

2. (1) Section 1 of the Land Transfer Duties Act (R.S.Q., chapter D-17), amended by section 570 of chapter 57 of the statutes of 1992, is again amended by replacing paragraphs *d* to *f* of the definition of “consideration” by the following paragraphs:

“(d) the amount, in capital, interest and outlays, of the debt which is extinguished when a creditor acquires the right of ownership to the land by the exercise of a taking in payment as the consequence of a real security encumbering the land in his favour, except with regard to municipal and school taxes;

“(e) the market value of land at the time of a transfer consisting of emphyteusis or a lease relating to that land or consisting of the transfer of the right of a lessee on such land;

“(f) the market value of land at the time of the transfer of such land where the transferee has acquired it by gratuitous title or where no consideration was furnished or stipulated in the application for registration of the transfer;”.

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

c. D-17,
s. 1.1, added

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

Interpreta-
tion

“1.1 In this Act and the regulations, any reference to a spouse shall be construed as if the rules prescribed under section 2.2.1 of the Taxation Act (R.S.Q., chapter I-3) applied to this Act, adapted as required.”

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

c. D-17, s. 9,
am.

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

Collection

“9. The registrar shall collect payment of the duties at the time of registration of the transfer except where they have already been paid to the Minister; in the case of a deemed transfer, the Minister shall collect payment of the duties.”

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

c. D-17,
s. 10,
replaced

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

Duties of
the registrar

“10. The registrar shall refuse to register a transfer if he notes that the application for registration of the transfer does not contain the particulars required in sections 17 and 18, if the applicant does not present the copy contemplated in section 19 or if payment of the duties is not made except, in the last case, where there is an exemption or payment is deferred.

Powers of
the registrar

The registrar may refuse to register the transfer if he has reasonable cause to believe that duties must be paid and that payment has not been made.

Duties of
the registrar

The registrar shall, however, register the transfer on the presentation of a receipt of the Minister or of another registrar attesting the payment of the duties relating to the same transfer.”

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

c. D-17,
s. 13, am.

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

“(a) where the application for registration of the transfer has not yet been tendered to the registrar;

“(b) if the consideration furnished by the transferee exceeds the amount of the consideration mentioned in the application for registration of the transfer, but only for the portion of the duties applicable to the amount in excess;”.

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

c. D-17,
s. 15,
replaced

7. (1) Section 15 of the said Act is replaced by the following section:

Inadequate
consideration

“15. Where the Minister is of opinion that the value of the consideration is less than the market value of the property transferred at the time of such transfer, the value of such consideration, notwithstanding the particulars of the application for registration of the transfer, shall be deemed equal to such market value.”

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

c. D-17,
s. 17, am.

8. (1) Section 17 of the said Act is amended by replacing that part preceding paragraph *b* by the following:

Particulars
to be
inserted in a
deed of
transfer
relating to
land

“17. The application for registration of a transfer relating to land to a transferee must contain the following particulars in the prescribed manner:

(a) the name of the transferor and of the transferee;”.

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

c. D-17,
s. 18,
replaced

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

Particulars
to be
inserted in a
deed of
transfer
relating to
immovable
rights

“18. The application for registration of a transfer relating to immovable rights to a transferee other than an application contemplated in section 17 must contain, in the prescribed manner, the particulars contemplated in paragraphs *a*, *b*, *c*, *d*, *e*, *f* and *i* of section 17.”

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

c. D-17,
s. 19,
replaced

10. (1) Section 19 of the said Act is replaced by the following section:

Documents
to be pre-
sented at
the time of
registration

“19. Every person applying for the registration of a transfer relating to land or other immovable rights to a transferee shall, in addition to the documents required for registration, present to the registrar a non-authenticated copy of the deed of transfer and of the summary or extract, if the application is made by way of either means.”

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

c. D-17,
s. 20,
replaced

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

Documents
to be remit-
ted to the
Minister by
the registrar

“20. The registrar shall notify the Minister of every transfer by transmitting to him, at the prescribed intervals, the copy presented by the applicant pursuant to section 19.”

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

c. D-17,
s. 21,
French text,
replaced

12. (1) Section 21 of the said Act is replaced, in the French text, by the following section:

Remise de
chèques et
de déclara-
tions au
ministre

“21. L’officier de la publicité des droits remet au ministre, quotidiennement, les chèques représentant le paiement des droits, ainsi qu’une déclaration faite par lui en la forme prescrite.”

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

c. D-17,
s. 24, am.

13. (1) Section 24 of the said Act is amended by replacing subsection 2 by the following subsection:

Extension of
the word
“land”

“(2) For the purposes of subsection 1, the word “land” includes the rights on land arising from emphyteusis and from a contract of lease, providing that the period running from the date of the transfer to that of the termination of the contract of lease, including any extension or renewal mentioned therein, is 40 years or longer.”

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

c. D-17,
s. 32,
replaced

14. (1) Section 32 of the said Act is replaced by the following section:

Particulars
to be
inserted in
the deed of
transfer

“32. The transferee shall not be permitted to defer payment of the duties unless

(a) the application for registration of a transfer contemplated in section 17 contains the following particulars:

i. the undertaking contemplated in section 29 or the statement contemplated in section 30 or 31;

ii. a stipulation of hypothec on the land, by the transferee in favour of the Minister, for the amount of the duties of which payment is deferred; and

(b) the stipulation of hypothec referred to in subparagraph ii of paragraph *a* is published.”

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

c. D-17,
s. 33,
replaced

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

Particulars
to be
inserted in
the state-
ment to be
filed at the
time of a
deemed
transfer

“33. In the case of a deemed transfer, the transferee shall not be permitted to defer payment of the duties unless

(a) the statement contemplated in section 27 is by notarial act *en minute* and contains the following particulars:

i. the undertaking contemplated in section 29 or the statement contemplated in section 31;

ii. a stipulation of hypothec on the land, by the transferee in favour of the Minister, for the amount of the duties of which payment is deferred; and

(b) the stipulation of hypothec contemplated in subparagraph ii of paragraph *a* is published and transmitted with a registration certificate to the Minister.”

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

c. D-17,
s. 40, am.

16. (1) Section 40 of the said Act, amended by section 571 of chapter 57 of the statutes of 1992, is again amended by replacing that part preceding paragraph *a* by the following:

Transferee
whose busi-
ness con-
sists in the
lending of
money on
the security
of real prop-
erty

“40. There shall be an exemption from the payment of duties where the business of the transferee consists in the lending of money on the security of real property, provided the application for registration of the transfer mentions that the following conditions have been fulfilled:”

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

c. D-17,
s. 41, am.

17. (1) Section 41 of the said Act is amended by replacing subsection 1 by the following subsection:

Insurance
corporation,
subsidiary

“41. (1) There shall be an exemption from the payment of duties where the transferee is a person described in subsection 2, provided the application for registration of the transfer mentions the description of such person that appears in the said subsection and the fact that he fulfills one of the conditions provided for in subsections 3 to 6.”

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

c. D-17,
s. 42, am.

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

Transfer in
the same
corporate
group

“42. (1) There shall be an exemption from the payment of duties in the following cases, provided the application for registration of the transfer mentions the fact that:”

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

c. D-17,
s. 43, am.

19. (1) Section 43 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

Transfer
between a
physical per-
son and a
corporation

“43. There shall be an exemption from the payment of duties, in the following cases, provided the application for registration of the transfer mentions the fact that:”

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

c. D-17,
s. 44, am.

20. (1) Section 44 of the said Act is amended

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

Exemptions

“44. There shall be an exemption from the payment of duties in the following cases, provided the application for registration of the transfer mentions the fact that:”;

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

Contract of
lease for
less than
40 years

“(b) the deed of transfer is in relation to the lease of land or to the transfer of the right of a lessee on land, provided that the period which runs from the date of the transfer to that of the termination of the contract of lease, including any extension or renewal mentioned therein, does not exceed 40 years;”;

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

Transfer in
the direct
line,
between
spouses

“(e) the deed relates to the transfer of land to an ascendant or descendant in the direct line, between spouses, between the father

or mother of an individual and the spouse of the individual, or between the spouse of an individual and the son or daughter of the individual;”.

(2) Paragraphs 1 and 2 of subsection 1 have effect from 1 January 1994.

(3) Paragraph 3 of subsection 1 has effect from 1 January 1993.

c. D-17,
s. 44.1, am.

21. (1) Section 44.1 of the said Act is amended by replacing that part preceding paragraph *a* of subsection 1 by the following:

Exemptions

“44.1 (1) There shall be an exemption from the payment of duties where the application for registration of the transfer mentions that the following conditions have been fulfilled:”.

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

c. D-17,
s. 45, am.

22. (1) Section 45 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) by reason of a transfer of shares or an interest, as the case may be, to an ascendant or descendant in the direct line, or between spouses, between the father or mother of an individual and the spouse of the individual, or between the spouse of an individual and the son or daughter of the individual; or”.

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

c. D-17,
s. 46, am.

23. (1) Section 46 of the said Act is amended by replacing the second paragraph by the following paragraph:

Require-
ments

“The application for registration of a transfer contemplated in section 17 or the statement contemplated in section 27 must mention the agreement, which must be annexed to the application or to the statement.”

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

c. D-17,
s. 47,
French
text, am.

24. (1) Section 47 of the said Act is amended by replacing, in the French text, paragraph *c* by the following paragraph:

“(c) faciliter la perception des droits et pour nommer des personnes, autres que les officiers de la publicité des droits, pour percevoir les droits;”.

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

ACT RESPECTING MUNICIPAL TAXATION

c. F-2.1,
s. 221, am.

25. (1) Section 221 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), replaced by section 3 of chapter 19 of the statutes of 1993, is amended by replacing that part preceding paragraph 1 by the following:

Tax payable

“221. Subject to section 224, a person who operates or has operated a system certain immovables of which, under sections 66 to 68, are not entered on the roll, must pay, as municipal real estate tax on these immovables and the lands which are the site thereof and are contemplated in paragraph 7 of section 204, for each municipal fiscal period coinciding with a particular calendar year, in the case of a gas distribution or telecommunications system, a tax based on his taxable revenue and, in the case of an electric power production, transmission or distribution system, a tax based on his taxable gross revenue, for each fiscal period ending in the calendar year preceding the particular year, equal to”.

(2) Subsection 1 applies to fiscal periods of persons who operate a gas distribution or telecommunications system ending after 14 May 1992.

c. F-2.1,
s. 224,
replaced

26. (1) Section 224 of the said Act is replaced by the following section:

System not
confined to
Québec

“224. Where a person contemplated in section 221 operates or has operated a gas distribution or telecommunications system which is not confined to Québec, the tax the person is required to pay under that section for a fiscal period is equal to the amount of the tax that would be determined for the fiscal period, but for this section, that the part of his gross revenue from a business described in subparagraph 4 of the first paragraph of section 228, that may reasonably be attributed to Québec for that fiscal period is of the part of his gross revenue, from that business, that may reasonably be attributed to a particular jurisdiction for that fiscal period.”

(2) Subsection 1 applies to fiscal periods ending after 14 May 1992.

c. F-2.1,
s. 228.2,
added

27. (1) The said Act is amended by inserting, after section 228.1, enacted by section 6 of chapter 19 of the statutes of 1993, the following section:

Amounts to
be included
in comput-
ing the reve-
nue or loss
from the
operation of
a system

“228.2 Where a person operates or has operated a gas distribution or telecommunications system and pays or undertakes to

pay, in respect of a particular fiscal period, to a person to whom he is related, within the meaning of the Taxation Act (R.S.Q., chapter I-3), or to whom he would be related if the latter person, in this section referred to as the “particular person”, were subject to that Act, an amount that may reasonably be regarded as paid or payable for the system, or such material or equipment as may reasonably be attributed to the operation of such a system, to be made available to him, each amount described in the second paragraph shall be included in computing the revenue or loss of that person from the operation of the system for the particular fiscal period.

Interpreta-
tion

The amounts to be included in computing the revenue or loss of the person referred to in the first paragraph are the amounts that under Part I of the Taxation Act are deductible, in respect of the system, material or equipment, in computing the revenue of the particular person for his fiscal period ending during the particular fiscal period, or that would be deductible were the particular person subject to the Taxation Act, as interest or under sections 130, 130.1, 147, paragraphs *a* and *b* of section 148, paragraph *d* of section 157, sections 176 and 176.4 and subsection 1 of section 179 of the Taxation Act.”

(2) Subsection 1 applies to fiscal years of persons who operate a gas distribution or telecommunications system ending after 14 May 1992.

c. F-2.1,
s. 229, am.

28. (1) Section 229 of the said Act, replaced by section 7 of chapter 19 of the statutes of 1993, is amended by replacing the first paragraph by the following paragraph:

Sections con-
sidered to
be fiscal law

“229. Sections 220.2 to 220.13, 221, 224, 225, 226 to 228.1 and 265 are considered to be fiscal law within the meaning of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).”

(2) Subsection 1 applies to fiscal periods ending after 14 May 1992.

c. F-2.1,
s. 262, am.

29. (1) Section 262 of the said Act is amended by striking out paragraph 3.

(2) Subsection 1 applies to fiscal periods ending after 14 May 1992.

c. F-2.1,
s. 524,
repealed

30. Section 524 of the said Act is repealed.

RETAIL SALES TAX ACT

c. I-1,
ss. 7.1.1,
7.1.2, added

31. (1) The Retail Sales Tax Act (R.S.Q., chapter I-1) is amended by inserting, after section 7.1, the following sections:

Acceptance
of reimburs-
able coupon

“7.1.1 For the purposes of sections 6 and 7, where the vendor of a movable property accepts, in full or partial consideration for the sale of the property, a coupon that entitles the purchaser to a reduction of the price of the property equal to a fixed dollar amount specified in the coupon and the vendor can reasonably expect to be paid an amount for the redemption of the coupon by another person, the purchase price of the property so sold is deemed to be equal to the price that would be determined if the coupon were not accepted, except as regards the application of section 13.

Acceptance
of non-
reimburs-
able coupon

“7.1.2 For the purposes of sections 6 and 7, where the vendor of a movable property accepts, in full or partial consideration for the sale of the property, a coupon that entitles the purchaser to a reduction of the price of the property equal to a fixed dollar amount specified in the coupon and the vendor can reasonably expect not to be paid an amount for the redemption of the coupon by another person, the vendor shall treat the coupon

(1) as reducing the purchase price in the manner provided for in section 7.2; or

(2) as a partial cash payment that does not reduce the purchase price, in which event section 7.1.1 applies and the vendor may claim compensation, in the account to be rendered to the Minister for the month in which the coupon was accepted, equal to the amount obtained by multiplying $8/108$ by the fixed dollar amount specified in the coupon.”

(2) Subsection 1 applies from 1 January 1991.

c. I-1, s. 7.2,
am.

32. (1) Section 7.2 of the said Act is amended by replacing the second paragraph by the following paragraph:

Coupon

“The coupon referred to in the first paragraph is a coupon that may be exchanged for movable property or that may entitle the purchaser of such property to a discount, and in respect of which section 7.1.1 does not apply.”

(2) Subsection 1 applies from 1 January 1991.

c. I-1, s. 7.3,
added

33. (1) The said Act is amended by inserting, after section 7.2, the following section:

Coupon

“7.3 For the purposes of sections 7.1.1 to 7.2, a coupon does not include a gift certificate.”

(2) Subsection 1 applies from 1 January 1991.

c. I-1,
s. 15.1, added

34. (1) The said Act is amended by inserting, after section 15, the following section:

Application
of section 14

“15.1 For the purposes of section 14, and notwithstanding section 24 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), where the vendor of a movable property may claim compensation under paragraph 2 of section 7.1.2, the vendor may deduct the amount of the compensation from the amounts collected and to be remitted by the vendor and in respect of which an account must be rendered.”

(2) Subsection 1 applies from 1 January 1991.

c. I-1, s. 17,
am.

35. (1) Section 17 of the said Act is amended

(1) by inserting, after subparagraph iv of paragraph 1.1, the following subparagraph:

“iv.1 an aerosol chamber or a metered dose inhaler for use in the treatment of asthma when the sale is made to a consumer on the written order of a physician;”;

(2) by inserting, after subparagraph xx of the said paragraph, the following subparagraphs:

“xx.1 an extremity pump, intermittent pressure pump or similar device for use in the treatment of lymphedema when the sale is made to a consumer on the written order of a physician;

“xx.2 a catheter for sub-cutaneous injections or a lancet when the sale is made to a consumer on the written order of a physician;”;

(3) by inserting, after subparagraph xxii of the said paragraph, the following subparagraph:

“xxii.1 an orthotic device when the sale is made to a consumer on the written order of a physician;”;

(4) by inserting, after subparagraph xxx of the said paragraph, the following subparagraph:

“xxx.1 a dog that is or is to be trained to assist a person with a hearing impairment in respect of problems arising from the

impairment, where the dog is purchased or sold by an organization that is operated for the purpose of supplying such dogs to persons with hearing impairments;”;

(5) by adding, after subparagraph xxxii of the said paragraph, the following subparagraphs:

“xxxiii. a graduated compression stocking, an anti-embolic stocking or similar article when the sale is made to a consumer on the written order of a physician;

“xxxiv. clothing that is specially designed for use by a disabled person when the sale is made to a consumer on the written order of a physician;”;

(6) by inserting, after paragraph *l.4*, the following paragraphs:

“(*l.5*) Sales of a drug included in Schedule C to the Food and Drugs Act (Statutes of Canada);

“(*l.6*) Sales of human sperm;”;

(7) by inserting, before paragraph *p*, the following paragraph:

“(*o.1*) Sales of a poppy or wreath made by the Minister of Veterans Affairs in the course of operating a sheltered employment workshop or by the Dominion Command, or any provincial command or branch of the Royal Canadian Legion;”.

(2) Subject to subsections 3 to 5, subsection 1 applies to the bringing into Québec of movable property after 5 November 1991 and to any sale in Québec after that date the sale price of which becomes due or is paid after 31 December 1990, other than a sale in respect of which

(*a*) no part of the price becomes due or is paid after 5 November 1991 without having become due; or

(*b*) ownership or possession of the property is transferred to the purchaser before 1 October 1991.

(3) Paragraph *l.5* of section 17 of the said Act, as enacted by subsection 1, applies to drugs brought into Québec after 31 March 1991 and to sales made in Québec the sale price of which becomes due or is paid after 31 March 1991 and no part of the sale price of which became due or was paid before 1 April 1991.

(4) Paragraph *l.6* of section 17 of the said Act, as enacted by subsection 1, applies to human sperm brought into Québec after

30 April 1991 and to sales made in Québec the sale price of which becomes due or is paid after 31 March 1991 and no part of the sale price of which became due or was paid before 1 April 1991.

(5) Paragraph *o.1* of section 17 of the said Act, as enacted by subsection 1, applies from 1 January 1991.

c. 1-1,
s. 18.1, am.

36. (1) Section 18.1 of the said Act is amended by replacing paragraph *o* by the following paragraph:

“(o) pudding, including flavoured gelatine, mousse, flavoured whipped dessert product or any other products similar to pudding, or beverages, other than unflavoured milk, except

i. when prepared and prepackaged specially for consumption by babies,

ii. when sold in multiples, prepackaged by the manufacturer or producer, of single servings, or

iii. when the cans, bottles or other primary containers in which the beverages or products are sold contain a quantity exceeding a single serving;”.

(2) Subsection 1 applies from 1 January 1991. However, paragraph *o* of section 18.1, as enacted by subsection 1, shall be read as follows in its application to a sale in respect of which tax would have been payable before 28 March 1991 were it not for the said paragraph *o*, to a sale in respect of which an amount was paid as tax before that date or to the bringing into Québec of any property before that date:

“(o) pudding, yoghurt or beverages, other than unflavoured milk, except

i. when prepared and prepackaged specially for consumption by babies,

ii. when sold in multiples, prepackaged by the manufacturer or producer, of single servings, or

iii. when the cans, bottles or other primary containers in which the beverages or products are sold contain a quantity exceeding a single serving;”.

Retroactive
coming into
force

37. A provision of the Retail Sales Tax Act (R.S.Q., chapter I-1), enacted by this Act and applying from 1 January 1991 shall be applied in conformity with section 58 of chapter 60 of the statutes of 1990.

TOBACCO TAX ACT

c. I-2, s. 2,
am.

38. (1) Section 2 of the Tobacco Tax Act (R.S.Q., chapter I-2), amended by section 1 of chapter 79 of the statutes of 1993, is again amended by replacing the definition of “tobacco” by the following definition:

“tobacco”

“ “tobacco” means tobacco in any form in which tobacco is consumed, and includes snuff, but does not include leaf tobacco which has not been processed beyond the drying stage or fragments of such tobacco leaves;”.

(2) This section has effect from 16 November 1991. However, for the period commencing on 16 November 1991 and ending on 23 April 1993, the definition of “tobacco” in the said section shall be read as follows:

“tobacco”

“ “tobacco” means tobacco in any form in which tobacco is consumed, and includes snuff, but does not include raw leaf tobacco;”.

c. I-2, s. 8,
am.

39. (1) Section 8 of the said Act, amended by section 7 of chapter 79 of the statutes of 1993 and replaced by section 1 of chapter 42 of the statutes of 1994, is amended

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

“(a) \$0.0138 per cigarette and per cigar sold at a retail price of \$0.15 or less;”;

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

“(c) 50 % of the retail price of each cigar other than a cigar sold at a retail price of \$0.15 or less;”.

(2) This section has effect from 16 November 1991. However, paragraphs *a* and *c* of section 8 of the Tobacco Tax Act, as enacted by this section, shall be read as follows:

(a) for the period commencing on 16 November 1991 and ending on 31 December 1991:

“(a) \$0.0576 per cigarette and per cigar sold at a retail price of \$0.15 or less;

“(c) 82 % of the retail price of each cigar other than a cigar sold at a retail price of \$0.15 or less;”;

(b) for the period commencing on 1 January 1992 and ending on 8 February 1994:

“(a) \$0.0688 per cigarette and per cigar sold at a retail price of \$0.15 or less;

“(c) 95 % of the retail price of each cigar other than a cigar sold at a retail price of \$0.15 or less;”.

c. I-2, s. 10,
am.

40. (1) Section 10 of the said Act is amended by adding, at the end, the following paragraph:

Exclusions

“However, the first paragraph does not apply in respect of cigars sold at a retail price of \$0.15 or less each.”

(2) This section has effect from 16 November 1991.

TAXATION ACT

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

41. (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 1 of chapter 16 of the statutes of 1993, by section 12 of chapter 19 of the statutes of 1993, by section 4 of chapter 64 of the statutes of 1993 and by section 15 of chapter 13 of the statutes of 1994, is again amended

(1) by inserting, after the definition of “net capital loss”, the following definition:

“net income
stabilization
account”

“ “net income stabilization account” means an account of a taxpayer under the net income stabilization account program under the Farm Income Protection Act (Statutes of Canada);”;

(2) by replacing the definition of “corporation” by the following definition:

“corpora-
tion”, “corpo-
ration incor-
porated in
Canada”

“ “corporation” includes any corporation legally incorporated whatever be the nature and place of its incorporation and “corporation incorporated in Canada” includes any corporation incorporated in any region of Canada before or after it became part of Canada;”;

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

“small busi-
ness corpora-
tion”

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

(4) by replacing paragraphs *d* and *e* of the definition of “cost amount” by the following paragraphs:

“(d) in the case of intangible capital property of the taxpayer in respect of a business, $\frac{4}{3}$ of the amount that would, but for section 106.1, be the proportion of the eligible intangible capital amount of the taxpayer in respect of the business at that time that the fair market value, at that time, of the intangible capital property is of the fair market value, at that time, of the aggregate of intangible capital properties of the taxpayer in respect of the business;

“(e) in the case of a debt owing to the taxpayer, other than a debt the amount of which was deducted by him under section 141 in computing his income for a taxation year ending before that time, other than an amount in respect of a net income stabilization account, or in the case of any other right of the taxpayer to receive an amount, other than a right to receive an amount in respect of a net income stabilization account, the amortized cost to the taxpayer of the debt or right at that time or, where the debt or right does not have an amortized cost to the taxpayer, the amount of such debt or right that was outstanding at that time;”;

(5) by inserting, after the definition of “allowable capital loss”, the following definition:

“amateur athlete trust” “ “amateur athlete trust” has the meaning assigned by section 851.34;”;

(6) by replacing the definition of “brother” by the following definition:

“brother” “ “brother” of a taxpayer includes the brother of the taxpayer’s spouse and the spouse of the taxpayer’s sister;”;

(7) by replacing the definition of “grandmother” by the following definition:

“grand-mother” “ “grandmother” of a taxpayer includes the grandmother of the taxpayer’s spouse and the spouse of the taxpayer’s grandfather;”;

(8) by inserting, after the definition of “grandmother”, the following definition:

“great-uncle” “ “great-uncle” of a taxpayer includes the spouse of the taxpayer’s great-aunt;”;

(9) by replacing the definition of “grandfather” by the following definition:

“grandfather” “grandfather” of a taxpayer includes the grandfather of the taxpayer’s spouse and the spouse of the taxpayer’s grandmother;”;

(10) by inserting, after the definition of “grandmother”, the following definition:

“great-aunt” “great-aunt” of a taxpayer includes the spouse of the taxpayer’s great-uncle;”;

(11) by striking out the definition of “mother”;

(12) by inserting, in alphabetical order, the following definitions:

“nephew” “nephew” of a taxpayer includes the nephew of the taxpayer’s spouse;

“niece” “niece” of a taxpayer includes the niece of the taxpayer’s spouse;”;

(13) by replacing the definition of “small business bond” by the following definition:

“small business bond” “small business bond” has the meaning assigned by section 119.15;”;

(14) by inserting, after the definition of “trust”, the following definition:

“uncle” “uncle” of a taxpayer includes the spouse of the taxpayer’s aunt;”;

(15) by striking out the definition of “father”;

(16) by replacing the definition of “person” by the following definition:

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

(17) by inserting, before the definition of “non-capital loss”, the following definition:

“NISA Fund No. 2” “NISA Fund No. 2” means the portion of a taxpayer’s net income stabilization account described in paragraph *b* of subsection 2 of section 8 of the Farm Income Protection Act (Statutes of Canada);”;

(18) by replacing the definition of “sister” by the following definition:

“sister” ““sister” of a taxpayer includes the sister of the taxpayer’s spouse and the spouse of the taxpayer’s brother;”;

(19) by inserting, after the definition of “assessment”, the following definition:

“aunt” ““aunt” of a taxpayer includes the spouse of the taxpayer’s uncle;”;

(20) by inserting, after the definition of “income interest”, the following definition:

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

(21) by replacing the definition of “development bond” by the following definition:

“develop-
ment bond” ““development bond” has the meaning assigned by section 119.2;”.

(2) Paragraphs 1, 3 and 17 of subsection 1 apply from the taxation year 1991.

(3) Paragraph 4 of subsection 1, where it replaces paragraph *d* of the definition of “cost amount” in section 1 of the Taxation Act, applies, in the case of a corporation, to taxation years of the corporation commencing after 30 June 1987 and, in any other case, to fiscal periods commencing after 31 December 1987. However, for the period preceding 14 July 1990, paragraph *d* of that definition, as enacted by paragraph 4 of subsection 1, shall be read as follows:

“(d) in the case of intangible capital property in respect of a business, 4/3 of the amount that would, but for section 106.1, be the eligible intangible capital amount of the taxpayer in respect of the business at that time;”.

(4) Paragraph 4 of subsection 1, where it replaces paragraph *e* of the definition of “cost amount” in section 1 of the Taxation Act, applies from the taxation year 1991.

(5) Paragraph 5 of subsection 1 applies from the taxation year 1988.

(6) Paragraphs 6 to 12, 14, 15, 18 and 19 of subsection 1 have effect from 1 January 1993.

(7) Paragraphs 13 and 21 of subsection 1 apply in respect of bonds issued after 25 February 1992.

(8) Paragraph 16 of subsection 1 has effect from 1 January 1994. However, where the definition of “person” in section 1 of the Taxation Act, as enacted by paragraph 16, applies after 31 December 1993 and before 17 June 1994, it shall be read as follows:

“person” “person”, or any word or expression descriptive of a person, includes any body politic and corporate, and the heirs, liquidators, administrators or other legal representatives of such person, according to the law of that part of Canada to which the context extends;”.

(9) Paragraph 20 of subsection 1 applies in respect of indexed debt obligations issued after 16 October 1991.

c. I-3, s. 2,
replaced

42. (1) Section 2 of the said Act is replaced by the following section:

Reference
to the father
or mother

“2. In this Part and the regulations, words referring to the father or mother of a taxpayer include a person whose child the taxpayer is, a person whose child the taxpayer had previously been within the meaning of paragraph *b* of the definition of “child” in section 1 or a person who is the father or mother of the taxpayer’s spouse.”

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

c. I-3, s. 2.2,
replaced

43. (1) Section 2.2 of the said Act, replaced by section 4 of chapter 16 of the statutes of 1993 and by section 14 of chapter 19 of the statutes of 1993, is again replaced by the following section:

Extension of
“spouse”
and “former
spouse”

“2.2 For the purposes of section 2.1, paragraphs *a* to *b.0.1* of section 312, sections 313 to 313.0.5, paragraphs *a*, *a.0.1* and *b* of subsection 1 and subsection 2 of section 336, sections 336.1 to 336.4, 440, 441.1, 454, 456.1 and 462.0.1, the definition of “pre-1972 spousal trust” in section 652.1, sections 653, 656.3, 656.5 and 913, subparagraph *b* of the second paragraph of section 961.17, sections 965.0.9, 965.0.11, 971.2 and 971.3 and Division II.11 of Chapter III.1 of Title III of Book IX, “spouse” and “former spouse” of a particular individual include another individual of the opposite sex who is a party to an annulled or annulable marriage, as the case may be, with the particular individual.”

(2) Subsection 1 applies from the taxation year 1991. However, where section 2.2 of the Taxation Act, as enacted by subsection 1,

(a) applies to the taxation year 1991, it shall be read without reference to “and Division II.11 of Chapter III.1 of Title III of Book IX”;

(b) has effect before 1 January 1993,

i. the reference therein to “paragraphs *a* to *b.0.1* of section 312” shall be read as a reference to “paragraphs *a* and *b* of section 312”, and

ii. the reference therein to “paragraphs *a*, *a.0.1* and *b* of subsection 1 and subsection 2 of section 336” shall be read as a reference to “paragraphs *a* and *b* of subsection 1 and subsection 2 of section 336”;

(c) applies in respect of dispositions occurring before 1 January 1993, the reference therein to “441.1” shall be read as a reference to “441.1, 443”.

c. 1-3,
ss. 2.2.1,
2.2.2, added

44. (1) The said Act is amended by inserting, after section 2.2, the following sections:

Reference
to a spouse
or to mar-
riage

“2.2.1 In this Part and the regulations,

(a) words referring to a spouse at any time of a taxpayer include the person of the opposite sex who cohabits at that time with the taxpayer in a conjugal relationship and has so cohabited with the taxpayer throughout a 12-month period ending at that time, or is the father or mother of a child of whom the taxpayer is the father or mother;

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

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

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

Presumption

For the purposes of subparagraph *a* of the first paragraph, where at any time the taxpayer and the person referred to in that

subparagraph cohabit in a conjugal relationship, they are deemed to be so cohabiting at any particular time after that time, unless they were not cohabiting at the particular time for a period of at least 90 days that includes the particular time because of a breakdown of their conjugal relationship.

Meaning of
the word
“heir”

“2.2.2 For the purposes of sections 47.2 and 47.4, paragraph *a* of section 47.5, sections 209.3 and 317, paragraph *b* of section 609, paragraph *c* of section 894 and paragraph *m* of section 998, the expression “heir” includes a legatee by particular title.”

(2) Subsection 1, where it enacts section 2.2.1 of the Taxation Act, has effect from 1 January 1993 and, where it enacts section 2.2.2 of the said Act, has effect from 1 January 1994.

c. I-3, s. 4,
am.

45. (1) Section 4 of the said Act is amended

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

Computation

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

(*a*) where the taxpayer is a surviving spouse of the employee and is the only person who has received an amount under section 3, the lesser of”;

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

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

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

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

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

c. I-3, s. 7.1,
French text,
am.

46. (1) Section 7.1 of the said Act is amended by replacing, in the French text, paragraph *b* by the following paragraph:

“(b) en raison d’une répudiation ou d’un abandon par une personne qui était un bénéficiaire en vertu du testament ou autre acte testamentaire du contribuable ou de son conjoint ou un bénéficiaire de la succession *ab intestat* du contribuable ou de son conjoint.”

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

c. I-3, s. 7.2,
French text,
replaced

47. (1) Section 7.2 of the said Act is replaced, in the French text, by the following section:

Présomption

“7.2 L’abandon, à l’égard d’un bien qui était celui d’un contribuable immédiatement avant son décès, par une personne qui était un bénéficiaire en vertu du testament ou autre acte testamentaire du contribuable ou de la succession *ab intestat* du contribuable, est réputé, pour l’application de la présente partie, ne pas être une aliénation du bien par cette personne.”

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

c. I-3,
ss. 7.4.1,
7.4.2, added

48. (1) The said Act is amended by inserting, after section 7.4, the following sections:

Trust
deemed to
be created
by will

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

Property
vested inde-
feasibly

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

(2) Subsection 1, where it enacts section 7.4.1 of the Taxation Act, applies from the taxation year 1990 and, where it enacts section 7.4.2 of the said Act, applies in respect of deaths occurring after 20 December 1991.

c. I-3, s. 7.6,
replaced

49. (1) Section 7.6 of the said Act is replaced by the following section:

Tax agree-
ments

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

Transfer of
rights and
obligations

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

(2) Subsection 1 has effect from 1 January 1985.

c. I-3, s. 7.9,
am.

50. (1) Section 7.9 of the said Act, enacted by section 6 of chapter 16 of the statutes of 1993, is amended

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

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

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

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

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

c. I-3,
s. 7.11.1,
added

51. (1) The said Act is amended by inserting, after section 7.11, enacted by section 6 of chapter 16 of the statutes of 1993, the following section:

Beneficial
interest in
a trust

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

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

c. I-3,
s. 7.14, added

52. (1) The said Act is amended by inserting, after section 7.13, enacted by section 6 of chapter 16 of the statutes of 1993, the following section:

Determina-
tion of resi-
dence

“7.14 The application of this Act and the regulations is not affected by article 77 of the Civil Code of Québec as regards the

determination of whether or not a person is resident in Québec, in Canada or elsewhere.”

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

c. I-3, Part
I, Book I,
Title II,
Chap. II,
heading,
French text,
replaced

53. (1) The heading of Chapter II of Title II of Book I of Part I of the said Act is replaced, in the French text, by the following heading:

“RÉSIDENCE RÉPUTÉE”.

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

c. I-3,
s. 11.2,
repealed

54. (1) Section 11.2 of the said Act, enacted by section 589 of chapter 57 of the statutes of 1992, is repealed.

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

c. I-3,
s. 21.3,
replaced

55. (1) Section 21.3 of the said Act, replaced by section 10 of chapter 16 of the statutes of 1993, is again replaced by the following section:

Control
deemed not
to be
acquired

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

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

c. I-3,
s. 21.10.1,
replaced

56. (1) Section 21.10.1 of the said Act is replaced by the following section:

Dividend
deemed
received as
interest

“21.10.1 The rule provided in section 21.10 also applies where a particular corporation receives, in a taxation year, from a corporation not resident in Canada a dividend on a share, other than a term preferred share, that is a grandfathered share or was issued

before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 and was not deemed by section 740.3.1 to have been issued after that time, if the dividend is a dividend in respect of which no deduction could have been made under section 738, 740 or 845 by reason of sections 740.2 to 740.3.1 as they read on 17 June 1987, if the corporation that paid the dividend had been a taxable Canadian corporation.”

(2) Subsection 1 applies in respect of dividends received or deemed to be received on shares acquired after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987.

c. I-3,
s. 21.18, am.

57. (1) Section 21.18 of the said Act is amended

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

Rules appli-
cable

“21.18 The following rules apply for the purpose of determining whether or not a taxpayer is a specified shareholder of a corporation at any time:”;

(2) by replacing, in the French text, paragraph *b* by the following paragraph:

“*b*) chaque bénéficiaire d’une fiducie est réputé propriétaire de la proportion de toutes les actions du capital-actions d’une corporation dont la fiducie est propriétaire à ce moment, représentée par le rapport entre la juste valeur marchande, à ce moment, de son *beneficial interest* dans la fiducie et celle, au même moment, de tous les *beneficial interests* dans la fiducie;”;

(3) by striking out the word “and” at the end of paragraph *c*;

(4) by adding, after paragraph *d*, the following paragraph:

“(e) notwithstanding paragraph *b*, where a beneficiary’s share of the income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, a faculty to elect, the beneficiary is deemed to own each share of the capital stock of a corporation owned at that time by the trust.”

(2) Paragraphs 1 and 2 of subsection 1 have effect from 1 January 1991.

(3) Paragraphs 3 and 4 of subsection 1 have effect from 1 January 1992.

c. I-3,
s. 21.22,
replaced

58. (1) Section 21.22 of the said Act is replaced by the following section:

Corpora-
tions
deemed not
to be associ-
ated

“21.22 Where one corporation would, but for this section, be associated with another corporation in a taxation year by reason of both of the corporations being controlled by the same trustee or liquidator and it is established to the satisfaction of the Minister that the trustee or liquidator did not acquire control of the corporations as a result of one or more trusts created or successions opened by the same individual or two or more individuals not dealing with each other at arm’s length, and that the trust or succession under which the trustee or liquidator acquired control of each of the corporations arose only upon the death of the individual who created the trust or whose succession was opened, the two corporations are deemed, for the purposes of this Part, not to be associated with each other in the year.”

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

c. 1-3,
s. 21.38,
French text,
replaced

59. (1) Section 21.38 of the said Act is replaced, in the French text, by the following section:

Montant
d’aide
réputé rem-
boursé

“21.38 Pour l’application de la présente partie, lorsqu’un montant est ajouté, à un moment donné, dans le calcul de la taxe nette d’un contribuable en vertu de la Loi sur la taxe de vente du Québec (L.R.Q., chapitre T-0.1) à l’égard d’un remboursement de la taxe sur les intrants qui est relatif à un bien ou à un service et qui a déjà été déduit dans le calcul de la taxe nette du contribuable, ou qu’un montant accordé à un contribuable en vertu de l’article 406 de cette loi à titre de compensation à l’égard de la taxe de vente du Québec relative à un bien est remboursé au ministre par le contribuable à un moment donné, ce montant est réputé être un montant d’aide remboursé au moment donné à l’égard du bien ou du service conformément à une obligation juridique de rembourser en totalité ou en partie ce montant d’aide.”

(2) Subsection 1, where it replaces the word “légale” in the French text of section 21.38 of the Taxation Act by the word “juridique”, has effect from 1 July 1992.

c. 1-3, s. 29,
am.

60. (1) Section 29 of the said Act is amended by replacing the second paragraph by the following paragraph:

Application
of allowable
deductions

“The deductions allowed by sections 334 to 356 shall, notwithstanding the first paragraph, be applied to the whole income of the taxpayer. However, for the purposes of Part II and sections 772 and 772.1, in the case of income or loss from an office, employment or business performed or carried on partly in Canada and partly in another place, the allowable deductions, except those provided in

paragraphs *a* to *b* or paragraph *c* of subsection 1 of section 336 or in paragraph *b* of section 339, shall be applied separately to the income from each of such places.”

(2) Subsection 1 has effect from 1 January 1993. However, where the second paragraph of section 29 of the Taxation Act, as enacted by subsection 1, refers to paragraph *a.1* of subsection 1 of section 336, it applies in respect of orders made after 31 December 1992.

c. 1-3,
s. 41.2, am.

61. (1) Section 41.2 of the said Act is amended by replacing paragraphs *a* and *b* by the following paragraphs:

“(a) an amount that would be required under section 37 or 41 to be included in computing his income for the year in respect of a supply, other than a zero-rated supply or an exempt supply within the meanings assigned by Part IX of the Excise Tax Act (Statutes of Canada), of property or a service if no amount were paid to the employer or to a person related to the employer in respect of the amount that would be so required to be included, exceeds

“(b) the amount included in the amount referred to in paragraph *a* in respect of the property or service that may reasonably be attributed to tax levied under an Act of the legislature of a province or of the Northwest Territories or the Yukon Territory that is a prescribed tax for the purposes of section 154 of the Excise Tax Act.”

(2) Subsection 1 applies from the taxation year 1991. However, where paragraph *a* of section 41.2 of the Taxation Act, as enacted by subsection 1, applies to the taxation year 1991, it shall be read as follows:

“(a) an amount required under section 37 or 41 to be included in computing his income for the year in respect of a supply, other than a zero-rated supply or an exempt supply within the meanings assigned by Part IX of the Excise Tax Act (Statutes of Canada), of property or a service, exceeds;”.

c. 1-3,
ss. 41.2.1,
41.2.2, added

62. (1) The said Act is amended by inserting, after section 41.2, the following sections:

Benefit
related to
the Québec
sales tax

“41.2.1 An individual shall include in computing his income for a taxation year from an office or employment the aggregate of

(a) 8 % of the aggregate of all amounts each of which is

i. an amount that would be required under section 37 or 41 to be included in computing his income for the year in respect of a supply

of property, other than a supply of property referred to in subparagraph *i* of subparagraph *b* or a zero-rated supply or an exempt supply within the meanings assigned by section 1 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), if no amount were paid to the employer or to a person related to the employer in respect of the amount that would be so required to be included, and

ii. an amount included under section 41.2 in computing his income for the year in respect of a supply of property referred to in subparagraph *i*; and

(*b*) 4 % of the aggregate of all amounts each of which is

i. an amount that would be required under section 37 to be included in computing his income for the year in respect of a supply of property or a service referred to in the second paragraph of section 16 of the Act respecting the Québec sales tax, as enacted by section 168 of the Act to again amend the Taxation Act and other legislation (1993, chapter 19), other than a zero-rated supply or an exempt supply within the meanings assigned by section 1 of the Act respecting the Québec sales tax, if no amount were paid to the employer or to a person related to the employer in respect of the amount that would be so required to be included, and

ii. an amount included under section 41.2 in computing his income for the year in respect of a supply of property or a service referred to in subparagraph *i*.

Exception

The first paragraph does not apply in respect of

(*a*) a supply of property or a service, at any particular time, in respect of which no Québec sales tax would be payable by the individual referred to in the first paragraph if he himself were the recipient of the supply at that time;

(*b*) a supply of property, at any particular time, in respect of which the Québec sales tax that would be paid by the individual referred to in the first paragraph if he himself were the recipient of the supply at that time, would be subject to compensation under section 406 of the Act respecting the Québec sales tax; or

(*c*) a benefit described in section 41.2.2.

Benefit
related to
the opera-
tion of an
automobile

“41.2.2 An individual shall include in computing his income for a taxation year from an office or employment, in respect of a benefit related to the operation of an automobile determined for the year in accordance with section 41.1, an amount equal to 8 % of the aggregate

of the amount that would be required under section 37 to be included in computing his income for the year in respect of that benefit if no amount were paid to the employer or to a person related to the employer in respect of the amount that would be so required to be included, and the amount that is required under section 41.2 to be included by the individual in computing his income for the year in respect of that benefit.”

(2) Subsection 1 applies from the taxation year 1992. However, where section 41.2.1 of the Taxation Act, as enacted by subsection 1, applies in respect of benefits enjoyed by an individual

(a) before 1 July 1992, it shall be read as follows:

Benefit
related to
the Québec
sales tax

“**41.2.1** An individual shall include in computing his income for a taxation year from an office or employment an amount equal to 8 % of the aggregate of all amounts each of which is

(a) an amount that would be required under section 37 or 41 to be included in computing his income for the year if no amount were paid to the employer or to a person related to the employer in respect of the amount that would be so required to be included, in respect of a supply of property, other than a supply of property that would be referred to in the second paragraph of section 16 of the Act respecting the Québec sales tax and amending various fiscal legislation (1991, chapter 67), as enacted by section 168 of the Act to again amend the Taxation Act and other legislation (1993, chapter 19), if that paragraph were in force from 1 January 1992, and other than a zero-rated supply or an exempt supply within the meanings assigned by section 1 of the Act respecting the Québec sales tax and amending various fiscal legislation, if the latter Act were in force from 1 January 1992; and

(b) an amount included under section 41.2 in computing his income for the year in respect of a supply of property referred to in subparagraph *a*.

Exception

The first paragraph does not apply in respect of

(a) a supply of property, at any particular time, in respect of which no Québec sales tax would be payable by the individual referred to in the first paragraph if the Act respecting the Québec sales tax and amending various fiscal legislation were in force from 1 January 1992 and if he himself were the recipient of the supply at that time;

(b) a supply of property, at any particular time, in respect of which the Québec sales tax that would be paid by the individual

referred to in the first paragraph if the Act respecting the Québec sales tax and amending various fiscal legislation were in force from 1 January 1992 and if he himself were the recipient of the supply at that time, would be subject to compensation under section 406 of that Act; or

(c) a benefit described in section 41.2.2.”;

(b) after 30 June 1992 and before 1 March 1994,

i. the reference to the “Act respecting the Québec sales tax (R.S.Q., chapter T-0.1)” in subparagraph i of subparagraph *a* of the first paragraph of the said section 41.2.1 shall be read as a reference to the “Act respecting the Québec sales tax and amending various fiscal legislation (1991, chapter 67)”, and

ii. the reference to the “Act respecting the Québec sales tax” in subparagraph *b* of the first paragraph and in subparagraph *b* of the second paragraph of the said section 41.2.1 shall be read as a reference to the “Act respecting the Québec sales tax and amending various fiscal legislation”.

c. 1-3,
s. 41.3,
replaced

63. (1) Section 41.3 of the said Act is replaced by the following section:

Determina-
tion of the
cost of a
property or
service

“41.3 To the extent that an amount required to be included, under section 37 or 41, in computing the income of an individual for a taxation year is determined by reference to the cost to a person of any property or service, that cost shall, for the purposes of those sections, be determined without reference to

(a) the tax payable after 31 December 1991 under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) by the person in respect of the property;

(b) the Québec sales tax payable by the person in respect of the property or service; or

(c) the goods and services tax payable by the person in respect of the property or service.”

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

c. 1-3, s. 87,
am.

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

(1) by replacing, in the French text, subparagraph i of paragraph *n* by the following subparagraph:

“i. d’un montant qui est réputé être un gain en capital imposable du contribuable en vertu de ce titre; et”;

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

certain pay-
ments to
farmers

“(o) any amount received by the taxpayer in the year as a stabilization payment, or as a refund of a levy, under the Western Grain Stabilization Act (Statutes of Canada) or as a payment, or a refund of a premium, in respect of the gross revenue insurance program established under the Farm Income Protection Act (Statutes of Canada);”;

(3) by adding, after paragraph *x*, the following paragraph:

amateur ath-
lete trust
payments

“(y) any amount in respect of an amateur athlete trust required by section 851.35 to be included in computing his income for the year.”

(2) Paragraph 1 of subsection 1 has effect from 1 January 1994.

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

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

c. 1-3,
s. 87.4,
replaced

65. (1) Section 87.4 of the said Act is replaced by the following section:

Deemed out-
lay or
expense

“87.4 A taxpayer who has in a taxation year received an amount that would, but for this section, be included in computing his income for the year under paragraph *w* of section 87 in respect of an outlay or expense made or incurred by him before the end of the following taxation year, other than an outlay or expense in respect of the cost of property of the taxpayer, may elect under this section, on or before the day on or before which his fiscal return under this Part for the year is required to be filed, or would be required to be filed if the taxpayer had tax payable under this Part for the year or, where the outlay or expense is made or incurred in the following taxation year, for that following year, that the amount of the outlay or expense be deemed, for the purpose of computing his income, other than for the purposes of this section, paragraph *w* of section 87 and paragraph *o* of section 157, to have always been the amount by which the amount of the outlay or expense exceeds the lesser of the amount elected by the taxpayer under this section and the amount so received by the taxpayer.

Assessment
by the Minis-
ter

Notwithstanding sections 1010 to 1011, the Minister shall make, under this Part, such assessment or reassessment of the tax, interest

and penalties of the taxpayer referred to in the first paragraph as is necessary for any taxation year to give effect to the election made by the taxpayer under the first paragraph.”

(2) Subsection 1 applies in respect of amounts received after 31 January 1990.

c. 1-3, s. 92,
am.

66. (1) Section 92 of the said Act is amended by replacing the second paragraph by the following paragraph:

Exception

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

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

c. 1-3,
s. 92.5.1,
replaced

67. (1) Section 92.5.1 of the said Act is replaced by the following section:

Disposition
of interest
in a debt
obligation

“92.5.1 Where a taxpayer disposes of an interest in a debt obligation that is a debt obligation in respect of which the proportion of the payments of principal to which the taxpayer is entitled is not equal to the proportion of the payment of interest to which the taxpayer is entitled, such portion of the proceeds of disposition received by the taxpayer as may reasonably be considered to represent a recovery of the cost to him of the interest in the debt obligation shall, notwithstanding any other provision of this Part, not be included in computing his income.

Debt obliga-
tion

A debt obligation referred to in the first paragraph includes, for greater certainty, all of the issuer’s obligations to pay principal and interest under that debt obligation.”

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

c. 1-3,
ss. 92.5.2,
92.5.3, added

68. (1) The said Act is amended by inserting, after section 92.5.1, the following sections:

NISA
receipts

“92.5.2 There shall be included in computing the income of a taxpayer for a taxation year from a property the aggregate of all amounts each of which is the amount determined by the formula

$$A - B.$$

Interpreta-
tion

For the purposes of the formula in the first paragraph,

(a) A is an amount paid at a particular time in the year out of the taxpayer's NISA Fund No. 2; and

(b) B is the amount by which

i. the aggregate of all amounts each of which is deemed to have been paid before the particular time out of the NISA Fund No. 2

(1) of the taxpayer under section 656.3 or 660.1, or

(2) of another person under section 437.1 or 462.0.1, on being transferred to the taxpayer's NISA Fund No. 2, exceeds

ii. the aggregate of all amounts each of which is the amount by which an amount otherwise determined under this section in respect of a payment out of the taxpayer's NISA Fund No. 2, before the particular time, was reduced because of the letter described in this subparagraph.

Amount
credited or
added not
included in
income

"92.5.3 Notwithstanding any other provision of this Part, an amount added or credited to a taxpayer's NISA Fund No. 2 shall not be included in computing the taxpayer's income solely because of that adding or crediting."

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

c. 1-3,
s. 92.7, am.

69. (1) Section 92.7 of the said Act, amended by section 49 of chapter 16 of the statutes of 1993, is again amended by striking out the word "or" at the end of subparagraph viii of paragraph a and by inserting thereafter the following subparagraph:

"viii.1 an obligation in respect of a net income stabilization account, and".

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

c. 1-3,
s. 93.10,
replaced

70. (1) Section 93.10 of the said Act, enacted by section 56 of chapter 16 of the statutes of 1993, is replaced by the following section:

Transfer of
property

"93.10 For the purposes of section 93.6 and notwithstanding sections 93.7 to 93.9, property of a taxpayer is deemed to have become available for use by the taxpayer at the earlier of the time the property was acquired by the taxpayer and, if applicable, a prescribed time, where

(a) the property was acquired from a person with whom the taxpayer was not dealing at arm's length, otherwise than by reason

of a right referred to in paragraph *b* of section 20, at the time the property was acquired by the taxpayer, or in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, section 308.1 would not apply to the dividend by reason of the application of section 308.3; and

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

(2) Subsection 1 applies in respect of property acquired after 31 December 1989.

c. I-3,
s. 93.12,
French text,
am.

71. Section 93.12 of the said Act, enacted by section 56 of chapter 16 of the statutes of 1993, is amended, in the French text, by replacing the first paragraph by the following paragraph:

Location
d'un bien

“93.12 Lorsqu'un contribuable a loué un bien amortissable d'une personne avec laquelle il a un lien de dépendance, le montant déterminé en vertu du deuxième alinéa est réputé être le coût pour le contribuable d'un bien compris dans la catégorie 13 de l'annexe B du Règlement sur les impôts (R.R.Q., 1981, chapitre I-3, r. 1) et ne pas être un montant payé ou à payer pour l'usage ou le droit d'usage du bien.”

c. I-3, s. 96,
French text,
am.

72. (1) Section 96 of the said Act, amended by section 57 of chapter 16 of the statutes of 1993, is again amended, in the French text, by adding the word “et” at the end of paragraph *b* of subsection 3.

(2) Subsection 1 applies in respect of dispositions of former properties occurring after 13 July 1990.

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

73. Section 99 of the said Act, amended by section 58 of chapter 16 of the statutes of 1993, is again amended by replacing that part preceding paragraph *a* by the following:

Rules appli-
cable

“99. For the purposes of this division, Chapter III, sections 64 and 78.4 and any regulations made under paragraph *a* of section 130, the following rules apply:”.

c. I-3,
s. 101.5,
replaced

74. (1) Section 101.5 of the said Act is replaced by the following section:

Corpora-
tions con-
trolled by
one trustee

“101.5 For the purposes of paragraph *d.1* of section 99, two corporations are deemed not to be related to each other at a particular time where, but for this section, they would be related to one another by reason of their being controlled by the same trustee or liquidator and it is established that

(a) the trustee or liquidator did not acquire control of the corporations as a result of one or more trusts or estates created by the same individual or by two or more individuals not dealing with each other at arm’s length; and

(b) the trust or estate under which the trustee or liquidator acquired control of each of the corporations arose only on the death of the individual creating the trust or estate.”

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

c. I-3, s. 105,
am.

75. (1) Section 105 of the said Act, amended by section 64 of chapter 16 of the statutes of 1993, is again amended by replacing that part preceding paragraph *a* by the following:

Inclusion in
income from
business

“105. Where, at the end of a taxation year, the aggregate determined under paragraph *b* of section 107 in respect of a business of a taxpayer exceeds the aggregate of all amounts determined under subparagraphs *i* to *iv* of paragraph *a* of the said section in respect of that business, the following rules apply:”.

(2) Subsection 1 applies, in the case of a corporation, to taxation years commencing after 30 June 1988 and, in any other case, to fiscal periods commencing after 31 December 1987.

c. I-3, s. 111,
replaced

76. (1) Section 111 of the said Act is replaced by the following section:

Benefit con-
ferred on a
shareholder
or contem-
plated share-
holder

“111. Where, at any time in a taxation year, a benefit is conferred by a corporation on a shareholder, or on a person in contemplation of his becoming a shareholder, the amount or value thereof shall be included in computing the income of the shareholder or the person, as the case may be, for the year.”

(2) Subsection 1, except where it inserts the words “or the person, as the case may be,” in section 111 of the Taxation Act, applies in respect of benefits conferred after 19 December 1991.

c. I-3, s. 112,
replaced

77. (1) Section 112 of the said Act, replaced by section 68 of chapter 16 of the statutes of 1993, is again replaced by the following section:

Provision
not to apply

“112. Section 111 does not apply if the amount or value mentioned therein is deemed to be a dividend under Chapter III of Title IX or if it arises out of

(a) the reduction of the paid-up capital of a corporation, the acquisition, cancellation or redemption by it of shares of its capital stock or the winding-up, discontinuance or reorganization of its business or a transaction to which sections 556 to 569 apply;

(b) the payment of a dividend or a stock dividend;

(c) the conferring, on all owners of common shares of the capital stock of the corporation at the time referred to in section 111, of a right in respect of each common share, that is identical to every other right conferred at that time in respect of each other such share, to acquire additional shares of the capital stock of the corporation; or

(d) a transaction described in any of paragraphs *d* to *f* of subsection 2 of section 504.

Rights not
considered
identical

For the purposes of subparagraph *c* of the first paragraph, rights will not be considered identical if the cost of acquiring the rights differs.”

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

c. 1-3,
s. 112.2,
replaced

78. (1) Section 112.2 of the said Act is replaced by the following section:

Benefit
related to
the goods
and services
tax

“112.2 Where the amount or value of a benefit, other than the value of a benefit determined under section 117, would be required under section 111 to be included in computing the income of a taxpayer for a taxation year in respect of a supply of property or a service, other than a zero-rated supply or an exempt supply within the meanings assigned by Part IX of the Excise Tax Act (Statutes of Canada), if no amount were paid to the corporation or to a person related to the corporation in respect of the amount that would be so required to be included, the taxpayer shall also include in computing his income for the year an amount equal to 7 % of the amount by which the amount or value of the benefit that would be so required under section 111 to be included in computing the taxpayer's income for the year exceeds the amount included in the amount or value of the benefit that may reasonably be attributed to tax levied under an Act of the legislature of a province or of the Northwest Territories or the Yukon Territory that is a prescribed tax for the purposes of section 154 of the Excise Tax Act.”

(2) Subsection 1 applies from the taxation year 1991. However, where section 112.2 of the Taxation Act, as enacted by subsection 1, applies to the taxation year 1991, it shall be read as follows:

Benefit
related to
the goods
and services
tax

“112.2 Where the amount or value of a benefit, other than the value of a benefit determined under section 117, is required under section 111 to be included in computing the income of a taxpayer for a taxation year in respect of a supply of property or a service, other than a zero-rated supply or an exempt supply within the meanings assigned by Part IX of the Excise Tax Act (Statutes of Canada), the taxpayer shall also include in computing his income for the year an amount equal to 7 % of the amount by which the amount or value of the benefit that is so required under section 111 to be included in computing the taxpayer's income for the year exceeds the amount included in the amount or value of the benefit that may reasonably be attributed to tax levied under an Act of the legislature of a province or of the Northwest Territories or the Yukon Territory that is a prescribed tax for the purposes of section 154 of the Excise Tax Act.”

c. 1-3,
s. 112.2.1,
added

79. (1) The said Act is amended by inserting, after section 112.2, the following section:

Benefit
related to
the Québec
sales tax

“112.2.1 Where the amount or value of a benefit, other than the value of a benefit determined under section 117, is required under section 111 to be included in computing the income of a taxpayer for a taxation year in respect of a supply of property or a service, other than a zero-rated supply or an exempt supply within the meanings assigned by section 1 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), the taxpayer shall also include in computing his income for the year

(a) in respect of a supply of property, other than a supply of property referred to in subparagraph *b*, an amount equal to 8 % of the aggregate of

i. the amount or value of the benefit that would be so required to be included in respect of the supply of property if no amount were paid to the corporation or to a person related to the corporation in respect of that amount or value, and

ii. the amount included under section 112.2 in computing the taxpayer's income for the year in respect of the supply of property;

(b) in respect of a supply of property or a service referred to in the second paragraph of section 16 of the Act respecting the Québec

sales tax, as enacted by section 168 of the Act to again amend the Taxation Act and other legislation (1993, chapter 19), an amount equal to 4 % of the aggregate of

i. the amount or value of the benefit that would be so required to be included in respect of the supply of property or a service if no amount were paid to the corporation or to a person related to the corporation in respect of that amount or value, and

ii. the amount included under section 112.2 in computing the taxpayer's income for the year in respect of the supply of property or a service.

Exception

The first paragraph does not apply in respect of a supply

(a) of property or a service, at any particular time, in respect of which no Québec sales tax would be payable by the taxpayer referred to in the first paragraph if he himself were the recipient of the supply at that time; or

(b) of property, at any particular time, in respect of which the Québec sales tax that would be paid by the taxpayer referred to in the first paragraph if he himself were the recipient of the supply at that time, would be subject to compensation under section 406 of the Act respecting the Québec sales tax."

(2) Subsection 1 applies from the taxation year 1992. However, where section 112.2.1 of the Taxation Act, as enacted by subsection 1, applies in respect of benefits enjoyed by a taxpayer

(a) before 1 July 1992, it shall be read as follows:

Benefit
related to
the Québec
sales tax

"112.2.1 Where the amount or value of a benefit, other than the value of a benefit determined under section 117, is required under section 111 to be included in computing the income of a taxpayer for a taxation year in respect of a supply of property, other than a supply of property that would be referred to in the second paragraph of section 16 of the Act respecting the Québec sales tax and amending various fiscal legislation (1991, chapter 67), as enacted by section 168 of the Act to again amend the Taxation Act and other legislation (1993, chapter 19), if that paragraph were in force from 1 January 1992, and other than a zero-rated supply or an exempt supply within the meanings assigned by section 1 of the Act respecting the Québec sales tax and amending various fiscal legislation, if the latter Act were in force from 1 January 1992, the taxpayer shall also include in computing his income for the year an amount equal to 8 % of the aggregate of

(a) the amount or value of the benefit that would be so required to be included in respect of the supply of property if no amount were paid to the corporation or to a person related to the corporation in respect of that amount or value; and

(b) the amount included under section 112.2 in computing the taxpayer's income for the year in respect of the supply of property.

Exception

The first paragraph does not apply in respect of a supply of property, at a particular time,

(a) in respect of which no Québec sales tax would be payable by the taxpayer referred to in the first paragraph if the Act respecting the Québec sales tax and amending various fiscal legislation were in force from 1 January 1992 and if he himself were the recipient of the supply at that time; or

(b) in respect of which the Québec sales tax that would be paid by the taxpayer referred to in the first paragraph if the Act respecting the Québec sales tax and amending various fiscal legislation were in force from 1 January 1992 and if he himself were the recipient of the supply at that time, would be subject to compensation under section 406 of that Act.”;

(b) after 30 June 1992 and before 1 March 1994,

i. the reference to the “Act respecting the Québec sales tax (R.S.Q., chapter T-0.1)” in that part of the first paragraph of the said section 112.2.1 preceding subparagraph *a* shall be read as a reference to the “Act respecting the Québec sales tax and amending various fiscal legislation (1991, chapter 67)”, and

ii. the reference to the “Act respecting the Québec sales tax” in subparagraphs *b* of the first and second paragraphs of the said section 112.2.1 shall be read as a reference to the “Act respecting the Québec sales tax and amending various fiscal legislation”.

c. 1-3,
ss. 112.3,
113, replaced

80. (1) Sections 112.3 and 113 of the said Act are replaced by the following sections:

Determina-
tion of the
cost of a
property or
service

“112.3 To the extent that the amount or value of a benefit, other than the value of a benefit determined under section 117, required under section 111 to be included in computing the income of a taxpayer for a taxation year is determined by reference to the cost to a corporation of any property or service, that cost shall, for the purposes of section 111, be determined without reference to

(a) the tax payable after 31 December 1991 under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) by the corporation in respect of the property;

(b) the Québec sales tax payable by the corporation in respect of the property or service; or

(c) the goods and services tax payable by the corporation in respect of the property or service.

Shareholder
debt

“113. Where a person or a partnership is a shareholder of a corporation, is a person that does not deal at arm’s length with a shareholder of a corporation or is a member of a partnership, or a beneficiary of a trust, that is a shareholder of a corporation and the person or partnership, in a taxation year, has received a loan from or has become indebted to the corporation, to any other corporation related thereto or to a partnership of which the corporation or a corporation related thereto is a member, the amount of the loan or indebtedness shall be included in computing the income for the year of the person or partnership.”

(2) Subsection 1, where it replaces section 112.3 of the Taxation Act, applies from the taxation year 1992.

c. I-3, s. 114,
am.

81. Section 114 of the said Act, amended by section 69 of chapter 16 of the statutes of 1993, is again amended

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

Provision
not to apply

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

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

Provision
not to apply

“In addition, section 113 does not apply if such arrangements are made and the loan was made or the indebtedness arose

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

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

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

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

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

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

c. I-3,
ss. 115, 116,
replaced

82. Sections 115 and 116 of the said Act are replaced by the following sections:

Provision
not to apply

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

Provision
not to apply

“116. Section 113 does not apply where the loan was made to

(a) a corporation resident in Canada or a partnership each member of which is such a corporation;

(b) a person not resident in Canada, if the lender is also such a person; or

(c) a person that does not deal at arm's length with a shareholder of a corporation, if that person is a foreign affiliate of the corporation or a foreign affiliate of a person resident in Canada that does not deal at arm's length with that corporation.

Provision
not to apply

In addition, section 113 does not apply where the debtor is a person or partnership described in subparagraph *a* or *c* of the first paragraph or a person not resident in Canada, if the creditor is also such a person.”

c. 1-3,
s. 119.2,
replaced

83. (1) Section 119.2 of the said Act is replaced by the following section:

Definitions

“119.2 In this division,

“develop-
ment bond”

“development bond” at any time means an obligation that is at that time a qualifying debt obligation issued

(a) after 31 December 1981 and before 1 January 1988 by a Canadian-controlled private corporation and in respect of which a joint election was made within 90 days after the later of its issue date and 30 March 1983;

(b) after 25 February 1992 by a Canadian-controlled private corporation and in respect of which a joint election was made within 90 days after its issue date; or

(c) by a Canadian-controlled private corporation if

i. it is reasonable to consider that the corporation and the holder of the obligation intended that this division apply to the obligation, having regard to such factors as may be relevant, including the rate of interest stipulated under the terms of the obligation and the manner in which the corporation and the holder have treated the obligation for the purposes of this Part, and

ii. the holder files with the Minister a joint election in respect of the obligation within 90 days from the date of notification by the Minister that a joint election in respect of the obligation has not been filed;

“eligible cor-
poration”

“eligible corporation” has the meaning assigned by the regulations;

“joint elec-
tion”

“joint election” in respect of any obligation means an election that is made in prescribed form, containing prescribed information, jointly by the issuer corporation of the obligation and the person who is the holder of the obligation at the time of the election, that is filed with the Minister by the holder and in which the holder and the issuer corporation elect that this division apply to the obligation;

“majority
interest
partner”

“majority interest partner” of a partnership means a taxpayer who, if section 616 applied to this division, would be deemed to be a majority interest partner of the partnership;

“qualifying
debt obliga-
tion”

“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 issued between 11 December 1979 and 1 January 1988 or between 25 February 1992 and 1 January 1993 and not more than five years before the particular time, the principal amount of which is not less than \$10 000 nor more than \$500 000, that is issued for a term of not more than five years and, except in the event of a failure or default under the terms or conditions of the obligation, not less than one year, if the obligation is issued by the corporation

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

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

(c) in whole or in part, directly or indirectly in exchange or substitution for a debt held by a person with whom the corporation was dealing at arm’s length at a time when, by reason of financial difficulties, the corporation

i. is in default on that debt, or

ii. could reasonably be expected to default on that debt.”

(2) Subsection 1 applies in respect of obligations issued after 25 February 1992. However, for the purposes of paragraph *b* of the definition of “development bond” in section 119.2 of the Taxation Act, as enacted by subsection 1, a joint election is deemed to have been made within 90 days after the issue date of an obligation where a joint election is made in respect of the obligation on or before 15 September 1994.

c. 1-3,
s. 119.5, am.

34. (1) Section 119.5 of the said Act is amended

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

Taxable
income

“119.5 Notwithstanding any other provision of this Part, except for the purposes of subparagraph *i* of paragraphs *c*, *d* and *d.1*

of subsection 1 of section 771, subparagraph ii of paragraph *e* of that subsection, paragraph *b* of sections 771.0.2 and 771.0.2.1 and paragraph *b* of sections 771.8 and 771.8.1, the taxable income of a corporation that has issued an obligation that is at any time a development bond is deemed, for a taxation year that includes a period throughout which the obligation was a development bond, to be an amount equal to the aggregate of its taxable income otherwise determined for the year and the amount paid or payable, depending on the method regularly followed in computing the income of the corporation, as interest on the obligation in respect of that period, at a time when

(a) the corporation was not an eligible corporation; or”;

(2) by striking out paragraph *b*;

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

“(c) all or substantially all of the proceeds from the issue of the obligation cannot reasonably be regarded as having been used by the corporation or a corporation with which it was not dealing at arm’s length in the financing of a qualified business carried on in Canada immediately before the time of the issue of the obligation.”

(2) Subsection 1 applies in respect of obligations issued after 25 February 1992. However, where that part of section 119.5 of the Taxation Act preceding paragraph *a*, as enacted by paragraph 1 of subsection 1, applies in respect of obligations issued by a corporation after that date and during a taxation year of the corporation ending before 1 July 1992, it shall be read as follows:

Taxable
income

“**119.5** Notwithstanding any other provision of this Part, except for the purposes of subparagraph i of paragraphs *c*, *d*, *d.1* and *d.2* of subsection 1 of section 771, subparagraph ii of paragraphs *e* and *f* of that subsection, paragraph *b* of sections 771.0.2 and 771.0.2.1 and paragraph *b* of sections 771.8 and 771.8.1, the taxable income of a corporation that has issued an obligation that is at any time a development bond is deemed, for a taxation year that includes a period throughout which the obligation was a development bond, to be an amount equal to the aggregate of its taxable income otherwise determined for the year and the amount paid or payable, depending on the method regularly followed in computing the income of the corporation, as interest on the obligation in respect of that period, at a time when”.

c. 1-3,
s. 119.6,
repealed

85. (1) Section 119.6 of the said Act is repealed.

(2) Subsection 1 applies in respect of obligations issued after 25 February 1992.

c. I-3,
ss. 119.8,
119.9,
replaced

86. (1) Sections 119.8 and 119.9 of the said Act are replaced by the following sections:

Amount pay-
able in the
case of a
false declara-
tion

“119.8 Where the Minister establishes that a corporation has, knowingly or under circumstances amounting to gross negligence, made a false declaration in a joint election in respect of an obligation it has issued, the reference in section 119.5 to “the amount paid” shall be read, in respect of that obligation, as a reference to “three times the amount paid”.

Disqualifica-
tion

“119.9 Where at any particular time a corporation makes a joint election in respect of an obligation it has issued and at or before that time the corporation or a person or partnership described in the second paragraph made a joint election in respect of any development bond or small business bond, as the case may be, the corporation, for the purposes of this division, is deemed not to be an eligible corporation in respect of the obligation.

Person or
partnership

The person or partnership referred to in the first paragraph is a corporation associated with the corporation at the time the obligation was issued, an individual who controls or is a member of a related group that controls the corporation, or a partnership any member of which, who is a majority interest partner of the partnership, controls or is a member of a related group that controls the corporation.”

(2) Subsection 1 applies in respect of obligations issued after 25 February 1992.

c. I-3,
s. 119.10,
repealed

87. (1) Section 119.10 of the said Act is repealed.

(2) Subsection 1 applies in respect of obligations issued after 25 February 1992.

c. I-3,
s. 119.11,
replaced

88. (1) Section 119.11 of the said Act is replaced by the following section:

Exception

“119.11 Section 119.9 does not apply to an obligation issued at any time where the issue price of the obligation does not exceed the amount by which \$500 000 exceeds the aggregate of all amounts each of which is the principal amount outstanding, immediately after that time, of

(a) another development bond issued by the corporation or a corporation associated with the corporation; or

(b) a small business bond issued by an individual who controls or is a member of a related group that controls the corporation, or by a partnership any member of which, who is a majority interest partner of the partnership, controls or is a member of a related group that controls the corporation.”

(2) Subsection 1 applies in respect of obligations issued after 25 February 1992.

c. I-3,
ss. 119.12-
119.14,
repealed

89. (1) Sections 119.12 to 119.14 of the said Act are repealed.

(2) Subsection 1 applies in respect of obligations issued after 25 February 1992.

c. I-3,
s. 119.15,
replaced

90. (1) Section 119.15 of the said Act is replaced by the following section:

Definitions

“119.15 In this division,

“eligible
issuer”

“eligible issuer” at any time means

(a) an individual, other than a trust, who is resident in Canada and who

i. has not made a joint election before that time in respect of a small business bond,

ii. is not a majority interest partner of a partnership that has made a joint election before that time in respect of a small business bond, and

iii. neither controls nor is a member of a related group that controls a corporation that has made a joint election before that time in respect of a small business development bond, or a corporation that is associated with such a corporation; or

(b) a partnership

i. each member of which is an individual, other than a trust, who is resident in Canada,

ii. each majority interest partner, if any, of which is an eligible issuer, and

iii. that has not made a joint election before that time in respect of a small business bond;

“joint elec-
tion”

“joint election” in respect of any obligation means an election that is made in prescribed form, containing prescribed information, jointly

by the issuer of the obligation and the person who is the holder of the obligation at the time of the election, that is filed with the Minister by the holder and in which the holder and the issuer elect that this division apply to the obligation;

“majority
interest
partner”

“majority interest partner” of a partnership means a taxpayer who, if section 616 applied to this division, would be deemed to be a majority interest partner of the partnership;

“qualifying
debt obliga-
tion”

“qualifying debt obligation” of an individual or a partnership at any particular time means an obligation that is a bill, note, hypothec, mortgage or similar obligation issued between 12 November 1981 and 1 January 1988 or between 25 February 1992 and 1 January 1993 and not more than five years before the particular time, the principal amount of which is not less than \$10 000 nor more than \$500 000, that is issued for a term of not more than five years and, except in the event of a failure or default under the terms or conditions of the obligation, not less than one year, if the proceeds from the issue of the obligation are used in Canada in a business the individual or partnership carried on immediately before the time of issue, and if the obligation is issued by the individual or partnership

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

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

(c) in whole or in part, directly or indirectly in exchange or substitution for a debt incurred in the course of the business of the individual or partnership and held by a person with whom the individual or each member of the partnership was dealing at arm's length, at a time when, because of financial difficulty, the individual or partnership

i. is in default on that debt, or

ii. could reasonably be expected to default on that debt;

“small busi-
ness bond”

“small business bond” at any time means an obligation that is at that time a qualifying debt obligation issued by

(a) an individual or a partnership in respect of which a joint election was made within 90 days after its issue date; or

(b) an individual or a partnership if

i. it is reasonable to consider that the holder of the obligation and the individual or partnership, as the case may be, intended that this division apply to the obligation, having regard to such factors as may be relevant, including the rate of interest stipulated under the terms of the obligation and the manner in which the holder and the individual or partnership, as the case may be, have treated the obligation for the purposes of this Part, and

ii. the holder files with the Minister a joint election in respect of the obligation within 90 days from the date of notification by the Minister that a joint election in respect of the obligation has not been filed in accordance with paragraph *a*.”

(2) Subsection 1 applies in respect of obligations issued after 25 February 1992. However, for the purposes of paragraph *a* of the definition of “small business bond” in section 119.15 of the Taxation Act, as enacted by subsection 1, a joint election is deemed to have been made within 90 days after the issue date of an obligation where a joint election is made in respect of the obligation on or before 15 September 1994.

c. I-3,
s. 119.18, am.

91. (1) Section 119.18 of the said Act is amended

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

Rules for
small busi-
ness bonds

“119.18 Notwithstanding any other provision of this Part, where an issuer that is an individual or partnership has issued an obligation that is at any time a small business bond, the issuer shall add to his or its tax otherwise payable for a taxation year under this Part an amount equal to 24 % of the amount of interest paid or payable in respect of the obligation, depending on the method regularly followed by the issuer in computing his or its income, in respect of a period of the taxation year throughout which the obligation was a small business bond and throughout which”;

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

“(b) all or substantially all of the proceeds from the issue of the obligation are not used by the eligible issuer in the financing of a qualified business carried on by him or it in Canada immediately before the time of the issue of the obligation.”

(2) Subsection 1 applies in respect of obligations issued after 25 February 1992.

c. I-3,
ss. 119.20-
119.22,
replaced

92. (1) Sections 119.20 to 119.22 of the said Act are replaced by the following sections:

False declaration

“119.20 Where the Minister establishes that an individual or partnership has, knowingly or under circumstances amounting to gross negligence, made a false declaration in a joint election in respect of an obligation that was issued by the individual or partnership, the reference in section 119.18 to “24 %” shall be read, in respect of that obligation, as a reference to “72 %”.

Partnerships

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

Deemed eligible issuer

“119.22 Where, but for subparagraphs i to iii of paragraph *a* and subparagraph ii of paragraph *b* of the definition of “eligible issuer” in section 119.15, an individual or a partnership would be an eligible issuer, the individual or partnership is deemed to be an eligible issuer in respect of a small business bond at any time where the issue price of the bond does not exceed the amount by which \$500 000 exceeds the aggregate determined in the second paragraph.

Interpretation

The aggregate referred to in the first paragraph is

(a) where the issuer is an individual, the aggregate of all amounts each of which is the principal amount outstanding immediately after that time in respect of

i. another obligation that is a small business bond issued by the individual, or by a partnership of which the individual is a majority interest partner, or

ii. a development bond issued by a corporation that is controlled by the individual or by a related group of which the individual is a member, or by a corporation that is associated with such a corporation; or

(b) where the issuer is a partnership, the aggregate of all amounts each of which is the principal amount outstanding immediately after that time in respect of

i. another obligation that is a small business bond issued by

(1) the partnership,

(2) an individual who is a majority interest partner of the partnership, or

(3) a partnership of which the individual referred to in subparagraph 2 is a majority interest partner, or

ii. a development bond issued by a corporation that is controlled by the individual referred to in subparagraph 2 of subparagraph i or by a related group of which the individual is a member, or by a corporation that is associated with such a corporation.”

(2) Subsection 1 applies in respect of obligations issued after 25 February 1992.

c. I-3,
ss. 119.23,
119.24,
repealed

93. (1) Sections 119.23 and 119.24 of the said Act are repealed.

(2) Subsection 1 applies in respect of obligations issued after 25 February 1992.

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

94. (1) Section 123 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) in the case of a bond issued after 18 June 1971, other than an obligation that is a prescribed debt obligation for the purposes of section 92.5, if the yield from the obligation, expressed in the same manner, exceeds by more than one-third the stipulated rate of interest payable on such bond.”

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

c. I-3,
ss. 125.0.1,
125.0.2,
added

Indexed
debt obliga-
tions

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

“125.0.1 For the purposes of this Part, where at any time in a taxation year of a taxpayer an interest in an indexed debt obligation is held by the taxpayer,

(a) an amount determined in prescribed manner is deemed to be received or receivable by the taxpayer in the year as interest in respect of the obligation; and

(b) an amount determined in prescribed manner is deemed to be paid or payable in respect of the year by the taxpayer as interest pursuant to a legal obligation of the taxpayer to pay interest on borrowed money used for the purpose of earning income from a business or property.

Indexed
debt obliga-
tions

“125.0.2 For the purposes of this Part, where at any time in a taxation year of a taxpayer an indexed debt obligation is an obligation of the taxpayer,

(a) an amount determined in prescribed manner is deemed to be payable in respect of the year by the taxpayer as interest in respect of the obligation; and

(b) an amount determined in prescribed manner is deemed to be received or receivable by the taxpayer in the year as interest in respect of the obligation.

Payment or
crediting of
interest

Where the taxpayer pays or credits an amount in respect of an amount determined under subparagraph *a* of the first paragraph in respect of an indexed debt obligation, the payment or crediting is deemed to be a payment or crediting of interest on the obligation.”

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

c. I-3,
s. 125.1, am.

96. (1) Section 125.1 of the said Act, amended by section 70 of chapter 16 of the statutes of 1993, is again amended

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

Rules appli-
cable

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

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

“(i) where the lessee has made an election under this section in respect of a property and, at any time after the lease was entered into,

the owner of the property is a person not resident in Canada who does not hold the lease in the course of carrying on a business through an establishment in Canada any income from which is subject to tax under Part I of the Income Tax Act (Statutes of Canada), the lease is deemed, for the purposes of this section, to have been cancelled at that time.”

(2) Subsection 1 applies, subject to subsections 3 and 4, to leases and subleases of properties entered into after 10:00 p.m. Eastern Daylight Saving Time, 26 April 1989, other than

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

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

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

(4) Where subsection 1 applies to leases or subleases of properties entered into after 11 June 1989 and before 13 July 1990, that part of section 125.1 of the Taxation Act preceding paragraph *a*, as enacted by paragraph 1 of subsection 1, and paragraph *i* of that section, as enacted by paragraph 2 of subsection 1, shall be read without reference to the words “any income from which is subject to tax under Part I of the Income Tax Act (Statutes of Canada)”.

c. I-3,
s. 125.2,
French text,
am.

97. Section 125.2 of the said Act, amended by section 71 of chapter 16 of the statutes of 1993, is again amended, in the French text, by replacing that part preceding paragraph *a* by the following:

Cession du
bail ou
sous-location
du bien

“125.2 Sous réserve des articles 125.3 et 125.4, lorsque, à un moment donné, un locataire qui a fait un choix en vertu de l’article 125.1 à l’égard d’un bien loué, cède le bail ou sous-loue le bien à une autre personne, appelée “cessionnaire” dans la présente section, les règles suivantes s’appliquent:”

c. I-3,
s. 125.3,
French text,
am.

98. Section 125.3 of the said Act is amended, in the French text, by replacing the first paragraph by the following paragraph:

Cession du
bail ou sous-
location du
bien

“125.3 Sous réserve de l'article 125.4, lorsque, à un moment donné, un locataire qui a fait un choix en vertu de l'article 125.1 à l'égard d'un bien loué, cède le bail ou sous-loue le bien à une autre personne avec laquelle il a un lien de dépendance, cette autre personne est réputée, pour l'application de l'article 125.1 et aux fins de calculer son revenu à l'égard du bail pour toute période postérieure au moment donné, être la même personne que le locataire et en être la continuation.”

c. I-3,
s. 125.5,
French text,
replaced

99. Section 125.5 of the said Act, enacted by section 72 of chapter 16 of the statutes of 1993, is replaced, in the French text, by the following section:

Bien de rem-
placement

“125.5 Pour l'application de l'article 125.1, le bien que fournit, à un moment quelconque, un bailleur à un locataire en remplacement d'un bien semblable du bailleur que le locataire a loué du bailleur, est réputé être le même bien que le bien semblable si le montant à payer par le locataire pour l'usage ou le droit d'usage du bien est le même que le montant qui était à payer à l'égard du bien semblable.”

c. I-3,
s. 125.6,
French text,
am.

100. Section 125.6 of the said Act, enacted by section 72 of chapter 16 of the statutes of 1993, is amended, in the French text, by replacing paragraph *a* by the following paragraph:

“*a*) le locataire est réputé avoir loué, du bailleur, le bien additionnel au moment donné;”.

c. I-3,
s. 130.1, am.

101. (1) Section 130.1 of the said Act, amended by section 73 of chapter 16 of the statutes of 1993, is again amended

(1) by replacing the first and second paragraphs by the following paragraphs:

Prescribed
classes of
property
which the
taxpayer no
longer owns
at the end of
a taxation
year

“130.1 Notwithstanding sections 128, 129 and 133, no taxpayer may deduct any amount in computing his income for a taxation year under paragraph *a* of section 130 in respect of his depreciable property of a prescribed class where, at the end of the year, the aggregate of the amounts determined under subparagraphs i to ii.2 of paragraph *e* of section 93 exceeds the aggregate of the amounts determined under subparagraphs iii to vii of the said paragraph *e* in respect of his depreciable property of that class and, at that time, the taxpayer no longer owns any property of that class.

Terminal
loss

However, subject to the third and fourth paragraphs, the taxpayer shall deduct that excess amount in computing his income for the year.”;

(2) by replacing the fifth paragraph by the following paragraph:

Exception
where a pre-
scribed class
includes a
passenger
vehicle

“This section does not apply in respect of a prescribed class that includes a passenger vehicle of a taxpayer in respect of which paragraph *d.3* or *d.4* of section 99 or section 525.1 applied to the taxpayer.”

(2) Subsection 1 applies to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987.

c. 1-3,
s. 132.1,
French text,
replaced

102. Section 132.1 of the said Act is replaced, in the French text, by the following section:

Réclama-
tions reçues
par un
assureur

“**132.1** Un contribuable qui est un assureur ne peut déduire, dans le calcul de son revenu provenant d’une entreprise ou de biens pour une année d’imposition, un montant à l’égard des demandes de règlement qui ont été reçues par lui avant la fin de l’année en vertu de polices d’assurance et qui sont impayées à la fin de l’année, sauf en autant que permis expressément par la présente partie.”

c. 1-3,
s. 133.3,
replaced

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

Disallowed
deduction of
judicial and
extrajudicial
expenses

“**133.3** A taxpayer shall not deduct the amounts paid by him as judicial or extrajudicial 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 any of paragraphs *a* to *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 any of paragraphs *a* to *b* of subsection 1 of section 336 or under subsection 2 of the said section 336 if it were paid.”

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

c. 1-3,
s. 146.1, am.

104. (1) Section 146.1 of the said Act is amended

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

Deduction
for foreign
income or
profits tax

“**146.1** A taxpayer, in computing his income for a taxation year from a business or property, may deduct such amount as he may claim not exceeding the aggregate of any income or profits tax paid by him for the year to the government of a country other than Canada or to

a political subdivision of such a country in respect of that income, to the extent that such taxes”;

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

(3) by adding, after paragraph *e*, the following paragraphs:

“(f) do not include that proportion of the tax so paid in respect of income from employment abroad that the amount deducted by the taxpayer under section 79.1 in respect of that income in computing his income for the year is of that income for the year as determined under sections 32 to 58;

“(g) cannot reasonably be attributed to a taxable capital gain or a portion thereof in respect of which the taxpayer has claimed a deduction for the year under any of sections 726.7 to 726.9 or section 726.20.2;

“(h) cannot be regarded as relating to an amount included in that part, referred to in the first paragraph of section 737.16, of the income of the taxpayer for the year; and

“(i) cannot reasonably be regarded as relating to an amount that was deductible under paragraph *a* of section 725 in computing the taxpayer’s taxable income for the year.”

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

(3) Paragraph 2 of subsection 1 and, where it enacts paragraph *f* of section 146.1 of the Taxation Act, paragraph 3 of subsection 1 apply in respect of individuals who leave Canada after 10 May 1983 to hold employment abroad and in respect of individuals who left Canada prior to 11 May 1983 for the same reason and who enter into a new contract with an employer after 10 May 1983, except that, in the latter case, the said paragraphs 2 and 3 apply only for periods commencing after the new contract is entered into.

(4) Paragraph 3 of subsection 1, where it enacts paragraph *g* of section 146.1 of the Taxation Act, applies from the taxation year 1985. However, where the said paragraph *g* applies to taxation years prior to the taxation year 1993, it shall be read without reference to “or section 726.20.2”.

(5) Paragraph 3 of subsection 1, where it enacts paragraph *h* of section 146.1 of the Taxation Act, has effect from 1 January 1986.

(6) Paragraph 3 of subsection 1, where it enacts paragraph *i* of section 146.1 of the Taxation Act, applies to taxation years ending after 13 July 1990.

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

105. (1) Section 157 of the said Act, amended by section 82 of chapter 16 of the statutes of 1993, is again amended

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

disability-
related modi-
fications to
buildings

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

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

disability-
related
equipment

“(h.2) an amount paid by the taxpayer in the year for prescribed devices or equipment acquired primarily to assist individuals who have a sight or hearing impairment;”;

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

payments
by farmers

“(i) an amount paid by the taxpayer in the year as a levy under the Western Grain Stabilization Act (Statutes of Canada), as a premium in respect of the gross revenue insurance program established under the Farm Income Protection Act (Statutes of Canada) or as an administration fee in respect of a net income stabilization account;”.

(2) Paragraph 1 of subsection 1 applies in respect of renovations or alterations made after 25 February 1992.

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

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

c. I-3,
s. 157.6, am.

106. (1) Section 157.6 of the said Act, amended by section 85 of chapter 16 of the statutes of 1993, is again amended by replacing paragraph *a* by the following paragraph:

“(a) such portion of an amount that was received or became receivable by him in the year or in a preceding taxation year as can reasonably be considered to be in respect of an amount that was included in computing his income for the year or a preceding taxation

year as interest on the property and that was not repaid by the taxpayer to the issuer of the debt obligation because of an adjustment in respect of interest received before the time of disposition by the taxpayer, or”.

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

c. I-3,
s. 157.10,
replaced

107. (1) Section 157.10 of the said Act is replaced by the following section:

Amounts
paid for
undertaking
future obli-
gations

“157.10 Where an amount is included under paragraph *a* of section 87 in computing a taxpayer’s income for a taxation year in respect of an undertaking to which subparagraph i or ii of that paragraph applies and the taxpayer paid a reasonable amount in a particular taxation year to another person as consideration for the assumption by that other person of the taxpayer’s obligations in respect of the undertaking, if the taxpayer and the other person jointly so elect in the manner and within the time prescribed in section 157.11,

(*a*) the payment may be deducted in computing the taxpayer’s income for the particular year;

(*b*) no amount is deductible under section 150 or 150.1 in computing the taxpayer’s income for the particular year or any subsequent taxation year in respect of the undertaking; and

(*c*) where the amount was received by the other person in carrying on a business, it is deemed to be an amount described in subparagraph i or ii of paragraph *a* of section 87.”

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

c. I-3, s. 171,
am.

108. (1) Section 171 of the said Act is amended by replacing the second paragraph by the following paragraph:

Insurance
corporation
not resident
in Canada

“However, the outstanding debts contemplated in sections 169 and 170 shall not include an amount outstanding at the particular time in respect of a debt or other obligation to pay an amount to an insurance corporation not resident in Canada when the amount outstanding at the particular time has, for the purposes of Chapters I to III of Title V of Book VI, in the insurance corporation’s taxation year that included the particular time, been included as property used or held by it in the year in the course of carrying on an insurance business through an establishment in Canada.”

(2) Subsection 1 applies from the taxation year 1991 and, where a corporation so elects by notifying the Minister of Revenue in writing on or before 14 December 1994, it applies from the taxation year 1985 of the corporation.

c. 1-3, s. 172,
am.

109. (1) Section 172 of the said Act is amended

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

Interpreta-
tion

“172. Notwithstanding any other provision of this Part, other than section 173.1, for the purposes of this section, sections 169 to 171 and 174 and the regulations under section 170,

“specified
shareholder”

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

i. that give the holders thereof 25 % or more of the votes that could be cast at an annual meeting of the shareholders of the corporation, or

ii. that have a fair market value of 25 % or more of the fair market value of all of the issued and outstanding shares of the capital stock of the corporation;”;

(2) by adding, at the end, the following paragraph:

Specified
shareholder

“For the purpose of determining whether a particular person is a specified shareholder of a corporation at any time, the particular person or the person with whom the particular person is not dealing at arm’s length, as the case may be, is deemed at that time to own the shares referred to in subparagraph *a* of the first paragraph and the corporation referred to in subparagraph *b* of the first paragraph is deemed at that time to have redeemed, acquired or cancelled the shares referred to in the said subparagraph *b*, where the particular person or the person with whom the particular person is not dealing at arm’s length has at that time a right under a contract or otherwise, either immediately or in the future and either absolutely or contingently, other than a right that is not exercisable at that time because the exercise thereof is contingent on the death, bankruptcy or permanent disability of an individual,

(a) to, or to acquire, shares in a corporation or to control the voting rights of shares in a corporation; or

(b) to cause a corporation to redeem, acquire or cancel any of its shares, other than shares held by the particular person or the person with whom the particular person is not dealing at arm's length."

(2) Subsection 1 applies from the taxation year 1993 and, where a corporation so elects by notifying the Minister of Revenue in writing on or before 14 December 1994, it applies from the taxation year 1989 of the corporation.

c. I-3,
s. 173.1,
added

110. (1) The said Act is amended by inserting, after section 173, the following section:

Person
deemed not
to be a speci-
fied share-
holder

"173.1 For the purposes of this section, sections 169 to 172 and 174 and the regulations under section 170, where a person would, but for this section, be a specified shareholder of a corporation at any time, the person is deemed not to be a specified shareholder of the corporation at that time if

(a) there was in effect at that time an agreement or arrangement under which, on the satisfaction of a condition or the occurrence of an event that it is reasonable to expect will be satisfied or will occur, the person ceases to be a specified shareholder; and

(b) the purpose for which the particular person became a specified shareholder was the safeguarding of rights or interests of the person or a person with whom the person is not dealing at arm's length in respect of any indebtedness owing at any time to the person or a person with whom the particular person is not dealing at arm's length."

(2) Subsection 1 applies from the taxation year 1993 and, where a corporation so elects by notifying the Minister of Revenue in writing on or before the day that is 14 December 1994, it applies from the taxation year 1989 of the corporation.

c. I-3,
s. 175.1, am.

111. (1) Section 175.1 of the said Act is amended by replacing subsection 2 by the following subsection:

"(2) The portion of any outlay or expense, other than an outlay or expense of a corporation, partnership or trust as, or in lieu of, full or partial payment of interest, that, but for subsection 1, would have been deductible in computing a taxpayer's income for a taxation year is deductible in computing the taxpayer's income for the subsequent taxation year to which it can reasonably be considered to relate."

(2) Subsection 1 applies in respect of amounts paid as, or in lieu of, full or partial payment of interest in respect of a period or part thereof that is after 31 December 1991.

c. 1-3,
ss. 175.1.2-
175.1.8,
added

112. (1) The said Act is amended by inserting, after section 175.1.1, enacted by section 89 of chapter 16 of the statutes of 1993, the following sections:

Interest on
a debt obli-
gation

“175.1.2 For the purposes of this Part, the amount of interest payable on borrowed money or on an amount payable for property, in this section and sections 175.1.3 to 175.1.8 referred to as the “debt obligation”, by a corporation, partnership or trust, in this section and sections 175.1.3 to 175.1.7 referred to as the “borrower”, in respect of a taxation year is, notwithstanding subparagraph i of paragraph b of section 175.1.1, deemed to be an amount equal to the lesser of

(a) the amount of interest, not in excess of a reasonable amount, that would have been payable on the debt obligation by the borrower in respect of the year if no amount had been paid before the end of the year in satisfaction of the obligation to pay interest on the debt obligation in respect of the year and if the amount outstanding at each particular time in the year that is after 31 December 1991 on account of the principal amount of the debt obligation were the amount by which the amount outstanding at the particular time on account of the principal amount of the debt obligation exceeds the total of

i. the aggregate of all amounts each of which is an amount paid before the particular time in satisfaction, in whole or in part, of the obligation to pay interest on the debt obligation in respect of a period or part thereof that is after 31 December 1991, after the beginning of the year, and after the time the amount was so paid, other than a period or part thereof that is in the year where no such amount has been paid before the particular time in respect of a period or part thereof that is after the end of the year, and

ii. the amount by which

(1) the aggregate of all amounts each of which is the amount of interest payable on the debt obligation, determined without reference to this section, by the borrower in respect of a taxation year ending after 31 December 1991 and before the year, to the extent that such interest does not exceed a reasonable amount, exceeds

(2) the aggregate of all amounts each of which is the amount of interest deemed by this section to have been payable on the debt obligation by the borrower in respect of a taxation year ending before the year; and

(b) the amount by which

i. the aggregate of all amounts each of which is an amount of interest payable on the debt obligation, determined without reference to this section, by the borrower in respect of the year or a taxation year ending after 31 December 1991 and before the year, to the extent that such interest does not exceed a reasonable amount, exceeds

ii. the aggregate of all amounts each of which is the amount of interest deemed by this section to be payable on the debt obligation by the borrower in respect of a taxation year ending before the year.

Settlement
or extinction
of a debt
obligation

“175.1.3 Where at any time in a taxation year of a borrower a debt obligation of the borrower is settled or extinguished and, at that time, the aggregate determined in the second paragraph exceeds the aggregate determined in the third paragraph, which excess is in this section referred to as the “excess amount”, the following rules apply:

(a) for the purpose of applying paragraph *a* of section 484 in respect of the borrower, where the debt obligation is extinguished in circumstances to which the said section applies, the amount outstanding at that time on account of the principal amount of the debt obligation is deemed to be the amount by which that amount exceeds the excess amount; and

(b) for the purpose of applying section 485 in respect of the borrower, where the debt obligation is settled or extinguished in circumstances to which that section applies, the debt obligation is deemed to have been settled or extinguished by the payment of an amount equal to the aggregate of the amount of the payment made to settle or extinguish the debt obligation, determined without reference to this section, and the excess amount.

Interpreta-
tion

The aggregate first referred to in the first paragraph, at any particular time, is equal to the total of the following amounts:

(a) the aggregate of all amounts each of which is an amount paid before that time in satisfaction, in whole or in part, of the obligation to pay interest on the debt obligation in respect of a period or part thereof that is after the particular time; and

(b) the aggregate of all amounts each of which is the amount of interest payable on the debt obligation, determined without reference to section 175.1.2, by the borrower in respect of a taxation year ending after 31 December 1991 and before the particular time, or in respect

of a period or part thereof that is in the year and before the particular time, to the extent that such interest does not exceed a reasonable amount.

Interpreta-
tion

The second aggregate referred to in the first paragraph, at any particular time, is equal to the total of the following amounts:

(a) the aggregate of all amounts each of which is an amount of interest deemed by section 175.1.2 to have been payable on the debt obligation by the borrower in respect of a taxation year ending before the particular time; and

(b) the amount of interest that would be deemed by section 175.1.2 to have been payable on the debt obligation by the borrower in respect of the year if the year had ended immediately before the particular time.

Payment
deemed to
be an
amount of
interest pay-
able on a
debt obliga-
tion

“175.1.4 Where an amount is paid at any time by a person or partnership in respect of a debt obligation of a borrower as, or in lieu of, full or partial payment of interest on the debt obligation in respect of a period or part thereof that is after 31 December 1991 and after the time the amount was so paid, or as consideration for a reduction in the rate of interest payable on the debt obligation, excluding a payment described in the second paragraph of section 175.1.1, in respect of a period or part thereof that is after 31 December 1991 and after the time the amount was so paid, that amount is deemed,

(a) for the purposes of section 175.1.5 and, subject to that section, for the purposes of subparagraph 1 of subparagraph ii of paragraph *a* of section 175.1.2, subparagraph i of paragraph *b* of that section, subparagraph *b* of the second paragraph of section 175.1.3 and section 175.1.6, to be an amount of interest payable on the debt obligation by the borrower in respect of that period or part thereof; and

(b) for the purposes of subparagraph i of paragraph *a* of section 175.1.2 and subparagraph *a* of the second paragraph of section 175.1.3, to be an amount paid at that time in satisfaction of the obligation to pay interest on the debt obligation in respect of that period or part thereof.

Payment
deemed to
be an
amount of
interest pay-
able on a
debt obliga-
tion

“175.1.5 Where an amount of interest payable on a debt obligation, determined without reference to section 175.1.2, by a borrower in respect of a particular period or part thereof that is after 31 December 1991 can reasonably be regarded as an amount payable as consideration for a reduction in the amount of interest that would otherwise be payable on the debt obligation in respect of a subsequent

period, or a reduction in the amount that was or may be paid before the beginning of a subsequent period in satisfaction of the obligation to pay interest on the debt obligation in respect of that subsequent period, such reductions being determined without reference to the existence of, or the amount of any interest paid or payable on, any other debt obligation, that amount,

(a) for the purposes of subparagraph 1 of subparagraph ii of paragraph *a* of section 175.1.2, subparagraph i of paragraph *b* of that section, subparagraph *b* of the second paragraph of section 175.1.3 and section 175.1.6, is deemed to be an amount of interest payable on the debt obligation by the borrower in respect of the subsequent period and not to be an amount of interest payable on the debt obligation by the borrower in respect of the particular period; and

(b) when paid, is deemed for the purposes of subparagraph i of paragraph *a* of section 175.1.2 and subparagraph *a* of the second paragraph of section 175.1.3 to be an amount paid in satisfaction of the obligation to pay interest on the debt obligation in respect of the subsequent period.

Liability
assumed by
a borrower

“175.1.6 Where liability in respect of a debt obligation of a person or partnership is assumed by a borrower at any time,

(a) the amount of interest payable on the debt obligation, determined without reference to section 175.1.2, by any person or partnership in respect of a period is, to the extent that that period is included in a taxation year of the borrower ending after 31 December 1991, deemed, for the purposes of subparagraph 1 of subparagraph ii of paragraph *a* of section 175.1.2, subparagraph i of paragraph *b* of that section and subparagraph *b* of the second paragraph of section 175.1.3, to be an amount of interest payable on the debt obligation by the borrower in respect of that year; and

(b) the application of sections 175.1.2 and 175.1.3 to the borrower in respect of the debt obligation after that time shall be determined on the assumption that section 175.1.2 applied to the borrower in respect of the debt obligation before that time.

Existence of
the borrower

For the purposes of this section, where the borrower came into existence at a particular time that is after the beginning of the particular period commencing at the beginning of the first period in respect of which interest was payable on the debt obligation by any person or partnership and ending at the particular time, the borrower is deemed to have been in existence throughout the particular period, and to have had, throughout the particular period, taxation years ending on the day of the year on which its first taxation year ended.

Payment of
interest to
be a pay-
ment as a
penalty or
bonus

“175.1.7 Where the amount paid by a borrower at any particular time, in satisfaction of the obligation to pay a particular amount of interest on a debt obligation in respect of a subsequent period or part thereof, exceeds the particular amount of that interest, discounted for the particular period beginning at the particular time and ending at the end of the subsequent period or part thereof, and at the rate or rates of interest applying under the debt obligation during the particular period or, where the rate of interest in respect of any part of the particular period is not fixed at the particular time, at the prescribed rate of interest in effect at the particular time, such excess is deemed

(a) for the purposes of sections 175.1.2 to 175.1.6 and 175.1.8, to be neither an amount of interest payable on the debt obligation nor an amount paid in satisfaction of the obligation to pay interest on the debt obligation; and

(b) to be a payment as a penalty or bonus, described in section 175.1.1, in respect of the debt obligation.

Limitation

“175.1.8 Notwithstanding sections 175.1.2 to 175.1.7, the aggregate of all amounts each of which is an amount of interest payable on a debt obligation by an individual, other than a trust, or deemed by section 175.1.2 to be payable on the debt obligation by a corporation, partnership or trust, in respect of a taxation year ending after 31 December 1991 and before any particular time, shall not exceed the aggregate of all amounts each of which is an amount of interest payable on the debt obligation, determined without reference to section 175.1.2, by a person or partnership in respect of a taxation year ending after 31 December 1991 and before that particular time.”

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

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

113. (1) Section 175.2 of the said Act, amended by section 90 of chapter 16 of the statutes of 1993, is again amended

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

“(b) paying a premium referred to in paragraph *b* of subsection 11 of section 18 of the Income Tax Act (Statutes of Canada);”;

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

“(d.1) making a contribution to a net income stabilization account;”.

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

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

c. I-3,
s. 175.2.1,
replaced

114. (1) Section 175.2.1 of the said Act, enacted by section 91 of chapter 16 of the statutes of 1993, is replaced by the following section:

Presumption

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

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

c. I-3, s. 177,
replaced

115. Section 177 of the said Act is replaced by the following section:

Repayment
of loan

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

Restriction

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

c. I-3, s. 184,
am.

116. (1) Section 184 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

Sale of
accounts
receivable

“184. Where the sale of all or substantially all the property of a business includes debts which have been or will be included in computing the income of the vendor for a previous year or the taxation year or debts arising from loans made in the ordinary course of such business if part of his ordinary business has been the lending of money and the purchaser proposes to continue the business, the vendor and the purchaser may elect jointly, in prescribed form, to have the following rules apply:”.

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

c. I-3, s. 189,
am.

117. (1) Section 189 of the said Act, replaced by section 96 of chapter 16 of the statutes of 1993, is amended by adding, after paragraph *c*, the following paragraph:

“(d) for the purpose of determining after that time, in respect of any subsequent disposition of property of the business, the amount deemed by subparagraph ii of paragraph *a* of section 105 to be the spouse’s taxable capital gain, and the amount to be included under paragraph *b* of that section in computing the income of the spouse or corporation, an amount equal to the amount determined under subparagraph 2 of subparagraph i of paragraph *b* of section 107 in respect of the business of the individual immediately before that time shall be added to the amount otherwise determined under the said subparagraph 2.”

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

c. I-3,
s. 189.0.1,
added

118. (1) The said Act is amended by inserting, after section 189, the following section:

Dissolution
of a partner-
ship

“189.0.1 Notwithstanding section 188, where at any time a partnership is dissolved in circumstances to which Divisions II and III of Chapter IV of Title XI do not apply, a taxpayer who was a member of the partnership immediately before that time may deduct, in computing his income for his first taxation year beginning after that time, an amount determined by the formula

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

Interpreta-
tion

For the purposes of the formula in the first paragraph,

(a) A is the amount that would, had the partnership not been dissolved, have been deductible under section 188 in computing its income;

(b) B is the fair market value of the taxpayer’s interest in the partnership immediately before that time;

(c) C is the fair market value of all of the interests in the partnership immediately before that time.”

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

c. I-3, s. 208,
French text,
am.

119. (1) Section 208 of the said Act, replaced by section 103 of chapter 16 of the statutes of 1993, is amended, in the French text, by replacing that part preceding paragraph *a* by the following:

Provision
pour com-
missions non
gagnées

“208. Un contribuable qui exploite une entreprise en qualité d’agent ou de courtier en assurance ne peut déduire dans le calcul de

son revenu provenant d'une telle entreprise, à titre de provision à l'égard de commissions non gagnées, que le moindre des montants suivants:".

(2) Subsection 1 applies to taxation years ending after 31 December 1990.

c. 1-3,
s. 209.0.1,
French text,
am.

120. (1) Section 209.0.1 of the said Act, enacted by section 104 of chapter 16 of the statutes of 1993, is amended, in the French text, by replacing that part preceding subparagraph *a* of the first paragraph by the following:

Provision
additionnelle

"209.0.1 Un contribuable qui exploite une entreprise tout au long de l'année en qualité d'agent ou de courtier en assurance peut déduire pour une année d'imposition qui se termine après le 31 décembre 1990, dans le calcul de son revenu provenant d'une telle entreprise, un montant, à titre de provision additionnelle à l'égard de commissions non gagnées, qui n'excède pas le produit obtenu en appliquant le pourcentage suivant à l'excédent de la provision qu'il a déduite en vertu de l'article 208 pour sa dernière année d'imposition qui se termine avant le 1^{er} janvier 1991, sur le montant qu'il peut déduire en vertu de l'article 208 pour sa première année d'imposition qui se termine après le 31 décembre 1990:".

(2) Subsection 1 applies to taxation years ending after 31 December 1990.

c. 1-3,
s. 224.1,
added

121. (1) The said Act is amended by inserting, after section 224, the following section:

Deemed
repayment
of assistance

"224.1 For the purposes of section 224, an amount is deemed to be an expenditure made in a taxation year by a taxpayer as repayment of an amount described in paragraph *b* of section 225 if the amount

(a) reduced, by the effect of paragraph *b* of section 225, the aggregate of the amounts that may be deducted by the taxpayer under sections 222 to 224 in computing his income for a taxation year;

(b) was not received by the taxpayer; and

(c) ceased in the taxation year to be an amount that the taxpayer can reasonably be expected to receive."

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

c. 1-3,
s. 236.1, am.

122. (1) Section 236.1 of the said Act is amended by replacing the third paragraph by the following paragraph:

Computation of a business investment loss in the case of a trust

“Furthermore, where the taxpayer is a trust to which subparagraph *a* of the first paragraph of section 653 applies and the share is a share referred to in the second paragraph, the aggregate of all amounts each of which is an amount received after 31 December 1971 by the settlor, within the meaning of subsection 2 of section 658, or his spouse, as a taxable dividend on that share or on any other share in respect of which the share disposed of is a substituted share or which are receivable as such by one of such persons at the time of the disposition of the share must also be deducted from the loss determined in accordance with this title.”

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

c. I-8, s. 255, am.

123. (1) Section 255 of the said Act, amended by section 113 of chapter 16 of the statutes of 1993, is again amended

(1) by inserting, after paragraph *c.2*, the following paragraph:

“(c.3) where the property is immovable property of the taxpayer, any amount required by paragraph *b* of section 277.2 to be added;”;

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

“INDEXED DEBT OBLIGATIONS

“(h.0.1) where the property is an indexed debt obligation, the amount referred to in paragraph *a* of section 125.0.1 in respect of the obligation and required to be included in computing the income of the taxpayer for a taxation year beginning before the particular time;”;

(3) by inserting, after subparagraph vii of paragraph *i*, the following subparagraph:

“vii.1 a share of the taxpayer’s Canadian development expense or Canadian oil and gas property expense that was deducted at or before the particular time in computing the adjusted cost base to the taxpayer of the interest because of subparagraph ii of paragraph *l* of section 257 and in respect of which the taxpayer has elected under paragraph *d* of section 408 or paragraph *b* of section 418.2, as the case may be;”.

(2) Paragraph 1 of subsection 1 applies in computing the adjusted cost base of property after 20 December 1991.

(3) Paragraph 2 of subsection 1 applies in respect of indexed debt obligations issued after 16 October 1991.

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

c. I-3, s. 257,
am.

124. (1) Section 257 of the said Act, amended by section 114 of chapter 16 of the statutes of 1993 and by section 25 of chapter 64 of the statutes of 1993, is again amended

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

“(d) where the property is acquired by the taxpayer after 31 December 1971, the aggregate of

i. the amount by which any assistance, other than prescribed assistance, that the taxpayer has received or is entitled to receive before the particular time from a government, municipality or other public authority in respect of, or for the acquisition of, the property, whether as a grant, subsidy, forgivable loan, deduction from tax not otherwise provided for under this paragraph, investment allowance or as any other form of assistance, exceeds such part of the assistance as has been repaid by the taxpayer before that time in accordance with an obligation to repay all or any part of that assistance, and

ii. the amounts, other than a prescribed amount, deducted by the taxpayer in respect of the property before the particular time under subsection 5 or 6 of section 127 of the Income Tax Act (Statutes of Canada) in computing his tax payable under the said Act;”;

(2) by inserting, after paragraph *f.3*, the following paragraph:

“(f.4) where the property is a right to acquire shares under an agreement, any amount required by paragraph *b* of section 1055.1 to be deducted;”;

(3) by inserting, after paragraph *k*, the following:

“INDEXED DEBT OBLIGATIONS

“(k.1) where the property is an indexed debt obligation,

i. any amount referred to in paragraph *b* of section 125.0.1 in respect of the obligation and deductible in computing the income of the taxpayer for a taxation year beginning before the particular time, and

ii. the amount of any payment that was received or that became receivable by the taxpayer at or before the particular time in respect of an amount that was added under paragraph *h.0.1* of section 255 to the cost to the taxpayer of the obligation;”.

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

(3) Paragraph 2 of subsection 1 has effect from 14 July 1990.

(4) Paragraph 3 of subsection 1 applies in respect of indexed debt obligations issued after 16 October 1991.

c. 1-3,
s. 257.2, am.

125. (1) Section 257.2 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

Election

“257.2 For the purposes of paragraph *f.2* of section 257, where a taxpayer has in a taxation year received an amount that would, but for this section, be included in computing his income under paragraph *w* of section 87 in respect of the cost of a property, other than depreciable property, acquired by him in the year, in the three taxation years preceding the year or in the taxation year following the year, he may elect under this section on or before the date on or before which the taxpayer's fiscal return under this Part for the year is required to be filed or, where the property is acquired in the taxation year following the year, for that following year, to reduce the cost of the property by such amount as he may specify, not exceeding the least of”.

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

c. 1-3,
s. 264.7,
added

126. (1) The said Act is amended by inserting, after section 264.6, the following:

“DIVISION III.4

“LOSSES DEEMED TO BE RELATED TO THE REPAYMENT OF ASSISTANCE

Deemed
capital loss

“264.7 The aggregate of all amounts paid by a taxpayer in a taxation year each of which is any of the amounts described in the second paragraph, is deemed to be a capital loss of the taxpayer for the year from the disposition of property by the taxpayer in the year and, for the purposes of Title VI.5 of Book IV, that property is deemed to have been disposed of by the taxpayer in the year.

Interpreta-
tion

The amounts referred to in the first paragraph are

(a) such part of any assistance described in subparagraph *i* of paragraph *d* of section 257, in respect of, or for the acquisition by the taxpayer of, a capital property, other than depreciable property, as has been repaid by the taxpayer in the year, where the repayment is made after the disposition of the capital property by the taxpayer and under an obligation to repay all or any part of that assistance; or

(b) an amount repaid by the taxpayer in the year in respect of a capital property, other than depreciable property, acquired by the taxpayer that is repaid after the disposition of the capital property by the taxpayer and that would have been a repayment described in paragraph *f.2* of section 257 had it been made before the disposition of the capital property.”

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

c. 1-3, s. 272,
am.

127. (1) Section 272 of the said Act is amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) in the case provided for in section 440, for all the years with respect to which the individual could have designated, in accordance with the third paragraph of section 274, such residence as his principal residence;”.

(2) Subsection 1 applies in respect of dispositions occurring after 31 December 1990.

c. 1-3, s. 274,
replaced

128. (1) Section 274 of the said Act is replaced by the following section:

Principal
residence of
an individual
other than a
personal trust

“274. In this title, “principal residence” of an individual, other than a personal trust, for a taxation year means a particular property that is a housing unit, a leasehold interest in a housing unit or a share of the capital stock of a cooperative housing corporation acquired for the sole purpose of acquiring the right to inhabit a housing unit owned by the corporation if, in every case, the individual is the owner of the particular property, alone or jointly with another person, in the year, and if the condition set out in the second paragraph and one of the following conditions are met:

(a) the housing unit is ordinarily inhabited in the year by the individual, his spouse or former spouse or his child; or

(b) the individual has made

i. an election under the first paragraph of section 284 that relates to the change in use of the particular property in the year or a preceding taxation year, other than an election rescinded by the individual under the second paragraph of the said section in the individual’s fiscal return for the year or a preceding taxation year, or

ii. an election under section 286.1 that relates to a change in use of the particular property in a subsequent taxation year.

Condition

The condition referred to in the first paragraph consists in the particular property having been designated by the individual, in accordance with the third paragraph, as being his principal residence for the year and in no other property having been designated, for the purposes of this section and of sections 274.0.1, 275.1, 277 and 285, for the year by

(a) the individual;

(b) a person who was throughout the year the individual's 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;

(c) a person who was the individual's child, other than a child who was during the year a married person or a person 18 years of age or over; or

(d) where the individual was not during the year a married person or a person 18 years of age or over, a person who was the individual's father or mother, or brother or sister, where that brother or sister was not during the year a married person or a person 18 years of age or over.

Designation

The designation referred to in the second paragraph shall be made in the fiscal return the individual is required to file under section 1000 for his taxation year during which he has either disposed of, or has granted an option to purchase, the particular property."

(2) Subsection 1 applies in respect of dispositions occurring after 31 December 1990.

c. 1-3,
s. 274.0.1,
added

129. (1) The said Act is amended by inserting, after section 274, the following section:

Principal
residence of
an individ-
ual who is a
personal
trust

"274.0.1 In this title, "principal residence" of an individual who is a personal trust, in this section referred to as a "trust", for a taxation year means a particular property that is a housing unit, a leasehold interest in a housing unit or a share of the capital stock of a cooperative housing corporation acquired for the sole purpose of acquiring the right to inhabit a housing unit owned by the corporation where, in every case, the particular property is owned, whether alone or jointly with another person, in the year by the trust and the conditions set out in the second paragraph and one of the following conditions are met:

(a) the housing unit was ordinarily inhabited in the calendar year ending in the year by a specified beneficiary of the trust for the year,

by the spouse or former spouse of such a beneficiary or by a child of such a beneficiary; or

(b) the trust has made

i. an election under the first paragraph of section 284 that relates to the change in use of the particular property in the year or a preceding taxation year, other than an election rescinded by the trust under the second paragraph of the said section in the trust's fiscal return for the year or a preceding taxation year, or

ii. an election under section 286.1 that relates to a change in use of the particular property in a subsequent taxation year.

Conditions

The conditions referred to in the first paragraph are as follows:

(a) the particular property was designated by the trust, in accordance with the third paragraph, as the trust's principal residence for the year;

(b) the trust has specified in the designation each individual, in this section and in section 275.1 referred to as a "specified beneficiary", who, in the calendar year ending in the year,

i. is beneficially interested in the trust, and

ii. except where the trust is entitled to designate the particular property for the year solely by reason of subparagraph *b* of the first paragraph, ordinarily inhabited the housing unit or has a spouse, former spouse or child who ordinarily inhabited the housing unit;

(c) no corporation, other than a registered charity, or partnership is beneficially interested in the trust at any time in the year; and

(d) no other property has been designated for the purposes of this section and sections 274, 275.1, 277 and 285 for the calendar year ending in the year by

i. a specified beneficiary of the trust for the year,

ii. a person who was throughout that calendar year the spouse of a beneficiary referred to in subparagraph *i*, other than a spouse who was throughout that calendar year living apart and separated from the beneficiary pursuant to a judicial separation or a written separation agreement,

iii. a person who was the child of a beneficiary referred to in subparagraph i, other than a child who was during that calendar year a married person or a person 18 years of age or over, or

iv. where a beneficiary referred to in subparagraph i was not during that calendar year a married person or a person 18 years of age or over, a person who was the beneficiary's father or mother, or brother or sister, where that brother or sister was not during that calendar year a married person or a person 18 years of age or over.

Designation

The designation referred to in subparagraph *a* of the second paragraph shall be made in the fiscal return the trust is required to file under section 1000 for its taxation year in which it disposed of the particular property or granted an option to purchase the particular property."

(2) Subsection 1 applies in respect of dispositions occurring after 31 December 1990.

c. I-3,
s. 274.2,
replaced

130. (1) Section 274.2 of the said Act is replaced by the following section:

Acquisition
of property
in satisfac-
tion of an
interest in a
trust

"274.2 Where, in circumstances to which section 688 applies and section 691 does not apply, property has been acquired by a taxpayer in satisfaction of all or any part of his capital interest in a trust, the taxpayer is deemed, for the purposes of sections 271, 274, 274.0.1, 275.1 to 277 and 285, to have owned the property continuously since the trust last acquired it."

(2) Subsection 1 applies in respect of dispositions occurring after 31 December 1990.

c. I-3, s. 275,
repealed

131. (1) Section 275 of the said Act is repealed.

(2) Subsection 1 applies in respect of dispositions occurring after 31 December 1990.

c. I-3,
s. 275.1,
replaced

132. (1) Section 275.1 of the said Act is replaced by the following section:

Property
designated
by a trust

"275.1 For the purposes of sections 274 and 274.0.1, a particular property designated by a trust under the second paragraph of section 274.0.1 for a taxation year is deemed to be property designated by each specified beneficiary of the trust for the calendar year ending in the year."

(2) Subsection 1 applies in respect of dispositions occurring after 31 December 1990.

c. 1-3, s. 276,
repealed

133. (1) Section 276 of the said Act is repealed.

(2) Subsection 1 applies in respect of dispositions occurring after 31 December 1990.

c. 1-3,
ss. 277.1,
277.2, added

134. (1) The said Act is amended by inserting, after section 277, the following:

“DIVISION VI.1

“LIFE ESTATE IN IMMOVABLE PROPERTY

Disposition
of a remain-
der interest
in immov-
able prop-
erty

“277.1 Notwithstanding any other provision of this Act, where at any time a taxpayer disposes of a remainder interest in immovable property, except as a result of a transaction to which section 459 would otherwise apply, to a person or partnership, other than a registered charity that is a charitable organization described in paragraph *g* of section 985.1, and retains a life estate or an estate *pur autre vie*, in this division called the “life estate”, in the property, the taxpayer is deemed

(a) to have disposed at that time of the life estate in the immovable property for proceeds of disposition equal to its fair market value at that time; and

(b) to have reacquired the life estate immediately after that time at a cost equal to the proceeds of disposition referred to in paragraph *a*.

Termination
of a life
estate

“277.2 Where, as a result of an individual’s death, a life estate to which section 277.1 has applied is terminated,

(a) the holder of the life estate immediately before the death is deemed to have disposed of the life estate immediately before the death for proceeds of disposition equal to the adjusted cost base to that person of the life estate immediately before the death; and

(b) where a person who is the holder of the remainder interest in the immovable property immediately before the death was not dealing at arm’s length with the holder of the life estate, there shall, after the death, be added in computing the adjusted cost base to that person of the immovable property an amount equal to the lesser of

i. the adjusted cost base of the life estate in the property immediately before the death, and

ii. the amount by which the fair market value of the immovable property immediately after the death exceeds the adjusted cost base

to that person of the remainder interest immediately before the death.”

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

c. I-3, s. 285,
replaced

135. (1) Section 285 of the said Act is replaced by the following section:

Restriction
in the case
of a princi-
pal residence

“285. For the purposes of sections 274 and 274.0.1 and subject to section 286, in no case may a particular property be considered to be the principal residence of a taxpayer for a taxation year by virtue of the application of subparagraph *b* of the first paragraph of either of sections 274 and 274.0.1 if, by virtue solely of the application of that subparagraph *b*, the property would, but for this section, have been the taxpayer’s principal residence for four or more preceding taxation years.”

(2) Subsection 1 applies in respect of dispositions occurring after 31 December 1990. In addition, where section 285 of the Taxation Act, as replaced by subsection 1, applies in respect of dispositions occurring

(a) after 31 December 1981 and before 14 December 1990, it shall be read as follows:

Restriction
in the case
of a princi-
pal residence

“285. In the case of a property that is a principal residence, the election referred to in section 284 or 286.1 may be made only for the taxation year and the three subsequent taxation years, without exceeding four years in all.

Rescission
of an election

However, in the case of an election made in accordance with section 284, if the taxpayer, in his fiscal return for one of the three subsequent years, rescinds his election in respect of the property, he is deemed to have commenced to use the property to gain income from it or from a business on the first day of that subsequent year.”;

(b) after 13 December 1990 and before 1 January 1991, it shall be read as follows:

Restriction
in the case
of a princi-
pal residence

“285. For the purposes of section 274 and subject to section 286, in no case may a property be considered to be the principal residence of a taxpayer for a taxation year by virtue of an election made in accordance with section 284 or 286.1 if, by virtue of the said section 284 or 286.1, the property would, but for this section, have been his principal residence for four or more preceding taxation years.”

c. I-3, s. 295,
am.

136. Section 295 of the said Act is amended by replacing subsection 1 by the following subsection:

Option
granted by a
corporation
to purchase
shares or
bonds

“295. (1) Where a corporation after 31 December 1971 grants an option to purchase shares of its capital stock, bonds or debentures which it is to issue, the corporation is deemed to have disposed of capital property and realized a gain equal to the amount it has received as consideration for the granting of the option at the time the option expires.”

c. I-3, s. 302,
replaced

137. (1) Section 302 of the said Act is replaced by the following section:

Cost of cer-
tain prop-
erty the
value of
which is
included in
income

“302. For the purposes of this title, where a taxpayer has acquired property after 1971, other than an annuity contract, not referred to in sections 304 to 306, and an amount in respect of the value thereof has been included in computing his income otherwise than under sections 48 to 58, the amount so included shall be added in computing the cost to the taxpayer of that property, except to the extent that such amount has otherwise been added to the cost or included in computing the adjusted cost base to the taxpayer of the property.”

(2) Subsection 1 has effect from 17 October 1991.

c. I-3, s. 310,
replaced

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

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

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

(2) Subsection 1 applies from the taxation year 1992. However, for the period preceding 17 December 1993, section 310 of the Taxation Act, as enacted by subsection 1, shall be read without reference to “900,”.

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

139. (1) Section 312 of the said Act, amended by section 127 of chapter 16 of the statutes of 1993 and by section 27 of chapter 64 of the statutes of 1993, is again amended

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

Alimony
payments

“(a) an amount received under a decree, order or judgment of a competent tribunal or under a written agreement, as alimony or

other allowance payable on a periodic basis for the maintenance of the recipient thereof, a child of the recipient or both the recipient and child, if the recipient, because of the breakdown of the recipient's marriage occurring before 1 January 1993, was separated pursuant to a divorce, judicial separation or written separation agreement and was living apart from his spouse or former spouse who was required to make the payment at the time the payment was received and throughout the remainder of the year;

Maintenance
payments

“(b) an amount received under an order of a competent tribunal, 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 because of the breakdown of his marriage occurring before 1 January 1993, was living apart from his spouse who was required to make the payment;”;

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

Alimony
payments

“(b.0.1) an amount received under a decree, order or judgment of a competent tribunal or under a written agreement, as alimony or other allowance payable on a periodic basis for the maintenance of the taxpayer, a child of the taxpayer or both the taxpayer and child, if the taxpayer, because of the breakdown of the taxpayer's marriage occurring after 31 December 1992, was living apart from the spouse or former spouse who was required to make the payment at the time the payment was received and throughout the remainder of the year;”;

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

Maintenance
payments

“(b.1) an amount received as an allowance payable on a periodic basis for the maintenance of the taxpayer, a child of the taxpayer or both the taxpayer and child, if

i. the amount was received under an order made by a competent tribunal in accordance with the laws of a province,

ii. at the time the amount was received and throughout the remainder of the year, the taxpayer was living apart from the person who was required to make the payment, and

iii. the person who was required to make the payment is the father or mother of a child of the taxpayer;”;

(4) by inserting, after paragraph *b.1*, the following paragraph:

Repayment
of support
payments

“(b.2) an amount received under a decree, order or judgment of a competent tribunal as a reimbursement of an amount deducted under any of paragraphs *a* to *b* of subsection 1 of section 336 in computing the income of the taxpayer for the year or a preceding taxation year;”;

(5) by replacing paragraph *f.1* by the following paragraph:

Judicial and
extrajudicial
expenses

“(f.1) an amount received as an award or reimbursement in respect of judicial or extrajudicial expenses, other than those relating to a division or settlement of property arising out of, or on a breakdown of, a marriage, paid to collect or establish a right to a retiring allowance or a benefit under a pension plan, other than a benefit under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or a similar plan, within the meaning of the said Act, in respect of employment;”.

(2) Paragraphs 1, 2 and 5 of subsection 1 have effect from 1 January 1993.

(3) Paragraph 3 of subsection 1 applies in respect of amounts received under an order made after 31 December 1992.

(4) Paragraph 4 of subsection 1 applies in respect of payments received after 31 December 1990.

c. I-3,
ss. 313-
313.0.2,
replaced

Maintenance
payments

140. (1) Sections 313 to 313.0.2 of the said Act are replaced by the following sections:

“313. Where a decree, order, judgment or written agreement described in any of paragraphs *a* to *b.1* of section 312, or any variation thereof, provides for the periodic payment of an amount to a taxpayer by a person who is the taxpayer’s spouse or former spouse or, where the amount is paid under an order made by a competent tribunal in accordance with the laws of a province, an individual of the opposite sex who is the father or mother of a child of the taxpayer, or for the benefit of the taxpayer, a child in the custody of the taxpayer or both the taxpayer and that child, the amount or any part thereof, when paid, is deemed, for the purposes of paragraphs *a* to *b.1*, to have been paid to and received by the taxpayer.

Maintenance
payments

“313.0.1 Where an amount to which paragraphs *a* to *b.1* of section 312 do not otherwise apply is paid in a taxation year by a person under a decree, order or judgment of a competent tribunal or under a written agreement, in respect of an expense incurred in the year or the preceding taxation year for the maintenance of a taxpayer who is that person’s spouse or former spouse or, where the amount is paid

under an order made by a competent tribunal in accordance with the laws of a province, an individual of the opposite sex who is the father or mother of a child of the person, or for the maintenance of a child in the taxpayer's custody or both the taxpayer and the child, if at the time the expense was incurred and throughout the remainder of the year, the taxpayer was living apart from that person, and if the decree, order, judgment or written agreement provides that this section and section 336.1 apply to any payment made thereunder, the amount by which the aggregate of all amounts paid exceeds the amount determined under section 313.0.3 is deemed, for the purposes of paragraphs *a* to *b.1*, to have been paid by that person and received by the taxpayer as an allowance payable on a periodic basis.

Restriction

“313.0.2 For the purposes of section 313.0.1, an expense does not include an expenditure in respect of a self-contained domestic establishment in which the person referred to in that section who makes the payment resides, or an expenditure for the acquisition of tangible property that is not an expenditure on account of a medical or educational expense or in respect of the acquisition, improvement or maintenance of a self-contained domestic establishment in which the taxpayer described in the said section 313.0.1 who is that person's spouse or former spouse or, where the amount is paid under an order made by a competent tribunal in accordance with the laws of a province, an individual of the opposite sex who is the father or mother of a child of the person, resides.”

(2) Subsection 1 applies in respect of amounts received under a decree, order or judgment made by a competent tribunal after 31 December 1992 or under a written agreement entered into after that date.

c. I-3,
s. 313.0.3,
am.

141. (1) Section 313.0.3 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) the aggregate of all amounts each of which is an amount included in the aggregate of paid amounts contemplated in the said section in respect of the acquisition or improvement of a self-contained domestic establishment in which the taxpayer described therein who is the spouse or former spouse of the person referred to in that section or, where the amount is paid under an order made by a competent tribunal in accordance with the laws of a province, an individual of the opposite sex who is the father or mother of a child of the person, resides, including any payment of principal or interest in respect of an indebtedness incurred to finance, in any manner whatever, such acquisition or improvement, exceeds”.

(2) Subsection 1 applies in respect of amounts received under a decree, order or judgment made by a competent tribunal after 31 December 1992 or under a written agreement entered into after that date.

c. I-3,
s. 316.1, am.

142. (1) Section 316.1 of the said Act, replaced by section 131 of chapter 16 of the statutes of 1993, is amended

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

Property
loaned to
reduce or
avoid tax

“316.1 Where a particular individual, other than a trust, or a trust of which the particular individual is a beneficiary, receives a loan from or becomes indebted to a creditor or creditor trust, directly or indirectly by means of a trust or by any other means, and it may reasonably be considered that one of the main reasons for making the loan or incurring the indebtedness is to reduce or avoid tax by causing income from the loaned property to be included in the income of the particular individual, the following rules apply:”;

(2) by replacing the third paragraph by the following paragraph:

Definitions

“In this section,

“beneficiary”

“beneficiary” of a trust means an individual who is beneficially interested in the trust;

“creditor”

“creditor”, in respect of a particular individual, or of a trust of which the particular individual is a beneficiary, having received a loan or incurred a debt, means the individual, other than a trust, who made the loan or became the creditor and with whom the particular individual does not deal at arm’s length;

“creditor
trust”

“creditor trust”, in respect of a particular individual, or of a trust of which the particular individual is a beneficiary, having received a loan or incurred a debt, means the trust that made the loan or became the creditor and to which property has, directly or indirectly by means of a trust or by any other means, been transferred by another individual, in this section referred to as the “original transferor”, who is not a trust, who is resident in Canada at any time in the period during which the loan or indebtedness is outstanding and with whom the particular individual does not deal at arm’s length;

“loaned
property”

“loaned property”, in respect of a particular individual, or of a trust of which the particular individual is a beneficiary, having received a loan or incurred a debt, includes property that the loan or indebtedness enabled or assisted the particular individual, or the trust

in which the particular individual is a beneficiary, to acquire, and property substituted for such property or for the loaned property.”

(2) Subsection 1 applies in respect of income relating to periods commencing after 31 December 1990.

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

143. (1) Section 336 of the said Act, amended by section 95 of chapter 15 of the statutes of 1993, by section 136 of chapter 16 of the statutes of 1993, by section 21 of chapter 19 of the statutes of 1993 and by section 29 of chapter 64 of the statutes of 1993, is again amended

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

alimony
payments

“(a) an amount paid by an individual in the year under a decree, order or judgment of a competent tribunal or under a written agreement, as alimony or other allowance payable on a periodic basis for the maintenance of the recipient, a child of the recipient or both the recipient and child, if the individual, because of the breakdown of the individual’s marriage occurring before 1 January 1993, was separated pursuant to a divorce, judicial separation or written separation agreement and was living apart from the spouse or former spouse to whom the individual was required to make the payment at the time the payment was made and throughout the remainder of the year;”;

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

alimony
payments

“(a.0.1) an amount paid by an individual in the year under a decree, order or judgment of a competent tribunal or under a written agreement, as alimony or other allowance payable on a periodic basis for the maintenance of the recipient, a child of the recipient or both the recipient and child, if the individual, because of the breakdown of the individual’s marriage occurring after 31 December 1992, was living apart from the spouse or former spouse to whom the individual was required to make the payment at the time the payment was made and throughout the remainder of the year;”;

(3) by replacing that part of paragraph *a.1* of subsection 1 preceding subparagraph ii by the following:

maintenance
payments

“(a.1) an amount paid by an individual in the year as an allowance payable on a periodic basis for the maintenance of the recipient, a child of the recipient or both the recipient and child, if the following conditions are met:

i. the amount was received under an order of a competent tribunal in accordance with the laws of a province;”;

(4) by replacing subparagraph iii of paragraph *a.1* of subsection 1 by the following subparagraph:

“iii. the individual is the father or mother of a child of the recipient;”;

(5) by replacing paragraph *b* of subsection 1 by the following paragraph:

maintenance
payments

“(b) an amount paid by an individual in the year under an order of a competent tribunal, as an allowance payable on a periodic basis for the maintenance of the recipient, a child of the recipient or both the recipient and child, if at the time the payment was made and throughout the remainder of the year, the individual, because of the breakdown of the individual’s marriage occurring before 1 January 1993, was living apart from the recipient who is his spouse and to whom he was required to make the payment;”;

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

repayment
of support
payments

“(b.0.1) an amount paid by an individual in the year or one of the two preceding taxation years under a decree, order or judgment of a competent tribunal, as a repayment of an amount included under any of paragraphs *a* to *b.1* of section 312 in computing the income of the individual for the year or a preceding taxation year, to the extent that the amount was not so deducted for a preceding taxation year;”;

(7) by replacing paragraph *b.1* of subsection 1 by the following paragraph:

judicial and
extrajudicial
expenses

“(b.1) an amount paid by the taxpayer as judicial or extrajudicial expenses incurred either for the purpose of collecting an amount owing to him that he would be required to include in computing his income under any of paragraphs *a* to *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 contemplated in the said paragraphs or in the said section 313 or in any of paragraphs *a* to *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 did not deduct that amount in computing his income for a preceding taxation year;”;

(8) by replacing subparagraph i of paragraph *e.1* of subsection 1 by the following subparagraph:

“i. the aggregate of the judicial or extrajudicial expenses, other than those relating to a division or settlement of property arising out of, or on the breakdown of, a marriage, paid by the taxpayer in the year or any of the seven preceding taxation years to collect or establish a right to an amount of a benefit under a pension plan, other than a benefit under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or a similar plan, within the meaning of the said Act, in respect of the employment of the taxpayer or a deceased individual of whom the taxpayer was a dependent, legal representative or relation, or a retiring allowance of the taxpayer or a deceased individual of whom the taxpayer was a dependent, legal representative or relation;”;

(9) by replacing paragraph *i* of subsection 1 by the following paragraph:

repayment
of a policy
loan

“(i) the aggregate of repayments made by the taxpayer in the year in respect of a policy loan, within the meaning of paragraph *b.2* of section 966, made under a life insurance policy, not exceeding the amount, if any, by which the aggregate of all amounts required by section 968 and by reason of such policy loan made after 31 March 1978 in respect of that policy to be included in computing his income for the year or a preceding taxation year exceeds the aggregate of all repayments made by the taxpayer in respect of the policy loan that were deductible in computing his income for a preceding taxation year;”;

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

Maintenance
payments

“(2) Where a decree, order, judgment or written agreement described in any of paragraphs *a* to *b* of subsection 1, or any variation thereof, provides for the periodic payment of an amount by a taxpayer to a person who is the taxpayer’s spouse or former spouse or, where the amount is paid under an order made by a competent tribunal in accordance with the laws of a province, an individual of the opposite sex who is the father or mother of a child of the taxpayer, or for the benefit of the person or a child in the custody of the person or both the person and that child, the amount or any part thereof, when paid, is deemed, for the purposes of paragraphs *a* to *b*, to have been paid to and received by that person.”

(2) Paragraphs 1, 2, 5, 7 and 8 of subsection 1 have effect from 1 January 1993.

(3) Paragraphs 3 and 4 of subsection 1 apply in respect of orders made after 31 December 1992.

(4) Paragraph 6 of subsection 1 applies in respect of payments made after 31 December 1990.

(5) Paragraph 9 of subsection 1 applies in respect of repayments made after 20 December 1991.

(6) Paragraph 10 of subsection 1 applies in respect of amounts paid under a decree, order or judgment made by a competent tribunal after 31 December 1992 or under a written agreement entered into after that date.

c. I-3,
ss. 336.1,
336.2,
replaced

Maintenance
payment

144. (1) Sections 336.1 and 336.2 of the said Act are replaced by the following sections:

“336.1 Where an amount to which paragraphs *a* to *b* of subsection 1 of section 336 do not otherwise apply is paid by a taxpayer in a taxation year under a decree, order or judgment of a competent tribunal or under a written agreement, in respect of an expense incurred in the year or in the preceding taxation year for the maintenance of a person who is the taxpayer’s spouse or former spouse or, where the amount is paid under an order made by a competent tribunal in accordance with the laws of a province, an individual of the opposite sex who is the father or mother of a child of the taxpayer, or for the maintenance of a child in that person’s custody or both the person and that child, where the taxpayer was living apart from that person at the time the expense was incurred and throughout the remainder of the year in which the expense was incurred and where the decree, order, judgment or written agreement provides that this section and section 313.0.1 apply to any payment made thereunder, the amount by which the aggregate of such paid amounts exceeds the amount determined pursuant to section 336.3 is deemed, for the purposes of paragraphs *a* to *b*, to be an amount paid by the taxpayer and received by that person as an allowance payable on a periodic basis.

Restriction

“336.2 For the purposes of section 336.1, an expense does not include an expenditure in respect of a self-contained domestic establishment in which the taxpayer contemplated in the said section who makes the payment resides, or an expenditure for the acquisition of tangible property that is not an expenditure on account of a medical or educational expense or in respect of the acquisition, improvement or maintenance of a self-contained domestic establishment in which the person contemplated in the said section 336.1 who is the taxpayer’s spouse or former spouse or, where the amount is paid under an order made by a competent tribunal in accordance with the laws of a province, an individual of the opposite sex who is the father or mother of a child of the taxpayer, resides.”

(2) Subsection 1 applies in respect of amounts paid under a decree, order or judgment made by a competent tribunal after 31 December 1992 or under a written agreement entered into after 31 December 1992.

c. I-3,
s. 336.3, am.

145. (1) Section 336.3 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) the aggregate of all amounts each of which is an amount included in the aggregate of paid amounts contemplated in the said section in respect of the acquisition or improvement of a self-contained domestic establishment in which the person referred to therein who is the spouse or former spouse of the taxpayer described in that section or, where the amount is paid under an order made by a competent tribunal in accordance with the laws of a province, an individual of the opposite sex who is the father or mother of a child of the taxpayer, resides, including any payment of principal or interest in respect of an indebtedness incurred to finance, in any manner whatever, such acquisition or improvement, exceeds”.

(2) Subsection 1 applies in respect of amounts paid under a decree, order or judgment made by a competent tribunal after 31 December 1992 or under a written agreement entered into after 31 December 1992.

c. I-3, s. 338,
am.

146. (1) Section 338 of the said Act, amended by section 137 of chapter 16 of the statutes of 1993, is again amended by replacing the third paragraph by the following paragraph:

Require-
ment for
deduction

“In order that the fees paid to an educational institution contemplated in subparagraph iv of paragraph *a* of section 337 be deductible in computing an individual’s income for a taxation year under section 337, the individual must be at least 16 years of age at the end of the year and be a student enrolled in the institution to acquire or to improve the qualifications necessary for an occupation.”

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

c. I-3, s. 339,
am.

147. (1) Section 339 of the said Act, amended by section 96 of chapter 15 of the statutes of 1993 and by section 30 of chapter 64 of the statutes of 1993, is again amended

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

premium or
payment
under an
R.R.S.P. or
R.R.I.F.

“(b) any amount deductible under Title IV of Book VII or section 965.0.16.1 in computing his income for the year;”;

(2) by inserting, after paragraph *d.0.1*, the following paragraphs:

payment to
a registered
pension plan

“(d.0.2) an amount equal to the lesser of

i. the aggregate of the following amounts, other than the portion of that aggregate that is deductible under paragraph *c* of section 70 or paragraph *d.0.3* in computing the taxpayer’s income for the year:

(1) all contributions made in the year by the taxpayer to a registered pension plan in respect of eligible service of the taxpayer before 1 January 1990 under the plan, where the taxpayer was obliged under the terms of an agreement in writing entered into before 28 March 1988 to make the contributions, and

(2) the amounts paid in the year by the taxpayer to a registered pension plan as a repayment under a prescribed statutory provision of an amount received from the plan that was included under section 309 in computing the taxpayer’s income for a taxation year ending before 1 January 1990, where the taxpayer was obliged as a consequence of a written election made before 28 March 1988 to make the repayment, or as interest in respect of the repayment; and

ii. the aggregate of all amounts each of which is an amount paid out of or under a registered pension plan as part of a series of periodic payments and included under section 309 in computing the taxpayer’s income for the year, other than the portion of that aggregate that can reasonably be considered to have been designated by the taxpayer for the purposes of paragraph *j.2* of section 60 of the Income Tax Act (Statutes of Canada);

repayment
of pre-1990
pension ben-
efits

“(d.0.3) an amount equal to the lesser of

i. the aggregate of all amounts each of which is an amount paid in the year or a preceding taxation year by the taxpayer to a registered pension plan that was not deductible in computing the taxpayer’s income for a preceding taxation year and that was paid as a repayment under a prescribed statutory provision of an amount received from the plan that was included under section 309 in computing the taxpayer’s income for a taxation year ending before 1 January 1990, or as interest in respect of the repayment, and

ii. the amount by which \$5 500 exceeds the amount deducted under paragraph *c* of section 70 in computing the taxpayer’s income for the year;

repayment
of post-1989
pension ben-
efits

“(d.0.4) the aggregate of all amounts each of which is an amount paid in the year by the taxpayer to a registered pension plan as a

repayment under a prescribed statutory provision of an amount received from the plan that was included under section 309 in computing the taxpayer's income for a taxation year ending after 31 December 1989, and that can reasonably be considered not to have been designated by the taxpayer for the purposes of paragraph *j.2* of section 60 of the Income Tax Act (Statutes of Canada), or as interest in respect of the repayment, except such portion of the aggregate that was deductible under paragraph *c* of section 70 in computing the taxpayer's income for the year;"

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

(3) Paragraph 2 of subsection 1, where it enacts paragraphs *d.0.2* and *d.0.4* of section 339 of the Taxation Act, applies from the taxation year 1990 and, where it enacts paragraph *d.0.3* of that section, applies from the taxation year 1991. However, where subparagraph ii of paragraph *d.0.2* and paragraph *d.0.4* of that section 339, as enacted by paragraph 2, apply to the taxation year 1990, the reference therein to "to have been designated by the taxpayer for the purposes of paragraph *j.2* of section 60 of the Income Tax Act (Statutes of Canada)" shall be read as a reference to "to have been designated by the taxpayer for the purposes of paragraph *d.2*", and the reference therein to "not to have been designated by the taxpayer for the purposes of paragraph *j.2* of section 60 of the Income Tax Act (Statutes of Canada)" shall be read as a reference to "not to have been designated by the taxpayer for the purposes of paragraph *d.2*".

c. 1-3, s. 350,
am.

148. (1) Section 350 of the said Act is amended by replacing paragraph *f* by the following paragraph:

"(f) the legal expenses incurred for the acquisition of his new residence that are required for that acquisition and any taxes imposed on the transfer or registration of rights arising out of the acquisition of the said residence where his old residence is sold by the individual or his spouse as a result of the move."

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

c. 1-3, s. 352,
replaced

149. (1) Section 352 of the said Act is replaced by the following section:

Excluded
expenses

"352. For the purposes of paragraph *b* of section 351, child care expenses shall not include expenses paid in the year for a child's attendance at a boarding school or camp which exceed the total amount of \$150 per week for each child who either is under seven years

of age on 31 December of that year or would have been had he then been living, or is described in section 355.1, and \$90 per week for any other child, for each week in the year during which the child attended the school or camp, nor shall they include the medical expenses contemplated in sections 752.0.11 to 752.0.13 or other expenses paid for medical or hospital care, clothing, transport or education or for board or lodging other than those described in the said paragraph *b*.”

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

c. I-3, s. 353,
am.

150. (1) Section 353 of the said Act is amended by replacing that part preceding subparagraph *a* of the first paragraph by the following:

Deductible
child care
expenses

“353. An individual may deduct, in computing his income for a taxation year, an amount not exceeding the aggregate of all amounts each of which is an amount paid as child care expenses incurred for services rendered in the year in respect of any eligible child of the individual, if the amount is paid either”.

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

151. (1) Section 354 of the said Act is amended by replacing subparagraph *i* of paragraph *a* by the following subparagraph:

“*i.* the aggregate of \$5 000 per eligible child of the individual for the year who either is under seven years of age on 31 December of that year or would have been had he then been living, or is described in section 355.1, and in respect of whom the expenses were incurred, and of \$3 000 for any other eligible child of the individual for the year in respect of whom the expenses were incurred; and”.

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

c. I-3, s. 355,
am.

152. (1) Section 355 of the said Act is amended

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

“(b) an amount equal to the aggregate of \$150 per week for each eligible child of the individual for the year who either is under seven years of age on 31 December of that year or would have been had he then been living, or is described in section 355.1, and in respect of whom such child care expenses are incurred, and of \$90 per week for any other eligible child of the individual for the year in respect of whom such child care expenses are incurred, for each week in the year during which child care expenses were incurred and throughout which the supporting person of a child of the individual was”;

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

“iv. a person who was living apart from the individual at the end of the year and for a period of not less than 90 days commencing in the year, because of a breakdown of their marriage.”

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

c. I-3, s. 408,
am.

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

“(d) subject to section 418.37, his share of any expense described in paragraphs *a* to *c* incurred by a partnership in a fiscal period thereof, if at the end of that fiscal period he was a member thereof, unless the taxpayer elects in respect of the share in prescribed form and manner on or before the day that is six months after the taxpayer’s taxation year in which that period ends; or”.

(2) Subsection 1 applies in respect of fiscal periods of a partnership ending after 31 July 1990. However, an election under paragraph *d* of section 408 of the Taxation Act, as enacted by subsection 1, that is made by notifying the Minister of Revenue in writing on or before the day that is six months after 17 June 1994 is deemed to have been made in accordance with the said paragraph *d*.

c. I-3,
s. 418.2, am.

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

“(b) subject to section 418.37, his share of any expense described in paragraph *a* incurred by a partnership in a fiscal period of the partnership of which he was a member at the end of that fiscal period, unless the taxpayer elects in respect of the share in prescribed form and manner on or before the day that is six months after the taxpayer’s taxation year in which that period ends; or”.

(2) Subsection 1 applies in respect of fiscal periods of a partnership ending after 31 July 1990. However, an election under paragraph *b* of section 418.2 of the Taxation Act, as enacted by subsection 1, that is made by notifying the Minister of Revenue in writing on or before the day that is six months after 17 June 1994 is deemed to have been made in accordance with the said paragraph *b*.

c. I-3,
s. 418.39, am.

155. (1) Section 418.39 of the said Act is amended by adding, after subparagraph *b* of the first paragraph, the following subparagraph:

“(c) a taxpayer’s share of Canadian development expenses or Canadian oil and gas property expenses incurred by a partnership in a fiscal period in respect of which the taxpayer has elected in respect of the share under paragraph *d* of section 408 or paragraph *b* of section 418.2, as the case may be, is deemed to be nil.”

(2) Subsection 1 applies in respect of fiscal periods of a partnership ending after 31 July 1990.

c. I-3,
s. 421.5, am.

156. (1) Section 421.5 of the said Act, amended by section 176 of chapter 16 of the statutes of 1993, is again amended by replacing the first paragraph by the following paragraph:

Interest on
money bor-
rowed for a
passenger
vehicle

“421.5 For the purposes of this Part, any interest paid or payable for a period by a person on borrowed money used to acquire a passenger vehicle or on an amount paid or payable for such an acquisition is deemed, in computing the income of the person for a taxation year, to be the lesser of the amount paid or payable and the amount equal to that determined by the formula

$$\frac{A}{30} \times B.”$$

(2) Subsection 1 applies to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987. However, where the first paragraph of section 421.5 of the Taxation Act, as enacted by subsection 1, applies before 17 June 1994, the references therein to “to acquire” and to “such an acquisition” shall be read as references to “to purchase” and to “such a purchase”, respectively.

c. I-3,
s. 422.1,
added

157. (1) The said Act is amended by inserting, after section 422, the following section:

Transac-
tions
deemed
made at the
fair market
value of the
property

“422.1 Where, at any time, a taxpayer disposed of property for proceeds of disposition, determined without reference to this section, equal to or greater than the fair market value at that time of the property, and there existed at that time an agreement under which a person with whom the taxpayer was not dealing at arm’s length agreed to pay as rent, royalty or other payment for the use of or the right to use the property an amount less than the amount that would have been reasonable in the circumstances if the taxpayer and the person had been dealing at arm’s length at the time the agreement was entered into, the proceeds of disposition of the property are deemed to be the greater of

(a) such proceeds determined without reference to this section, and

(b) the fair market value of the property at the time of the disposition, determined without reference to the existence of the agreement.”

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

c. I-3,
s. 427.5, am.

158. (1) Section 427.5 of the said Act is amended by striking out paragraph *b*.

(2) Subsection 1 applies in respect of an amalgamation or merger of a corporation occurring after the commencement of its first taxation year commencing after 30 June 1988.

c. I-3, s. 429,
am.

159. (1) Section 429 of the said Act, amended by section 34 of chapter 64 of the statutes of 1993, is again amended by replacing subparagraph *c* of the second paragraph by the following subparagraph:

“(c) subject to sections 693.1 and 752.0.26, that other person were entitled to the deductions to which the individual was entitled under sections 725 to 725.7, 752.0.1 to 752.0.13.3 and 752.0.14 to 752.0.18.1 in computing his taxable income or his tax payable under this Part, as the case may be, for the year.”

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

c. I-3, s. 430,
replaced

160. (1) Section 430 of the said Act, replaced by section 181 of chapter 16 of the statutes of 1993, is again replaced by the following section:

Rights or
property
transferred
to a benefi-
ciary of the
estate

“430. Where, before the time allowed under the second paragraph of section 429 has expired, a right or property referred to in the said section, except any compensation or amount referred to in subparagraph ii, iii or iv of paragraph *f* of section 93, has been transferred or assigned to a person who is a beneficiary of the estate or to any other person who is beneficially interested in the estate, the said section 429 does not apply in respect of such right or property and the person shall include in computing his income the amount received by him upon the realization or disposition of such right or property for the year in which such amount is received.”

(2) Subsection 1 has effect from 15 June 1993.

c. I-3, s. 435,
am.

161. (1) Section 435 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

Special pro-
visions

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

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

c. I-3,
Part I,
Book III,
Title VII,
Chap. III,
Division III,
heading,
replaced

162. (1) The heading of Division III of Chapter III of Title VII of Book III of Part I of the said Act is replaced by the following heading:

“CAPITAL PROPERTY, DEPRECIABLE PROPERTY AND OTHER PROPERTY”.

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

c. I-3, s. 436,
replaced

163. (1) Section 436 of the said Act is replaced by the following section:

Capital prop-
erty of a
deceased
taxpayer

“436. An individual who has died is deemed to have disposed, immediately before his death, of each capital property then owned by him and to have received proceeds of disposition therefor equal to the fair market value of the capital property at that time, and the person who as a consequence of the death acquires the property is deemed to acquire it immediately after such deemed disposition at a cost equal to its fair market value immediately before the death.”

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

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

164. (1) Section 437 of the said Act, amended by section 182 of chapter 16 of the statutes of 1993, is again amended by adding, after paragraph *c*, the following paragraph:

“(d) for the purpose of determining, after the individual’s death, the amount deemed by subparagraph ii of paragraph *a* of section 105 to be the taxable capital gain of the person referred to in paragraph *b* and the amount to be included under paragraph *b* of that section in

computing the person's income in respect of any subsequent disposition of the property of the business, there shall be added to the amount determined under subparagraph 2 of subparagraph i of paragraph b of section 107 the proportion of the amount determined under that subparagraph 2 in respect of the individual's business, immediately before his death, that the fair market value of the intangible capital property of the individual immediately before his death is of the fair market value, at that time, of the aggregate of the individual's intangible capital property in respect of the business."

(2) Subsection 1 applies in respect of acquisitions occurring as a consequence of the death of an individual after the commencement of the first fiscal period of the individual's business commencing after 31 December 1987.

c. I-3,
s. 437.1,
added

165. (1) The said Act is amended by inserting, after section 437, the following section:

NISA on
death

"437.1 Where an individual who dies has at the time of death a net income stabilization account, all amounts held for or on behalf of the individual in his NISA Fund No. 2 are deemed to have been paid out of that fund to the individual immediately before his death."

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

c. I-3, s. 438,
repealed

166. (1) Section 438 of the said Act is repealed.

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

c. I-3,
s. 438.1,
replaced

167. (1) Section 438.1 of the said Act is replaced by the following section:

Partition fol-
lowing the
dissolution
of the matri-
monial
regime

"438.1 For the purpose of determining the property referred to in section 433, 434, 436 or 437 which was owned by an individual immediately before his death, where property is subject to a partition following the dissolution, as a consequence of that death, of the matrimonial regime to which that individual was then subject, only the property forming part of his patrimony once the partition is effected is to be taken into account.

Presumption

For the purposes of sections 454 and 455, the partition is deemed to have been effected immediately before the death of the individual."

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

c. I-3, s. 439,
am.

168. (1) Section 439 of the said Act is amended

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

Case where the capital cost to the deceased exceeds the cost to the person acquiring the property

“439. For the purposes of sections 93 to 104, 130 and 130.1 and of the regulations made under paragraph *a* of section 130 or of section 130.1, where depreciable property of a prescribed class of an individual who has died is deemed acquired by a person under section 436 and the capital cost of that property to the individual exceeds the amount determined for the person under the latter section, to that person, the following rules apply:”;

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

“(b) the excess is deemed to have been allowed to that person as depreciation for the taxation years ending before such acquisition.”

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

c. 1-3, s. 440, am.

169. (1) Section 440 of the said Act, amended by section 183 of chapter 16 of the statutes of 1993, is again amended

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

Transfer or assignment of property to the spouse or spousal trust

“440. Notwithstanding section 436, where property referred to therein is, as a consequence of the death of an individual who was resident in Canada immediately before his death, transferred or assigned to his spouse who was resident in Canada immediately before the individual's death or to a trust created by the individual's will, which was resident in Canada immediately after the time when the property was indefeasibly vested in the trust, if it can be shown, within the period ending 36 months after the death of the individual or, where written application therefor has been made to the Minister by the individual's legal representative before the expiry of that period, within such longer period as the Minister considers reasonable, that the property has become vested indefeasibly in the spouse or trust,”;

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

“(b) section 439 applies to depreciable property of a prescribed class as if the reference therein to section 436 were a reference to subparagraph *a* of the first paragraph of section 440.”;

(3) by adding, at the end, the following paragraph:

Rules appli-
cable to a
spousal trust

“The first paragraph applies only where the will creating the trust entitles the spouse to receive all of the income of the trust that arises before the spouse’s death, and no person except the spouse may receive or otherwise obtain enjoyment of any of the income or capital of the trust.”

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

c. I-3, s. 441,
repealed

170. (1) Section 441 of the said Act is repealed.

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

c. I-3,
s. 441.1,
added

171. (1) The said Act is amended by inserting, after section 441, the following section:

Transfer or
assignment
of a NISA
to the
spouse or
spousal trust

“**441.1** Where a property that is a net income stabilization account of an individual is, on or after the individual’s death and as a consequence thereof, transferred or assigned to the individual’s spouse, or to a trust described in the second paragraph, sections 437.1 and 462.0.1 do not apply in respect of the individual’s NISA Fund No. 2 if it can be shown, within the period ending 36 months after the death of the individual or, where written application therefor has been made to the Minister by the individual’s legal representative before the expiry of that period, within such longer period as the Minister considers reasonable, that the property has become vested indefeasibly in the spouse or trust.

Spousal trust

The trust referred to in the first paragraph is a trust created by the individual’s will, under which the individual’s spouse is entitled to receive all of the income of the trust that arises before the spouse’s death, and no person except the spouse may receive or otherwise obtain enjoyment of any of the income or capital of the trust.”

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

c. I-3, s. 442,
replaced

172. (1) Section 442 of the said Act is replaced by the following section:

Election

“**442.** Sections 440 and 441.1 do not apply to any property of a deceased individual in respect of which the legal representative of the individual elects, in the individual’s fiscal return under this Part, other than a fiscal return filed under the second paragraph of section 429 or section 681, 782 or 1003, for the year in which the individual died, to have section 436 or 437.1 apply.”

(2) Subsection 1 applies from the taxation year 1991. However, where section 442 of the Taxation Act, as enacted by subsection 1,

applies in respect of dispositions occurring before 1 January 1993, it shall be read as follows:

Election

“442. Sections 440 and 441.1 do not apply to any property of a deceased individual in respect of which the legal representative of the individual elects, in the individual’s fiscal return under this Part, other than a fiscal return filed under the second paragraph of section 429 or section 681, 782 or 1003, for the year in which the individual died, to have section 436, 437.1 or 438 apply.”

c. I-3, s. 443,
repealed

173. (1) Section 443 of the said Act is repealed.

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

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

174. (1) Section 444 of the said Act, amended by section 184 of chapter 16 of the statutes of 1993, is again amended by replacing that part preceding subparagraph *a* of the first paragraph by the following:

Property
used in the
business of
farming

“444. Notwithstanding section 436, where property referred to therein is, immediately before the death of an individual, a share of the capital stock of a family farm corporation of the individual or an interest in a family farm partnership of the individual or is land or depreciable property of a prescribed class situated in Canada which was, before the death, used principally in the business of farming in which the individual, the individual’s spouse or any of the individual’s children was actively engaged on a regular and continuous basis and the property is, as a consequence of the death, transferred or assigned to a child of the individual who was resident in Canada immediately before the death and it can be shown, within the period ending 36 months after the death of the individual or, where written application therefor has been made to the Minister by the individual’s legal representative before the expiry of that period, within such longer period as the Minister considers reasonable, that the property has become vested indefeasibly in the child,”.

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

c. I-3, s. 445,
replaced

175. (1) Section 445 of the said Act is replaced by the following section:

Rules appli-
cable in
respect of
trusts pro-
viding for
the payment
of debts

“445. Where a trust created by the will of an individual would be a trust referred to in section 440 or 441.1 but for the payment of the debts owing by the individual when he died or for provision for their payment, the following rules apply:

(a) the time limit to file the fiscal return contemplated in paragraph *c* of subsection 2 of section 1000 is extended to 18 months after the individual's death;

(b) where the legal representatives so elect in the return contemplated in paragraph *a*, other than such a return filed under the second paragraph of section 429 or section 681, 782 or 1003, and list therein property, other than a net income stabilization account, which was, on or after the individual's death and as a consequence thereof, transferred or assigned to the trust, the fair market value of which property immediately after the individual's death was not less than the debts of the individual, minus the amounts mentioned in section 449, section 440 does not apply to such property and the trust is deemed to be a trust referred to in section 440, notwithstanding the payment of the debts of the individual outstanding at his death or the provision for their payment."

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

(a) where paragraph *a* of section 445 of the Taxation Act, as enacted by subsection 1, applies in respect of payments to be made by a trust before 1 July 1992, it shall be read as follows:

"(a) except for sections 1037 to 1044, the time limit to file the fiscal return contemplated in paragraph *c* of subsection 2 of section 1000 is extended to 18 months after the individual's death,";

(b) where section 445 of the Taxation Act, as enacted by subsection 1, applies in respect of dispositions occurring before 1 January 1993,

i. that part of the said section preceding paragraph *a* thereof shall be read as follows:

Rules applicable in respect of trusts providing for the payment of debts

"445. Where a trust created by the will of an individual would be a trust referred to in sections 440 and 443 or section 441.1 but for the payment of the debts owing by the individual when he died or for provision for their payment, the following rules apply:";

ii. paragraph *b* of the said section shall be read as follows:

"(b) where the legal representatives so elect in the return contemplated in paragraph *a*, other than such a return filed under the second paragraph of section 429 or section 681, 782 or 1003, and list therein property, other than a net income stabilization account, which was, on or after the individual's death and as a consequence thereof, transferred or assigned to the trust, the fair market value of which

property immediately after the individual's death was not less than the debts of the individual, minus the amounts mentioned in section 449, section 440 does not apply to such property and the trust is deemed to be a trust referred to in sections 440 and 443, notwithstanding the payment of the debts of the individual outstanding at his death or the provision for their payment."

c. 1-3, s. 446,
am.

176. (1) Section 446 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

Capital gain
where the
fair market
value
exceeds
debts after
death

"446. Where the fair market value, immediately after the individual's death, of property referred to in paragraph *b* of section 445 exceeds the debts of the individual, minus the amounts described in section 449, and the legal representatives, in the return referred to in paragraph *a* of section 445, designate one property that is capital property other than depreciable property or money, the following rules apply:"

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

c. 1-3, s. 450,
am.

177. (1) Section 450 of the said Act, amended by section 185 of chapter 16 of the statutes of 1993, is again amended by replacing that part preceding subparagraph *b* of the first paragraph by the following:

Transfer of
farm prop-
erty from a
spousal
trust to a
child

"450. Where property of an individual has been transferred or assigned to a trust referred to in section 440 or 454 and the property was, immediately before that transfer or assignment, a share of the capital stock of a family farm corporation of the individual, an interest in a family farm partnership of the individual, land situated in Canada or depreciable property of a prescribed class situated in Canada and that property or, if that property is such land or such depreciable property, a property that is a capital replacement property therefor in respect of which the trust has made an election under section 96 or 279, was, immediately before the death of the individual's spouse who was a beneficiary under the trust, in the case of such a share, a share of the capital stock of a Canadian corporation that would be a share of the capital stock of a family farm corporation if subparagraph *i* of paragraph *a* of section 451 were read without the words "in which the individual or a spouse, a child or the father or mother of the individual was actively engaged on a regular and continuous basis", or, in the case of such an interest, an interest in a partnership that carried on the business of farming in Canada in which it used all or substantially all of its property in carrying on that business, or, in the case of such land, such depreciable property or such capital replacement property, property used in carrying on the business of farming, the following rules apply if that property, on the

death of the spouse and as a consequence thereof, is transferred or assigned and indefeasibly vested in a child of the individual who was resident in Canada immediately before the death:

(a) sections 653 to 656.1 are not applicable to the trust in respect of the property;"

(2) Subsection 1, where it replaces that part of the first paragraph of section 450 of the Taxation Act preceding subparagraph *a* thereof, applies from the taxation year 1992. However, where that part of the first paragraph of section 450 of the said Act preceding subparagraph *a*, as enacted by subsection 1, applies in respect of dispositions occurring before 1 January 1993, the reference therein to "a trust referred to in section 440 or 454" shall be read as a reference to "a trust referred to in sections 440 and 443 or 454".

(3) Subsection 1, where it replaces subparagraph *a* of the first paragraph of section 450 of the Taxation Act, has effect from 21 December 1991.

c. 1-3,
s. 450.2,
replaced

178. (1) Section 450.2 of the said Act is replaced by the following section:

Fair market
value of a
share

"450.2 For the purposes of sections 436, 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 be determined as though the fair market value of a life insurance policy at that time under which the taxpayer is the person whose life is insured were equal to the cash surrender value, within the meaning of paragraph *d* of section 966, of the policy at that time."

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

c. 1-3, s. 451,
am.

179. (1) Section 451 of the said Act is amended

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

Definitions

"451. In this division and sections 234 to 236, 236.2, 237, 239 to 241, 261, 264, 271 to 273, 274.1, 278 to 280.4, 288, 293, 428 to 430, 432 to 435, 454 to 455.1 and 459 to 462:

"share of
the capital
stock of a
family farm
corporation"

(a) "share of the capital stock of a family farm corporation" of an individual at a particular time means a share of the capital stock of

a corporation owned by the individual at that time where, at that time, all or substantially all of the fair market value of the property owned by the corporation was attributable to

i. property that has been used by a person or partnership described in any of subparagraphs 1 to 4, principally in the course of carrying on the business of farming in Canada in which the individual or a spouse, a child or the father or mother of the individual was actively engaged on a regular and continuous basis,

(1) the corporation or any other corporation, a share of the capital stock of which was a share of the capital stock of a family farm corporation of the individual or of a spouse, a child or the father or mother of the individual,

(2) the individual,

(3) a spouse, a child or the father or mother of the individual, or

(4) a partnership, an interest in which was an interest in a family farm partnership of the individual or of a spouse, a child or the father or mother of the individual,

ii. shares of the capital stock or indebtedness of one or more corporations all or substantially all of the fair market value of the property of which was attributable to property described in subparagraph iii, or

iii. property described in subparagraph i or ii;";

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

“(f) “interest in a family farm partnership” of an individual at a particular time means an interest owned by the individual at that time in a partnership where, at that time, all or substantially all of the fair market value of the property of the partnership was attributable to

“interest in
a family
farm part-
nership”

i. property that has been used by the partnership or a person described in any of subparagraphs 1 to 3, principally in the course of carrying on the business of farming in Canada in which the individual or a spouse, a child or the father or mother of the individual was actively engaged on a regular and continuous basis,

(1) the individual,

(2) a spouse, a child or the father or mother of the individual, or

(3) a corporation a share of the capital stock of which was a share of the capital stock of a family farm corporation of the individual or of a spouse, a child or the father or mother of the individual,

ii. shares of the capital stock or indebtedness of one or more corporations all or substantially all of the fair market value of the property of which was attributable to property described in subparagraph iii, or

iii. property described in subparagraph i or ii.”;

(3) by adding, at the end, the following paragraph:

Net income
stabilization
account

“For the purposes of subparagraph *a* of the first paragraph, the fair market value of a net income stabilization account is deemed to be nil.”

(2) Paragraph 1 of subsection 1, where it replaces that part of section 451 of the Taxation Act preceding paragraph *a* thereof, has effect from 1 January 1991.

(3) Paragraph 1 of subsection 1, where it replaces paragraph *a* of section 451 of the Taxation Act, and paragraphs 2 and 3 of subsection 1 apply from the taxation year 1992.

c. I-3, s. 453,
am.

180. (1) Section 453 of the said Act, amended by section 188 of chapter 16 of the statutes of 1993, is again amended by replacing that part preceding paragraph *a* by the following:

Election by
the spouse
or trust
respecting
certain
reserves

“453. Where a right to receive an amount is transferred or assigned as a consequence of the death of a taxpayer to a beneficiary who is his spouse resident in Canada immediately before the death or a trust referred to in section 440 and the beneficiary and legal representative of the taxpayer exercise jointly an election in respect of such right in prescribed form, the following rules apply if the taxpayer was resident in Canada immediately before his death:”.

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

c. I-3, s. 454,
am.

181. (1) Section 454 of the said Act, amended by section 189 of chapter 16 of the statutes of 1993, is again amended

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

“(b) a trust created by the taxpayer, if the spouse of the taxpayer has, under the trust, the exclusive right to receive all of the income

of the trust that arises before the spouse's death, and to receive or otherwise obtain during that period enjoyment of any of the income or capital of that trust;"

(2) by striking out subparagraph *d* of the second paragraph.

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

(3) Paragraph 2 of subsection 1 applies in respect of transfers of property occurring after 31 December 1992.

c. I-3, s. 459,
replaced

182. (1) Section 459 of the said Act is replaced by the following section:

Transfer to
a child of
property
used in the
business of
farming

"459. Where an individual transfers to one of his children who was resident in Canada immediately before the transfer, property which is land situated in Canada, depreciable property of a prescribed class situated in Canada or intangible capital property in respect of a business carried on by the individual in Canada, and the property was, before the transfer, used principally in the business of farming in which the individual, the individual's spouse or any of the individual's children was actively engaged on a regular and continuous basis, or property that was, immediately before the transfer, a share of the capital stock of a family farm corporation of the individual or an interest in a family farm partnership of the individual, the individual is deemed to dispose of that property at the time of that transfer for proceeds of disposition which, except in the cases mentioned in sections 460 and 461, are equal to the proceeds of disposition otherwise determined."

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

c. I-3, s. 460,
am.

183. (1) Section 460 of the said Act is amended by replacing paragraph *b* by the following paragraph:

"(b) in the case of land, a share of the capital stock of a family farm corporation of the individual or an interest in a family farm partnership of the individual, the adjusted cost base of the property to the individual immediately before the transfer; in the case of intangible capital property in respect of a business, 4/3 of that proportion of the individual's eligible intangible capital amount in respect of that business that the fair market value of the property transferred, immediately before the time of the transfer, was of the fair market value at that time of the aggregate of the individual's intangible capital property in respect of the business; in the case of

depreciable property of a prescribed class, that proportion of the undepreciated capital cost to the individual immediately before the transfer of the aggregate of his depreciable property of that class that the fair market value of the property transferred, immediately before the time of the transfer, was of the fair market value of the aggregate of all his depreciable property of that class at that time.”

(2) Subsection 1 applies in respect of transfers by an individual occurring after the commencement of the first fiscal period of the individual's business commencing after 31 December 1987.

c. 1-3, s. 462,
am.

184. (1) Section 462 of the said Act is amended

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

“ii. $\frac{4}{3}$ of the amount by which that proportion of the excess determined under subparagraph i of paragraph b of section 107 in respect of the individual's business immediately before the transfer that the fair market value of the property, immediately before the time of the transfer, was of the fair market value at that time of the aggregate of the individual's intangible capital property in respect of the business exceeds the amount included under subparagraph i of paragraph a of section 105 in computing the income of the individual as a result of the transfer.”;

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

Amount to
be added

“For the purpose of determining, at any subsequent time, the eligible intangible capital amount of the child referred to in subparagraph c of the first paragraph in respect of the business he continues to carry on, an amount equal to $\frac{3}{4}$ of the amount determined under subparagraph ii of that subparagraph c shall be added to the aggregate otherwise determined under subparagraph 1 of subparagraph i of paragraph b of section 107.”;

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

Adjustment
of the
amounts
referred to
in section
105

“For the purpose of determining after the time of the transfer the amount deemed under subparagraph ii of paragraph a of section 105 to be the taxable capital gain of the child referred to in subparagraph c of the first paragraph, and the amount to be included under paragraph b of that section in computing the child's income in respect of any subsequent disposition of the property of the business, there shall be added to the amount otherwise determined under subparagraph 2 of subparagraph i of paragraph b of section 107 in

respect of the child that proportion of the amount determined under the said subparagraph 2 in respect of the individual's business immediately before the transfer, that the fair market value of the property transferred, immediately before the time of the transfer, was of the fair market value at that time of the aggregate of the individual's intangible capital property in respect of the business."

(2) Subsection 1 applies in respect of transfers by an individual occurring after the commencement of the first fiscal period of the individual's business commencing after 31 December 1987.

c. I-3,
s. 462.0.1,
added

185. (1) The said Act is amended by inserting, after section 462, the following section:

Disposition
of a NISA
Fund No. 2

"462.0.1 Where at any time a taxpayer disposes of an interest in the taxpayer's NISA Fund No. 2, an amount equal to the balance in the fund so disposed of is deemed to have been paid out of the fund at that time to the taxpayer except that,

(a) where the interest is disposed of to the taxpayer's spouse, former spouse or an individual referred to in subparagraph *d* of the second paragraph of section 454 in settlement of rights arising out of their marriage, on or after the breakdown of the marriage, that amount is not deemed to have been paid to the taxpayer if

i. the disposition is made under a decree, order or judgment of a competent tribunal or, in the case of a spouse or former spouse, under a written separation agreement, and

ii. the taxpayer elects in the taxpayer's fiscal return under this Part for the taxation year in which the property was disposed of to have this paragraph apply to the disposition;

(b) where the interest is disposed of to a taxable Canadian corporation in a transaction in respect of which an election is made under section 518, an amount equal to the proceeds of disposition in respect of that interest is deemed to be paid, at that time, to the taxpayer out of the taxpayer's NISA Fund No. 2."

(2) Subsection 1 applies in respect of dispositions occurring after 31 December 1990. However, where section 462.0.1 of the Taxation Act, as enacted by subsection 1, applies in respect of dispositions occurring before 1 January 1993, the reference therein to "marriage" shall be read as a reference to "marriage or other conjugal relationship".

c. I-3,
s. 462.2,
French text,
replaced

186. (1) Section 462.2 of the said Act, replaced by section 35 of chapter 64 of the statutes of 1993, is again replaced, in the French text, by the following section:

Cession ou
prêt à un
mineur

“462.2 Lorsqu'un particulier a cédé ou prêté un bien directement ou indirectement, par fiducie ou autrement, à une personne âgée de moins de 18 ans avec laquelle le particulier a un lien de dépendance ou qui est le neveu ou la nièce du particulier, ou au bénéfice de cette personne, autre qu'un montant reçu à l'égard de cette personne en raison de l'application du paragraphe 1 de l'article 122.61 de la Loi de l'impôt sur le revenu (Statuts du Canada), le revenu ou la perte de cette personne pour une année d'imposition, provenant du bien ou de tout bien qui lui a été substitué, qui se rapporte à la période de l'année tout au long de laquelle le particulier réside au Canada, est réputé être le revenu ou la perte du particulier pour l'année et non celui de cette personne, sauf lorsque celle-ci atteint l'âge de 18 ans avant la fin de l'année.”

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

c. I-3,
s. 462.8,
replaced

187. (1) Section 462.8 of the said Act is replaced by the following section:

Property
transferred
or loaned to
a trust

“462.8 The rules provided in sections 462.9 and 462.10 apply where an individual has loaned or transferred property, either directly or indirectly, by means of a trust or otherwise, to a trust in which another individual who is at any time a designated person in respect of the individual is beneficially interested at any time.”

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

c. I-3,
s. 462.21,
replaced

188. (1) Section 462.21 of the said Act is replaced by the following section:

Property
transferred
or loaned to
a trust

“462.21 Where a taxpayer has loaned or transferred property, either directly or indirectly, by means of a trust or otherwise, to a trust in which another taxpayer is beneficially interested, the taxpayer is, for the purposes of sections 462.1 to 462.24, deemed to have loaned or transferred the property, as the case may be, to or for the benefit of the other taxpayer.”

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

c. I-3,
s. 462.22,
repealed

189. (1) Section 462.22 of the said Act is repealed.

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

c. I-3,
s. 487.0.1,
am.

190. (1) Section 487.0.1 of the said Act is amended by replacing the definition of “breeding animals” in the first paragraph by the following definition:

“breeding
animals”

““breeding animals” means animals that are over 12 months of age and are horses kept for breeding in the commercial production of pregnant mares’ urine, or bison, bovine cattle, deer, goats, elk, sheep or other grazing ungulates kept for breeding;”.

(2) Subsection 1 applies to taxation years or fiscal periods ending after 31 December 1990.

c. I-3,
s. 487.1,
replaced

191. (1) Section 487.1 of the said Act is replaced by the following section:

Deemed ben-
efit

“487.1 A corporation carrying on the business of providing personal services or an individual is deemed to receive a benefit in a taxation year equal to the amount computed under section 487.2 when a person or partnership contracts a debt by virtue of services provided or to be provided by the corporation or of the individual’s former, current or planned office or employment.”

(2) Subsection 1 applies to taxation years commencing after 31 December 1991.

c. I-3, s. 489,
am.

192. (1) Section 489 of the said Act, amended by section 199 of chapter 16 of the statutes of 1993, is again amended by replacing that part of paragraph c.1 preceding subparagraph i by the following:

social assis-
tance pay-
ment

“(c.1) an amount, other than a prescribed amount, ordinarily paid to an individual, other than a trust, as a social assistance payment based on a means, needs or income test under a program provided for by a law of Canada or of a province, to the extent that it is received directly or indirectly by the individual for the benefit of another individual, other than the individual’s spouse or a person who is related to the individual or to the individual’s spouse, if”.

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

c. I-3,
Part I,
Book III,
Title IX,
Chap. III,
heading,
French text,
replaced

193. (1) The heading of Chapter III of Title IX of Book III of Part I of the said Act is replaced, in the French text, by the following heading:

“DIVIDENDES RÉPUTÉS”.

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

c. I-3,
s. 517.5.0.1,
added

194. (1) The said Act is amended by inserting, after section 517.5, the following section:

Control by a
group of per-
sons

“517.5.0.1 For the purposes of section 517.5,

(a) a group of persons in respect of a corporation means any two or more persons each of whom owns shares of the capital stock of the corporation;

(b) a corporation that is controlled by one or more members of a particular group of persons in respect of that corporation is deemed to be controlled by that group of persons; and

(c) a corporation may be controlled by a person or a particular group of persons notwithstanding that the corporation is also controlled or deemed to be controlled by another person or group of persons.”

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

c. I-3,
s. 518.1, am.

195. (1) Section 518.1 of the said Act, amended by section 208 of chapter 16 of the statutes of 1993, is again amended

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

“(f) a property included in an inventory, other than immovable property, an interest in immovable property or an option in respect of immovable property;”;

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

“(i) a NISA Fund No. 2.”

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

(3) Paragraph 2 of subsection 1 applies in respect of dispositions occurring after 31 December 1990.

c. I-3, s. 524.
am.

196. (1) Section 524 of the said Act is amended by replacing that part of paragraph *c* preceding subparagraph *i* by the following:

“(c) capital property, other than depreciable property of a prescribed class, property included in an inventory, a NISA Fund No. 2 or a property, other than capital property or property included in an inventory, that is a security or debt obligation used or held in the

year in the course of carrying on the business of insurance or lending money, and the amount agreed upon in the election in respect of the property is less than the lesser of”.

(2) Subsection 1 applies in respect of dispositions occurring after 31 December 1990.

c. I-3,
s. 524.0.1,
added

197. (1) The said Act is amended by inserting, after section 524, the following section:

Subsequent
disposition
of intangible
capital prop-
erty

“524.0.1 Where intangible capital property in respect of a business of a taxpayer was disposed of by the taxpayer to a corporation and the corporation and the taxpayer have jointly made the election contemplated in section 518 in respect of the property, for the purpose of determining, after the time of the disposition, the amount to be included under paragraph *b* of section 105 in computing the corporation’s income, the corporation shall add to the amount otherwise determined under subparagraph 2 of subparagraph *i* of paragraph *b* of section 107, the amount determined by the formula

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

Interpreta-
tion

For the purposes of the formula in the first paragraph,

(a) A is the amount determined in respect of the taxpayer’s business under subparagraph 2 of subparagraph *i* of paragraph *b* of section 107 immediately before the time of the disposition;

(b) B is the fair market value immediately before that time of the intangible capital property; and

(c) C is the fair market value immediately before that time of the aggregate of the intangible capital property of the taxpayer in respect of the taxpayer’s business.”

(2) Subsection 1 applies in respect of dispositions to a corporation occurring after the commencement of its first taxation year commencing after 30 June 1988.

c. I-3, s. 536,
am.

198. (1) Section 536 of the said Act is amended by replacing the first paragraph by the following paragraph:

Share for
share
exchange

“536. Where a share of any particular class of the capital stock of a Canadian corporation is issued to a taxpayer in exchange for capital property of the taxpayer that is a share, in this division called “exchanged share”, of a particular class of the capital stock of another

corporation which is a taxable Canadian corporation, the rules provided in sections 537 to 539 apply.”

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

c. I-3, s. 544,
am.

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

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

“(c) all of the shareholders, who owned shares of the capital stock of any predecessor corporation immediately before the merger, receive a share of the capital stock of the new corporation, excepting the predecessor corporations themselves.”;

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

“(5) For the purposes of subsections 3 and 4, this subsection and the second paragraph of section 547.1, and notwithstanding section 1, “subsidiary wholly-owned corporation” of a particular corporation means a corporation all the issued and outstanding shares of the capital stock of which are owned by”.

(2) Subsection 1 applies in respect of amalgamations occurring after 31 December 1989.

c. I-3,
ss. 547,
547.0.1,
repealed

200. (1) Sections 547 and 547.0.1 of the said Act are repealed.

(2) Subsection 1 applies in respect of amalgamations occurring after 30 June 1988.

c. I-3,
s. 547.1, am.

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

Restriction

“However, this section shall not affect the determination of the fiscal period or of the income of the new corporation or any predecessor corporation or that of the taxable income of, or the tax payable under this Act by, any predecessor corporation other than a corporation which, where the new corporation is formed by the amalgamation of a particular corporation and one or more of its subsidiary wholly-owned corporations, is the particular corporation.”

(2) Subsection 1 applies in respect of amalgamations occurring after 31 December 1989.

c. 1-3,
s. 555.2.3,
added

202. (1) The said Act is amended by inserting, after section 555.2.2, enacted by section 218 of chapter 16 of the statutes of 1993, the following section:

Right to
acquire a
share

“555.2.3 For the purposes of applying sections 551 to 553 and section 554 to the merger, in respect of a right to acquire a share, any reference therein to the new corporation shall be read as a reference to the particular corporation.”

(2) Subsection 1 applies in respect of amalgamations or mergers occurring after 20 December 1991.

c. 1-3, s. 557,
am.

203. (1) Section 557 of the said Act, amended by section 219 of chapter 16 of the statutes of 1993, is again amended by replacing the first paragraph by the following paragraph:

Property dis-
tributed to
parent

“557. Any property, other than an interest in a partnership, that was distributed to the parent by a subsidiary on the winding-up is deemed to have been disposed of by the subsidiary for proceeds equal to the cost amount to the subsidiary of the property immediately before the winding-up.”

(2) Subsection 1 applies in respect of distributions of property on the winding-up of a subsidiary in a taxation year of the subsidiary commencing after 30 June 1988.

c. 1-3, s. 559,
am.

204. (1) Section 559 of the said Act, amended by section 221 of chapter 16 of the statutes of 1993, is again amended by replacing the first paragraph by the following paragraph:

Cost of prop-
erty distrib-
uted to par-
ent

“559. Notwithstanding the reference to section 546 in section 564, the cost to the parent of each property of the subsidiary distributed to the parent on the winding-up is deemed to be equal, in the case of a property that is an interest in a partnership, to the amount that but for this section would be the cost to the parent of the property and, in any other case, to the amount by which the amount that, but for section 427.4, would be deemed by section 557 to be the proceeds of disposition of the property exceeds the amount by which the cost amount to the subsidiary of the property has been reduced by reason of subsection 2 of section 485 on the winding-up, plus, where the property is a capital property, other than depreciable property, owned by the subsidiary at the time the parent last acquired control of the subsidiary and thereafter without interruption until such time as it was distributed to the parent on the winding-up, the amount determined under the second paragraph.”

(2) Subsection 1 applies in respect of windings-up commencing after 20 December 1991. However, where the first paragraph of section 559 of the Taxation Act, as enacted by subsection 1, applies in respect of windings-up commencing after 20 December 1991 but before 15 June 1993, it shall be read as follows:

Cost of prop-
erty distrib-
uted to par-
ent

“559. Notwithstanding the reference to section 546 in section 564, the cost to the parent of each property of the subsidiary distributed to the parent on the winding-up is deemed to be equal, in the case of a property that is an interest in a partnership, to the amount that but for this section would be the cost to the parent of the property and, in any other case, to the amount by which the amount that, but for section 427.4, would be deemed by section 557 to be the proceeds of disposition of the property exceeds the amount by which the cost amount to the subsidiary of the property has been reduced by reason of subsection 2 of section 485 on the winding-up, plus, where the property is a capital property, other than depreciable property, owned by the subsidiary at the time the parent last acquired, otherwise than by an amalgamation, control of the subsidiary and thereafter without interruption until such time as it was distributed to the parent on the winding-up, the amount determined under the second paragraph.”

c. I-3,
s. 560.2, am.

205. (1) Section 560.2 of the said Act, amended by section 223 of chapter 16 of the statutes of 1993, is again amended

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

Control by a
subsidiary

“560.2 For the purposes of this section and sections 559 to 560.1, the time that a taxpayer last acquired control of a subsidiary, where control of the subsidiary was acquired from a person or group of persons with whom the taxpayer was not dealing at arm’s length otherwise than by reason of a right contemplated in paragraph *b* of section 20, is deemed to be the earlier of the time that the person or group of persons last acquired control of the subsidiary within the meaning of paragraph *b* of section 739, adapted as required, and the time that the person or group of persons is deemed by this section to have last acquired control.”,

(2) by inserting, after the first paragraph, the following paragraph:

Control
acquired by
succession
or will

“However, where a taxpayer has acquired, at any time, control of a corporation by succession or will, he is deemed at that time, and at any time before that time, for the purposes of the first paragraph and of paragraph *b* of section 739 where it applies to the first

paragraph, to have dealt at arm's length with the person who bequeathed the shares, or from whom the shares were inherited, and each other person who is related to that person."

(2) Subsection 1 applies in respect of windings-up commencing after 20 December 1991.

c. I-3,
s. 560.3,
added

206. (1) The said Act is amended by inserting, after section 560.2, the following section:

Subsequent
disposition
of intangible
capital prop-
erty by par-
ent

"560.3 For the purpose of determining after the winding-up the amount to be included under paragraph *b* of section 105 in computing the parent's income in respect of the business carried on by the subsidiary immediately before the winding-up, the parent shall add to the amount otherwise determined under subparagraph 2 of subparagraph *i* of paragraph *b* of section 107, the amount determined under the said subparagraph 2 in respect of that business immediately before the winding-up."

(2) Subsection 1 applies in respect of distributions of property on the winding-up of a subsidiary in a taxation year of the subsidiary commencing after 30 June 1988.

c. I-3, s. 570,
French text,
am.

207. Section 570 of the said Act, amended by section 229 of chapter 16 of the statutes of 1993, is again amended by replacing, in the French text, paragraph *e* by the following paragraph:

« corpora-
tion privée »

"*e*) "corporation privée", à un moment donné, signifie une corporation qui réside au Canada à ce moment, qui n'est pas une corporation publique et qui n'est pas contrôlée par une ou plusieurs corporations publiques, autre qu'une corporation à capital de risque prescrite, par une ou plusieurs corporations de la Couronne du Québec ou du Canada prescrites ou par une combinaison de ces corporations;"

c. I-3, s. 574,
French text,
am.

208. (1) Section 574 of the said Act is amended by replacing, in the French text, the first paragraph by the following paragraph:

Pourcentage
de participa-
tion d'une
action

"574. Pour l'application du présent titre, le pourcentage de participation d'une action, dont un contribuable est propriétaire, du capital-actions d'une corporation qui, à la fin de son année d'imposition, est une filiale étrangère contrôlée de ce contribuable, est égal à ce qui serait le pourcentage d'intérêt du contribuable dans la filiale à ce moment en supposant qu'il n'est propriétaire d'aucune autre action que cette action, lorsque la filiale et chaque autre corporation qui doit être prise en considération dans le calcul du pourcentage

d'intérêt du contribuable dans la filiale n'ont qu'une seule catégorie d'actions émises à la fin de l'année d'imposition de la filiale et, au cas contraire, est déterminé de la manière prescrite."

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

c. I-3, s. 593,
am.

209. (1) Section 593 of the said Act is amended by replacing paragraph *b* by the following paragraph:

"beneficiary"

"(b) "beneficiary" of a trust means a person who is beneficially interested in the trust."

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

c. I-3, s. 596,
am.

210. (1) Section 596 of the said Act is amended

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

"(a) the trust, with respect to any beneficiary the fair market value of whose beneficial interest in the trust is not less than 10 % of the fair market value of all beneficial interests in the trust, is deemed to be a corporation not resident in Canada controlled by such beneficiary,";

(2) by replacing, in the French text, paragraph *c* by the following paragraph:

"(c) chaque bénéficiaire de la fiducie est réputé propriétaire d'un pourcentage de ces actions égal à celui qui est calculé selon le rapport de la juste valeur marchande de son *beneficial interest* dans la fiducie sur celle de l'ensemble des *beneficial interests* dans la fiducie."

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

c. I-3, s. 600,
am.

211. (1) Section 600 of the said Act is amended by replacing paragraph *d* by the following paragraph:

"(d) in computing each income or loss of the partnership for a taxation year, no account shall be taken of section 145, paragraphs *d* and *e* of section 330 and section 418.12, and no deduction is permitted under section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24), the first paragraph of section 360 or sections 362 to 418.14,".

(2) Subsection 1 applies to fiscal periods of a partnership commencing after 20 December 1991.

c. I-3, s. 603,
am.

212. (1) Section 603 of the said Act, amended by section 238 of chapter 16 of the statutes of 1993, is again amended by replacing that part preceding paragraph *a* by the following:

Validity of
election by a
member of a
partnership

“603. Where a taxpayer who was a member of a partnership during a fiscal period has, for the purpose of computing the taxpayer’s income from the partnership for the fiscal period, made an election provided for by the regulations made under section 104 or by any of sections 96, 110.1, 119.15 to 119.22, 156, 180 to 182, 184, 199, 215, 216, 279, 280.3, 299 and 614, and where the election would, but for this section, be valid, the following rules apply:”.

(2) Subsection 1 has effect from 26 February 1992.

c. I-3,
s. 612.1,
added

213. (1) The said Act is amended by inserting, after section 612, the following section:

Members of
a partner-
ship deemed
to carry on
a business in
Québec

“612.1 Where a partnership carries on a business in Québec at any time during a taxation year, each taxpayer who is deemed to be a member of the partnership under section 608 is deemed, for the purposes of section 25, to carry on that business in Québec at any time during the year.”

(2) Subsection 1 applies from the taxation year 1994.

c. I-3, s. 622,
am.

214. (1) Section 622 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

Cost to each
ex-partner
of undivided
interest

“622. The cost to each person contemplated in section 620 of undivided interest in each property of the partnership is deemed to be equal to that person’s share of the cost amount to the partnership of the property immediately before its distribution, plus, where the property is intangible capital property, a particular amount that is that person’s share of $\frac{4}{3}$ of the amount determined under subparagraph *i* of paragraph *b* of section 107 in respect of the partnership’s business immediately before the particular time and, where the amount determined under paragraph *a* of section 621 in respect of that person exceeds the aggregate determined under paragraph *b* of that section 621 in respect of that person, the following amount:”.

(2) Subsection 1 applies in respect of acquisitions of property occurring as a consequence of the dissolution of a partnership after the commencement of its first fiscal period commencing after 31 December 1987.

c. I-3,
s. 624.1,
added

215. (1) The said Act is amended by inserting, after section 624, the following section:

Rules appli-
cable in the
case of intan-
gible capital
property

“624.1 Where intangible capital property in respect of a business is distributed by the partnership contemplated in section 620 to persons who were members thereof immediately before its dissolution, the following rules apply:

(a) for the purpose of determining, under this Part, any amount relating to an eligible intangible capital amount, an intangible capital amount or to intangible capital property, each such person is deemed to have continued to carry on the business, in respect of which the property was intangible capital property and that was previously carried on by the partnership, until the time that the person disposes of the person's undivided interest in the property;

(b) for the purpose of determining the person's eligible intangible capital amount in respect of the business, an amount equal to $\frac{3}{4}$ of the particular amount determined under section 622 in respect of the business shall be added to the amount otherwise determined in respect thereof under subparagraph 1 of subparagraph i of paragraph b of section 107; and

(c) for the purpose of determining after the particular time the amount that is deemed under subparagraph ii of paragraph a of section 105 to be the person's taxable capital gain or that is to be included under paragraph b of that section in computing the income of the person, as the case may be, in respect of any subsequent disposition of the property of the business, the amount determined under subparagraph 2 of subparagraph i of paragraph b of section 107 is deemed to be equal to that person's share of the amount determined under the said subparagraph 2 in respect of the partnership's business immediately before the particular time.”

(2) Subsection 1 applies in respect of acquisitions of property occurring as a consequence of the dissolution of a partnership after the commencement of its first fiscal period commencing after 31 December 1987.

c. I-3, s. 628,
am.

216. (1) Section 628 of the said Act is amended by replacing that part preceding paragraph a by the following:

Cost of prop-
erty
received as
consideration

“628. The cost to the person contemplated in section 626 of property so received is deemed to be equal to the cost amount to the partnership of the property immediately before the particular time, plus, where the property is intangible capital property, an amount

that is $\frac{4}{3}$ of the amount determined under subparagraph i of paragraph *b* of section 107 in respect of the partnership's business immediately before the particular time, and where the aggregate determined under paragraph *a* of section 627 exceeds the aggregate determined under paragraph *b* of section 627, the following amount:”.

(2) Subsection 1 applies in respect of acquisitions of property occurring as a consequence of the dissolution of a partnership after the commencement of its first fiscal period commencing after 31 December 1987.

217. (1) The said Act is amended by inserting, after section 630, the following section:

“630.1 Where intangible capital property in respect of a business is so received by the person contemplated in section 626, the following rules apply:

(a) for the purpose of determining the person's eligible intangible capital amount in respect of the business, an amount equal to $\frac{3}{4}$ of the particular amount determined under section 628 in respect of the business shall be added to the amount otherwise determined in respect thereof under subparagraph 1 of subparagraph i of paragraph *b* of section 107; and

(b) for the purpose of determining after the particular time the amount that is deemed under subparagraph ii of paragraph *a* of section 105 to be the person's taxable capital gain or that is to be included under paragraph *b* of that section in computing the income of the person, as the case may be, in respect of any subsequent disposition of the property of the business, the amount determined under subparagraph 2 of subparagraph i of paragraph *b* of section 107 is deemed to be equal to the amount determined under the said subparagraph 2 in respect of the partnership's business immediately before the particular time.”

(2) Subsection 1 applies in respect of acquisitions of property occurring as a consequence of the dissolution of a partnership after the commencement of its first fiscal period commencing after 31 December 1987.

218. (1) Section 645 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) the taxpayer is deemed to acquire the right referred to in paragraph *a* at a cost equal to the amount deemed to be the proceeds

of the disposition of the interest in the partnership to the deceased individual under section 436 or subparagraph *a* of the first paragraph of section 440; and”.

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

c. 1-3, s. 646, am. **219.** (1) Section 646 of the said Act is amended by replacing the first paragraph by the following paragraph:

Extension of “trust” **“646.** In this Part, a trust, wherever it is created, or an estate, referred to in this title as a “trust”, also includes the trustee, liquidator, administrator, heir or other legal representative having ownership or control of the property of the trust or estate.”

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

c. 1-3, s. 647, am. **220.** (1) Section 647 of the said Act, amended by section 241 of chapter 16 of the statutes of 1993, is again amended

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

Trusts excluded **“For the purposes of sections 653 to 656.2, 659 and 660 and paragraph *b* of section 657, a trust does not include a unit trust or a particular trust described in the fourth paragraph and, for the purposes of sections 653 to 656.2, 659, 660, 661, 662, 663.1, 663.2, 665, 665.1, 684 to 689, 690.0.1 and 691 to 692 and paragraph *b* of section 657, a trust does not include any of the following trusts:**

(*a*) an amateur athlete trust, an employee trust, a trust referred to in paragraph *c.4* of section 998 or a trust governed by a foreign retirement arrangement, a registered pension plan, a profit sharing plan, a registered supplementary unemployment benefit plan, a registered retirement savings plan, a deferred profit sharing plan, a registered education savings plan, a registered home ownership savings plan, an employee benefit plan or a registered retirement income fund;”;

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

“(c) a trust each of the beneficiaries under which was at all times after it was created a trust referred to in subparagraph *a* or *b*, other than a trust referred to in section 851.25, or a person who is a beneficiary of the trust only because of being a beneficiary under a trust referred to in either of those subparagraphs, other than a trust referred to in section 851.25.”;

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

Interpre-
tation

“The particular trust referred to in the third paragraph is a trust all interests in which have vested indefeasibly and no interest in which may become effective in the future, and that is not

(a) a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653;

(b) a trust that has elected under section 656.4; or

(c) a trust that, in its fiscal return under this Part for its first taxation year ending after 31 December 1992, has elected that this paragraph not apply.”

(2) Paragraph 1 of subsection 1, where it replaces that part of the third paragraph of section 647 of the Taxation Act preceding subparagraph *a*, and paragraphs 2 and 3 of subsection 1, apply from the taxation year 1993. However, an election referred to in subparagraph *c* of the fourth paragraph of section 647 of the said Act, as enacted by paragraph 3 of subsection 1, that is made by notifying in writing the Minister of Revenue on or before 15 September 1994, is deemed to have been made under that subparagraph *c*.

(3) Paragraph 1 of subsection 1, where it replaces subparagraph *a* of the third paragraph of section 647 of the Taxation Act, applies from the taxation year 1988. However, where subparagraph *a* of the third paragraph of section 647 of the said Act, as enacted by subsection 1, applies

(a) to the taxation years 1988 and 1989, it shall be read without reference to the words “a foreign retirement arrangement,”;

(b) before 1 January 1991, the reference in the French text thereof to the expression “régime de participation différée aux bénéfices” shall be read as a reference to the expression “régime d’intéressement différé”.

(4) In addition, where that part of the third paragraph of section 647 of the Taxation Act preceding subparagraph *a*, as replaced by paragraph 1 of subsection 1, applies to the taxation years 1991 and 1992, the reference therein to “659 to 662” shall be read as a reference to “659, 660, 661, 662”.

c. I-8,
s. 649.1, am.

221. (1) Section 649.1 of the said Act is amended by replacing the second paragraph by the following paragraph:

Beneficial
interest
deemed
acquired for
no consider-
ation

“For the purposes of the first paragraph and paragraph *n* of section 257, where all the beneficial interests in a particular *inter vivos* trust acquired by way of transfer, assignment or other disposition of property to the particular trust were acquired by one person, or two or more persons who are related to each other or would be related to each other if a trust and another person were related to each other by reason of the fact that the other person is a beneficiary under the trust or is related to a beneficiary under the trust, and if a trust and another trust were related to each other by reason of the fact that a beneficiary under the trust is a beneficiary under the other trust or is related to a beneficiary under the other trust, any beneficial interest in the particular trust acquired by such a person shall be deemed to have been acquired for no consideration.”

(2) Subsection 1 has effect from 1 January 1988.

c. 1-3,
ss. 650, 651,
replaced

222. (1) Sections 650 and 651 of the said Act are replaced by the following sections:

Income of a
trust

“650. For the purposes of the second paragraph of sections 440 and 441.1, subparagraph *b* of the second paragraph of section 454, the definition of “pre-1972 spousal trust” in section 652.1, subparagraph *a* of the first paragraph 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 included therein that is not included by reason of sections 501 to 503 in computing the income of the trust for the purposes of the other provisions of this Part, or that is referred to in section 1106 or 1116.

Trust not
disqualified
by reason
only of the
payment of
certain
duties and
taxes

“651. For the purposes of the second paragraph of sections 440 and 441.1, subparagraph *b* of the second paragraph of section 454, the definition of “pre-1972 spousal trust” in section 652.1 and subparagraph *a* of the first paragraph of section 653, where a trust has been created by an individual, a person other than the individual’s spouse is deemed not to have received or otherwise obtained, nor to be entitled to receive or otherwise obtain, enjoyment of any income or capital of the trust by reason only of the payment, or provision for payment, by the trust of any duty, in consequence of the individual’s death, in respect of any property of, or interest in, the trust or any tax in respect of any income of the trust.”

(2) Subsection 1 applies from the taxation year 1991. However, where sections 650 and 651 of the Taxation Act, as enacted by subsection 1, apply in respect of dispositions occurring before 1 January 1993, the references therein to the words and figures “of

the second paragraph of sections 440 and 441.1” shall be read as references to the words and figures “of the second paragraph of section 441.1, the first paragraph of section 443”.

c. I-3,
Part I,
Book III,
Title XII,
Chap. II,
heading,
replaced

223. (1) The heading of Chapter II of Title XII of Book III of Part I of the said Act is replaced by the following heading:

“DEEMED DISPOSITION AND PAYMENT.”

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

c. I-3,
ss. 652.1,
652.2, added

224. (1) The said Act is amended by inserting, after the heading of Chapter II of Title XII of Book III of Part I, the following sections:

Definitions

“652.1 In this title,

“excluded
property”

“excluded property” at a particular time means a share of the capital stock of an investment corporation owned by persons not resident in Canada if, on the first day of the first taxation year of the corporation that ends at or after the particular time, the corporation did not own property that was a Canadian resource property, a timber resource property or an income interest in a trust resident in Canada or any other property contemplated in section 1095;

“pre-1972
spousal
trust”

“pre-1972 spousal trust” at a particular time means a trust that was created by the will of an individual who died before 1 January 1972, or created before 18 June 1971 by an individual during the individual’s lifetime, that, throughout the period beginning at the time it was created and ending at the earliest of 1 January 1993, the day on which the individual’s spouse died and the particular time, was a trust under which the individual’s spouse was entitled to receive all of the income of the trust that arose before the spouse’s death, but does not include a trust under which a person other than the individual’s spouse received or otherwise obtained enjoyment of any of the income or capital of the trust before the end of that period.

Variation of
the terms of
a trust

“652.2 For the purposes of sections 653 to 656.2, but excluding, for greater certainty, subparagraph *a.1* of the first paragraph of section 653, where at any time the terms of a trust are varied, the trust is from that time deemed to be the same trust as, and a continuation of, the trust immediately before that time.”

(2) Subsection 1, where it enacts section 652.1 of the Taxation Act, has effect from 12 February 1991 and, where it enacts section 652.2 of the said Act, applies in respect of variations occurring after 11 February 1991.

c. I-3,
ss. 653, 654,
replaced

225. (1) Sections 653 and 654 of the said Act are replaced by the following sections:

Deemed dis-
position by a
trust

“653. A trust is deemed to have disposed of all its capital property, other than excluded property, and land included in the inventory of a business of the trust, at the end of each of the following days and to have reacquired such property immediately thereafter:

(a) the day on which the spouse of the individual who created the trust died if the terms of the deed creating it entitled the spouse to receive all of the income of the trust that arose before the spouse's death and to receive or otherwise obtain, to the exclusion of any other person, enjoyment of the income or capital of the trust;

(a.1) where on 1 January 1993 the trust is a pre-1972 spousal trust, the later of 1 January 1993 and the day on which the individual's spouse died, as referred to in respect of the trust in the definition of “pre-1972 spousal trust” in section 652.1;

(b) the day of the twenty-first anniversary of the latest of 1 January 1972, the day on which the trust was created and, where applicable, the day determined under subparagraph *a* or *a.1*;

(c) the day of the twenty-first anniversary of the day, other than a day determined under subparagraph *a* or *a.1*, of any deemed disposition of such property under this section.

Application
of subpara-
graph *a*

Subparagraph *a* of the first paragraph applies only where the trust contemplated therein is

(a) a trust that was created by the will of an individual who died after 31 December 1971 and that, at the time it was created, was a trust described in that subparagraph *a*;

(b) a trust that was created by the will of an individual who died after 31 December 1971 to which property was transferred in circumstances to which section 435 or subparagraph *a* of the first paragraph of section 440 applied and that, immediately after the property was indefeasibly vested in the trust as a consequence of the individual's death, was a trust described in subparagraph *a* of the first paragraph; or

(c) a trust that was created after 17 June 1971 by an individual during his lifetime and that, at any time after 31 December 1971, was a trust described in subparagraph *a* of the first paragraph.

Exception

However, subparagraph *a* of the first paragraph does not apply in respect of a trust described in subparagraph *b* of the second

paragraph where the spouse who was the beneficiary of that trust died before 21 December 1991.

Deemed disposition by a trust

“654. The trust is deemed to have disposed of each property contemplated in section 653, at the time determined under that section, for proceeds equal to its fair market value at that time and to have reacquired the property immediately thereafter at a cost or a capital cost, as the case may be, equal to the proceeds of disposition.”

(2) Subsection 1 applies to taxation years of trusts ending after 11 February 1991. However,

(a) where subparagraph *b* of the second paragraph of section 653 of the Taxation Act, as enacted by subsection 1, applies in respect of dispositions occurring before 1 January 1993, the reference therein to “subparagraph *a* of the first paragraph of section 440” shall be read as a reference to “paragraph *a* of section 440”;

(b) in respect of days prior to 1 January 1993 as determined under section 653 of the Taxation Act, as enacted by subsection 1, section 654 of the said Act, as enacted by that subsection, shall be read as follows:

Deemed disposition by a trust

“654. Except where the property was depreciable property of a prescribed class of the trust, the trust is deemed to have disposed of each property contemplated in section 653, at the time determined under that section, for proceeds equal to its fair market value at that time and to have reacquired the property immediately thereafter at a cost equal to the proceeds of disposition.

Depreciable property

Where the property contemplated in section 653 was depreciable property of a prescribed class of the trust, the trust is deemed to have disposed of the property of each class, at the time determined under that section, for proceeds equal to half the aggregate of the fair market value of the property at that time and the undepreciated capital cost thereof at that time, and to have reacquired each property of that class immediately thereafter for a capital cost equal to that proportion of the proceeds of disposition that the fair market value of the property, at that time, is of the fair market value of all properties of that class at that time.”

c. 1-3, s. 655, repealed

226. (1) Section 655 of the said Act is repealed.

(2) Subsection 1 applies to taxation years of trusts ending after 11 February 1991.

c. 1-3, ss. 656, 656.1, replaced

227. (1) Sections 656 and 656.1 of the said Act are replaced by the following sections:

Cases where the capital cost of depreciable property would otherwise be less than that before the deemed disposition

“656. Notwithstanding section 654, where the capital cost to the trust of depreciable property of a prescribed class immediately before the deemed disposition thereof under section 653 exceeds the cost thereof to the trust as determined under section 654, for the purposes of sections 93 to 104, 130 to 130.1 and of the regulations made under paragraph *a* of section 130 as those sections and regulations apply to such property after that time,

(a) the capital cost to the trust of the property is deemed to be the same as before the deemed disposition thereof under section 653; and

(b) the excess is deemed to have been allowed to the trust as depreciation for the taxation years preceding the deemed reacquisition of the property by the trust under section 653, and no other amount is deemed to have been allowed to the trust as such in respect of the property in computing the trust's income for those preceding taxation years.

Rules applicable regarding the recapture of a capital cost allowance

“656.1 For the purposes of sections 653 to 656,

(a) the words “at the end of a taxation year” and “of a prescribed class of a taxpayer” in section 94 shall be read respectively “at the particular time a trust is deemed, under section 653, to have disposed of its depreciable property of a prescribed class” and “of that class”, and

(b) for the purpose of computing the excess referred in section 94, at the end of the taxation year of the trust that included the day on which the trust is deemed, under section 653, to have disposed of its depreciable property of a prescribed class, any amount that was included on that day in computing the trust's income for the year under the said section 94, as it must be read pursuant to paragraph *a*, is deemed to be an amount included in computing the trust's income under sections 93 to 104 for a preceding taxation year.”

(2) Subsection 1 applies to taxation years of trusts ending after 11 February 1991.

c. 1-3, ss. 656.3-656.9, added

228. (1) The said Act is amended by inserting, after section 656.2, the following sections:

NISA balance deemed paid

“656.3 Every trust that holds an interest in a NISA Fund No. 2 that was transferred to it in circumstances to which the second paragraph of section 441.1 applied is deemed, at the end of the day on which the spouse referred to in that paragraph dies, to have been paid an amount out of the fund equal to the amount by which the balance at the end of that day in the fund so transferred exceeds such

portion of that balance as is deemed by section 660.1 to have been paid to the spouse.

Election

“656.4 Where a trust so elects in prescribed form filed with the Minister within six months after the end of a taxation year of the trust that includes a day, in this section referred to as the “disposition day”, that would, but for this section, be determined in respect of the trust under subparagraph *a.1* of the first paragraph of section 653 in the case of a trust described in that subparagraph, or under subparagraph *b* of the first paragraph of the said section in any other case, and, on the disposition day, at least one individual is an exempt beneficiary under the trust,

(*a*) for the purposes of sections 653 to 656.3, paragraph *a* of section 657 and section 1031.1, the day determined in respect of the trust under subparagraph *a.1* or *b*, as the case may be, of the first paragraph of section 653, is deemed to be the first day of the first taxation year of the trust beginning after the first day, after the disposition day, throughout which no individual is an exempt beneficiary under the trust;

(*b*) section 688 does not apply to a transfer made by the trust during the period beginning immediately after the disposition day, and ending at the end of the first day after the disposition day that is determined in respect of the trust under section 653, to any beneficiary, other than an individual who is an exempt beneficiary under the trust immediately before the time of the transfer;

(*c*) subject to paragraph *d*, paragraph *d* of subsection 2 of section 248 does not apply to a transfer by the trust during the period described in paragraph *b*; and

(*d*) paragraph *d* of subsection 2 of section 248 applies where property is transferred from the trust to another trust, and that other trust is deemed to be the same trust as, and a continuation of, the trust where

i. the property is transferred in circumstances to which the said paragraph *d* would, but for paragraph *c*, have applied,

ii. the other trust held no property immediately before the transfer, and

iii. the terms of the trust immediately before the transfer are identical to the terms of the other trust immediately after the transfer.

Exempt ben-
eficiary

“656.5 For the purposes of section 656.4, an individual is an exempt beneficiary under a trust at a particular time if the individual is alive and a beneficiary under the trust at the particular time, where

(a) in the case of a trust that was created after 11 February 1991, the individual, or an individual who, irrespective of section 1, is the brother or sister of the individual, was alive at the earlier of

i. the time the trust was created, and

ii. the earliest of all times each of which is the time that another trust was created that, before the particular time and the end of the day that would, but for section 656.4, be determined in respect of the trust under subparagraph *a.1* or *b* of the first paragraph of section 653, transferred property to the trust either directly, or indirectly through one or more trusts, in circumstances in which section 656.9 applies; and

(b) the individual or the individual's spouse or former spouse was

i. the designated contributor in respect of the trust, or

ii. the grandfather, grandmother, father, mother, brother, sister, child, niece or nephew of the designated contributor in respect of the trust, or of the spouse or former spouse of the designated contributor in respect of the trust.

Beneficiary

“656.6 For the purposes of section 656.5, a beneficiary under a trust is an individual who is beneficially interested in the trust, except that an individual is deemed not to be a beneficiary under a trust at a particular time

(a) where

i. the interests in the trust at the particular time of all individuals who would, if this chapter were read without reference to this paragraph, be exempt beneficiaries under the trust are subject to the exercise of a discretionary power by a person,

ii. the exercise of, or the failure to exercise, the discretionary power referred to in subparagraph i, under the terms of the trust after the particular time, may terminate the interests in the trust of the following persons, before the time at which the last of those persons dies and without any of those persons enjoying any benefit under the trust after the particular time:

(1) any individual referred to in subparagraph i; and

(2) any other individual who is a child of a deceased individual who, if this chapter were read without reference to this paragraph, would have been an exempt beneficiary under the trust at any time before the particular time, and

iii. the trust was created after 11 February 1991 or subparagraph ii applies in respect of the trust because of a variation of the terms of the trust occurring after that date; or

(b) where it is reasonable to consider that one of the main purposes for the creation of the interest of the individual in the trust was to defer the day determined in respect of the trust under subparagraph *a.1* or *b* of the first paragraph of section 653.

Designated
contributor

“656.7 For the purposes of section 656.5, a designated contributor in respect of a trust is

(a) where the trust is described in subparagraph *a* of the first paragraph and in the second paragraph of section 653, or was, on 20 December 1991, a pre-1972 spousal trust, the individual who created, or whose will created, the trust;

(b) where paragraph *a* does not apply and the trust is a testamentary trust at the end of the taxation year for which it makes an election under section 656.4, the individual as a consequence of whose death the trust was created; and

(c) in the case of any other trust, the individual who was, or who was related to, an individual beneficially interested in the trust and who is designated by the trust in its election under section 656.4

i. where, at each time in the relevant period in respect of the trust, the total amount of property transferred or loaned before that time by the designated individual, either directly or through another trust, to the trust

(1) exceeded the total amount of property so transferred or loaned before that time by each other individual who was born before the designated individual and who, at any time, was related to any individual beneficially interested in the trust, and

(2) was not less than the total amount of property so transferred or loaned before that time by each other individual who was born after the designated individual and who, at any time, was related to any individual beneficially interested in the trust,

ii. where

(1) no individual may be designated in respect of the trust because of subparagraph i,

(2) the designated individual transferred or loaned property, either directly or through another trust, to the trust at any time before the end of the relevant period in respect of the trust, and

(3) the designated individual was born before all other individuals who, at any time, were related to any individual beneficially interested in the trust or to any individual who transferred or loaned property to the trust before the end of the relevant period in respect of the trust, and who transferred or loaned property, either directly or through another trust, to the trust at any time before the end of the relevant period in respect of the trust, or

iii. where throughout the relevant period in respect of the trust the property of the trust consisted primarily of

(1) shares of the capital stock of a corporation controlled, on the day that the trust was created or at the beginning of the relevant period in respect of the trust, by the designated individual or by the designated individual and one or more other individuals born after, and related to, the designated individual, or all or substantially all of the value of which throughout the relevant period in respect of the trust derived from property transferred to the corporation by the designated individual or by the designated individual and one or more other individuals born after, and related to, the designated individual,

(2) shares of the capital stock of a corporation all or substantially all of the value of which, throughout the part of the relevant period in respect of the trust throughout which the shares were held by the trust, derived from shares described in subparagraph 1,

(3) property substituted for the shares described in subparagraph 1 or 2,

(4) property attributable to profits, gains or distributions in respect of property described in subparagraphs 1 to 3, or

(5) any combination of the properties described in subparagraphs 1 to 4.

Designated
contributor

“656.8 For the purposes of section 656.7,

(a) the relevant period in respect of a trust is the period that begins one year after the day on which the trust was created and ends at the end of the day that would, but for the election of the trust under section 656.4, be determined in respect of the trust under

subparagraph *a.1* or *b*, as the case may be, of the first paragraph of section 653;

(*b*) two individuals are deemed to be related to each other where one of them is the uncle, aunt, great uncle, or great aunt of the other individual;

(*c*) an individual is deemed not to be a designated contributor in respect of a trust where it is reasonable to consider that one of the main purposes of a series of transactions or events that includes an individual becoming a trustee in respect of trust property, or an acquisition of property or a borrowing by any individual was to defer the day determined in respect of the trust under subparagraph *b* of the first paragraph of section 653; and

(*d*) in determining whether all or substantially all of the value of shares of the capital stock of a corporation is derived from other property, the other property is deemed to include property substituted for the other property and property attributable to profits, gains or distributions in respect of the other property and the substituted property.

Trust trans-
fers

“656.9 Where capital property, other than excluded property, land included in inventory, Canadian resource property or foreign resource property is transferred at a particular time by a trust, in this section referred to as the “transferor trust”, to another trust, in this section referred to as the “transferee trust”, in circumstances in which paragraph *d* of subsection 2 of section 248 or section 688 applies,

(*a*) subject to paragraph *b*, for the purpose of applying sections 653 to 656.3 after the particular time,

i. the first day, in this section referred to as the “disposition day”, ending at or after the particular time determined in respect of the transferee trust under section 653 is deemed to be the earliest of

(1) the first day ending at or after the particular time that would be determined in respect of the transferor trust under section 653 without regard to the transfer and any transaction or event occurring after the particular time,

(2) the first day ending at or after the particular time that would otherwise be determined in respect of the transferee trust under section 653 without regard to any transaction or event occurring after the particular time,

(3) where the transferor trust is a trust that is described in subparagraph *a* of the first paragraph and in the second paragraph

of section 653 or a pre-1972 spousal trust, and the spouse referred to in the said subparagraph *a* or in the definition of “pre-1972 spousal trust” in section 652.1, as the case may be, is alive at the particular time, the first day ending at or after the particular time, and

(4) where the disposition day would, but for the application of this section to the transfer, be determined in respect of the transferee trust under paragraph *a* of section 656.4, and the particular time is after the day that would, but for section 656.4, be determined in respect of the transferee trust under subparagraph *b* of the first paragraph of section 653, the first day ending at or after the particular time, and

ii. where the disposition day determined in respect of the transferee trust under subparagraph *i* is earlier than the day referred to in subparagraph 2 of subparagraph *i* in respect of the transferee trust, sections 653 to 656.3 do not apply to the transferee trust on the day referred to in the said subparagraph 2 in respect of the transferee trust;

(b) where the transferor trust is a trust, in this paragraph referred to as an “eligible trust”, that is described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 or a pre-1972 spousal trust, and the spouse referred to in the said subparagraph *a* or in the definition of “pre-1972 spousal trust” in section 652.1, as the case may be, in respect of the trust is alive at the particular time, paragraph *a* does not apply in respect of the transfer where the transferee trust is an eligible trust; and

(c) for the purposes of section 656.4, unless a day ending before the particular time has been determined under subparagraph *a.1* or *b* of the first paragraph of section 653, or would, but for section 656.4, have been so determined, a day determined under subparagraph *i* of paragraph *a* is deemed to be a day determined under the said subparagraph *a.1* or *b*, as the case may be, in respect of the transferee trust.”

(2) Subsection 1, where it enacts section 656.3 of the Taxation Act, applies from the taxation year 1991.

(3) Subsection 1, where it enacts sections 656.4 to 656.8 of the Taxation Act, has effect from 12 February 1991. However, an election referred to in section 656.4 of the said Act, as enacted by subsection 1, that is made by notifying in writing the Minister of Revenue not later than six months after 17 June 1994, is deemed to have been made under that section 656.4.

(4) Subsection 1, where it enacts section 656.9 of the Taxation Act, applies in respect of property transferred after 11 February 1991. However, where paragraph *b* of the said section 656.9, as enacted by subsection 1, applies in respect of property transferred before 21 December 1991, it shall be read as follows:

“(b) where the transferor trust or the transferee trust is a trust that is described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 or a pre-1972 spousal trust, and the spouse referred to in the said subparagraph *a* or in the definition of “pre-1972 spousal trust” in section 652.1, as the case may be, is alive at the particular time, paragraph *a* does not apply in respect of the transfer; and”.

c. 1-3, s. 657,
am.

229. (1) Section 657 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) such amount as the trust elects to claim not exceeding the amount by which

i. such part of the amount that would be its income for the year as became payable in the year to a beneficiary or was included by reason of section 662 in computing the income of a beneficiary, but for

(1) this paragraph and paragraph *b*,

(2) section 92.5.2, except to the extent that that section applies to an amount paid to a trust described in the second paragraph of section 441.1 and before the death of the spouse referred to in that paragraph,

(3) the application of sections 653 to 656.2 in respect of a day determined under subparagraph *a* of the first paragraph of section 653, and

(4) sections 656.3 and 691, exceeds

ii. where the trust is described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 and was created after 20 December 1991, or would be described in the said subparagraph *a* and the said second paragraph if the reference therein to “at the time it was created” were read as a reference to “on 20 December 1991”, and the spouse referred to in subparagraph *a* of the first paragraph of section 653 in respect of the trust is alive throughout the year, such part of the amount that would be its income

for the year as became payable in the year to a beneficiary other than the spouse or was included under section 662 in computing the income of a beneficiary other than the spouse, but for

(1) this paragraph and paragraph *b*,

(2) section 92.5.2, except to the extent that that section applies to an amount paid to a trust described in the second paragraph of section 441.1 and before the death of the spouse referred to in that paragraph, and

(3) section 691;”.

(2) Subsection 1 applies from the taxation year 1991. However, where paragraph *a* of section 657 of the Taxation Act, as enacted by subsection 1, applies to taxation years of trusts ending after 31 December 1990 but before 21 December 1991, it shall be read as follows:

“(a) such amount as the trust elects to claim not exceeding such part of the amount that would be its income for the year as became payable in the year to a beneficiary or was included under section 662 in computing the income of a beneficiary, but for

i. this paragraph and paragraph *b*,

ii. section 92.5.2, except to the extent that that section applies to an amount paid to a trust described in the second paragraph of section 441.1 and before the death of the spouse referred to in that paragraph,

iii. sections 653 to 656.2 and 691, where the trust is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653, and

iv. section 656.3;”.

c. I-3,
s. 657.1.1,
added

230. (1) The said Act is amended by inserting, after section 657.1, the following section:

Designated
beneficiary

“657.1.1 No deduction may be made under paragraph *a* of section 657 in computing the income for a taxation year of a trust in respect of such part of an amount that would otherwise be its income for the year as became payable in the year to a beneficiary who was, at any time in the year, a designated beneficiary of the trust as that expression applies for the purposes of section 210.3 of the Income Tax Act (Statutes of Canada) unless, throughout the year, the trust was resident in Canada.”

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

c. I-3, s. 658,
am.

231. (1) Section 658 of the said Act is amended by replacing subsection 3 by the following subsection:

Accumulat-
ing income
of a trust

“(3) The accumulating income of a trust for a taxation year is, for the purposes of this chapter, the amount that would be its income for the year but for

(a) paragraph *b* of section 657,

(b) section 92.5.2, except where that section applies to an amount paid to a trust described in the second paragraph of section 441.1 and before the death of the spouse referred to in that paragraph, and

(c) sections 653 to 656.2 and 691, where the trust is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653, where it is a pre-1972 spousal trust at the end of the year, or where it has made an election under section 656.4 for a preceding taxation year, and

(d) section 656.3.”

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

c. I-3, s. 660,
am.

232. (1) Section 660 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) where it refers to a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 or to a pre-1972 spousal trust, and the spouse contemplated in the said subparagraph *a* or in the definition of “pre-1972 spousal trust” in section 652.1, as the case may be, is alive at the end of the year, an amount equal to the accumulating income of the trust for the year, if the preferred beneficiary is the spouse of the individual, and, in any other case, nil;”.

(2) Subsection 1 applies to taxation years of trusts ending after 20 December 1991.

c. I-3,
s. 660.1,
added

233. (1) The said Act is amended by inserting, after section 660, the following section:

NISA elec-
tion

“**660.1** Where, at the end of the day on which a taxpayer dies and as a consequence of the death, an amount would, but for this section, be deemed by section 656.3 to have been paid to a trust out of the trust’s NISA Fund No. 2 and the trust and the legal

representative of the taxpayer so elect in prescribed manner, such portion of the amount as is designated in the election is deemed to have been paid to the taxpayer out of a NISA Fund No. 2 of the taxpayer immediately before the end of the day and, for the purposes of subparagraph *b* of the second paragraph of section 92.5.2 in respect of the trust, the amount is deemed to have been paid out of the trust's NISA Fund No. 2 immediately before the end of the day."

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

c. 1-3,
s. 668.2, am.

234. (1) Section 668.2 of the said Act, amended by section 243 of chapter 16 of the statutes of 1993, is again amended by replacing paragraph *f* by the following paragraph:

"(f) F is the lesser of

i. the amount that would be determined in respect of the trust for the designation year under paragraph *b* of section 28 in respect of capital gains and capital losses if

(1) the only properties referred to in that paragraph were properties disposed of by it after 31 December 1984, other than qualified farm properties and qualified small business corporation shares disposed of by it after 17 June 1987, and

(2) the trust's capital gains and capital losses for the year from dispositions of non-qualifying immovable property of the trust were equal to its eligible immovable property gains and eligible immovable property losses, respectively, for the year from those dispositions, and

ii. the amount that would be determined under subparagraph i if that subparagraph were read without reference to subparagraph 2 thereof;"

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

c. 1-3,
s. 668.4, am.

235. (1) Section 668.4 of the said Act is amended

(1) by inserting, after the definition of "qualified farm property", the following definitions:

"non-
qualifying
immovable
property"

" "non-qualifying immovable property" of a trust that is a personal trust has the meaning assigned by section 726.6.1 and of a trust that is not a personal trust has the meaning assigned by section 1108;

“eligible
immovable
property
gain”

“ “eligible immovable property gain” of a trust has the meaning assigned by section 726.6.1;”;

(2) by adding, after the definition of “eligible taxable capital gains”, the following definition:

“eligible
immovable
property
loss”

“ “eligible immovable property loss” of a trust has the meaning assigned by section 726.6.1.”

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

c. 1-3,
s. 669.1,
replaced

236. (1) Section 669.1 of the said Act, replaced by section 244 of chapter 16 of the statutes of 1993, is again replaced by the following section:

Income of a
testamen-
tary trust

“669.1 Where a testamentary trust has received a pension benefit, or a benefit out of or under a foreign retirement arrangement, in a taxation year throughout which it was resident in Canada and has designated, in its fiscal return for the year under this Part, an amount in respect of a beneficiary under the trust equal to such portion, in this section referred to as the “beneficiary’s share”, of the benefit as has been designated by the trust exclusively in respect of the beneficiary and as may reasonably be considered, having regard to all the circumstances including the terms and conditions of the trust arrangement, to be part of the amount that, by reason of section 663, was included in computing the income of the beneficiary for a particular taxation year, the beneficiary’s share in respect of the benefit is deemed, for the purposes of sections 752.0.8 and 752.0.9, to be a payment described in subparagraph *a* of the first paragraph of section 752.0.8 that is included in computing the beneficiary’s income for the particular taxation year where the benefit is an amount described in subparagraph *a* of the first paragraph of section 752.0.8 and the beneficiary was the spouse of the settlor of the trust.”

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

c. 1-3,
s. 669.4, am.

237. (1) Section 669.4 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) the aggregate of all amounts deductible in computing the income of the trust for the year under section 145, otherwise than because of the membership of the trust in a partnership, or which, but for section 486, would be included in computing its income for the year.”

(2) Subsection 1 applies to taxation years ending after 20 December 1991.

c. I-3, s. 681,
am.

238. (1) Section 681 of the said Act, amended by section 40 of chapter 64 of the statutes of 1993, is again amended by replacing paragraph *d* by the following paragraph:

“(d) subject to sections 693.1 and 752.0.26, that other person were entitled to the deductions to which the individual was entitled under sections 725 to 725.7, 752.0.1 to 752.0.13.3 and 752.0.14 to 752.0.18.1 for the period in computing his taxable income or his tax payable under this Part, as the case may be, for the period.”

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

c. I-3, s. 688,
am.

239. (1) Section 688 of the said Act, amended by section 246 of chapter 16 of the statutes of 1993, is again amended

(1) by striking out subparagraph *i* of paragraph *e*;

(2) by adding, after subparagraph *ii* of paragraph *e*, the following subparagraph:

“iii. for the purpose of determining after the particular time the amount deemed under subparagraph *ii* of paragraph *a* of section 105 to be the taxpayer’s taxable capital gain or the amount to be included under paragraph *b* of that section in computing the income of the taxpayer, as the case may be, in respect of any subsequent disposition of the property of the business, there shall be added to the amount otherwise determined under subparagraph 2 of subparagraph *i* of paragraph *b* of section 107, the proportion of the amount determined under the said subparagraph 2 in respect of the business of the trust immediately before the particular time, that the fair market value, immediately before the particular time, of the intangible capital property is of the fair market value, immediately before the particular time, of all the intangible capital property of the trust in respect of the business.”

(2) Subsection 1 applies in respect of transfers occurring after 31 December 1987.

c. I-3,
s. 688.0.1,
am.

240. (1) Section 688.0.1 of the said Act, enacted by section 247 of chapter 16 of the statutes of 1993, is amended by replacing that part preceding paragraph *a* by the following:

Transfer of
principal res-
idence by a
personal
trust

“688.0.1 Where at any time a property is transferred by a personal trust to a taxpayer in circumstances in which section 688 applies and section 691 does not apply and the property would, if the trust had so designated the property under section 274.0.1, be a principal residence, within the meaning of that section, of the trust for a taxation year, the following rules apply where the trust so elects

in its fiscal return under this Part for the taxation year that includes that time:".

(2) Subsection 1 applies in respect of transfers of property occurring after 31 December 1990. However, an election by a trust, other than a trust described in section 440 or 454 of the Taxation Act, to have the rules set out in section 688.0.1 of the said Act, as amended by subsection 1, apply in respect of a transfer of property by the trust occurring after 31 December 1990 and on or before 17 June 1994 may be made by notifying the Minister of Revenue in writing on or before 14 December 1994.

c. I-3, s. 691,
am.

241. (1) Section 691 of the said Act is amended by replacing that part preceding paragraph *b* by the following:

Transfer of
trust prop-
erty to a tax-
payer

"691. Notwithstanding paragraphs *a* to *c* of section 688, where at a particular time property of a trust is transferred by the trust to a beneficiary in circumstances in which section 688 would, but for this section, apply, the trust is described in subparagraph *a* of the first paragraph and in the second paragraph of section 653, the property so transferred was capital property, a Canadian resource property, a foreign resource property or land included in the inventory of the trust, the taxpayer to whom the property is transferred is not the spouse referred to in subparagraph *a* of the first paragraph of section 653 in respect of the trust, and the spouse is alive on the day the property is so transferred, the following rules apply:

(*a*) the trust is deemed to have disposed of such property and to have received proceeds of disposition therefor equal to its fair market value at the particular time;".

(2) Subsection 1, where it replaces that part of section 691 of the Taxation Act preceding paragraph *a*, applies in respect of transfers occurring after 20 December 1991 and, where it replaces paragraph *a* of the said section 691, applies in respect of transfers occurring after 31 December 1992.

c. I-3, s. 692,
am.

242. (1) Section 692 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

Transfer of
trust prop-
erty to a tax-
payer not
resident in
Canada

"692. Notwithstanding paragraphs *a* to *c* of section 688, where the property referred to in that section is transferred to a taxpayer not resident in Canada, including a partnership other than a Canadian partnership, who is a beneficiary under the trust and the property is not a Canadian resource property, excluded property or property that would be taxable Canadian property if the trust had been resident in

Canada at no time in the taxation year in which the property was transferred, the following rules apply:”.

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

c. I-3, s. 710,
am.

243. Section 710 of the said Act, amended by section 251 of chapter 16 of the statutes of 1993, by section 24 of chapter 19 of the statutes of 1993, by section 43 of chapter 64 of the statutes of 1993 and by section 34 of chapter 14 of the statutes of 1994, is again amended by replacing paragraph *h* by the following paragraph:

“(h) a prescribed foreign university the student body of which ordinarily includes students from Canada;”.

c. I-3, s. 712,
replaced

244. Section 712 of the said Act is replaced by the following section:

Proof of gift

“712. A deduction is allowed only if the making of the gift is proven by filing with the Minister a receipt therefor that meets the prescribed requirement and contains in a clear and unalterable manner the prescribed particular and the prescribed information.”

c. I-3,
s. 712.0.0.1,
added

245. The said Act is amended by inserting, after section 712, the following section:

Spoiled
receipt form

“712.0.0.1 An organization or a donee shall meet the prescribed requirements in respect of a spoiled receipt form.

Interpreta-
tion

For the purposes of the first paragraph, “donee”, “receipt form” and “organization” have the meanings assigned by the regulations made under section 712.”

c. I-3, s. 716,
replaced

246. (1) Section 716 of the said Act, replaced by section 50 of chapter 64 of the statutes of 1993, is again replaced by the following section:

Gift of capi-
tal or
immovable
property

“716. Where, at any time, a corporation makes a gift of capital property to a donee contemplated in paragraphs *a* or *c* to *i* of section 710 or, if the corporation is not resident in Canada, a gift of immovable property situated in Canada to a prescribed donee who provides an undertaking, in a form satisfactory to the Minister, to the effect that such property will be held for use in the public interest, and the fair market value of the capital property or immovable property, as the case may be, exceeds its adjusted cost base to the corporation at that time, the corporation may designate in the fiscal return it is required to file under section 1000 for the year during which the gift is made,

an amount which is deemed to be both the corporation's proceeds of disposition of the capital property or immovable property, as the case may be, and, for the purposes of section 710, the fair market value of the gift, and which, at that time, must not be greater than the fair market value nor less than the adjusted cost base to the corporation of the capital property or immovable property, as the case may be."

(2) Subsection 1 applies in respect of gifts made after 11 December 1988. However, where section 716 of the Taxation Act, as enacted by subsection 1, applies to taxation years prior to the taxation year 1993, it shall be read as follows:

Gift of capital or immovable property

"716. Where a taxpayer makes a gift of capital property to a donee contemplated in paragraphs *a* or *c* to *j* of section 710 or where a taxpayer who is not resident in Canada makes a gift of immovable property situated in Canada to a prescribed donee who provides an undertaking, in a form satisfactory to the Minister, to the effect that such property will be held for use in the public interest and the fair market value of the capital property or immovable property, as the case may be, exceeds the adjusted cost base to him at the time of the gift, the taxpayer, or his legal representative may designate in the fiscal return which must be filed by or for the taxpayer under section 1000 for the year during which the gift is made, an amount which is deemed to be both the taxpayer's proceeds of disposition of the capital property or immovable property, as the case may be, and, for the purposes of section 710, the fair market value of the gift, and which, at the time of the gift, must not be greater than the fair market value nor less than the adjusted cost base to the taxpayer of the capital property or immovable property, as the case may be."

c. I-3,
s. 726.6, am.

247. (1) Section 726.6 of the said Act, amended by section 264 of chapter 16 of the statutes of 1993, is again amended

(1) by replacing, in the French text, subparagraph *v* of subparagraph *a.2* of the first paragraph by the following subparagraph:

"v. l'ensemble de tous les montants dont chacun est le montant d'une perte qu'il a subie au cours de l'année et qui provient soit d'un bien, soit de la location d'un bien locatif, au sens de l'article 130R46 du Règlement sur les impôts (R.R.Q., 1981, chapitre I-3, r. 1), ou d'un bien visé aux catégories 31 ou 32 de l'annexe B de ce règlement, si le particulier ou une société dont il était membre, autre qu'une société dont il était un associé déterminé au cours de l'exercice financier de celle-ci se terminant dans l'année, était propriétaire d'un tel bien;"

(2) by adding, after subparagraph v of subparagraph *a.2* of the first paragraph, the following subparagraph:

“vi. the amount by which the aggregate of his net capital losses for other taxation years deducted under section 729 in computing his taxable income for the year exceeds the amount determined in respect of the individual for the year under subparagraph 1 of subparagraph ii of subparagraph *b*.”;

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

“(a.3) “interest in a family farm partnership” of an individual, other than a trust that is not a personal trust, at any time means an interest owned by the individual at that time in a partnership where

“interest in
a family
farm part-
nership”

i. throughout any 24-month period ending before that time, more than 50 % of the fair market value of the property of the partnership was attributable to

(1) property that has been used by the partnership or any of the persons referred to in the fourth paragraph, principally in the course of carrying on the business of farming in Canada in which the individual, a beneficiary referred to in subparagraph *b* of the fourth paragraph or a spouse, a child or the father or mother of the individual or of such a beneficiary was actively engaged on a regular and continuous basis,

(2) shares of the capital stock or indebtedness of one or more corporations all or substantially all of the fair market value of the property of which was attributable to properties described in subparagraph 3, or

(3) properties described in subparagraph 1 or 2, and

ii. at that time, all or substantially all of the fair market value of the property of the partnership was attributable to

(1) property that has been used principally in the course of carrying on the business of farming in Canada by the partnership or a person referred to in the fourth paragraph,

(2) shares of the capital stock or indebtedness of one or more corporations described in subparagraph 2 of subparagraph i, or

(3) properties described in subparagraph 1 or 2.”;

(4) by replacing subparagraphs i and ii of subparagraph *b* of the first paragraph by the following subparagraphs:

“i. the lesser of

(1) the amount determined in respect of the individual for the year under paragraph *b* of section 28 in respect of capital gains and capital losses, and

(2) the amount that would be determined in respect of the individual for the year under paragraph *b* of section 28 in respect of capital gains and capital losses if the only properties referred to in the said paragraph were properties disposed of by the individual after 31 December 1984, and the individual's capital gains and capital losses for the year from dispositions of non-qualifying immovable property of the individual were equal to the individual's eligible immovable property gains and eligible immovable property losses, respectively, for the year from those dispositions, and

ii. the aggregate of

(1) the amount by which the individual's net capital losses for other taxation years deducted under section 729 in computing the individual's taxable income for the year exceeds the amount by which the amount determined in respect of the individual for the year under paragraph *b* of section 28 in respect of capital gains and capital losses exceeds the amount determined under subparagraph i in respect of the individual for the year, and

(2) the individual's allowable business investment losses for the year;”;

(5) by replacing subparagraphs i and ii of subparagraph *c* of the first paragraph by the following subparagraphs:

“i. the aggregate of all amounts each of which is

(1) the amount determined in respect of the individual for the year or a preceding taxation year ending after 31 December 1987 under subparagraph i of subparagraph *b*, or

(2) the amount determined in respect of the individual for a preceding taxation year ending after 31 December 1984 and before 1 January 1988 under subparagraph i of subparagraph *b* as it read in its application to such a year, exceeds

“ii. the aggregate of

(1) the aggregate of all amounts each of which is the amount determined in respect of the individual for the year or a preceding

taxation year ending after 31 December 1987 under subparagraph 1 or 2 of subparagraph ii of subparagraph *b*, or the amount determined in respect of the individual for a preceding taxation year ending after 31 December 1984 and before 1 January 1988 under subparagraph ii of subparagraph *b* as it read in its application to such a year, or the amount deducted under subparagraph iii of subparagraph *c* of the first paragraph of section 28 by the individual for his taxation year 1985,

(2) the aggregate of all amounts each of which is an amount deducted under this title by the individual in computing his taxable income for a preceding taxation year, and

(3) the individual's cumulative net investment loss at the end of the year;"

(6) by replacing, in the French text, subparagraph iv of subparagraph *e* of the first paragraph by the following subparagraph:

"iv. l'ensemble de tous les montants dont chacun est le montant de son revenu pour l'année qui provient soit d'un bien, soit de la location d'un bien locatif, au sens de l'article 130R46 du Règlement sur les impôts (R.R.Q., 1981, chapitre I-3, r. 1), ou d'un bien visé aux catégories 31 ou 32 de l'annexe B de ce règlement, si le particulier ou une société dont il était membre, autre qu'une société dont il était un associé déterminé au cours de l'exercice financier de celle-ci se terminant dans l'année, était propriétaire d'un tel bien, y compris un montant inclus dans le calcul de son revenu pour l'année en vertu de l'article 94 à l'égard d'un bien locatif du particulier ou de la société ou d'un bien dont le revenu en provenant serait un revenu qui provient d'un bien;"

(7) by adding, after subparagraph v of subparagraph *e* of the first paragraph, the following subparagraph:

"vi. the amount by which the aggregate of all amounts included under paragraph *b* of section 28 in respect of capital gains and capital losses in computing his income for the year exceeds the amount determined in respect of the individual for the year under subparagraph i of subparagraph *b*.";

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

"The persons referred to in subparagraph *a.3* of the first paragraph are

(a) the individual;

Interpreta-
tion

(b) where the individual is a personal trust, a beneficiary of the trust;

(c) a spouse, a child or the father or mother of the individual or of a beneficiary referred to in subparagraph *b*; or

(d) a corporation a share of the capital stock of which was a share of the capital stock of a family farm corporation of the individual, a beneficiary referred to in subparagraph *b* or a spouse, a child or the father or mother of the individual or of a beneficiary referred to in subparagraph *b*.”

(2) Paragraphs 2, 3, 7 and 8 of subsection 1 apply from the taxation year 1992.

(3) Paragraphs 4 and 5 of subsection 1 apply from the taxation year 1988. However, where subparagraph 2 of subparagraph *i* of subparagraph *b* of the first paragraph of section 726.6 of the Taxation Act, as enacted by paragraph 4 of subsection 1, applies to the taxation years 1988 to 1991, it shall be read as follows:

“(2) the amount that would be determined in respect of the individual for the year under paragraph *b* of section 28 in respect of capital gains and capital losses if the only properties referred to in that paragraph were properties disposed of by him after 31 December 1984, exceeds”.

c. I-3,
s. 726.6.1,
am.

248. (1) Section 726.6.1 of the said Act, amended by section 265 of chapter 16 of the statutes of 1993, is again amended

(1) by replacing that part of subparagraph *i* of paragraph *a* of the definition of “share of the capital stock of a family farm corporation” in the first paragraph preceding subparagraph 1 by the following:

“*i.* property that has been used by a person or partnership referred to in any of subparagraphs 1 to 5 principally in the course of carrying on a business of farming in Canada in which an individual referred to in any of subparagraphs 2 to 4 was actively engaged on a regular and continuous basis.”;

(2) by inserting the following definitions before the definition of “qualified small business corporation share” in the first paragraph:

“eligible
immovable
property
gain”

““eligible immovable property gain” of an individual for a taxation year from a disposition of a non-qualifying immovable property of the individual means the amount obtained by multiplying the individual’s capital gain for the year from the disposition by the

proportion that the number of calendar months in the period that begins with the later of the calendar month in which the property was last acquired by the individual and January 1972 and ends with February 1992 is of the number of calendar months in the period that begins with the later of the calendar month in which the property was last acquired by the individual and January 1972 and ends with the calendar month in which the property was disposed of by the individual;

“eligible
immovable
property
loss”

““eligible immovable property loss” of an individual for a taxation year from a disposition of a non-qualifying immovable property of the individual means the amount obtained by multiplying the individual’s capital loss for the year from the disposition by the number of calendar months in the period that begins with the later of the calendar month in which the property was last acquired by the individual and January 1972 and ends with February 1992 is of the number of calendar months in the period that begins with the later of the calendar month in which the property was last acquired by the individual and January 1972 and ends with the calendar month in which the property was disposed of by the individual;

“non-
qualifying
immovable
property”

““non-qualifying immovable property” of an individual, other than a trust that is not a personal trust, means property disposed of after 29 February 1992 by the individual, or a partnership any of the income of which is required to be included in computing the income of the individual, that at the time of its disposition is

(a) immovable property, other than

i. qualified farm property of the individual,

ii. immovable property owned by the individual or the individual’s spouse that was used throughout that part of the 24-month period preceding the time of the disposition during which it was owned by the individual or the individual’s spouse, or throughout all or substantially all of the time in the period preceding the time of the disposition during which it was owned by the individual or the individual’s spouse, principally in a qualified business carried on by

(1) the individual, otherwise than as a member of a partnership,

(2) where the individual is a personal trust, a preferred beneficiary, within the meaning of subsection 1 of section 658, under the trust, otherwise than as a member of a partnership,

(3) a spouse, a child or the father or mother of the individual or of a preferred beneficiary described in subparagraph 2, otherwise than as a member of a partnership,

(4) a corporation, otherwise than as a member of a partnership, where shares representing all or substantially all of the fair market value of all the issued and outstanding shares of its capital stock were owned by one or more persons described in this subparagraph ii,

(5) one or more persons as members of a partnership where interests representing all or substantially all of the fair market value of all partnership interests in the partnership were owned by one or more persons described in this subparagraph ii, or

(6) a personal trust, otherwise than as a member of a partnership, where interests representing all or substantially all of the fair market value of all beneficial interests in the trust were owned by one or more persons described in this subparagraph ii, and

iii. immovable property of the partnership, except where the individual is a specified member of the partnership or, if a taxable capital gain of the individual's spouse from the disposition of property of the partnership would be a taxable capital gain of the individual, the individual's spouse is a specified member of the partnership, that was used throughout that part of the 24-month period preceding the time of the disposition during which it was property of the partnership, the individual or the individual's spouse, or throughout all or substantially all of the time in the period preceding the time of the disposition during which it was property of the partnership, the individual or the individual's spouse, principally in a qualified business carried on by

(1) the individual,

(2) where the individual is a personal trust, a preferred beneficiary, within the meaning of subsection 1 of section 658, under the trust,

(3) a spouse, a child or the father or mother of the individual or of a preferred beneficiary described in subparagraph 2,

(4) a corporation where shares representing all or substantially all of the fair market value of all the issued and outstanding shares of its capital stock were owned by one or more persons described in this subparagraph iii, or

(5) a personal trust where interests representing all or substantially all of the fair market value of all beneficial interests in the trust were owned by one or more persons described in this subparagraph iii;

(b) a share of the capital stock of a corporation, other than a qualified small business corporation share of the individual or a share of the capital stock of a family farm corporation of the individual, the fair market value of which is derived principally from immovable property, other than immovable property that was used throughout that part of the 24-month period preceding the time of the disposition during which it was owned by the corporation or by persons described in any of subparagraphs 1 to 6 of subparagraph ii of paragraph *a*, or throughout all or substantially all of the time in the period preceding the time of the disposition during which it was owned by the corporation or by such persons, principally in a qualified business carried on by the corporation or by such persons;

(c) an interest in a partnership, other than an interest in a family farm partnership of the individual, the fair market value of which is derived principally from immovable property, other than immovable property that was used throughout that part of the 24-month period preceding the time of the disposition during which it was property of the partnership or persons described in any of subparagraphs 1 to 6 of subparagraph ii of paragraph *a*, or throughout all or substantially all of the time in the period preceding the time of the disposition during which it was property of the partnership or such persons, principally in a qualified business carried on by one or more persons as members of the partnership or by persons described in any of those subparagraphs 1 to 6;

(d) an interest in a trust the fair market value of which is derived principally from immovable property, other than immovable property that was used throughout that part of the 24-month period preceding the time of the disposition during which it was owned by the trust or persons described in any of subparagraphs 1 to 6 of subparagraph ii of paragraph *a*, or throughout all or substantially all of the time in the period preceding the time of the disposition during which it was owned by the trust or such persons, principally in a qualified business carried on by the trust or by such persons; or

(e) an interest or an option in respect of property described in any of paragraphs *a* to *d*;

(3) by inserting, after the third paragraph, the following paragraphs:

Fair market
value of
NISA
deemed nil

“For the purposes of the definitions of “qualified small business corporation share” and “share of the capital stock of a family farm corporation” in the first paragraph, the fair market value of a net income stabilization account is deemed to be nil.

Qualified
business car-
ried on by a
person

For the purposes of the definition of “non-qualifying immovable property” in the first paragraph, a qualified business carried on by a person at any time means any business carried on by the person at that time other than a business (other than a business carried on by a savings and credit union or a business of leasing property that is not immovable property) the principal purpose of which is to derive income from property, including dividends, interest, rents or royalties, unless the person or, where the person carries on the business as a member of a partnership, the partnership

(a) employs in the business at that time more than five individuals on a full-time basis, or

(b) in the course of carrying on the business has financial, administrative, maintenance, managerial or other similar services provided to it at that time and the person or partnership could reasonably be expected to require more than five full-time employees if those services had not been so provided.

Rules appli-
cable

For the purposes of the definitions of “eligible immovable property gain” and “eligible immovable property loss” in the first paragraph,

(a) an individual is deemed to have disposed of identical properties in the order in which they were acquired;

(b) where section 462.6 applies to deem a property disposed of by a person, for the purposes of this title, to have been disposed of by an individual in a taxation year, the individual is deemed to have last acquired that property at the time at which the person last acquired it and to have disposed of it at the time at which the person disposed of it;

(c) where an individual is deemed by section 440, 444, 450, 454, 462 or 688 or Division II or III of Chapter IV of Title XI of Book III to have acquired property for an amount that is not greater than the adjusted cost base to the person or partnership from whom it was acquired, the individual is deemed to have acquired the property at the time it was last acquired by the person or partnership;

(d) the number of calendar months in a period shall be determined without reference to any such month that is in a taxation year of the individual or the individual’s spouse for which the property in respect of which the eligible immovable property gain or eligible immovable property loss is determined was a principal residence, within the meaning of sections 274 and 274.0.1, of the individual or the individual’s spouse; and

(e) where the eligible immovable property gain or eligible immovable property loss of an individual is determined in respect of a gain or loss from a disposition of property by a partnership, the individual is deemed to have last acquired the property at the time it was last acquired by the partnership and to have disposed of the property at the time it was disposed of by the partnership except that, where the individual had disposed of that property to the partnership and an election had been made under the second paragraph of section 614 in respect of that disposition, the individual is deemed to have last acquired the property at the time it was last acquired by the individual before that disposition if the amount designated in that election in respect of the property was not greater than the adjusted cost base to the individual of the property at the time of that disposition.”

(2) Paragraphs 1 and 2 of subsection 1 and paragraph 3 of subsection 1, where it enacts the fifth and sixth paragraphs of section 726.6.1 of the Taxation Act, apply from the taxation year 1992.

(3) Paragraph 3 of subsection 1, where it enacts the fourth paragraph of section 726.6.1 of the Taxation Act, applies from the taxation year 1991.

c. 1-3,
s. 726.7, am.

249. (1) Section 726.7 of the said Act is amended by replacing subparagraph 1 of subparagraph iii of paragraph *a* by the following subparagraph:

“(1) the aggregate of all amounts each of which is an amount deducted under this title in computing his taxable income for a taxation year ending before 1 January 1990, other than an amount deducted under this title for a taxation year in respect of an amount that has been included in computing his income for that year because of subparagraph ii of paragraph *a* of section 105;”.

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

c. 1-3,
s. 726.8, am.

250. (1) Section 726.8 of the said Act is amended by replacing subparagraph 1 of subparagraph iii of paragraph *a* by the following subparagraph:

“(1) the aggregate of all amounts each of which is an amount deducted under this section in computing his taxable income for a taxation year ending before 1 January 1990, other than an amount deducted under this section for a taxation year in respect of an amount that has been included in computing his income for that year because of subparagraph ii of paragraph *a* of section 105;”.

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

c. 1-3,
s. 726.9.1,
added

251. (1) The said Act is amended by inserting, after section 726.9, the following section:

Order of
deductions

“726.9.1 For the purposes of subparagraph 1 of subparagraph iii of paragraph *a* of sections 726.7 and 726.8, amounts deducted by an individual under this title in computing his taxable income for a taxation year ending before 1 January 1990 are deemed to have first been deducted in respect of any amounts that have been included in computing his income for that year because of subparagraph ii of paragraph *a* of section 105 before having been deducted in respect of any other amounts that have been included in computing his income for that year.”

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

c. 1-3,
s. 726.19, am.

252. (1) Section 726.19 of the said Act is amended

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

Spousal
trust deduc-
tion

“726.19 Notwithstanding any other provision of this Act, a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 or in subparagraph *a.1* of the said first paragraph, other than a trust that has elected under section 656.4, may, in computing its taxable income for its taxation year that includes the day determined in respect of the trust under subparagraph *a* or *a.1* of the first paragraph of section 653, as the case may be, deduct under this title an amount equal to the least of”;

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

“i. the least of

(1) the amount determined in respect of the trust for that year under paragraph *b* of section 28 in respect of capital gains and capital losses,

(2) the amount that would be determined in respect of the trust for that year under paragraph *b* of section 28 in respect of capital gains and capital losses if the only properties referred to in that paragraph were properties disposed of by it after 31 December 1984, other than properties referred to in subparagraph ii, and the trust's capital gains and capital losses for that year from dispositions of non-qualifying immovable property of the trust were equal to its eligible immovable property gains and eligible immovable property losses, respectively, for that year from those dispositions, and

(3) the amount by which \$75 000 exceeds the aggregate of all amounts each of which is an amount deducted by the taxpayer's spouse under section 726.8 for the taxation year in which the spouse died or a preceding taxation year, or an amount determined under subparagraph ii or iii of paragraph *a* of section 726.8 in respect of the taxpayer's spouse for the taxation year in which the spouse died;"

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

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

c. 1-3,
s. 726.22, am.

253. (1) Section 726.22 of the said Act, replaced by section 267 of chapter 16 of the statutes of 1993, is amended by adding, after subparagraph ii of subparagraph *a* of the first paragraph, the following subparagraph:

"iii. neither the taxpayer nor a member of the taxpayer's household is at any time entitled to a reimbursement or any form of assistance, other than a reimbursement or assistance included in computing the income of the taxpayer or the member, in respect of travelling expenses to which subparagraph ii applies;"

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

c. 1-3,
s. 728.0.1,
am.

254. (1) Section 728.0.1 of the said Act, amended by section 45 of chapter 19 of the statutes of 1993, is again amended by replacing paragraph *a* by the following paragraph:

"(a) the aggregate of his losses for the year from an office, employment, business or property, his allowable business investment losses for the year, the amounts deducted by him in computing his taxable income for the year under sections 726.4.1, 726.4.3 to 726.4.7 and 729, and Titles VI.5 and VI.5.1, or that he could have so deducted for the year under section 726.4.3 if his income had been sufficient therefor, and all amounts deductible in computing his taxable income for the year pursuant to any of sections 725, 725.1.1, 725.2 to 725.6, 725.9, 738 to 746 and 845 exceeds"

(2) Subsection 1 applies from the taxation year 1991. However, where paragraph *a* of section 728.0.1 of the Taxation Act, as enacted by subsection 1, applies

(a) to the taxation year 1991, it shall be read without reference to "725.9," and the reference therein to "Titles VI.5 and VI.5.1" shall be read as a reference to "Title VI.5";

(b) to the taxation year 1992, it shall be read without reference to “725.9,”.

c. I-3,
s. 733.1,
replaced

255. (1) Section 733.1 of the said Act is replaced by the following section:

Losses from
taxable
Canadian
property

“733.1 For the purposes of this title, a taxpayer’s non-capital loss, farm loss, net capital loss, restricted farm loss and limited partnership loss for a taxation year during which he was not resident in Canada shall be determined as if, throughout the period contemplated in subparagraph *b* of the second paragraph of section 23, in the case of an individual contemplated in section 23, 24 or 25 in respect of whom such a period applies, and throughout the year, in any other case, the taxpayer had no income other than income described in subparagraphs *a* to *l* of the first paragraph of section 1090, his only taxable capital gains and allowable capital losses were taxable capital gains and allowable capital losses from the disposition of taxable Canadian property and his only other losses were losses from businesses carried on by him in Canada that were attributable, in the manner prescribed for the purposes of section 1090, to an establishment in Canada or losses from duties of an office or employment performed by him in Canada.”

(2) Subsection 1 applies from the taxation year 1991 and in respect of the computation of taxable income and taxable income earned in Canada for taxation years subsequent to the taxation year 1990.

c. I-3,
s. 752.0.6,
replaced

256. (1) Section 752.0.6 of the said Act is replaced by the following section:

Deduction in
respect of
the mainte-
nance of a
spouse or
child

“752.0.6 For the purposes of this chapter, where an individual is entitled to deduct, in computing his income for a taxation year, an amount contemplated in any of paragraphs *a* to *b* of subsection 1 of section 336 in respect of a payment for the maintenance of a spouse or child, such spouse is deemed not to be his spouse from the time the individual makes such a payment and such child is deemed not to be his child during any period for which the individual makes such a payment.”

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

c. I-3,
s. 752.0.9,
am.

257. (1) Section 752.0.9 of the said Act is amended

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

Individual
under 65
years of age

“752.0.9 An individual who has not attained the age of 65 years before the end of a taxation year may deduct from his tax otherwise payable for the year under this Part the lesser of \$200 and 20 % of the aggregate of all amounts included in computing his income for the year and which is contemplated”;

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

“(b) in subparagraphs *b* to *f* of the first paragraph of section 752.0.8 and in the second paragraph of the said section, if such amount is received as a consequence of the death of his spouse.”;

(3) by striking out the second paragraph.

(2) Paragraphs 1 and 3 of subsection 1 apply from the taxation year 1992.

(3) Paragraph 2 of subsection 1 has effect from 1 January 1993.

c. 1-3,
s. 752.0.10.3,
replaced

258. (1) Section 752.0.10.3 of the said Act, enacted by section 67 of chapter 64 of the statutes of 1993, is replaced by the following section:

Proof of gift

“752.0.10.3 The amount representing the fair market value of a gift shall not be included in the total Crown gifts, total cultural gifts or total charitable gifts of an individual for a taxation year, unless the making of the gift is proven by filing with the Minister a receipt therefor that meets the prescribed requirement and contains in a clear and unalterable manner the prescribed particular and the prescribed information.”

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

c. 1-3,
s. 752.0.10.3.1,
added

259. (1) The said Act is amended by inserting, after section 752.0.10.3, enacted by section 67 of chapter 64 of the statutes of 1993, the following section:

Spoiled
receipt form

“752.0.10.3.1 An organization or a donee shall meet the prescribed requirements in respect of a spoiled receipt form.

Interpreta-
tion

For the purposes of the first paragraph, “donee”, “receipt form” and “organization” have the meanings assigned by the regulations under section 752.0.10.3.”

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

c. I-3,
s. 752.0.10.5,
replaced

260. (1) Section 752.0.10.5 of the said Act, enacted by section 67 of chapter 64 of the statutes of 1993, is replaced by the following section:

Commuter's
charitable
gift

“752.0.10.5 For the purposes of the definition of “total charitable gifts” in section 752.0.10.1, where, throughout a taxation year, an individual resides in Canada near the boundary between Canada and the United States and where, in that year, the individual makes a gift to a prescribed religious, scientific, literary, educational or charitable organization created or organized in or under the laws of the United States that would be allowed as a deduction under the *United States Internal Revenue Code*, he is deemed to have made the gift to a registered charity, if he commutes regularly between his residence and his principal place of employment or business in the United States, and his chief source of income for the year is that employment or business.”

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

c. I-3,
s. 752.0.10.12,
replaced

261. (1) Section 752.0.10.12 of the said Act, enacted by section 67 of chapter 64 of the statutes of 1993, is replaced by the following section:

Gift of capi-
tal property

“752.0.10.12 Where, at any time, an individual makes a gift of capital property to a donee described in either of the definitions of “total Crown gifts” and “total charitable gifts” in section 752.0.10.1 or, if the individual is not resident in Canada, a gift of immovable property situated in Canada to a prescribed donee who provides an undertaking, in a form satisfactory to the Minister, to the effect that such property will be held for use in the public interest, and the fair market value of the capital property or immovable property, as the case may be, exceeds its adjusted cost base to the individual at that time, the individual or his legal representative may designate in the fiscal return which must be filed by or for the individual under section 1000 for the year in which the gift is made, an amount which is deemed to be both the individual's proceeds of disposition of the capital property or immovable property, as the case may be, and for the purposes of section 752.0.10.1, the fair market value of the gift, and which, at that time, must not be greater than the fair market value nor less than the adjusted cost base to the individual of the capital property or immovable property, as the case may be.”

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

c. I-3,
s. 752.0.11.1,
am.

262. (1) Section 752.0.11.1 of the said Act, amended by section 281 of chapter 16 of the statutes of 1993, is again amended

(1) by replacing subparagraphs *a* to *c* of paragraph *m.1* by the following subparagraphs:

“i. no amount is included in computing an amount deducted in respect of the person under Chapter VIII or IX.0.1 of Title VI of Book III or paragraph *k*, *l*, *m* or *n* for the taxation year in which the remuneration was paid,

“ii. at the time the remuneration is paid, the attendant is neither the person’s spouse nor under 18 years of age, and

“iii. each receipt filed with the Minister to prove payment of the remuneration was issued by the payee and contains, where the payee is an individual, the individual’s Social Insurance Number;”;

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

“(o.1) for reasonable expenses relating to rehabilitative therapy, including training in lip reading and sign language, incurred to adjust for the person’s hearing or speech loss;”.

(2) Paragraph 1 of subsection 1 applies in respect of expenses incurred after 31 December 1990.

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

c. 1-3,
s. 752.0.13,
replaced

263. (1) Section 752.0.13 of the said Act is replaced by the following section:

Excluded
expenses

“752.0.13 For the purposes of subparagraph *b* of the second paragraph of section 752.0.11, the expenses for which an individual, his spouse, a person dependent upon him and contemplated in section 752.0.12 or the legal representative of any of them has received or is entitled to receive a reimbursement shall not be included as medical expenses of the individual except to the extent that the amount of the expenses is required to be included in computing the individual’s income under this Part and is not deductible in computing taxable income.”

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

c. 1-3,
s. 752.0.15,
am.

264. (1) Section 752.0.15 of the said Act, amended by section 283 of chapter 16 of the statutes of 1993 and by section 72 of chapter 64 of the statutes of 1993, is again amended by replacing paragraph *b* by the following paragraph:

“(b) neither the individual nor any other person has included, in computing a deduction for the year under section 752.0.11, otherwise than under paragraph *m.1* of section 752.0.11.1, an amount in respect of remuneration for an attendant or care in a nursing home by reason of the individual’s mental or physical impairment.”

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

c. I-3,
s. 752.0.21,
replaced

265. (1) Section 752.0.21 of the said Act is replaced by the following section:

Rounding off

“752.0.21 Where an amount referred to in section 752.0.20 is not a multiple of \$5 when indexed in accordance with the said section, it shall be rounded to the nearest multiple of \$5 or, if it is equidistant from two such multiples, to the nearest higher multiple thereof.”

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

c. I-3,
s. 771.0.2.1,
am.

266. (1) Section 771.0.2.1 of the said Act, amended by section 60 of chapter 19 of the statutes of 1993, is again amended by replacing paragraph *b* by the following paragraph:

“(b) the amount by which the taxable income of the corporation for the year exceeds the aggregate of the amount determined in respect of the corporation for the year under section 771.0.2.2 and the amount, if any, of the corporation’s taxable income for the year that is not, because of an Act of the legislature of Québec, subject to tax under this Part; and”.

(2) Subsection 1 applies from the taxation year 1992. However, where paragraph *b* of section 771.0.2.1 of the Taxation Act, as enacted by subsection 1, applies to taxation years ending before 1 July 1992, it shall, subject to subsection 3, be read as follows:

“(b) the amount by which the taxable income of the corporation for the year exceeds the aggregate of the amount, if any, of the corporation’s taxable income for the year that is not, because of an Act of the legislature of Québec, subject to tax under this Part and the quotient obtained by dividing by 16.25 the product obtained by multiplying by 100 the amount deducted for the year under the regulations made pursuant to section 772 in computing the tax otherwise payable by it for the year under this Part; and”.

(3) Where paragraph *b* of section 771.0.2.1 of the Taxation Act, as enacted by subsection 2, applies to taxation years of a corporation that end after 31 December 1991 but before 1 July 1992 and include 31 August 1991, the excess amount determined in respect of the

corporation for the year under that paragraph *b* is deemed to be equal to the aggregate of

(a) such proportion of the excess amount that, but for this subsection, would be determined in respect of the corporation for the year under that paragraph *b* if the reference therein to “16.25” were a reference to “13”, as the number of days in the year preceding 1 September 1991 is of the number of days in the year, and

(b) such proportion of the excess amount that, but for this subsection, would be determined in respect of the corporation for the year under that paragraph *b*, as the number of days in the year following 31 August 1991 is of the number of days in the year.

c. 1-3,
s. 771.1.1,
replaced

267. (1) Section 771.1.1 of the said Act, replaced by section 83 of chapter 64 of the statutes of 1993, is again replaced by the following section:

Income or
loss from an
eligible busi-
ness

“771.1.1 In this title, the income or loss of a corporation for a taxation year from an eligible business carried on by it means the aggregate of

(a) the income or loss of the corporation for the year from the business, including the income or loss of the corporation for the year that is incident to or pertains to that business or from any property that is used or held principally for the purpose of gaining an income from that business, but, except for the purposes of subparagraph ii of paragraph *a* of section 771.1.10, excluding a dividend that is deductible under Title VIII of Book IV or under section 845 in computing the taxable income of the corporation for the year; and

(b) the amount included under section 92.5.2 in computing the income of the corporation for the year.”

(2) Subsection 1 applies from the taxation year 1991. However, where section 771.1.1 of the Taxation Act, as enacted by subsection 1, applies to taxation years ending before 21 May 1993, it shall be read as follows:

Income from
an eligible
business

“771.1.1 In this title, the income of a corporation for a taxation year from an eligible business carried on by it means the aggregate of

(a) the income of the corporation for the year from the business, including the income of the corporation for the year that is incident to or pertains to that business and from any property that is used or held principally for the purpose of gaining an income from that business; and

(b) the amount included under section 92.5.2 in computing the income of the corporation for the year.”

c. 1-3,
s. 771.1.5,
am.

268. (1) Section 771.1.5 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) where a Canadian-controlled private corporation, called the “first corporation” in this section, has more than one taxation year ending in the same calendar year and it is associated in two or more of those taxation years with another Canadian-controlled private corporation that has a taxation year ending in that calendar year, the business limit of the first corporation for each particular taxation year ending in the calendar year in which it is associated with the other corporation that ends after the first such taxation year ending in that calendar year is, subject to the application of paragraph *b*, an amount equal to the lesser of

i. its business limit determined under section 771.1.3 or 771.1.4 for the first such taxation year ending in the calendar year, and

ii. its business limit determined under section 771.1.3 or 771.1.4 for the particular taxation year ending in the calendar year; and”.

(2) Subsection 1 applies to taxation years ending after 20 December 1991.

c. 1-3,
s. 771.1.8,
French text,
replaced

269. Section 771.1.8 of the said Act is replaced, in the French text, by the following section:

Société con-
trôlée par
une ou plu-
sieurs per-
sonnes

“771.1.8 Malgré toute autre disposition du présent titre, lorsqu’une corporation est membre d’une société qui était contrôlée, directement ou indirectement, de quelque manière que ce soit, à quelque moment de son exercice financier se terminant dans l’année d’imposition de la corporation, par une ou plusieurs personnes qui ne résidaient pas au Canada, par une ou plusieurs corporations publiques autres que des corporations à capital de risque prescrites, ou par toute combinaison de ces personnes, le revenu de la société pour cet exercice financier qui provient d’une entreprise admissible qu’elle exploite au Canada est, aux fins de calculer le revenu de société désigné de la corporation pour l’année, réputé nul.”

c. 1-3,
s. 771.8.1,
am.

270. (1) Section 771.8.1 of the said Act, amended by section 62 of chapter 19 of the statutes of 1993, is again amended by replacing paragraph *b* by the following paragraph:

“(b) the amount by which the taxable income of the corporation for the year exceeds the aggregate of the amount determined in

respect of the corporation for the year under section 771.0.2.2 and the amount, if any, of the corporation's taxable income for the year that is not, because of an Act of the legislature of Québec, subject to tax under this Part; and".

(2) Subsection 1 applies from the taxation year 1992. However, where paragraph *b* of section 771.8.1 of the Taxation Act, as enacted by subsection 1, applies to taxation years ending before 1 July 1992, it shall, subject to subsection 3, be read as follows:

"(b) the amount by which the taxable income of the corporation for the year exceeds the aggregate of the amount, if any, of the corporation's taxable income for the year that is not, because of an Act of the legislature of Québec, subject to tax under this Part and the quotient obtained by dividing by 16.25 the product obtained by multiplying by 100 the amount deducted for the year under the regulations made pursuant to section 772 in computing the tax otherwise payable by it for the year under this Part; and".

(3) Where paragraph *b* of section 771.8.1 of the Taxation Act, as enacted by subsection 2, applies to taxation years of a corporation that end after 31 December 1991 but before 1 July 1992 and include 31 August 1991, the excess amount determined in respect of the corporation for the year under that paragraph *b* is deemed to be equal to the aggregate of

(a) such proportion of the excess amount that, but for this subsection, would be determined in respect of the corporation for the year under that paragraph *b* if the reference therein to "16.25" were a reference to "13", as the number of days in the year preceding 1 September 1991 is of the number of days in the year, and

(b) such proportion of the excess amount that, but for this subsection, would be determined in respect of the corporation for the year under paragraph *b*, as the number of days in the year following 31 August 1991 is of the number of days in the year.

c. I-3,
s. 772.1, am.

271. (1) Section 772.1 of the said Act, amended by section 289 of chapter 16 of the statutes of 1993 and by section 63 of chapter 19 of the statutes of 1993, is again amended

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

Individual
employed by
an interna-
tional organi-
zation

"772.1 Where an individual is resident in Québec on the last day of a taxation year, is employed by an international organization, other than a prescribed international organization for the purposes of paragraph *d* of section 725, as defined for the purposes of section 2

of the Foreign Missions and International Organizations Act (Statutes of Canada) that is the United Nations or a specialized agency that is brought into relationship with the United Nations in accordance with Article 63 of the Charter of the United Nations, and has not paid any levy to the organization, he may deduct from his tax that would be otherwise payable for the year under this Part, but for this section, an amount equal to that proportion of his tax otherwise payable for the year under this Part that”;

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

“(b) the amount by which the aggregate of his income for the year and the amount included pursuant to section 737.8 in computing his taxable income for the year or, where his taxable income is computed in the manner prescribed in subparagraph *a* of the second paragraph of section 23, the amount by which his income for any period in the year referred to in the said subparagraph *a*, exceeds the aggregate of all amounts each of which is deductible by the individual under any of sections 725, 725.2 to 725.6, 737.16 or 737.21 or deducted under any of sections 725.9, 726.7 to 726.9, 726.20.2 or 729 for the year or, as the case may be, for any period in the year referred to in the said subparagraph *a*.”

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

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

c. 1-3,
s. 776.29, am.

272. (1) Section 776.29 of the said Act, amended by section 290 of chapter 16 of the statutes of 1993 and by section 85 of chapter 64 of the statutes of 1993, is again amended by striking out subparagraph *a* of the first paragraph.

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

c. 1-3,
s. 776.36, am.

273. (1) Section 776.36 of the said Act is amended by replacing subparagraph *a* of the second paragraph by the following subparagraph:

“(a) the amount deducted under section 752.0.1, by virtue of paragraph *a* of the said section, for the year by the individual referred to in section 776.32 is deemed to be equal to the amount the individual would be entitled to deduct under the said paragraph for the year, if his spouse during the year had no income for that year;”.

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

c. I-3,
s. 776.45, am.

274. (1) Section 776.45 of the said Act, amended by section 291 of chapter 16 of the statutes of 1993, is again amended by replacing paragraph *e* by the following paragraph:

“(e) a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 or in subparagraph *a.1* of the said first paragraph for its taxation year that includes the day determined in respect of the trust under any of those subparagraphs.”

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

c. I-3,
s. 776.56,
replaced

275. (1) Section 776.56 of the said Act is replaced by the following section:

Application
of section
776.51

“776.56 For the purposes of section 776.51, except in respect of a disposition of property occurring before 1 January 1986 or to which section 484 applies,

(a) the first paragraph of section 231 shall be construed as if the taxable capital gain, the allowable capital loss or the allowable business investment loss represented the total amount of the capital gain, of the capital loss or of the business investment loss, as the case may be, from the disposition of property;

(b) section 265 shall be construed as if the taxable net gain represented the aggregate of the net gain from the disposition of precious property;

(c) each amount deemed by section 668 to be a taxable capital gain for the year of an individual is deemed to be equal to $\frac{4}{3}$ of that amount.”

(2) Subsection 1 applies from the taxation year 1991. In addition, where section 776.56 of the Taxation Act, as replaced by subsection 1, applies to taxation years subsequent to the taxation year 1985, the reference therein to “of the capital loss or of the allowable business investment loss” shall be read as a reference to “of the capital loss or of the business investment loss”.

c. I-3, s. 779,
replaced

276. (1) Section 779 of the said Act is replaced by the following section:

Taxation
year of a
bankrupt

“779. Except for the purposes of Title VII of Book V and sections 935.4 and 935.9, the taxation year of the bankrupt is deemed to commence on the date of the bankruptcy and the current taxation year is deemed to end on the day before such date.”

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

c. I-3, s. 802,
French text,
replaced

277. (1) Section 802 of the said Act is replaced, in the French text, by the following section:

Application
des articles
505 à 508

“802. Les articles 505 à 508 ne s’appliquent pas pour réputer qu’un dividende est payé par une corporation ou reçu par un actionnaire de la corporation si celle-ci est une caisse au moment où ce dividende serait réputé payé ou reçu en vertu de ces articles.”

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

c. I-3,
s. 803.2, am.

278. (1) Section 803.2 of the said Act, amended by section 297 of chapter 16 of the statutes of 1993, is again amended by replacing paragraph *c* by the following paragraph:

“(c) each member to which the credit union allocated an amount under section 803.1 may deduct that amount in computing its taxable income for its taxation year that includes the last day of the credit union’s taxation year in respect of which the amount was so allocated.”

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

c. I-3, s. 832,
French text,
am.

279. Section 832 of the said Act is amended, in the French text, by replacing the first paragraph by the following paragraph:

Dividendes,
rembourse-
ments de
primes et
rembourse-
ments
d’acomptes
sur prime
déductibles

“832. Un assureur peut déduire dans le calcul de son revenu provenant pour une année d’imposition de l’exploitation d’une entreprise d’assurance, autre qu’une entreprise d’assurance sur la vie, tout montant qu’il crédite pour l’année ou une année d’imposition antérieure à l’égard de cette entreprise à un de ses détenteurs de police sous forme de dividende, de remboursement de primes ou de remboursement d’acomptes sur prime.”

c. I-3, s. 840,
French text,
am.

280. Section 840 of the said Act is amended by replacing, in the French text, paragraph *a.1* by the following paragraph:

“a.1) celles qui sont autorisées par règlement à l’égard des demandes de règlement qui ont été reçues par l’assureur avant la fin de l’année en vertu de polices d’assurance sur la vie et qui sont impayées à la fin de l’année;”.

c. I-3,
s. 844.2,
French text,
am.

281. Section 844.2 of the said Act is amended, in the French text, by replacing paragraph *a* by the following paragraph:

“a) l’ensemble des montants déduits par l’assureur, dans le calcul de son revenu pour une année d’imposition qui se termine après le 31 décembre 1968 mais avant le 1^{er} janvier 1985, à l’égard d’une demande de règlement en vertu d’une police d’assurance sur la vie qui

devait survenir vraisemblablement après la fin de l'année d'imposition donnée en raison d'un décès survenu au cours de l'année d'imposition donnée; sur".

c. I-3,
s. 851.19,
replaced

282. (1) Section 851.19 of the said Act is replaced by the following section:

Provisions
not applica-
ble

"851.19 Divisions I, II and IV and sections 851.11 to 851.18 do not apply to the holder of a segregated fund policy that is issued or effected as a registered retirement savings plan or a registered retirement income fund or that is issued under a registered pension plan."

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

c. I-3,
ss. 851.34-
851.37, added

283. (1) The said Act is amended by inserting, after section 851.33, enacted by section 304 of chapter 16 of the statutes of 1993, the following:

"TITLE VII

"AMATEUR ATHLETES' RESERVE FUNDS

Amateur
athletes'
reserve
funds

"851.34 Where a national sport organization that is a registered Canadian amateur athletic association prescribed for the purposes of paragraph *d* of section 710 receives an amount for the benefit of an individual under an arrangement made under rules of an international sport federation that require amounts to be held, controlled and administered by the organization in order to preserve the eligibility of the individual to compete in a sporting event sanctioned by the federation,

(a) an *inter vivos* trust, in this title referred to as an "amateur athlete trust", is deemed to be created on the day that is the later of the day on which the first such amount is received by the organization and 1 January 1992, and to exist continuously thereafter until section 851.36 or 851.37 applies in respect of the trust;

(b) all property required to be held after 31 December 1991 under the arrangement is deemed to be property of the trust and not property of any other person;

(c) any amount received at any time by the organization under the arrangement is, to the extent that it would, but for this section, have been included in computing the individual's income for his taxation year that includes that time, deemed to be income of the trust for the taxation year and not to be income of the individual;

(d) all amounts paid at any time by the organization under the arrangement to or for the benefit of the individual are deemed to be amounts distributed at that time to the individual by the trust;

(e) the individual is deemed to be the beneficiary under the trust;

(f) the organization is deemed to be the trustee of the trust; and

(g) no tax is payable under this Part by the trust on its taxable income for any taxation year.

Amounts
included in
the benefi-
ciary's
income

“851.35 The beneficiary of an amateur athlete trust shall, in computing his income for a taxation year, include the aggregate of all amounts distributed in the year to him by the trust.

Termination
of an ama-
teur athlete
trust

“851.36 Where an amateur athlete trust holds property on behalf of a beneficiary who has not competed in an international sporting event as a Canadian national team member for a period of eight years that ends in a particular taxation year and that begins in the year that is the later of the two years described in the second paragraph, the trust is deemed to have distributed, at the end of the particular taxation year to the beneficiary, an amount equal to

(a) where the trust is liable to pay tax under Part XII.2 of the Income Tax Act (Statutes of Canada) in respect of the particular taxation year, 64 % of the fair market value of all property held by it at that time; and

(b) in any other case, the fair market value of all property held by it at that time.

Interpreta-
tion

The years referred to in the first paragraph are

(a) where the beneficiary has competed in an international sporting event as a Canadian national team member, the year in which the beneficiary last so competed; and

(b) the year in which the trust was created.

Death of a
beneficiary

“851.37 Where an amateur athlete trust holds property on behalf of a beneficiary who dies in a year, the trust is deemed to have distributed, immediately before the death, to the beneficiary, an amount equal to

(a) where the trust is liable to pay tax under Part XII.2 of the Income Tax Act (Statutes of Canada) in respect of the year, 64 % of the fair market value of all property held by it at that time; and

(b) in any other case, the fair market value of all property held by it at that time.”

(2) Subsection 1 applies from the taxation year 1992. It also applies to taxation years ending after 31 December 1987 and before 1 January 1992 throughout which an individual was resident in Canada, where the individual and a national sport organization that received an amount for the benefit of that individual jointly so elect by notifying the Minister of Revenue in writing, in which case, in respect of the individual and the trust under which the individual is deemed under Title VII of Book VI of Part I of the Taxation Act, as enacted by subsection 1, to be a beneficiary,

(a) the reference to “1992” in paragraph *a* of section 851.34 of the said Act, as enacted by subsection 1, shall be read as a reference to the taxation year in respect of which the election is made; and

(b) the reference to “1991” in paragraph *b* of section 851.34 of the said Act, as enacted by subsection 1, shall be read as a reference to the taxation year preceding the taxation year for which the election is made.

c. I-3, s. 861,
French text,
am.

284. (1) Section 861 of the said Act is amended by replacing, in the French text, the second paragraph by the following paragraph:

Présomption

“Cette présomption ne vaut cependant que si le fiduciaire a attribué avant 1976 aux bénéficiaires en vertu du régime tous les gains en capital et toutes les pertes en capital résultant de ces aliénations réputées.”

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

c. I-3,
s. 890.0.1,
am.

285. (1) Section 890.0.1 of the said Act is amended by replacing subparagraph *b* of the second paragraph by the following subparagraph:

“(b) who is entitled to the amount contemplated in subparagraph *b* of the said paragraph as a consequence of the death of an employee or former employee referred to in subparagraph *a* and who was the spouse of the employee at the time of the employee’s death.”

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

c. I-3,
s. 905.3,
repealed

286. (1) Section 905.3 of the said Act is repealed.

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

c. I-3, s. 913,
replaced

287. (1) Section 913 of the said Act is replaced by the following section:

Transfer of
funds

“913. Where a registered retirement savings plan is revised or amended at any time to provide for the payment or transfer, before the date provided for the first payment of benefits, of any property under the plan by the issuer on behalf of the annuitant under the plan, in this section referred to as the “transferor”, to a registered pension plan for the benefit of the transferor or to a registered retirement savings plan or a registered retirement income fund under which the transferor is the annuitant, or to a registered retirement savings plan or a registered retirement income fund under which the spouse or former spouse of the transferor is the annuitant, where the transferor and his spouse or former spouse are living separate and apart and the payment or transfer is made under a decree, order or judgment of a competent tribunal, or under a written separation agreement, relating to a division of property between the transferor and his spouse or former spouse in settlement of rights arising out of, or on the breakdown of, their marriage, the amount paid or transferred on behalf of the transferor shall not, by reason only of such payment or transfer, be included in computing the income of the transferor or his spouse or former spouse and no deduction may be made in computing the income of any individual under Chapter III of Title II of Book III in respect of the amount so paid or transferred.”

(2) Subsection 1 has effect from 1 January 1993. In addition, where section 913 of the Taxation Act, as replaced by subsection 1, applies to the taxation years 1991 and 1992, it shall be read without reference to “, under section 929,”.

c. I-3, s. 929,
replaced

288. (1) Section 929 of the said Act is replaced by the following section:

Benefits
included in
computing
income

“929. An individual shall include in computing his income for a taxation year an amount received by him in the year as a benefit out of or under a registered retirement savings plan, other than an amount included under section 914 in computing his income and an excluded withdrawal in respect of the individual, within the meaning of the first paragraph of section 935.1.”

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

c. I-3,
s. 929.1,
added

289. (1) The said Act is amended by inserting, after section 929, the following section:

Subsequent
re-calculation

“929.1 Notwithstanding sections 1010 to 1011, where an amount referred to in paragraph *a* of the definition of “eligible

amount” in the first paragraph of section 935.1 is received by an individual in a taxation year and, at any time after that year, it is determined that the amount is not an excluded withdrawal, within the meaning of that first paragraph, such assessment, reassessment or additional assessment of tax, interest and penalties shall be made by the Minister as is necessary to give effect to the determination.”

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

c. I-3,
ss. 935.1-
935.11, added

290. (1) The said Act is amended by inserting, before Title V of Book VII of Part I, the following:

“TITLE IV.1

“HOME BUYERS’ PLAN

“CHAPTER I

“INTERPRETATION AND GENERALITIES

Definitions **“935.1** In this title,

“annuitant” “annuitant” has the meaning assigned by paragraph *b* of section 905.1;

“benefit” “benefit” has the meaning assigned by paragraph *a* of section 905.1;

“eligible amount” “eligible amount” in respect of an individual means an amount received at a particular time by the individual as a benefit out of or under a registered retirement savings plan where

(*a*) the amount is received after 25 February 1992 and before 2 March 1993 pursuant to the written request of the individual in prescribed form in which the individual sets out the location of a qualifying home that the individual has begun, or intends not later than one year after its acquisition by the individual to begin, using as a principal place of residence,

(*b*) the individual is resident in Canada at the particular time and entered into an agreement in writing before the particular time for the acquisition of the qualifying home or in respect of its construction,

(*c*) the individual acquires the qualifying home, or replacement property for the qualifying home, after 25 February 1992 and before 1 October 1993,

(d) neither the individual nor the individual's spouse acquired the qualifying home more than 30 days before the particular time,

(e) unless the individual acquired the qualifying home before the particular time, the individual is resident in Canada throughout the period beginning immediately after the particular time and ending at the earliest of any time at which the individual acquired the qualifying home or any replacement property for the qualifying home, and

(f) the aggregate of the amount and all eligible amounts received by the individual at or before the particular time does not exceed \$20 000;

"excluded
premium"

"excluded premium" in respect of an individual means a premium under a registered retirement savings plan where the premium

(a) was designated by the individual for the purposes of paragraph *j*, *j.1*, *j.2* or *l* of section 60 of the Income Tax Act (Statutes of Canada),

(b) was an amount transferred directly from a registered retirement savings plan, registered pension plan, registered retirement income fund or deferred profit sharing plan, or

(c) was deductible under section 923.5 in computing the individual's income for any taxation year, or

(d) was deducted in computing the individual's income for the taxation year 1991;

"excluded
withdrawal"

"excluded withdrawal" in respect of an individual means

(a) an eligible amount received by the individual, or

(b) an amount, other than an eligible amount, that would, if the definition of "eligible amount" were read without reference to paragraphs *c* and *e* thereof, be an eligible amount received by the individual out of or under a registered retirement savings plan in respect of which a person is the issuer, where either

i. the individual died before 1 January 1994 and was resident in Canada throughout the period beginning immediately after the amount was received and ending at the time of the death, or

ii. the amount is repaid before 1 January 1994 to a registered retirement savings plan in respect of which the person is the issuer, or, where the individual was not resident in Canada at the time the individual filed a fiscal return under this Part for the taxation year

in which the amount was received by the individual, before the earlier of 1 January 1994 and the day on which the individual filed that return, and the issuer is notified of the repayment in prescribed form submitted to the issuer at the time the repayment is made;

“issuer” “issuer” has the meaning assigned by paragraph *c* of section 905.1;

“premium” “premium” has the meaning assigned by paragraph *e* of section 905.1;

“qualifying home” “qualifying home” means

(a) a housing unit located in Canada, or

(b) a share of the capital stock of a cooperative housing corporation, the holder of which is entitled to possession of a housing unit located in Canada;

“quarter” “quarter” means any of the following periods in a calendar year:

(a) the period beginning on 1 January and ending on 31 March,

(b) the period beginning on 1 April and ending on 30 June,

(c) the period beginning on 1 July and ending on 30 September,
and

(d) the period beginning on 1 October and ending on 31 December;

“replacement property” “replacement property” for a particular qualifying home in respect of an individual means another qualifying home where

(a) the individual agreed to acquire, or began the construction of, the other qualifying home at a particular time that is after the latest time that the individual requested a withdrawal in respect of the particular qualifying home under paragraph *a* of the definition of “eligible amount”,

(b) the individual intended, at the particular time, that the other qualifying home be used by the individual as a principal place of residence not later than one year after its acquisition, and

(c) neither the individual nor the individual's spouse had acquired the other qualifying home before the particular time.

Qualifying home In this title, a reference to a qualifying home that is a share described in paragraph *b* of the definition of “qualifying home” in the

first paragraph means, where the context so requires, the housing unit to which that share relates.

Application

Where an amount would, if subparagraph 1 of subparagraph ii of subparagraph *c* of the first paragraph of section 935.2 were read without reference to the words and figures “, acquires the qualifying home or a replacement property for the qualifying home before 1 October 1994,” be an eligible amount, subparagraph ii of paragraph *b* of the definition of “excluded withdrawal” in the first paragraph applies in respect of the amount as if the first reference therein to “1994” were a reference to “1995”.

Rules applicable

“935.2 For the purposes of this title,

(a) an individual is deemed to have acquired a qualifying home if the individual acquired it jointly with one or more other persons;

(b) where an individual agrees to acquire a housing unit held in co-ownership, the individual is deemed to have acquired it on the day the individual is entitled to take possession of it; and

(c) except for the purposes of this paragraph, an individual is deemed to have acquired, on 30 September 1993, a qualifying home in respect of which the individual withdrew an amount described in paragraph *a* of the definition of “eligible amount” in the first paragraph of section 935.1 where

i. neither a qualifying home nor a replacement property for the qualifying home has been acquired by the individual before 1 October 1993, and

ii. either

(1) the individual is obliged under the terms of a written agreement in effect on 1 October 1993 to acquire the qualifying home, or a replacement property for the qualifying home, on or after that day, acquires the qualifying home or a replacement property for the qualifying home before 1 October 1994, and is resident in Canada throughout the period beginning on 1 October 1993 and ending on the earlier of 1 October 1994 and the earliest of any day on which the individual acquires the qualifying home or a replacement property for the qualifying home, or

(2) the individual made payments to persons with whom the individual was dealing at arm’s length, in the period described in the second paragraph, in respect of the construction of the qualifying home or a replacement property for the qualifying home, and the

aggregate of all payments so made was not less than the aggregate of all amounts described in paragraph *a* of the definition of “eligible amount” in the first paragraph of section 935.1, in respect of the qualifying home that were withdrawn by the individual.

Interpreta-
tion

The period to which subparagraph 2 of subparagraph ii of subparagraph *c* of the first paragraph refers is the period beginning at the time the individual first withdrew an amount described in paragraph *a* of the definition of “eligible amount” in the first paragraph of section 935.1 and ending before 1 October 1993 in respect of the qualifying home.

“CHAPTER II

“REPAYMENTS OF ELIGIBLE AMOUNTS AND AMOUNTS TO BE INCLUDED

Repayment
of an eligible
amount

“935.3 An amount, other than an excluded premium, paid by an individual at a particular time in a taxation year under a retirement savings plan that was at the end of the year a registered retirement savings plan under which the individual is the annuitant may be designated by the individual under this section, in prescribed form submitted to the issuer of the plan at the time of the payment or at such later time as is acceptable to the Minister, to the extent that the amount so paid does not exceed the amount by which

(*a*) the aggregate of all eligible amounts received by the individual before the particular time exceeds

(*b*) the aggregate of

i. all amounts designated under this section in respect of amounts paid before the particular time to registered retirement savings plans under which the individual is the annuitant, and

ii. all amounts each of which is an amount included in computing the income of the individual under section 935.4 or 935.5 for a taxation year ending before the particular time.

Where a por-
tion of an eli-
gible
amount is
not repaid

“935.4 An individual shall include in computing the income of the individual for a particular taxation year ending after 31 December 1993 the amount determined by the formula

$$\frac{(A - B - C)}{(15 - D)} - E.$$

Interpreta-
tion

For the purposes of the formula in the first paragraph,

(a) A is

i. where the individual died or ceased to be resident in Canada in the particular year, an amount equal to zero, and

ii. in any other case, the aggregate of all eligible amounts received by the individual in preceding taxation years;

(b) B is

i. where the particular year is the taxation year 1994, an amount equal to zero, and

ii. in any other case, the aggregate of all amounts designated by the individual under section 935.3 for preceding taxation years;

(c) C is the aggregate of all amounts each of which is an amount included under this section or section 935.5 in computing the income of the individual for a preceding taxation year;

(d) D is the lesser of 14 and the number of taxation years of the individual ending in the period beginning on 1 January 1994 and ending at the beginning of the particular year; and

(e) E is

i. where the particular year is the taxation year 1994, the aggregate of all amounts each of which is an amount designated by the individual under section 935.3 for the particular year or either of the two preceding taxation years, and

ii. in any other case, the aggregate of all amounts designated under section 935.3 by the individual for the particular year.

Where an
individual
ceases to be
resident in
Canada

“935.5 Where at a particular time in a taxation year an individual ceases to be resident in Canada, the individual shall include in computing the income of the individual for the period in the year during which the individual was resident in Canada the amount by which

(a) the aggregate of all amounts each of which is an eligible amount received by the individual in the year or a preceding taxation year exceeds

(b) the aggregate of

i. all amounts designated by the individual under section 935.3 that are paid not later than 90 days after the particular time and before the individual files a fiscal return under this Part for the year, and

ii. all amounts included under section 935.4 in computing the income of the individual for preceding taxation years.

Where an
individual
dies

“935.6 Where an individual dies at a particular time in a taxation year, there shall be included in computing the income of the individual for the year the amount by which

(a) the aggregate of all excluded withdrawals in respect of the individual received by the individual before the particular time, other than excluded withdrawals in respect of the individual repaid before that time in accordance with subparagraph ii of paragraph b of the definition of “excluded withdrawal” in the first paragraph of section 935.1, exceeds

(b) the aggregate of

i. all amounts designated by the individual under section 935.3 that were paid before the particular time, and

ii. all amounts each of which is an amount included under section 935.4 or 935.5 in computing the income of the individual for a preceding taxation year.

Spouse of a
deceased
individual

“935.7 Where an individual’s spouse was resident in Canada immediately before the death of the individual in a taxation year and the spouse and the individual’s legal representative jointly so elect in writing in the individual’s fiscal return under this Part for the year,

(a) section 935.6 does not apply in respect of the individual, and

(b) except for the purposes of section 935.9, the spouse is deemed to have received an eligible amount at the time of the individual’s death equal to the amount that would, but for this section, be determined in respect of the individual under section 935.6.

Filing of pre-
scribed form

“935.8 A prescribed form referred to in this title that is submitted to an issuer shall be filed with the Minister by the issuer not later than 15 days after the quarter in which it was submitted to the issuer.

“CHAPTER III

“AMOUNT TO BE INCLUDED FOR THE TAXATION YEAR 1992

Income
inclusion

“935.9 There shall be included in computing the income for the taxation year 1992 of an individual who was resident in Canada at the end of that year an amount equal to the lesser of

(a) the net premium balance of the individual, and

(b) the aggregate of

i. all amounts each of which is an eligible amount received in 1992 or 1993 by the individual, and

ii. the lesser of

(1) the aggregate of all premiums, other than excluded premiums in respect of the individual, paid by the individual after 25 February 1992 and before 2 March 1993 under a registered retirement savings plan under which the individual's spouse is the annuitant, and

(2) the amount by which the aggregate of all amounts each of which is an eligible amount received in 1992 or 1993 by the individual's spouse exceeds the net premium balance of the individual's spouse.

Net pre-
mium bal-
ance

“935.10 In section 935.9, the net premium balance of an individual is the amount by which

(a) the aggregate of all premiums, other than excluded premiums in respect of the individual, paid by the individual after 25 February 1992 and before 2 March 1993 under a registered retirement savings plan under which the individual or the individual's spouse is the annuitant, exceeds

(b) the aggregate of all amounts each of which is an amount received by the individual or the individual's spouse after 25 February 1992 and before 1 January 1994 and included under section 929 or 931.1 in computing the income of the individual for the taxation year 1992 or 1993, other than an amount in respect of which an amount is deductible under paragraph b of section 924.1 in computing the income of the individual or in respect of premiums paid by the individual after 1 March 1993.

Assessments

“935.11 Notwithstanding sections 1010 to 1011, the Minister shall make such assessments, reassessments or additional assessments of tax, interest and penalties as are necessary to give effect to amounts included in computing the income of an individual under section 935.9.”

(2) Subsection 1 applies from the taxation year 1992. However, where section 935.1 of the Taxation Act, as enacted by subsection 1, applies before 1 January 1993, it shall be read as though it included the following definition after the definition of “replacement property”:

“spouse”

“ “spouse” has the meaning assigned by section 905.3.”

c. I-3,
s. 961.1.5,
am.

291. (1) Section 961.1.5 of the said Act is amended by replacing paragraphs *c* and *d* by the following paragraphs:

“minimum
amount”

“(c) “minimum amount” under a retirement income fund for the year in which the arrangement in connection with the fund is entered into means an amount equal to zero and for each subsequent year means the product obtained when the fair market value of the property held in connection with the fund at the beginning of that subsequent year is multiplied by any of the following amounts:

i. where the first annuitant under the fund has elected in respect of the fund under subparagraph ii, as it read before 1 January 1992, or under the first paragraph of section 961.4, as it read before 1 January 1986, to use the age of another individual, the prescribed amount for that subsequent year in respect of the other individual;

ii. where subparagraph i does not apply and the first annuitant under the fund so elects before any payment has been made under the fund by the carrier, the prescribed amount for that subsequent year in respect of an individual who was the spouse of the first annuitant at the time of the election; or

iii. in any other case, the prescribed amount for that subsequent year in respect of the first annuitant under the fund;

“annuitant”

“(d) “annuitant” under a retirement income fund at any time means any of the following persons:

i. the first individual to whom the carrier has undertaken to make the payments described in paragraph *f* of subsection 1 of section 146.3 of the Income Tax Act (Statutes of Canada) out of or under the fund, where the first individual is alive at that time;

ii. after the death of the first individual, a spouse, in this subparagraph referred to as the “surviving spouse”, of the first individual to whom the carrier has undertaken to make payments described in paragraph *f* of subsection 1 of section 146.3 of the Income Tax Act (Statutes of Canada) out of or under the fund after the death of the first individual, where the surviving spouse is alive at that time

and the undertaking was made pursuant to an election described in the said paragraph *f* of the first individual or with the consent of the legal representative of the first individual; and

iii. after the death of the surviving spouse, another spouse of the surviving spouse to whom the carrier has undertaken, with the consent of the legal representative of the surviving spouse, to make payments described in paragraph *f* of subsection 1 of section 146.3 of the Income Tax Act (Statutes of Canada) out of or under the fund after the death of the surviving spouse, where that other spouse is alive at that time.”

(2) Subsection 1, where it replaces paragraph *c* of section 961.1.5 of the Taxation Act, applies, subject to subsection 4,

(a) from the taxation year 1992 in respect of

i. a retirement income fund, where the arrangement in connection with the fund was entered into after 28 February 1986,

ii. a retirement income fund revised or amended after 28 February 1986 and before 1 January 1992, where the arrangement in connection with the fund was entered into before 1 March 1986;

(b) from the taxation year in which a retirement income fund is first revised or amended after 28 February 1986, where the arrangement in connection with the fund was entered into before 1 March 1986 and the fund was not revised or amended after 28 February 1986 and before 1 January 1992.

(3) Subsection 1, where it replaces paragraph *d* of section 961.1.5 of the Taxation Act, applies in respect of deaths occurring after 31 December 1990.

(4) Notwithstanding subsection 2, subsection 1, where it replaces paragraph *c* of section 961.1.5 of the Taxation Act, does not apply, for the purposes of section 961.17.0.1 of the said Act and the regulations made under section 1015 of the said Act, in respect of payments made before 1 January 1993.

292. (1) Section 961.1.5.1 of the said Act is repealed.

(2) Subsection 1 has effect from 1 January 1993. Furthermore, where section 961.1.5.1 of the Taxation Act, repealed by subsection 1, applies after 31 December 1990 and before 1 January 1993, it shall be read as follows:

c. 1-3,
s. 961.1.5.1,
repealed

“spouse”

“961.1.5.1 For the purposes of paragraphs *c* and *d* of section 961.1.5, subparagraph *b* of the second paragraph of section 961.17 and the first paragraph of section 961.17.1, “spouse” has the meaning assigned by section 905.3.”

c. 1-3,
s. 961.17, am.

293. (1) Section 961.17 of the said Act is amended by replacing subparagraph *b* of the second paragraph by the following subparagraph:

“(b) an amount transferred from a registered retirement income fund of the annuitant to a registered retirement income fund or a registered retirement savings plan of his spouse or former spouse under a decree, order or judgment of a competent tribunal, or under a written separation agreement, relating to a division of property between the annuitant and his spouse or former spouse in settlement of rights arising out of, or on the breakdown of, their marriage.”

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

c. 1-3,
s. 965.0.1,
am.

294. (1) Section 965.0.1 of the said Act is amended by striking out the definition of “spouse”.

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

c. 1-3,
s. 965.0.5,
am.

295. (1) Section 965.0.5 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(c) the amount is transferred directly to

i. another registered pension plan to provide benefits in respect of the member under a money purchase provision of that plan,

ii. a registered retirement savings plan under which the member is the annuitant, within the meaning of paragraph *b* of section 905.1, or

iii. a registered retirement income fund under which the member is the annuitant, within the meaning of paragraph *d* of section 961.1.5.”

(2) Subsection 1 applies in respect of transfers occurring after 29 August 1990.

c. 1-3,
s. 965.0.8,
am.

296. (1) Section 965.0.8 of the said Act is amended

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

“(b) the amount is transferred on behalf of a member in full or partial satisfaction of benefits to which the member is entitled, either absolutely or contingently, under a defined benefit provision of the plan as registered,”;

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

“(d) the amount is transferred directly to

i. another registered pension plan and allocated to the member under a money purchase provision of that plan,

ii. a registered retirement savings plan under which the member is the annuitant, within the meaning of paragraph *b* of section 905.1, or

iii. a registered retirement income fund under which the member is the annuitant, within the meaning of paragraph *d* of section 961.1.5.”

(2) Subsection 1 applies in respect of transfers occurring after 31 December 1988. However, where paragraph *d* of section 965.0.8 of the Taxation Act, as enacted by subsection 1, applies in respect of transfers occurring before 30 August 1990, it shall be read as follows:

“(d) the amount is transferred directly to another registered pension plan and allocated to the member under a money purchase provision of that plan or to a registered retirement savings plan under which the member is the annuitant, within the meaning of paragraph *b* of section 905.1.”

c. I-3,
s. 965.0.8.1,
added

297. (1) The said Act is amended by inserting, after section 965.0.8, the following section:

Transfer of
surplus –
defined ben-
efits to
money pur-
chases

“965.0.8.1 An amount is transferred from a registered pension plan in accordance with this section if the following conditions are satisfied:

(a) the amount is transferred in respect of the actuarial surplus under a defined benefit provision of the plan, and

(b) the amount is transferred directly to another registered pension plan and allocated under a money purchase provision of that plan to one or more members of that plan.”

(2) Subsection 1 applies in respect of transfers occurring after 31 December 1990.

c. I-3,
s. 965.0.9,
am.

298. (1) Section 965.0.9 of the said Act is amended by replacing paragraphs *b* and *c* by the following paragraphs:

“(b) the amount is transferred on behalf of an individual who is the spouse or former spouse of a member of the plan and who is entitled to the amount under a decree, order or judgment of a competent tribunal, or under a written separation agreement, relating to a division of property between the member and the individual in settlement of rights arising out of, or on the breakdown of, their marriage, and

“(c) the amount is transferred directly to

i. another registered pension plan for the benefit of the individual,

ii. a registered retirement savings plan under which the individual is the annuitant, within the meaning of paragraph *b* of section 905.1, or

iii. a registered retirement income fund under which the individual is the annuitant, within the meaning of paragraph *d* of section 961.1.5.”

(2) Subsection 1 applies in respect of transfers occurring after 29 August 1990. However, where paragraph *b* of section 965.0.9 of the Taxation Act, as enacted by subsection 1, applies before 1 January 1993, the reference therein to “out of, or on the breakdown of, their marriage” shall be read as a reference to “out of, or on the breakdown of, their marriage or conjugal relationship”.

c. I-3,
s. 965.0.10,
am.

299. (1) Section 965.0.10 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(c) the amount is transferred directly to

i. another registered pension plan for the benefit of the member,

ii. a registered retirement savings plan under which the member is the annuitant, within the meaning of paragraph *b* of section 905.1, or

iii. a registered retirement income fund under which the member is the annuitant, within the meaning of paragraph *d* of section 961.1.5.”

(2) Subsection 1 applies in respect of transfers occurring after 29 August 1990.

c. I-3,
s. 965.0.11,
am.

300. (1) Section 965.0.11 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(c) the amount is transferred directly to

i. another registered pension plan for the benefit of the individual,

ii. a registered retirement savings plan under which the individual is the annuitant, within the meaning of paragraph *b* of section 905.1, or

iii. a registered retirement income fund under which the individual is the annuitant, within the meaning of paragraph *d* of section 961.1.5.”

(2) Subsection 1 applies in respect of transfers occurring after 29 August 1990.

c. I-3,
s. 965.0.14,
replaced

301. (1) Section 965.0.14 of the said Act is replaced by the following section:

Taxation of
amount
transferred

“965.0.14 Where, on behalf of an individual, an amount is transferred from a registered pension plan, in this section referred to as the “transferor plan”, to another registered pension plan, a registered retirement savings plan or a registered retirement income fund and the transfer is not in accordance with any of sections 965.0.5 to 965.0.11, notwithstanding section 2.3, the amount is deemed to have been paid from the transferor plan to the individual.”

(2) Subsection 1 applies in respect of transfers occurring after 29 August 1990. However, where section 965.0.14 of the Taxation Act, as enacted by subsection 1, applies in respect of transfers occurring before 1 January 1991, it shall be read as follows:

Taxation of
amount
transferred

“965.0.14 Where, on behalf of an individual, an amount is transferred from a registered pension plan, in this section referred to as the “transferor plan”, to another registered pension plan, a registered retirement savings plan or a registered retirement income fund and the transfer is not in accordance with any of sections 965.0.5 to 965.0.11, the following rules apply:

(a) notwithstanding section 2.3, the amount is deemed to have been paid from the transferor plan to the individual,

(b) where the amount is transferred to another registered pension plan or a registered retirement savings plan, the individual

is deemed to have paid the amount as a contribution to the other registered pension plan or as a premium to the registered retirement savings plan, and

(c) where the amount is transferred to a registered retirement income fund, the individual is deemed, for the purposes of section 922, to have paid the amount at the time of the transfer as a premium under a registered retirement savings plan under which the individual was the annuitant, within the meaning of paragraph *b* of section 905.1.”

c. I-3,
s. 965.0.15,
am.

302. (1) Section 965.0.15 of the said Act is amended by replacing that part preceding paragraph *a* by the following:

Division of
transferred
amount

“965.0.15 Where an amount is transferred from a registered pension plan to another registered pension plan, to a registered retirement savings plan or to a registered retirement income fund, and a portion, but not all, of the amount is transferred in accordance with any of sections 965.0.5 to 965.0.12, the following rules apply:”

(2) Subsection 1 applies in respect of transfers occurring after 29 August 1990.

c. I-3,
s. 965.0.16.1,
added

303. (1) The said Act is amended by inserting, after section 965.0.16, the following section:

Transferred
amounts
deductible

“965.0.16.1 An individual may deduct, in computing his income for a taxation year, the amount deductible for the year in computing his income for the purposes of the Income Tax Act (Statutes of Canada), under subsection 13.1 of section 147.3 of the said Act.”

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

c. I-3, s. 966,
am.

304. (1) Section 966 of the said Act, amended by section 312 of chapter 16 of the statutes of 1993, is again amended by replacing subparagraphs *i* and *ii* of paragraph *b.4* by the following subparagraphs:

“*i.* in respect of a surrender or maturity of the policy, the amount by which the cash surrender value of that interest in the policy at the time of surrender or maturity, excluding that portion of the cash surrender value that is applicable to a policyholder’s interest in the segregated fund trust related to that policy as referred to in section 851.11, exceeds the aggregate of all amounts each of which is

(1) an amount payable at that time by the policyholder in respect of a policy loan in respect of the policy,

(2) a premium under the policy that is due but unpaid at that time, or

(3) an amount applied, immediately after the time of the surrender, to pay a premium under the policy, as provided for under the terms and conditions of the policy;

“ii. in respect of a policy loan in respect of that policy made after 31 March 1978, the lesser of

(1) the amount of the loan, other than the part thereof applied, immediately after the loan, to pay a premium under the policy, as provided for under the terms and conditions of the policy, and

(2) the amount by which the cash surrender value of the policy immediately before the loan is made exceeds the aggregate of the amounts outstanding at that time in respect of policy loans in respect of the policy;”.

(2) Subsection 1, where it replaces subparagraph i of paragraph b.4 of section 966 of the Taxation Act, applies in respect of surrenders occurring in taxation years commencing after 20 December 1991.

(3) Subsection 1, where it replaces subparagraph ii of paragraph b.4 of section 966 of the Taxation Act, applies in respect of policy loans made in taxation years commencing after 20 December 1991.

c. I-3, s. 967,
am.

305. (1) Section 967 of the said Act, amended by section 314 of chapter 16 of the statutes of 1993, is again amended by replacing that part preceding paragraph *b* by the following:

Application
of ss. 157.5,
968, 976 and
976.1

“967. For the purposes of sections 157.5, 968, 976 and 976.1,

(a) a policyholder who, at any time, becomes entitled to receive under a life insurance policy, a particular amount as, on account or in lieu of payment of, or in satisfaction of, a policy dividend is deemed

i. to have disposed of an interest in the policy at that time, and

ii. to have become entitled to receive proceeds of the disposition of the interest equal to the amount by which

(1) the particular amount exceeds

(2) the part of the particular amount applied immediately after that time to pay a premium under the policy or to repay a policy loan under the policy, as provided for under the terms and conditions of the policy;”.

(2) Subsection 1 applies in respect of policy dividends received or receivable in taxation years commencing after 20 December 1991.

c. I-3, s. 968,
am.

306. (1) Section 968 of the said Act is amended by replacing the second paragraph by the following paragraph:

Life insurance policy

“For the purposes of the first paragraph, a life insurance policy does not include a policy that is a registered pension plan, a registered retirement savings plan, a deferred profit sharing plan, a registered retirement income fund, an income-averaging annuity or an annuity contract, the holder of which may deduct the cost under paragraph *f* of section 339 in computing his income, nor a policy that is issued pursuant to such a plan, fund, annuity or contract.”

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

c. I-3,
s. 971.2, am.

307. (1) Section 971.2 of the said Act, enacted by section 316 of chapter 16 of the statutes of 1993, is amended by replacing the first paragraph by the following paragraph:

Inter vivos
transfer to
spouse

“971.2 Notwithstanding any other provision of this title, where an interest of a policyholder in a life insurance policy, other than a policy referred to in the second paragraph of section 968, has been transferred to the policyholder’s spouse or a former spouse of the policyholder in settlement of rights arising out of their marriage, and both the policyholder and the transferee were resident in Canada at the time of the transfer, the interest is deemed to have been disposed of by the policyholder for proceeds of the disposition equal to the adjusted cost basis to the policyholder of the interest immediately before the transfer and to have been acquired by the transferee at a cost equal to those proceeds.”

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

c. I-3, s. 976,
am.

308. (1) Section 976 of the said Act, amended by section 317 of chapter 16 of the statutes of 1993, is again amended

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

“(b) the amounts paid before that particular time by him or on his behalf in respect of a premium under the policy, other than amounts referred to in subparagraph 3 of subparagraph i of paragraph *b.4* of section 966, in subparagraph 1 of subparagraph ii of that subparagraph *b.4* or in subparagraph 2 of subparagraph ii of paragraph *a* of section 967;”;

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

“(d) the amounts repaid, except any repayment deductible under paragraph *k* of section 157 as it read before its repeal or under paragraph *i* of subsection 1 of section 336 or described in subparagraph 2 of subparagraph ii of paragraph *a* of section 967, after 31 March 1978 and before that particular time of a policy loan in respect of the policy, not exceeding the aggregate of the proceeds of the disposition of an interest in the policy in respect of that loan and the amount payable on 31 March 1978 in respect of a policy loan in respect of the policy;”;

(3) by striking out the word “and” at the end of paragraph *g*;

(4) by replacing the period at the end of paragraph *h* by a semicolon and the word “and”;

(5) by adding, after paragraph *h*, the following paragraph:

“(i) in the case of an interest in a life insurance policy, other than an annuity contract, to which section 971.3 applied before that time, the total of all amounts each of which is a mortality gain, as defined by regulation and determined by the issuer of the policy in accordance with the regulations, in respect of the interest immediately before the end of the calendar year ending in a taxation year beginning before the particular time.”

(2) Paragraph 1 of subsection 1 applies in respect of amounts paid in taxation years commencing after 20 December 1991.

(3) Paragraph 2 of subsection 1 applies in respect of loan repayments occurring in taxation years commencing after 20 December 1991.

(4) Paragraphs 3 to 5 of subsection 1 apply in respect of transfers and distributions occurring after 31 December 1989.

309. (1) Section 986 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) For the purposes of subsection 1, the income of an organization is deemed to be the amount thereof determined on the assumption that the amount of any taxable capital gain or allowable capital loss is nil.”

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

310. (1) The said Act is amended by inserting, after section 997, the following section:

c. 1-3, s. 986,
am.

Income of
an organiza-
tion

c. 1-3,
s. 997.1,
added

Information
return

“997.1 Every person who is exempt from tax under this Part because of paragraph *a* of section 995 or section 996 shall, within six months after the end of each fiscal period of the person and without notice or demand therefor, file with the Minister an information return for the period in prescribed form and containing prescribed information, if

(a) the aggregate of all amounts each of which is a taxable dividend or an amount received or receivable by the person as, on account of, in lieu of or in satisfaction of, interest, rentals or royalties in the period exceeds \$10 000;

(b) at the end of the person's preceding fiscal period the total assets of the person, determined in accordance with generally accepted accounting principles, exceeded \$200 000; or

(c) an information return was required to be filed under this section by the person for a preceding fiscal period.”

(2) Subsection 1 applies to fiscal periods ending after 17 June 1994.

c. I-3, s. 998,
am.

311. (1) Section 998 of the said Act, amended by section 321 of chapter 16 of the statutes of 1993, is again amended

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

syndicate of
co-owners

“(b.1) a syndicate referred to in article 1039 of the Civil Code of Québec, of which all or substantially all of the income, determined without reference to the income from its contingency fund, is derived from operations carried out together with the co-owners in accordance with the objects of its constitution, where the contingency fund is not at any time maintained at an unreasonably high level in view of the object of its constitution;”;

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

amateur ath-
lete trust

“(n) an amateur athlete trust.”

(2) Paragraph 1 of subsection 1 applies to taxation years commencing after 31 December 1993.

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

c. I-3,
s. 999.1, am.

312. (1) Section 999.1 of the said Act is amended by inserting, after paragraph *a*, the following paragraph:

“(a.1) for the purpose of computing the corporation’s income for its first taxation year ending after that time, the corporation is deemed to have deducted under Chapter III of Title III of Book III and Chapters II and III of Title V of Book V.1 in computing its income for its taxation year ending immediately before that time, the greatest amount that could have been claimed or deducted for that year as a reserve under those provisions;”.

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

c. I-3,
s. 1000, am.

313. (1) Section 1000 of the said Act, amended by section 325 of chapter 16 of the statutes of 1993 and by section 127 of chapter 64 of the statutes of 1993, is again amended by replacing paragraph *d* of subsection 2 by the following paragraph:

“(d) in the case of an estate or a trust, by the liquidator or the trustee, within 90 days after the end of its taxation year;”.

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

c. I-3,
s. 1003, am.

314. (1) Section 1003 of the said Act, amended by section 128 of chapter 64 of the statutes of 1993, is again amended by replacing paragraph *d* by the following paragraph:

“(d) subject to sections 693.1 and 752.0.26, that other person were entitled to the deductions to which the taxpayer was entitled under sections 725 to 725.7, 752.0.1 to 752.0.13.3 and 752.0.14 to 752.0.18.1 for the period in computing his taxable income or his tax payable under this Part, as the case may be, for the period.”

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

c. I-3,
s. 1010.0.1,
added

315. (1) The said Act is amended by inserting, after section 1010, the following section:

Consequen-
tial assess-
ment

“1010.0.1 Notwithstanding the expiry of the time limits prescribed in section 1010, where a reassessment is made for a particular taxation year following an objection, an appeal or a summary appeal brought under Chapter IV of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), the Minister may again assess the tax, interest and penalties and make a reassessment for a subsequent taxation year, but only for the purpose of giving effect to any provision of this Part requiring the inclusion, or allowing the deduction, of an amount that must be taken into account in making such reassessment so as to ensure that it is correlated with the reassessment in respect of the particular taxation year.

Time limit

For the purposes of the first paragraph, such reassessment may or, where the taxpayer so requests in writing, shall be made within one year after the day a decision relating to the particular year is rendered following an objection, an appeal or a summary appeal brought under Chapter IV of the Act respecting the Ministère du Revenu.”

(2) Subsection 1 applies in respect of a reassessment or redetermination made after 17 June 1994 that relates to an assessment in respect of another taxation year as a result of a decision rendered after 20 December 1991 following an objection, an appeal or a summary appeal.

c. 1-3,
s. 1029.8.9.1.2,
replaced

316. (1) Section 1029.8.9.1.2 of the said Act, enacted by section 150 of chapter 64 of the statutes of 1993, is replaced by the following section:

Qualified
expenditure

“1029.8.9.1.2 Subject to Division II.4, for the purposes of the first paragraph of sections 1029.8.10 and 1029.8.11, all or any part of the amount of a qualified expenditure made in Québec by a taxpayer or a partnership as part of a pre-competitive research project, catalyst project or environmental technology innovation project that can reasonably be considered to be attributable to scientific research and experimental development undertaken in Québec as part of such a project in a taxation year of the taxpayer or a fiscal period of the partnership, is deemed not to exceed the amount that would represent the aggregate of the qualified expenditures of the taxpayer or partnership that are made in Québec in that year or period as part of that project if each expenditure, referred to in this section as a “particular expenditure”, that is made in Québec either by the taxpayer or partnership for scientific research and experimental development undertaken directly by the taxpayer or partnership, or by another person for scientific research and experimental development directly undertaken by that other person on behalf of the taxpayer or partnership, in that year or period as part of that project, were made by the taxpayer or the partnership in the same circumstances and under the same conditions and referred to in subsection 1 of section 222 or in paragraph *a* of section 223 and if the aggregate of the amount of each particular expenditure, which constitutes an overhead expenditure, were limited to 65 % of the aggregate of the amount of each particular expenditure which constitutes incurred wages.”

(2) This section applies in respect of expenditures made after 20 May 1993 in respect of scientific research and experimental development undertaken after that date in accordance with a receipt or recognition obtained after that date regarding a pre-competitive

research project, a catalyst project or an environmental technology innovation project, as part of a scientific research and experimental development project, other than such an expenditure the funds for which have been collected as part of the project

(a) following a distribution in accordance with a final prospectus for which the receipt was granted before 23 April 1993 or with an exemption from filing a prospectus granted before that date;

(b) following a distribution in accordance with a final prospectus for which the receipt was granted after 22 April 1993 but on or before 31 May 1993 or, where a pre-competitive research receipt was issued by the Minister of Industry, Trade and Technology before 20 May 1993, on or before 31 August 1993, if the receipt for the preliminary prospectus was granted before 23 April 1993, if the funds collected through the distribution do not exceed the amount provided for in that respect in the preliminary prospectus and, where applicable, if the amount of the expenditure does not exceed the amount provided for in that respect in the pre-competitive research receipt issued;

(c) following a distribution in accordance with a final prospectus for which the receipt was granted after 23 April 1993 but on or before 31 December 1993, if the receipt for the preliminary prospectus was granted on 23 April 1993 and if the funds collected through the distribution do not exceed the amount provided for in that respect in the preliminary prospectus;

(d) following a distribution under an exemption from filing a prospectus, if the application for an exemption from filing a prospectus was filed before 23 April 1993 and the exemption from filing a prospectus was granted after 22 April 1993 but on or before 31 May 1993 or, where a pre-competitive research receipt was issued by the Minister of Industry, Trade and Technology before 20 May 1993, on or before 31 August 1993, if the funds collected through the distribution do not exceed the amount provided for in that respect in the application for an exemption from filing a prospectus and, where applicable, if the amount of the expenditure does not exceed the amount provided for in that respect in the pre-competitive research receipt issued;

(e) following a distribution under an exemption from filing a prospectus, if the application for an exemption from filing a prospectus was filed on 23 April 1993 and the exemption from filing a prospectus was granted after 23 April 1993 but on or before 31 December 1993 and if the funds collected through the distribution do not exceed the amount provided for in that respect in the application for an exemption from filing a prospectus;

(f) in respect of which a favourable advance ruling from the Ministère du Revenu was given before 23 April 1993, if the amount of the expenditure does not exceed the amount provided for in that respect in the application for an advance ruling and if the receipt for the final prospectus or the exemption from filing a prospectus, as the case may be, is granted on or before 30 June 1993 or, where the obtention of a receipt for a final prospectus or an exemption from filing a prospectus, as the case may be, is not required under paragraph 2 of section 3 of the Securities Act (R.S.Q., chapter V-1.1), if all the research and development shares issued as part of the project are issued before 1 January 1994;

(g) in respect of which a favourable advance ruling from the Ministère du Revenu was given on 23 April 1993, if the amount of the expenditure does not exceed the amount provided for in that respect in the application for an advance ruling and if the receipt for the final prospectus or the exemption from filing a prospectus, as the case may be, is granted on or before 31 December 1993 or, where the obtention of a receipt for a final prospectus or an exemption from filing a prospectus, as the case may be, is not required under paragraph 2 of section 3 of the Securities Act, if all the research and development shares issued as part of the project are issued before 1 January 1994;

(h) in respect of which both a favourable advance ruling from the Ministère du Revenu was given before 24 April 1993 and a draft prospectus was filed before that date, if the amount of the expenditure does not exceed the amount provided for in that respect in the draft prospectus or the application for an advance ruling, if the receipt for the final prospectus is granted on or before 31 December 1993 and if the scientific research and experimental development project is the same.

c. I-3,
s. 1029.8.17,
am.

317. (1) Section 1029.8.17 of the said Act is amended by replacing subparagraph i of paragraph c by the following subparagraph:

“i. an amount payable for scientific research and experimental development, within the meaning of the regulations made pursuant to section 222 to the extent that it can reasonably be considered to have been undertaken for, or on behalf of, a person entitled to a deduction in respect of the amount because of paragraph d of subsection 1 of section 222, or pursuant to subsection 1 of section 222 by reason of the fact that the research and development is related to a business of the person and directly undertaken in Canada by, or on behalf of, the person; or”.

(2) Subsection 1 applies in respect of amounts that become payable after 20 December 1991.

c. I-3,
s. 1029.8.18.2,
added

318. (1) The said Act is amended by inserting, after section 1029.8.18.1, the following section:

Deemed
repayment
of assistance

“1029.8.18.2 For the purposes of section 1029.8.18.1, an amount of assistance is deemed to be repaid by a taxpayer or a partnership in a taxation year or a fiscal period, as the case may be, where that amount

(a) was applied, because of section 1029.8.18, in reduction of the amount of the wages or part of the remuneration paid, of a deductible expenditure or of an eligible fee, as the case may be, for the purpose of computing the amount that is deemed to have been paid to the Minister for a taxation year under Divisions II to II.3 by the taxpayer or a member of the partnership, as the case may be,

(b) was not received by the taxpayer or the partnership, and

(c) ceased in the taxation year or fiscal period, as the case may be, to be an amount that the taxpayer or the partnership can reasonably be expected to receive.”

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

c. I-3,
s. 1029.8.22,
am.

319. (1) Section 1029.8.22 of the said Act, amended by section 111 of chapter 19 of the statutes of 1993, by section 35 of chapter 51 of the statutes of 1993 and by section 158 of chapter 64 of the statutes of 1993, is again amended

(1) by replacing paragraph *a* of the definition of “qualified training costs”, in the first paragraph, by the following paragraph:

“(a) the aggregate of all amounts, other than that portion of an expenditure which may reasonably be attributable to a salary or wages and which is referred to in paragraphs *c.3* to *c.5* of the definition of “qualified training expenditure” and other than an amount referred to in paragraphs *d* to *f*, each of which is the cost of a qualified training activity in which an eligible employee of the qualified corporation or the qualified partnership, as the case may be, is enrolled that is incurred by the qualified corporation or the qualified partnership directly with the eligible training institution or with the entity located outside Québec offering the qualified training activity or refunded by the qualified corporation or the qualified partnership to the eligible employee where the cost of such an activity has been paid by him directly to the eligible training institution or to the entity located outside Québec offering it, to the extent that, in all cases, the cost may

reasonably be attributable to training given to that eligible employee;”;

(2) by inserting, after paragraph *a* of the definition of “qualified training costs”, in the first paragraph, the following paragraph:

“(a.1) the aggregate of all amounts, other than that portion of an expenditure which may reasonably be attributable to a salary or wages and which is referred to in paragraphs *c.3* to *c.5* of the definition of “qualified training expenditure” and other than an amount referred to in paragraphs *d* to *f*, each of which is an amount incurred by the qualified corporation or the qualified partnership, as the case may be, directly with an eligible training institution within the framework of a contract referred to in paragraph *d* of section 1029.8.23.1, 1029.8.23.2 or 1029.8.23.3, in respect of a qualified training activity consisting of a course given by an employee acting as an instructor, where the involvement of the qualified training institution in respect of that qualified training activity meets the requirements set out in paragraph *e* of those sections;”;

(3) by adding the word “and” at the end of paragraph *d* of the definition of “training plan”, in the first paragraph of the English text;

(4) by inserting, after the first paragraph, the following paragraph:

Deemed
repayment
of assistance

“For the purposes of paragraph *d* of the definition of “qualified training expenditure” in the first paragraph, the following rules apply:

(a) where an amount of assistance referred to in subparagraph ii of paragraph *b* of section 1029.8.32 is repaid in a taxation year by a qualified corporation that is a member of a qualified partnership, the amount repaid is deemed to be a qualified training expenditure of the qualified corporation for that year;

(b) an amount of assistance is deemed to be repaid by a qualified corporation in a taxation year, by a qualified partnership in a fiscal period or by a qualified corporation that is a member of a qualified partnership in a taxation year in which a fiscal period of the partnership ends, as the case may be, where that amount

i. was applied, because of paragraph *a* of the definition of “qualified training expenditure” in the first paragraph, in reduction of the cost of a training plan or, as the case may be, the portion of the cost of any plan whatsoever that may reasonably be attributable to a training plan or was applied, because of section 1029.8.32, in reduction of a qualified training expenditure or of the share of a

qualified training expenditure, for the purpose of computing the amount the qualified corporation or a qualified corporation that is a member of the qualified partnership, as the case may be, is deemed to have paid to the Minister for a taxation year under section 1029.8.25 or 1029.8.25.1,

ii. was not received by the qualified corporation, the qualified partnership or a qualified corporation that is a member of the qualified partnership, and

iii. ceased, in the taxation year, the fiscal period or the taxation year in which the fiscal period of the partnership ends, to be an amount that the qualified corporation, the qualified partnership or the qualified corporation that is a member of the qualified partnership, as the case may be, can reasonably be expected to receive.”

(2) Paragraph 1 of subsection 1 applies in respect of a qualified training activity held in accordance with the terms of a contract in writing entered into between a qualified training institution and a qualified corporation or a qualified partnership, as the case may be, after 31 August 1993 before the qualified training activity is held.

(3) Paragraph 2 of subsection 1 applies in respect of a qualified training activity held in accordance with the terms of a contract in writing entered into after 31 August 1993.

(4) Paragraph 3 of subsection 1 applies in respect of an amount representing the portion, incurred after 20 May 1993, of the cost of a training plan.

(5) Paragraph 4 of subsection 1 applies from the taxation year 1991. However,

(a) where the second paragraph of section 1029.8.22 of the Taxation Act, as enacted by paragraph 4 of subsection 1, applies in respect of training expenditures made before 15 May 1992, it shall be read as follows:

Deemed
repayment
of assistance

“For the purposes of paragraph *d* of the definition of “qualified training expenditure” in the first paragraph, an amount of assistance is deemed to be repaid by a qualified corporation in a taxation year where that amount

(a) was applied, because of paragraph *a* of the definition of “qualified training expenditure” in the first paragraph, in reduction of the cost of a human resources development plan or was applied, because of section 1029.8.32, in reduction of a qualified training

expenditure, for the purpose of computing the amount the qualified corporation is deemed to have paid to the Minister for a taxation year under section 1029.8.25,

(b) was not received by the qualified corporation, and

(c) ceased, in the taxation year, to be an amount that the qualified corporation can reasonably be expected to receive.”;

(b) where subparagraph i of subparagraph b of the second paragraph of section 1029.8.22 of the Taxation Act, as enacted by paragraph 4 of subsection 1, applies in respect of training expenditures made after 14 May 1992 and incurred before 21 May 1993, the said subparagraph i shall be read as follows:

“i. was applied, because of paragraph a of the definition of “qualified training expenditure” in the first paragraph, in reduction of the cost of a human resources development plan or was applied, because of section 1029.8.32, in reduction of a qualified training expenditure or of the share of a qualified training expenditure, for the purpose of computing the amount the qualified corporation or a qualified corporation that is a member of the qualified partnership, as the case may be, is deemed to have paid to the Minister for a taxation year under section 1029.8.25 or 1029.8.25.1.”.

c. 1-3,
s. 1029.8.25.1,
am.

320. (1) Section 1029.8.25.1 of the said Act, enacted by section 115 of chapter 19 of the statutes of 1993 and amended by section 163 of chapter 64 of the statutes of 1993, is again amended by replacing the first paragraph by the following paragraph:

Partnership

“1029.8.25.1 Where a qualified partnership makes a qualified training expenditure at any particular time, each qualified corporation that is a member of that partnership throughout the period commencing at that particular time and ending at the end of a fiscal period of the qualified partnership in which the expenditure is made and encloses, with its fiscal return it is required to file under section 1000 for its taxation year in which the fiscal period of the partnership ends, a prescribed form containing the prescribed information, is deemed, subject to the second paragraph, to have paid to the Minister on the last day of that year, as partial payment of its tax payable for that year pursuant to this Part, an amount equal to 20 % of its share of the amount of that expenditure if the qualified training activity to which it relates is completed before 1 January 1995, and 10 % of its share of the amount of that expenditure if the qualified training activity to which it relates is completed after 31 December 1994.”

(2) Subsection 1 applies, subject to subsections 3 and 4, in respect of training expenditures made after 14 May 1992.

(3) Where the first paragraph of section 1029.8.25.1 of the Taxation Act, as enacted by subsection 1, applies in respect of an amount representing the portion, incurred before 21 May 1993, of the cost of a training plan, that paragraph shall be read as follows:

Partnership

“1029.8.25.1 Where a qualified partnership makes a qualified training expenditure at any particular time, each qualified corporation that is a member of that partnership throughout the period commencing at that particular time and ending at the end of a fiscal period of the qualified partnership in which the expenditure is made and encloses, with its fiscal return it is required to file under section 1000 for its taxation year in which the fiscal period of the partnership ends, a prescribed form containing the prescribed information, is deemed to have paid to the Minister, as partial payment of its tax payable for that taxation year pursuant to this Part, an amount equal to the aggregate of the following amounts:

(a) where the qualified training expenditure corresponds to the cost of a human resources development plan, an amount equal to 30 % of its share of the amount of that expenditure if it is made before 1 January 1995, and an amount equal to 20 % of its share of the amount of that expenditure if it is made after 31 December 1994, and

(b) where the qualified training expenditure corresponds to an expenditure other than an expenditure referred to in subparagraph a, an amount equal to 20 % of its share of the amount of that expenditure if the qualified training activity to which it relates is completed before 1 January 1995, and an amount equal to 10 % of its share of the amount of that expenditure if the qualified training activity to which it relates is completed after 31 December 1994.”

(4) Where the first paragraph of section 1029.8.25.1 of the Taxation Act, as enacted by subsection 1, applies in respect of an amount representing the portion, incurred after 20 May 1993 but before 17 December 1993, of the cost of a training plan, that paragraph shall be read as follows:

Partnership

“1029.8.25.1 Where a qualified partnership makes a qualified training expenditure at any particular time, each qualified corporation that is a member of that partnership throughout the period commencing at that particular time and ending at the end of a fiscal period of the qualified partnership in which the expenditure is made and encloses, with its fiscal return it is required to file under section

1000 for its taxation year in which the fiscal period of the partnership ends, a prescribed form containing the prescribed information, is deemed to have paid to the Minister, as partial payment of its tax payable for that taxation year pursuant to this Part, an amount equal to 20 % of its share of the amount of that expenditure if the qualified training activity to which it relates is completed before 1 January 1995, and 10 % of its share of the amount of that expenditure if the qualified training activity to which it relates is completed after 31 December 1994.”

c. I-3,
s. 1029.8.34,
am.

321. (1) Section 1029.8.34 of the said Act, amended by section 122 of chapter 19 of the statutes of 1993 and by section 167 of chapter 64 of the statutes of 1993, is again amended by inserting, after the second paragraph, the following paragraphs:

Deemed
repayment
of assistance

“For the purposes of subparagraph 2 of subparagraph i of paragraph *a* of the definition of “qualified manpower expenditure” in the first paragraph, an amount of assistance is deemed to be repaid by a qualified corporation in a taxation year, pursuant to a legal obligation to do so, where that amount

(*a*) was applied, because of subparagraph *e* of the second paragraph, in reduction of a qualified manpower expenditure of the qualified corporation or was applied, because of subparagraph ii of paragraph *a* of the definition of “qualified manpower expenditure” in the first paragraph, in reduction of a qualified manpower expenditure of the qualified corporation for the purpose of computing the amount the qualified corporation is deemed to have paid to the Minister for a taxation year under section 1029.8.35,

(*b*) was not received by the qualified corporation, and

(*c*) ceased in the taxation year to be an amount that the qualified corporation can reasonably be expected to receive.

Amount
deemed not
to be assis-
tance

“For the purposes of subparagraph i of paragraph *b* of the definition of “qualified manpower expenditure” in the first paragraph, an amount of government assistance or non-government assistance that a qualified corporation is entitled to receive in a taxation year is deemed not to be such an amount where that amount

(*a*) would, but for this paragraph, be applied, because of that subparagraph i, in reduction of the production costs incurred by the qualified corporation before the end of the year, for the purpose of computing the amount that the qualified corporation is deemed to have paid to the Minister for the taxation year under section 1029.8.35,

(*b*) was not received by the qualified corporation, and

(c) ceased in the taxation year to be an amount that the qualified corporation can reasonably be expected to receive.”

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

c. I-3,
s. 1029.8.37,
replaced

322. (1) Section 1029.8.37 of the said Act is replaced by the following section:

“total
income”

“1029.8.37 In this division, “total income” of an individual for a taxation year means his total income for the year determined in accordance with subparagraph *c* of the first paragraph of section 776.29.”

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

c. I-3,
s. 1029.8.44,
am.

323. (1) Section 1029.8.44 of the said Act is amended by replacing subparagraph *a* of the second paragraph by the following subparagraph:

“(a) the amount deducted by the individual for the year under section 752.0.1, by virtue of paragraph *a* of the said section, is deemed to be equal to the amount the individual would be entitled to deduct under the said paragraph for the year, if his spouse during the year had no income for that year;”.

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

c. I-3,
s. 1031.1,
added

324. (1) The said Act is amended by inserting, after section 1031, the following section:

Election by
a trust

“1031.1 Notwithstanding any other provision of this Part, where a day determined under any of subparagraphs *a* to *c* of the first paragraph of section 653 in respect of a trust occurs in a taxation year of the trust and the trust is required to pay tax under this Part for that year the amount of which exceeds the amount that, but for those subparagraphs, would otherwise be payable, the trust may, if it so elects in prescribed manner and within the time prescribed and furnishes to the Minister security acceptable to the Minister for payment of any tax the payment of which is deferred by the election, pay all or any portion of such excess in such number, not exceeding ten, of equal consecutive annual instalments as is specified in its election.

First instal-
ment

The first instalment shall be paid on or before the day on which payment of the tax would, but for the election, have been required to be made and each subsequent instalment shall be paid on or before the anniversary of that day.

Interest

Interest at the rate fixed under section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) shall be paid on every tax instalment so made, from the date on which payment of the tax would, but for the election, have been required to be made to the day of payment."

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

c. I-3,
s. 1032, am.

325. (1) Section 1032 of the said Act is amended by replacing the first paragraph by the following paragraph:

Election
available
to the legal
representa-
tive of a
deceased
individual

"1032. Notwithstanding any provision of this Part or the Act respecting the application of the Taxation Act (1972, chapter 24), the legal representative of the individual contemplated by sections 429, 433 to 436, 439 and 444.1 who must pay for a taxation year tax exceeding that which would have been payable in the absence of the said sections may, if he furnishes to the Minister security the latter considers acceptable, elect, in the prescribed manner and within the prescribed time, to pay part or all of such excess in equal consecutive annual instalments, not exceeding ten, as is specified in his election and every payment shall be made on the conditions and at the rate of interest provided for in section 1031."

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

c. I-3,
s. 1044.1,
repealed

326. (1) Section 1044.1 of the said Act is repealed.

(2) Subsection 1 applies in respect of amounts received after 31 December 1990.

c. I-3,
s. 1045, am.

327. (1) Section 1045 of the said Act, amended by section 175 of chapter 64 of the statutes of 1993, is again amended by replacing the second paragraph by the following paragraph:

Unpaid tax
reduced
from refund

"For the purposes of the first paragraph, the unpaid tax of an individual shall be reduced by the amount of reimbursement or refund to which the individual is entitled for the year under section 220.3 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), section 78 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9), the Act respecting real estate tax refund (R.S.Q., chapter R-20.1) and section 358 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1)."

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

c. I-3,
s. 1045.1,
repealed

328. (1) Section 1045.1 of the said Act is repealed.

(2) Subsection 1 applies in respect of amounts received after 31 December 1990.

c. I-3,
s. 1053.1,
repealed

329. (1) Section 1053.1 of the said Act is repealed.

(2) Subsection 1 applies in respect of amounts received after 31 December 1990.

c. I-3,
s. 1055.1,
added

330. (1) The said Act is amended by inserting, after section 1055, the following section:

Exercise or
disposition
of an option
by the legal
representative
of a deceased
employee

“1055.1 Notwithstanding any other provision of this Act, where, within the first taxation year of the estate of a deceased taxpayer, a right to acquire shares under an agreement in respect of which a benefit was deemed under section 52.1 to have been received by the taxpayer is exercised or disposed of by the taxpayer’s legal representative and the taxpayer’s legal representative makes an election in prescribed manner and within the prescribed time, the following rules apply:

(a) the taxpayer is deemed to have incurred a loss from an office or employment for the year in which he died equal to the amount by which the amount of the benefit deemed under section 52.1 to have been received by him in respect of the right exceeds the aggregate of

i. the amount by which the value of the right immediately before the time it was exercised or disposed of exceeds the amount paid by the taxpayer to acquire the right, and

ii. where an amount has been deducted under section 725.2 in computing the taxpayer’s taxable income for the year in which the taxpayer died in respect of the benefit deemed under section 52.1 to have been received by the taxpayer in that year in respect of that right, 1/4 of the amount by which the amount of the benefit deemed under section 52.1 to have been received by the taxpayer in respect of that right exceeds the amount determined under subparagraph i;

(b) the amount of the loss that would be determined under paragraph a if that paragraph were read without reference to subparagraph ii thereof, shall be deducted in computing the adjusted cost base to the estate of the right at any time; and

(c) the legal representative shall, on or before the date prescribed for making the election under this section, file an amended fiscal return for the taxpayer for the year in which the taxpayer died to give effect to paragraph a.”

(2) Subsection 1 applies in respect of deaths occurring after 13 July 1990.

c. I-3,
s. 1060.1, am. **331.** Section 1060.1 of the said Act, amended by section 341 of chapter 16 of the statutes of 1993, is again amended by replacing the second paragraph by the following paragraph:

Limitation
of right to
object to a
reassess-
ment or
determina-
tion “Similarly, no taxpayer may serve a notice of objection to a reassessment or determination under section 421.8, subparagraph i of paragraph *a.1* of subsection 2 of section 1010 or sections 1010.0.1, 1012, 1056.8 and 1079.16, except in respect of the amounts to which those provisions apply.”

c. I-3,
s. 1066.2, am. **332.** Section 1066.2 of the said Act, enacted by section 342 of chapter 16 of the statutes of 1993, is amended by replacing the first paragraph by the following paragraph:

Limitation
of right to
appeal from
a reassess-
ment or
determina-
tion “**1066.2** Notwithstanding section 1066, no taxpayer may appeal from a reassessment or determination under section 421.8, subparagraph i of paragraph *a.1* of subsection 2 of section 1010 or sections 1010.0.1, 1012, 1056.8 and 1079.16, except in respect of the amounts to which those provisions apply.”

c. I-3,
s. 1089, am. **333.** (1) Section 1089 of the said Act, amended by section 344 of chapter 16 of the statutes of 1993, is again amended by replacing subparagraph *i* of the first paragraph by the following subparagraph:

“(i) the losses from businesses carried on by him in Canada, which are attributable in prescribed manner to an establishment in Québec and the losses from duties of an office or employment performed by him in Québec;”.

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

c. I-3,
s. 1090, am. **334.** (1) Section 1090 of the said Act, amended by section 345 of chapter 16 of the statutes of 1993, is again amended by replacing subparagraph *i* of the first paragraph by the following subparagraph:

“(i) the losses from businesses carried on by him in Canada, which are attributable in prescribed manner to an establishment in Canada and the losses from duties of an office or employment performed by him in Canada;”.

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

c. I-3,
s. 1090.1,
replaced

335. (1) Section 1090.1 of the said Act, enacted by section 346 of chapter 16 of the statutes of 1993, is replaced by the following section:

Individual
or corpora-
tion deemed
to carry on
business in
Canada

“1090.1 For the purposes of this Act, where an individual referred to in section 26 or a corporation referred to in the first paragraph of section 27 disposes, in a taxation year, of property referred to in subparagraph *l* of the first paragraph of section 1089 or 1090, the individual or the corporation is deemed, in respect of such disposition, to have been carrying on business in Canada during the year.”

(2) Subsection 1 applies from the taxation year 1990 in respect of dispositions occurring after 20 February 1990, except such dispositions occurring pursuant to an agreement in writing entered into before 21 February 1990.

c. I-3,
s. 1103,
replaced

336. (1) Section 1103 of the said Act is replaced by the following section:

Deduction of
taxed capi-
tal gains

“1103. An investment corporation may, for the purpose of computing the tax contemplated in subsection 1 of section 771 for a taxation year, deduct from its taxable income for the year its taxed capital gains for the year.”

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

c. I-3,
s. 1104.0.1,
added

337. (1) The said Act is amended by inserting, after section 1104, the following section:

“taxed capi-
tal gains”

“1104.0.1 In this book, “taxed capital gains” of a corporation for a taxation year means the amount by which its taxable capital gains for the year from the disposition of property exceeds the aggregate of its allowable capital losses for the year from the disposition of property and the amount deducted under section 729 for the purpose of computing its taxable income for the year.”

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

c. I-3,
s. 1105, am.

338. (1) Section 1105 of the said Act is amended by replacing that part preceding paragraph *b* by the following:

Computa-
tion of
aggregate
referred to
in para-
graph *h* of
section 1104

“1105. The aggregate to which paragraph *h* of section 1104 refers in respect of the corporation contemplated therein is the aggregate of the following amounts:

(a) 66 2/3 % of the amount by which its taxable income for the year exceeds its taxed capital gains for the year; and”.

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

c. I-3,
s. 1106,
replaced

339. (1) Section 1106 of the said Act is replaced by the following section:

Election
respecting
dividends
payable

“1106. Where at any particular time a dividend becomes payable by a corporation which is an investment corporation throughout the taxation year during which the dividend becomes payable, the corporation may elect in prescribed manner, in respect of the full amount of the dividend, that the rules set out in the second paragraph apply or that those set out in the third paragraph apply.

Rules
applicable

The rules to which the first paragraph first refers are as follows:

(a) the dividend is deemed to be a capital gains dividend payable out of the corporation's capital gains dividend account, within the meaning of the regulations, to the extent that it does not exceed the corporation's capital gains dividend account at that time;

(b) notwithstanding any other provision of this Act, any amount received in a taxation year by a taxpayer as the dividend shall not be included in computing the taxpayer's income for the year as income from a share of the capital stock of the corporation, but is deemed to be a capital gain of the taxpayer for the year from the disposition of capital property and, for the purposes of Title VI.5 of Book IV of Part I, that capital property is deemed to have been disposed of by the taxpayer in the year; and

(c) any election under the rules set out in the third paragraph made by the corporation in respect of the dividend is deemed not to have been made.

Rules
applicable

The rules to which the first paragraph last refers are as follows:

(a) the dividend is deemed to be a capital gains dividend payable out of the corporation's non-qualifying immovable property capital gains dividend account, within the meaning of the regulations, to the extent that it does not exceed the corporation's non-qualifying immovable property capital gains dividend account at that time; and

(b) notwithstanding any other provision of this Act, any amount received in a taxation year by a taxpayer as the dividend shall not be included in computing the taxpayer's income for the year as income from a share of the capital stock of the corporation, but is deemed to be a capital gain of the taxpayer for the year from the disposition of capital property and, for the purposes of Title VI.5 of Book IV of Part I,

i. that capital property is deemed to have been a non-qualifying immovable property of the taxpayer, within the meaning of section 726.6.1, disposed of by the taxpayer in the year, and

ii. the taxpayer's eligible immovable property gain for the year, within the meaning of section 726.6.1, from the disposition of that capital property is deemed to be nil."

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

c. I-3,
s. 1108, am.

340. (1) Section 1108 of the said Act is amended

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

Definitions

"1108. In this book,

"mortgage
investment
corporation"

(a) "mortgage investment corporation" has the meaning assigned by the regulations;"

(2) by striking out paragraph *b*;

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

"qualifying
taxed capi-
tal gains"

"(c) "qualifying taxed capital gains" of a mortgage investment corporation for a taxation year means the amount by which

i. the aggregate of

(1) its taxable capital gains for the year from dispositions of property, other than its non-qualifying immovable property, and

(2) all amounts each of which is an amount that is the product obtained by multiplying its taxable capital gain for the year from the disposition of a non-qualifying immovable property of the corporation by the proportion that the number of months in the period that begins with the later of the month in which the property was last acquired by the corporation and January 1972 and ends with February 1992 is of the number of months in the period that begins with the later of the month in which the property was last acquired by the corporation and January 1972 and ends with the month in which the property was disposed of, exceeds

ii. the aggregate of

(1) its allowable capital losses for the year from dispositions of property, other than its non-qualifying immovable property,

(2) all amounts each of which is an amount that is the product obtained by multiplying its allowable capital loss for the year from the disposition of a non-qualifying immovable property of the corporation by the proportion that the number of months in the period that begins with the later of the month in which the property was last acquired by the corporation and January 1972 and ends with February 1992 is of the number of months in the period that begins with the later of the month in which the property was last acquired by the corporation and January 1972 and ends with the month in which the property was disposed of, and

(3) the amount by which the aggregate of the amounts determined under subparagraphs 1 and 2 of subparagraph ii of subparagraph *d* in respect of the corporation for the year exceeds the amount determined under subparagraph i of subparagraph *d* in respect of the corporation for the year;

“non-qualifying taxed capital gains”

“(d) “non-qualifying taxed capital gains” of a mortgage investment corporation for a taxation year means the amount by which

i. the amount by which its taxable capital gains for the year from dispositions of its non-qualifying immovable property exceeds the amounts determined under subparagraph 2 of subparagraph i of subparagraph *c* in respect of those dispositions, exceeds

ii. the aggregate of

(1) the amount by which its allowable capital losses for the year from dispositions of its non-qualifying immovable property exceeds the amounts determined under subparagraph 2 of subparagraph ii of subparagraph *c* in respect of those dispositions,

(2) the amount deducted under section 729 in computing its taxable income for the year, and

(3) the amount by which the aggregate of the amounts determined under subparagraphs 1 and 2 of subparagraph ii of subparagraph *c* in respect of the corporation for the year exceeds the aggregate of the amounts determined under subparagraphs 1 and 2 of subparagraph i of subparagraph *c* in respect of the corporation for the year;

“non-qualifying immovable property”

“(e) “non-qualifying immovable property” of a corporation or trust, other than a personal trust, means property disposed of by the corporation or trust after 29 February 1992 that at the time of its disposition is

i. immovable property,

ii. a share of the capital stock of a corporation, the fair market value of which is derived principally from immovable property, other than immovable property that was used throughout that part of the 24-month period immediately preceding that time while it was owned by the corporation or a corporation related to the corporation, or throughout all or substantially all of the period preceding that time during which it was owned by the corporation or a corporation related to the corporation, principally in a qualified business carried on by the corporation or a corporation related to it,

iii. an interest in a partnership or trust, the fair market value of which is derived principally from immovable property, other than immovable property that was used throughout that part of the 24-month period immediately preceding that time while it was property of the partnership or trust, or throughout all or substantially all of the period preceding that time during which it was property of the partnership or trust, principally in a qualified business carried on by one or more persons as members of the partnership or by the trust, or

iv. an interest in, or an option in respect of, property described in any of subparagraphs i to iii.”;

(4) by adding, at the end, the following paragraph:

Qualified
business car-
ried on by a
person

“For the purposes of subparagraph *e* of the first paragraph, a “qualified business” carried on by a person at any time means any business carried on by the person at that time that is not a business, other than a business carried on by a savings and credit union or a business of leasing property that is not immovable property, the principal purpose of which is to derive income from property, including dividends, interest, rents or royalties, unless the person or, where the person carries on the business as a member of a partnership, the partnership

(a) employs in the business at that time more than five individuals on a full-time basis, or

(b) in the course of carrying on the business has financial, administrative, maintenance, managerial or other similar services provided to it at that time and the person or partnership could reasonably be expected to require more than five full-time employees if those services had not been so provided.”

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

c. I-3,
s. 1113,
replaced

341. (1) Section 1113 of the said Act is replaced by the following section:

Election
respecting
dividends
paid

“1113. Where a dividend is paid at any particular time during the period contemplated in section 1110, the mortgage investment corporation may elect in prescribed manner, in respect of the full amount of the dividend, that the rules set out in the second paragraph apply or that those set out in the third paragraph apply.

Rules
applicable

The rules to which the first paragraph first refers are as follows:

(a) the dividend is deemed to be a capital gains dividend to the extent that it does not exceed the amount by which

i. $\frac{4}{3}$ of the qualifying taxed capital gains of the corporation for the year exceeds

ii. the aggregate of all dividends, and parts of dividends, paid by the corporation during the period and before the particular time that are deemed under this subparagraph to be capital gains dividends;

(b) notwithstanding any other provision of this Act, any amount received in a taxation year by a taxpayer as the dividend shall not be included in computing the taxpayer's income for the year as income from a share of the capital stock of the corporation, but is deemed to be a capital gain of the taxpayer for the year from the disposition of capital property and, for the purposes of Title VI.5 of Book IV of Part I, that capital property is deemed to have been disposed of by the taxpayer in the year; and

(c) any election under the rules set out in the third paragraph made by the corporation in respect of the dividend is deemed not to have been made.

Rules
applicable

The rules to which the first paragraph last refers are as follows:

(a) the dividend is deemed to be a capital gains dividend to the extent that it does not exceed the amount by which

i. $\frac{4}{3}$ of the non-qualifying taxed capital gains of the corporation for the year exceeds

ii. the aggregate of all dividends, and parts of dividends, paid by the corporation during the period and before the particular time that are deemed under this subparagraph to be capital gains dividends; and

(b) notwithstanding any other provision of this Act, any amount received in a taxation year by a taxpayer as the dividend shall not be

included in computing the taxpayer's income for the year as income from a share of the capital stock of the corporation, but is deemed to be a capital gain of the taxpayer for the year from the disposition of capital property and, for the purposes of Title VI.5 of Book IV of Part I,

i. that capital property is deemed to have been a non-qualifying immovable property of the taxpayer, within the meaning of section 726.6.1, disposed of by the taxpayer in the year, and

ii. the taxpayer's eligible immovable property gain for the year, within the meaning of section 726.6.1, from the disposition of that capital property is deemed to be nil."

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

342. (1) Section 1116 of the said Act is replaced by the following section:

c. I-3,
s. 1116,
replaced

Election
respecting
dividends
payable

"1116. Where at any particular time a dividend becomes payable by a corporation which is a mutual fund corporation throughout the taxation year during which the dividend becomes payable, the corporation may elect in prescribed manner, in respect of the full amount of the dividend, that the rules set out in the second paragraph apply or that those set out in the third paragraph apply.

Rules
applicable

The rules to which the first paragraph first refers are as follows:

(a) the dividend is deemed to be a capital gains dividend payable out of the corporation's capital gains dividend account, within the meaning of the regulations, to the extent that it does not exceed the corporation's capital gains dividend account at that time;

(b) notwithstanding any other provision of this Act, any amount received in a taxation year by a taxpayer as the dividend shall not be included in computing the taxpayer's income for the year as income from a share of the capital stock of the corporation, but is deemed to be a capital gain of the taxpayer for the year from the disposition of capital property and, for the purposes of Title VI.5 of Book IV of Part I, that capital property is deemed to have been disposed of by the taxpayer in the year; and

(c) any election under the rules set out in the third paragraph made by the corporation in respect of the dividend is deemed not to have been made.

Rules
applicable

The rules to which the first paragraph last refers are as follows:

(a) the dividend is deemed to be a capital gains dividend payable out of the corporation's non-qualifying immovable property capital gains dividend account, within the meaning of the regulations, to the extent that it does not exceed the corporation's non-qualifying immovable property capital gains dividend account at that time; and

(b) notwithstanding any other provision of this Act, any amount received in a taxation year by a taxpayer as the dividend shall not be included in computing the taxpayer's income for the year as income from a share of the capital stock of the corporation, but is deemed to be a capital gain of the taxpayer for the year from the disposition of capital property and, for the purposes of Title VI.5 of Book IV of Part I,

i. that capital property is deemed to have been a non-qualifying immovable property of the taxpayer, within the meaning of section 726.6.1, disposed of by the taxpayer in the year, and

ii. the taxpayer's eligible immovable property gain for the year, within the meaning of section 726.6.1, from the disposition of that capital property is deemed to be nil."

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

c. I-3,
s. 1129.3,
French text,
replaced

343. (1) Section 1129.3 of the said Act is replaced, in the French text, by the following section:

Montant
d'aide
réputé rem-
boursé

"1129.3 L'impôt qu'une corporation paie, à un moment quelconque d'une année d'imposition, au ministre en vertu de la présente partie relativement à un bien, est réputé, pour l'application de la partie I, à l'exception de l'article 1029.8.34, être un montant d'aide remboursé par elle à ce moment à l'égard du bien conformément à une obligation juridique de rembourser en totalité ou en partie ce montant d'aide."

(2) Subsection 1 has effect from 19 December 1990.

c. I-3,
s. 1129.28,
am.

344. (1) Section 1129.28 of the said Act, enacted by section 191 of chapter 64 of the statutes of 1993, is amended by striking out the definition of "immovable".

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

c. I-3,
s. 1129.28.1,
added

345. (1) The said Act is amended by inserting, after section 1129.28, enacted by section 191 of chapter 64 of the statutes of 1993, the following section:

"immovable"

"1129.28.1 In this Part, where there is a transfer of a corporeal immovable and of movables which are permanently physically attached or joined to the immovable without losing their individuality and without being incorporated with the immovable, and which, in the immovable, are used for the operation of a business or the pursuit of activities, the word "immovable" refers to the whole formed by the immovable and the movables."

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

c. I-3,
s. 1129.29,
replaced

346. (1) Section 1129.29 of the said Act, enacted by section 191 of chapter 64 of the statutes of 1993, is replaced by the following section:

Liability for
and amount
of the trans-
fer duties

"1129.29 Where, at any particular time, control of a corporation is acquired by a person or group of persons, where an immovable has been transferred to the corporation in the 24 months preceding that time, where the transfer is exempt from the payment of transfer duties under section 19 of the Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1) and where it may reasonably be considered that the immovable was transferred in contemplation of the acquisition of control of the corporation by the person or group of persons, the corporation shall pay to the Minister, within thirty days from the date of mailing of a notice of assessment, special duties equal to 125 % of the amount of the transfer duties that would have been payable following the transfer if the said section 19 had not been applicable in respect of the transfer and, where the transfer is not registered, if it had been registered."

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

c. I-3,
s. 1159.8, am.

347. (1) Section 1159.8 of the said Act, enacted by section 148 of chapter 19 of the statutes of 1993, is amended

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

"(b) in the case of an estate or trust, by the liquidator or the trustee, on or before the last day of February in the next year;";

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

"(d) in the case of any other person, by that person or, if he is unable for any reason to file the return, by his adviser, curator, tutor or other legal representative, including the public curator, on or before the last day of February in the next year;".

(2) Paragraph 1 of subsection 1 has effect from 1 January 1994.

(3) Paragraph 2 of subsection 1 applies to taxation years ending after 30 June 1992.

c. I-3,
s. 1166,
French text,
am.

348. Section 1166 of the said Act, replaced by section 150 of chapter 19 of the statutes of 1993, is amended, in the French text of the first paragraph,

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

« contribu-
tion »

“ “contribution” comprend une cotisation, un acompte sur prime, un droit d’entrée et toute autre compensation à l’égard d’un régime d’avantages sociaux non assurés;”;

(2) by replacing paragraph *b* of the definition of “prime” by the following paragraph:

“(b) un acompte sur prime, une cotisation, un droit d’entrée, une contribution de membre, et toute autre compensation donnée pour bénéficier d’un contrat d’assurance;”.

c. I-3,
s. 1176, am.

349. (1) Section 1176 of the said Act, amended by section 205 of chapter 64 of the statutes of 1993, is again amended by replacing paragraph *b* by the following paragraph:

“taxpayer”

“(b) “taxpayer” means any person or trust carrying on logging operations in Québec and includes, as the case may be, their liquidators, trustees and agents;”.

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

c. I-3,
French text,
terminology
changes

350. The said Act is amended, in the French text, by replacing the words “étudiant” and “étudiants” by the words “élève” and “élèves”, respectively, wherever these words occur in that part of section 337 preceding paragraph *a*, in the second paragraph of section 347, in subparagraph *c* of subsection 3 of section 348, in section 349, in the second paragraph of section 752.0.3, in paragraph *g* of the definition of “total des dons de charité” in section 752.0.10.1, in the heading of Title II of Part II, in that part of section 1092 preceding paragraph *a* and in paragraphs *a* and *b* of section 1093.

ACT RESPECTING THE MINISTÈRE DU REVENU

c. M-31,
s. 14.0.1,
added

351. (1) The Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by inserting, after section 14, the following section:

Liability of
receiver

“14.0.1 Notwithstanding the fifth paragraph of section 14, an offender who is a receiver within the meaning of section 310 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) shall not be personally liable for amounts payable or remittable by him under that Act in his capacity as receiver on behalf of another person for a reporting period subsequent to the reporting period during which the distribution took place.”

(2) This section applies in respect of receivers who are vested with authority or appointed after 1992.

c. M-31,
s. 14.8, added

352. (1) The said Act is amended by inserting, after section 14.7, the following section:

Application
of ss. 14.4 to
14.7

“14.8 For the purposes of sections 14.4 to 14.7, the rules prescribed in section 2.2.1 of the Taxation Act (R.S.Q., chapter I-3) apply, adapted as required.”

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

c. M-31,
s. 35.3,
English
text,
replaced

353. (1) Section 35.3 of the said Act, replaced by section 156 of chapter 19 of the statutes of 1993, is again replaced, in the English text, by the following section:

Retention of
documents

“35.3 Any person contemplated in this division who fails, in respect of a taxation year, to file a fiscal return in prescribed form and within the time prescribed in section 1000 or 1159.8 of the Taxation Act (R.S.Q., chapter I-3) shall keep the registers, books of account and vouchers relating to that year for six years after the date he has filed his fiscal return for that year.”

(2) Subsection 1 applies to taxation years ending after 30 June 1992.

c. M-31,
s. 59.0.1,
repealed

354. (1) Section 59.0.1 of the said Act is repealed.

(2) Subsection 1 applies in respect of amounts received after 31 December 1990.

c. M-31,
s. 69, am.

355. Section 69 of the said Act is amended by replacing the third paragraph by the following paragraph:

Communica-
tion of infor-
mation in
the case of
judicial pro-
ceedings

“Notwithstanding any other Act, in the case of judicial proceedings other than criminal proceedings and proceedings relating to the administration or enforcement of a law of Canada that provides for the imposition or collection of a tax or duty, no functionary may be summoned or is authorized to testify in respect of any information contemplated in the first paragraph or to produce a document

containing such information or a document obtained, written or compiled by or on behalf of the Minister for the purposes of a fiscal law.”

c. M-31,
s. 94.5, am.

356. (1) Section 94.5 of the said Act is amended by replacing the second paragraph by the following paragraph:

Computation

“The refund contemplated in the first paragraph is, for a year, equal to the aggregate of the amounts to which the individual considers himself so entitled for that year under section 220.3 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), Part I of the Taxation Act (R.S.Q., chapter I-3), section 78 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9), the Act respecting real estate tax refund (R.S.Q., chapter R-20.1) and section 358 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1).”

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

ACT RESPECTING THE RÉGIE DE L'ASSURANCE-MALADIE DU QUÉBEC

c. R-5,
s. 33.1, added

357. (1) The Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5) is amended by inserting, after section 33, the following section:

Determina-
tion of resi-
dence

“33.1 The application of this division and the regulations shall not be affected by article 77 of the Civil Code of Québec in determining whether or not a person is resident in Québec, in Canada or elsewhere.”

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

c. R-5,
s. 34.1.4, am.

358. (1) Section 34.1.4 of the said Act, enacted by section 222 of chapter 64 of the statutes of 1993, is amended by replacing subparagraph ii of paragraph *b* by the following subparagraph:

“ii. any amount deducted in computing the individual's income for the year by reason of paragraphs *a* to *b*, *d*, *d.1* or *f* to *j* of subsection 1 of section 336 of the Taxation Act (R.S.Q., chapter I-3), by reason of paragraph *b* of section 339 of the said Act to the extent that the said paragraph refers to an amount that is deductible under section 924, 926 or 928 of the said Act, by reason of paragraph *c* of the said section 339 to the extent that the said paragraph refers to an amount that is deductible under section 952.1 of the said Act, by reason of paragraph *d*, *d.1*, *d.2* or *f* of the said section 339 or by reason of section 961.20 or 961.21 of the said Act;”.

(2) Subsection 1 applies from the year 1993.

ACT RESPECTING REAL ESTATE TAX REFUND

c. R-20.1,
s. 1, am.

359. (1) Section 1 of the Act respecting real estate tax refund (R.S.Q., chapter R-20.1), amended by section 228 of chapter 64 of the statutes of 1993, is again amended by striking out paragraph *a*.

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

c. R-20.1,
s. 1.0.1,
added

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

Spouse

“1.0.1 In this Act and the regulations, any reference to the spouse of a particular person during a year shall be construed as though the rules set out in section 2.2.1 of the Taxation Act (R.S.Q., chapter I-3), adapted as required, applied to this Act.”

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

c. R-20.1,
s. 1.2, added

361. (1) The said Act is amended by inserting, after section 1.1, the following section:

Determina-
tion of resi-
dence

“1.2 The application of this Act shall not be affected by article 77 of the Civil Code of Québec in determining whether or not a person is resident in Québec, in Canada or elsewhere.”

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

c. R-20.1,
s. 5, am.

362. (1) Section 5 of the said Act is amended by replacing the first paragraph by the following paragraph:

Owners, les-
sees and
sub-lessees

“5. The persons contemplated in section 2 are deemed to be the owners, lessees or sub-lessees of the dwelling where they live only when they are the owners thereof whose rights are registered at the registry office or the lessees or sub-lessees thereof responsible for payment of the rent.”

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

c. R-20.1,
s. 10.2, am.

363. (1) Section 10.2 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) the amount deducted by the person contemplated in section 2 under section 752.0.1 of the Taxation Act (R.S.Q., chapter I-3), pursuant to paragraph *a* of the said section, for the year, is deemed to be equal to the amount the person would be entitled to deduct under the said section 752.0.1, pursuant to paragraph *a* of the said section for the year if that person’s spouse during the year had no income for that year;”.

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

ACT RESPECTING THE QUÉBEC SALES TAX

c. T-0.1, s. 1,
am.

364. (1) Section 1 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), amended by section 167 of chapter 19 of the statutes of 1993, is again amended

(1) by replacing the definitions of “recipient” and “commercial activity” by the following definitions:

“recipient”

“ “recipient” of a supply of property or a service means

(1) where consideration for the supply is payable under an agreement for the supply, the person who is liable under the agreement to pay that consideration,

(2) where paragraph 1 does not apply and consideration is payable for the supply, the person who is liable to pay that consideration, and

(3) where no consideration is payable for the supply,

(a) in the case of a supply of property by way of sale, the person to whom the property is delivered or made available,

(b) in the case of a supply of property otherwise than by way of sale, the person to whom possession or use of the property is given or made available, and

(c) in the case of a supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be read as a reference to the recipient of the supply;

“commercial
activity”

“ “commercial activity” of a person means

(1) a business carried on by the person, other than a business carried on by an individual or a partnership, all of the members of which are individuals, without a reasonable expectation of profit, except to the extent to which the business involves the making of exempt supplies by the person,

(2) an adventure or concern of the person in the nature of trade, other than an adventure or concern engaged in by an individual or a partnership, all of the members of which are individuals, without a reasonable expectation of profit, except to the extent to which the

adventure or concern involves the making of exempt supplies by the person, and

(3) the making of a supply, other than an exempt supply, by the person of an immovable of the person, including anything done by the person in the course of or in connection with the making of the supply;”;

(2) by replacing the definition of “hospital authority” by the following definition:

“hospital
authority”

““hospital authority” means a public institution, within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-4.2) or within the meaning of the Act respecting health services and social services for Cree and Inuit Native persons (R.S.Q., chapter S-5), which operates a hospital centre, or an organization or that part of an organization which operates a public hospital located in Québec that is designated by the Minister of National Revenue as a hospital authority;”;

(3) by inserting, after the definition of “consumer”, the following definition:

“convention
facility”

““convention facility” means an immovable that is acquired by way of lease, licence or similar arrangement by the sponsor or organizer of a convention for use exclusively as the site for the convention;”;

(4) by inserting, in alphabetical order, the following definitions:

“convention”

““convention” means a formal meeting or assembly that is not open to the general public, but does not include a meeting or assembly the principal purpose of which is

(1) to provide any type of amusement, entertainment or recreation,

(2) to conduct contests or games of chance, or

(3) to transact the business of the convenor or attendees

(a) in the course of a trade show that is open to the general public,
or

(b) otherwise than in the course of a trade show;

“foreign convention”

“foreign convention” means a convention

(1) at least 75 % of the admissions to which are, at the time the sponsor of the convention determines the amount to be charged as consideration therefor, reasonably expected to be supplied to persons not resident in Canada, and

(2) the sponsor of which is an organization whose head office is situated outside Canada or, where the organization has no head office, the member, or majority of members, of which having management and control of the organization is or are not resident in Canada;”;

(5) in the definition of “builder”,

(a) by replacing paragraph 3 by the following paragraph:

“(3) in the case of a mobile home or floating home, makes a supply of the home before the home has been used or occupied by any individual as a place of residence,”;

(b) in paragraph 4,

i. by replacing that part preceding subparagraph *a* by the following:

“(4) acquires an interest in the complex for the primary purpose of making one or more supplies of the complex or parts thereof or interests therein by way of sale, or making one or more supplies of the complex or parts thereof by way of lease, licence or similar arrangement to persons other than to individuals who are acquiring the complex or parts otherwise than in the course of a business or an adventure or concern in the nature of trade”;

ii. by replacing subparagraph *b* by the following subparagraph:

“(b) in any case, before the complex has been occupied by an individual as a place of residence or lodging, or”;

(c) by replacing paragraphs 5 to 7 by the following paragraphs:

“(5) in any case, is deemed under section 220 to be a builder of the complex;

however, “builder” does not include

“(6) an individual described in paragraph 1, 2 or 4 who otherwise than in the course of a business or an adventure or concern in the nature of trade,

(a) carries on the construction or substantial renovation of the complex,

(b) engages another person to carry on the construction or substantial renovation of the complex for the individual, or

(c) acquires the complex or an interest in it,

“(7) an individual described in paragraph 3 who makes a supply of a mobile home or floating home otherwise than in the course of a business or an adventure or concern in the nature of trade, or”;

(d) by adding, after paragraph 7, the following paragraph:

“(8) a person described in any of paragraphs 1 to 3 whose only interest in the complex is a right to purchase the complex or an interest in it from a builder of the complex;”;

(6) by inserting, in alphabetical order, the following definitions:

“consider-
ation”

“ “consideration” includes any amount that is payable for a supply by operation of law;

“cooperative
corporation”

“ “cooperative corporation” means a cooperative housing corporation and any other cooperative corporation within the meaning of subsection 2 of section 136 of the Income Tax Act (Statutes of Canada);

“cooperative
housing cor-
poration”

“ “cooperative housing corporation” means a corporation that was incorporated, by or under the laws of Québec, another province, the Northwest Territories, the Yukon Territory, or Canada, providing for the establishment of the corporation or respecting the establishment of cooperative corporations, for the purpose of making supplies by way of lease, licence or similar arrangement of residential units to its members for the purpose of their occupancy as places of residence for individuals where

(1) the statutes by or under which it was incorporated, its charter, articles of association or by-laws or its contracts with its members require that the activities of the corporation be engaged in at or near cost after providing for reasonable reserves and hold forth the prospect that surplus funds arising from those activities will be distributed among its members in proportion to patronage,

(2) none of its members, except other cooperative corporations, have more than one vote in the conduct of the affairs of the corporation, and

(3) at least 90 % of its members are individuals or other cooperative corporations and at least 90 % of its shares are held by such persons;”;

(7) by replacing the definition of “membership” by the following definition:

“member-
ship”

“ “membership” includes a right granted by a particular person that entitles another person to services that are provided by, or to the use of facilities that are operated by, the particular person and that are not available, or are not available to the same extent or for the same charge, to a person to whom such a right has not been granted, and also includes such a right that is conditional on the acquisition or ownership of a share, bond, debenture or other security;”;

(8) by inserting, after the definition of “document”, the following definition:

“employer”

“ “employer”, in relation to an officer, means the person from whom the officer receives remuneration;”;

(9) by inserting, after the definition of “tax fraction”, the following definition:

“taxi busi-
ness”

“ “taxi business” means a business carried on in Québec of transporting passengers by taxi for fares that are regulated by the Act respecting transportation by taxi (R.S.Q., chapter T-11.1);”;

(10) by inserting, after the definition of “municipality”, the following definition:

“mutual
insurance
federation”

“ “mutual insurance federation” means a corporation each member of which is a mutual insurance corporation that is required, under an Act of the legislature of Québec, to be a member of the corporation, but does not include a corporation the main purpose of which is

(1) related to automobile insurance,

(2) to provide compensation to insurance policy holders of, or claimants on, insolvent insurers, or

(3) to establish and manage a guarantee fund, cash reserve fund, mutual aid fund or similar fund for the benefit of its members and to provide financial assistance with regard to losses sustained on the winding-up or dissolution of its members;”;

(11) by replacing the definition of “segregated fund” by the following definition:

“segregated fund”

““segregated fund” of an insurer means a specified group of properties that are held in respect of insurance policies all or part of the reserves for which vary in amount depending on the fair market value of the properties;”;

(12) by inserting, after the definition of “registrant”, the following definition:

“related convention supplies”

““related convention supplies” means property or services acquired or brought into Québec by a person exclusively for consumption, use or supply by the person in connection with a convention, but does not include

(1) transportation services, other than a chartered service acquired by the person solely for the purpose of transporting attendees of the convention between any of the convention facilities, places of lodging of the attendees or transportation terminals,

(2) food, beverages or entertainment,

(3) property or services that are supplied to the person under a contract for catering, or

(4) property or services supplied by the person in connection with the convention for consideration that is separate from the consideration for the admission to the convention, unless the recipient of the supply is acquiring the property or service exclusively for consumption or use in the course of promoting, at the convention, property or services supplied by, or a business of, the recipient;”;

(13) by replacing the definition of “taxable supply” by the following definition:

“taxable supply”

““taxable supply” means a supply that is made in the course of a commercial activity, but does not include a non-taxable supply;”;

(14) by replacing the definition of “residential unit” by the following definition:

“residential unit”

““residential unit” means the whole or part of a residential unit held in co-ownership, detached house, semi-detached house, rowhouse unit, mobile home, floating home, apartment, room or suite in an inn, a hotel, a motel, a boarding house, a residence for students, elderly persons, handicapped persons or other individuals, or the whole or part of any other similar premises, that

- (1) is occupied by an individual as a place of residence or lodging,
- (2) is supplied by way of lease, licence or similar arrangement for the occupancy thereof as a place of residence or lodging for individuals,
- (3) is vacant, but was last occupied or supplied as a place of residence or lodging for individuals, or
- (4) has never been used or occupied for any purpose, but is intended to be used as a place of residence or lodging for individuals;”;
- (15) in the definition of “residential complex”:
 - (a) by replacing that part preceding subparagraph *a* of paragraph 1 by the following:

“residential
complex”

“ “residential complex” means

(1) that part of a building in which one or more residential units are located, together with”;

(b) by replacing all that follows the semicolon of subparagraph *b* of paragraph 3 by the following:

“(4) a mobile home, together with any appurtenances to the home and, where the home is affixed to land, other than a site in a residential trailer park, for the purpose of its use and enjoyment as a place of residence for individuals, the land subjacent or contiguous to the home that is attributable to the home and is reasonably necessary for that purpose, and

(5) a floating home;

however, “residential complex” does not include

(6) a building, or that part of a building, that is an inn, a hotel, a motel, a boarding house or other similar premises, or the land and appurtenances attributable to the building or part, where

(a) the building or part is not described in paragraph 3, and

(b) all or substantially all of the supplies of residential units in the building or part by way of lease, licence or similar arrangement are, or are expected to be, for periods of less than 60 days;”;

(16) by replacing the definition of “registrant” by the following definition:

“registrant”

“**“registrant”** means a person who is registered, or who is required to be registered, under Division I of Chapter VIII;”;

(17) by replacing paragraph 3 of the definition of “listed financial institution” by the following paragraph:

“(3) a person whose principal business is as a dealer or trader in, or as a broker or salesperson of, financial instruments or money,”;

(18) by replacing the definition of “short-term accommodation” by the following definition:

“short-term
accommoda-
tion”

“**“short-term accommodation”** means a residential complex or a residential unit that is supplied by way of lease, licence or similar arrangement for the purpose of its occupancy by an individual as a place of residence or lodging, where the complex or unit is occupied by the same individual for a period of less than one month;”;

(19) by inserting, after the definition of “financial service”, the following definition:

“floating
home”

“**“floating home”** means a structure that is composed of a floating platform and a building designed to be occupied as a place of residence for individuals that is permanently affixed to the platform, but does not include any freestanding appliances or furniture sold with the structure or any structure that has means of, or is capable of being readily adapted for, self-propulsion; a floating home or any leasehold or other proprietary interest therein is not movable property but an immovable;”;

(20) by replacing the definition of “mobile home” by the following definition:

“mobile
home”

“**“mobile home”** means a unit that is not less than 3 metres wide and 8 metres long, that is equipped with complete heating, electrical and plumbing facilities and that is designed to be towed on its own chassis on wheels to a site for installation on a foundation and connection to service facilities at that site and to be occupied for residential purposes, but does not include any freestanding appliances or furniture sold with the unit or any travel trailer, motor home, camping trailer or other vehicle for recreational use; a mobile home or any leasehold or other proprietary interest therein is not movable property but an immovable;”;

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

“courier” “ “courier” has the meaning assigned by subsection 1 of section 2 of the Customs Act (Statutes of Canada);”;

(22) by replacing the definition of “credit note” by the following definition:

“credit note” “ “credit note” means a credit note issued under section 449;”;

(23) by inserting, in alphabetical order, the following definitions:

“debit note” “ “debit note” means a debit note issued under section 449;

“organizer” “ “organizer” of a convention means a person who acquires the convention facility or related convention supplies and who organizes the convention for another person who is the sponsor of the convention;”;

(24) by replacing the definition of “non-profit organization” by the following definition:

“non-profit organization” “ “non-profit organization” means a person, other than an individual, a succession, a trust, a charity, a municipality or a government, that was organized and is operated solely for a purpose other than profit, no part of the income of which is payable to, or otherwise available for the personal benefit of, any proprietor, member or shareholder thereof unless the proprietor, member or shareholder is a club or an association the primary purpose of which is the promotion of amateur athletics in Canada;”;

(25) by replacing the definition of “reporting period” by the following definition:

“reporting period” “ “reporting period” of a person means the reporting period of the person as determined under sections 458.6 to 467;”;

(26) by adding, at the end of the definition of “insurance policy”, the following:

“however, “insurance policy” does not include a warranty in respect of the quality, fitness or performance of corporeal property, where the warranty is supplied to a person who acquires the property otherwise than for resale;”;

(27) by inserting, after the definition of “specified corporeal movable property”, the following definition:

“sponsor” “ “sponsor” of a convention means the person who convenes the convention and supplies admissions to it;”;

(28) by replacing subparagraph *a* of paragraph 1 of the definition of “investment plan” by the following subparagraph:

“(a) a registered pension plan,”;

(29) by inserting, before the definition of “non-profit organization”, the following definition:

“mutual
insurance
group”

“ “mutual insurance group” means a group that consists of

(1) a mutual insurance federation and its members,

(2) where the members of the mutual insurance federation are the sole investors in an investment fund, that fund, and

(3) where there exists a mutual reinsurance corporation each member of which is a member of the mutual insurance federation and is not entitled to obtain reinsurance from any other reinsurance corporation, that mutual reinsurance corporation;”;

(30) by inserting, after the definition of “document”, the following definition:

“employee”

“ “employee” includes an officer;”;

(31) by replacing the definition of “service” by the following definition:

“service”

“ “service” means anything other than property, money and anything that is supplied to an employer by a person who is or agrees to become an employee of the employer in the course of or in relation to his office or employment;”;

(32) in the definition of “financial service”,

(a) by replacing paragraph 6 by the following paragraph:

“(6) the payment or receipt of money as benefits, principal, dividends, other than patronage dividends, interest or any similar payment or receipt of money in respect of a financial instrument;”;

(b) by inserting, after paragraph 6, the following paragraph:

“(6.1) the payment or receipt of an amount in full or partial satisfaction of a claim arising under an insurance policy;”;

(c) by replacing paragraph 10 by the following paragraph:

“(10) the service of investigating and recommending the compensation in settlement of a claim arising under an insurance

policy where the service is supplied by an insurer or by another person who, except in the case of a claim under a marine insurance policy, is licensed under the laws of Québec, another province, the Northwest Territories or the Yukon Territory to provide such service;”;

(d) by inserting, after paragraph 10, the following paragraph:

“(10.1) the service of providing a person who supplies a service referred to in paragraph 10 in respect of property with an appraisal of the damage caused to the property, or in the case of a loss of the property, the value of the property, where the supplier of the appraisal inspects the property, or in the case of a loss of the property, the last-known place where the property was situated before the loss;”;

(e) by replacing paragraph 16 by the following paragraph:

“(16) the service of providing advice, other than a service referred to in paragraph 10 or 10.1;”;

(f) by inserting, after paragraph 18, the following paragraph:

“(18.1) the arranging for the transfer of ownership of shares of a cooperative housing corporation;”;

(33) by inserting, in alphabetical order, the following definitions:

“trailer
park”

“ “trailer park” of a person means a piece of land that is owned by or leased to the person and that is exclusively composed of

(1) one or more sites each of which is, or is intended to be, supplied by the person by way of lease, licence or similar arrangement to the owner, lessee or person in occupation or possession of a mobile home, or a travel trailer, motor home or similar vehicle or trailer, situated or to be situated on the site, and

(2) other land that is reasonably necessary

(a) for the use and enjoyment of the sites by individuals

i. residing in mobile homes, or travel trailers, motor homes or similar vehicles or trailers, situated or to be situated on those sites, or

ii. occupying mobile homes, or travel trailers, motor homes or similar vehicles or trailers, situated or to be situated on those sites, or

(b) for the purpose of engaging in the business of supplying the sites by way of lease, licence or similar arrangement;

“residential
trailer park”

“residential trailer park” of a person means

(1) the land that is included in a trailer park of the person or, where the person has two or more trailer parks that are immediately contiguous to each other, the land that is included in those contiguous trailer parks, and any buildings, fixtures and other appurtenances to the land that are reasonably necessary

(a) for the use and enjoyment of sites in the trailer parks by individuals

i. residing in mobile homes, or travel trailers, motor homes or similar vehicles or trailers, situated or to be situated on those sites, or

ii. occupying mobile homes, or travel trailers, motor homes or similar vehicles or trailers, situated or to be situated on those sites, or

(b) for the purpose of engaging in the business of supplying those sites by way of lease, licence or similar arrangement;

however, “residential trailer park” does not include such land and appurtenances or any part of them unless the land encompasses at least two sites and

(2) all or substantially all of the sites in the trailer parks are supplied, or are intended to be supplied, by way of lease, licence or similar arrangement

(a) for a period of at least one month, in the case of a mobile home or other residential unit, and

(b) for a period of at least twelve months, in the case of a travel trailer, motor home or similar vehicle or trailer that is not a residential unit, and

(3) if the sites were occupied by mobile homes, they would be suitable for use by individuals as places of residence throughout the year;”;

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

“carrier”

“carrier” means a person who supplies a freight transportation service within the meaning of section 193;”.

(2) In applying subsection 1 to the period from 1 July 1992 to 28 February 1994, the reference therein to the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) shall be read as a reference to the Act respecting the Québec sales tax and amending various fiscal legislation (1991, chapter 67).

(3) Subsection 1 applies

(a) as regards paragraph 1 thereof,

i. from 1 July 1992, with respect to the definition of “recipient”, as enacted thereby, and

ii. from 1 October 1992, with respect to the definition of “commercial activity”, as enacted thereby;

(b) as regards paragraphs 2 to 4, 6 to 12, 14, 16 to 25, 27 to 31, 33 and 34 thereof, from 1 July 1992;

(c) as regards paragraph 5 thereof, from 1 July 1992, except as regards subparagraph i of subparagraph b of that paragraph, which applies from 1 January 1993;

(d) as regards paragraph 13 thereof, from 1 October 1992;

(e) as regards paragraph 15 thereof, from 1 July 1992, except that, for the period from 1 July 1992 to 30 September 1992, paragraph 6 of the definition of “residential complex”, as enacted by subsection 1, shall be read as follows:

“(6) any part of a building or of the land or appurtenances attributable to a building where

(a) the building includes an inn, a hotel, a motel, a boarding house or other similar premises,

(b) the building is not described in paragraph 3, and

(c) all or substantially all of the supplies of residential units in the building by way of lease, licence or similar arrangement are, or are expected to be, for periods of less than 60 days;”;

(f) as regards paragraph 26 thereof,

i. from 1 July 1992, for warranties supplied in respect of movable property, and

ii. from 1 January 1993, for warranties supplied in respect of an immovable;

(g) as regards paragraph 32 thereof,

i. from 15 September 1992, with respect to paragraphs 6 and 6.1 of the definition of “financial service”, as enacted thereby,

ii. from 1 July 1992, with respect to paragraphs 10, 10.1 and 16 of the said definition, as enacted thereby, except that, for the period from 1 July 1992 to 30 September 1992,

(A) paragraph 10.1 of the said definition shall be read as follows:

“(10.1) the service of providing a person who supplies a service referred to in paragraph 10 in respect of property with an appraisal of the damage caused to the property, other than a loss;”;

(B) in the case where, in the course of a professional practice, an actuary, advocate, accountant or notary supplies, before 1 October 1992, a service described in paragraph 10.1 of the said definition, the tax is deemed not to have been payable in respect of the supply and, where no amount was payable or collected before 1 October 1992 by the supplier as tax in respect of the supply, the supply is deemed to be an exempt supply, and

iii. from 30 September 1992, with respect to paragraph 18.1 of the said definition, as enacted thereby, except that that paragraph does not apply to services of arranging for the transfer of shares where the services are supplied under an agreement in writing entered into on or before 30 September 1992.

c. T-0.1,
s. 12.1, added

365. (1) The said Act is amended by inserting, after section 12, the following section:

Residence of
an interna-
tional ship-
ping corpora-
tion

“12.1 Subject to section 12, where, under section 11.1.1 of the Taxation Act (R.S.Q., chapter I-3), a corporation is deemed for the purposes of that Act to be resident in a country other than Canada throughout a taxation year of the corporation and not to be resident in Canada at any time in the year, the corporation is deemed to be resident in that other country throughout the year and not to be resident in Canada at any time in the year.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
Title I,
Chap. II,
Division I,
heading,
added

366. (1) The said Act is amended by inserting, after the heading under Division I of Chapter II of Title I, the following subheading:

“§ 1. — *Taxable supply made in Québec*”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 16, am.

367. (1) Section 16 of the said Act, amended by section 168 of chapter 19 of the statutes of 1993, is again amended by replacing the second paragraph by the following paragraph:

Tax rate

“Notwithstanding the first paragraph, the rate of the tax is 4 % in respect of

(1) the supply made by the holder of a taxi permit which consists in entrusting the operation and custody of a taxi to the recipient of the supply; and

(2) the supply of incorporeal movable property or an immovable or service, other than

(a) the supply of a telephone service; and

(b) the supply of a telecommunication or a telecommunication service in respect of which the tax prescribed by the Telecommunications Tax Act (R.S.Q., chapter T-4) would apply but for section 14 of the said Act.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
heading,
added

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

“§ 2. — *Bringing into Québec of corporeal property*”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 17.4-17.6
and heading,
added

369. (1) The said Act is amended by inserting, after section 17.3, the following:

Exception-
foreign con-
ventions

“17.4 Notwithstanding section 17, no tax is payable in respect of corporeal property brought into Québec for consumption, use or supply as supplies related to a convention where the property is brought into Québec by the sponsor of a foreign convention or the organizer of such a convention who is not registered under Division I of Chapter VIII.

Rebate for
returned
property

“17.5 Subject to section 404, a person is entitled to a rebate of tax paid under section 17 in respect of the bringing into Québec of corporeal property from outside Canada where

(1) the person paid tax in respect of the property acquired by the person on consignment, approval or other similar terms;

(2) the property is, within sixty days after its release within the meaning of the Customs Act (Statutes of Canada) but before it is used or consumed otherwise than on a trial basis, shipped outside Québec by the person for the purpose of returning it to the supplier and is not damaged after its release and before its shipping; and

(3) within four years after the tax was paid, the person files with the Minister an application, in prescribed form containing prescribed information, for a rebate of the tax.

Rebate for
returned
property

“17.6 Subject to section 404, a person is entitled to a rebate of tax paid under section 17 in respect of the bringing into Québec of corporeal property from Canada but outside Québec where

(1) the person paid tax in respect of the property acquired by the person on consignment, approval or other similar terms;

(2) the property is, within sixty days after its being brought into Québec but before it is used or consumed otherwise than on a trial basis, shipped outside Québec by the person for the purpose of returning it to the supplier and is not damaged after its being brought into Québec and before its shipping; and

(3) within four years after the tax was paid, the person files with the Minister an application, in prescribed form containing prescribed information, for a rebate of the tax.

“§ 3.—Taxable supply of incorporeal movable property or of a service made outside Québec”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 18, am.

370. (1) Section 18 of the said Act, amended by section 171 of chapter 19 of the statutes of 1993, is again amended

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

Taxable sup-
ply made
outside
Québec

“18. Every recipient of a taxable supply, other than a zero-rated supply, shall pay to the Minister a tax in respect of the supply calculated at the rate prescribed in the second paragraph on the value of the consideration for the supply if the supply is

(1) a supply, other than a prescribed supply, of a service made outside Québec to a person who is resident in Québec, other than a supply of a service that is

(a) acquired for consumption, use or supply exclusively in the course of commercial activities of the person or activities that are engaged in exclusively outside Québec by the person and that are not part of a business or an adventure or concern in the nature of trade engaged in by the person in Québec,

(b) consumed by an individual exclusively outside Québec, other than a training service the supply of which is made to a person who is not a consumer,

(c) in respect of an immovable situated outside Québec,

(d) a service (other than a custodial or nominee service in respect of securities of the person) in respect of corporeal movable property that is

i. situated outside Québec at the time the service is performed, or

ii. shipped outside Québec as soon after the service is performed as is reasonable having regard to the circumstances surrounding the shipping outside Québec and is not consumed, used or supplied in Québec after the service is performed and before the shipping outside Québec of the property,

(e) a transportation service, or

(f) a service rendered in connection with criminal, civil or administrative litigation outside Québec, other than a service rendered before the commencement of such litigation; or

(2) a supply, other than a prescribed supply, of incorporeal movable property made outside Québec to a person who is resident in Québec, other than a supply of property that

(a) is acquired for consumption, use or supply exclusively in the course of commercial activities of the person or activities that are engaged in exclusively outside Québec by the person and that are not part of a business or an adventure or concern in the nature of trade engaged in by the person in Québec,

(b) may not be used in Québec, or

(c) relates to an immovable situated outside Québec, to a service to be performed wholly outside Québec or to corporeal movable property situated outside Québec.”;

(2) by striking out the third paragraph.

(2) Subsection 1 applies to supplies for which consideration is paid or becomes due after 30 September 1992, other than supplies for which consideration is paid or becomes due before 1 October 1992.

c. T-0.1,
s. 21, am.

371. (1) Section 21 of the said Act is amended by replacing that part preceding paragraph 1 by the following:

Supply
deemed to
be made in
Québec

“21. Subject to sections 23 and 24.2, a supply is deemed to be made outside Québec if”.

(2) Subsection 1 applies from 1 July 1992. However, for the period from 1 July 1992 to 31 December 1992 in respect of supplies made during that period, the reference in section 21 of the said Act, as enacted by subsection 1, to section 23 shall be read as a reference to sections 23 and 24.

c. T-0.1,
s. 22.1, added

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

Mobile and
floating
homes

“22.1 For the purposes of sections 21 and 22, a floating home and a mobile home that is not affixed to land are each deemed to be corporeal movable property and not immovable property.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 24,
repealed

373. (1) Section 24 of the said Act is repealed.

(2) Subsection 1 applies to supplies made after 1992. However, for the period from 1 July 1992 to 31 December 1992 in respect of supplies made during that period, that part preceding paragraph 1 of section 24 of the said Act, repealed by subsection 1, shall be read as follows:

Supply
made by a
person not
resident in
Québec

“24. A supply of corporeal movable property made by a person who is registered under Division I of Chapter VIII and who is not resident in Québec is deemed to be made in Québec where”.

c. T-0.1,
ss. 24.1, 24.2,
added

374. (1) The said Act is amended by inserting, after section 24, the following sections:

Supply by
mail or courier

“24.1 Notwithstanding sections 22 and 23, a supply of prescribed corporeal movable property made by a person who is

registered under Division I of Chapter VIII is deemed to be made in Québec if the property is sent, by mail or courier, to the recipient of the supply at an address in Québec.

Supply of a
freight
transporta-
tion service

“24.2 A supply of a freight transportation service in respect of the transportation of corporeal movable property from a place in Canada outside Québec to a place in Québec is deemed to be made outside Québec.”

(2) Subsection 1,

(a) where it enacts section 24.1 of the said Act, applies to supplies made after 31 December 1992; and

(b) where it enacts section 24.2 of the said Act, applies from 1 July 1992.

c. T-0.1,
Title I,
Chap. II,
Division II,
subdivision 1,
subdivision
III, heading,
added

375. (1) The said Act is amended by inserting, after the heading of subdivision III of subdivision 1 of Division II of Chapter II of Title I, the following heading:

“1.—General provisions”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 26, am.

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

(1) by replacing paragraph 3 by the following paragraph:

“(3) the value of the consideration for that supply is deemed to be equal to the fair market value of the supply at the time the property is so transferred or the service is so rendered; and”;

(2) by adding, at the end, the following paragraph:

“(4) the consideration for that supply is deemed to have become due and to have been paid, by the permanent establishment (in this paragraph referred to as “the recipient”) to which the property was transferred or the service was rendered, to the other permanent establishment at the end of the taxation year of the recipient in which the property was transferred or the service was rendered.”

(2) Subsection 1 applies from 1 July 1992. However, paragraph 3 of section 26 of the said Act, as enacted by subsection 1, applies only to property transferred and services rendered after 14 September 1992.

c. T-0.1,
s. 31,
replaced

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

Combined
supply of
immovables

“31. Where a supply of an immovable includes the provision of a property described in subparagraph 1 of the second paragraph and a property described in subparagraph 2 of that paragraph,

(1) the property described in subparagraph 1 of the second paragraph and the property described in subparagraph 2 of that paragraph are each deemed to be a separate property;

(2) the provision of the property described in subparagraph 1 of the second paragraph is deemed to be a supply separate from the provision of the property described in subparagraph 2 of that paragraph; and

(3) neither supply is incidental to the other.

Interpreta-
tion

The property referred to in the first paragraph is

(1) a residential complex or land, a building or part of a building that forms or is reasonably expected to form part of a residential complex; and

(2) another immovable that is not part, and is not reasonably expected to form part, of a residential complex.”

(2) Subsection 1 applies from 1 January 1993.

c. T-0.1,
s. 31.1, added

378. (1) The said Act is amended by inserting, after section 31, the following section:

Supply by
way of
lease,
licence or
similar
arrange-
ment and
lease inter-
val

“31.1 Where a supply of particular property described in section 99 is made by way of lease, licence or similar arrangement, the rules set out in the second paragraph apply, where the supply is made

(1) for a period during which the lessee or any sub-lessee makes, or holds the particular property for the purpose of making one or more supplies described in paragraphs 1 and 2 of section 99; and

(2) for consideration that includes two or more periodic payments that are attributable to successive parts (each of which is referred to in this section and in section 99 as a “lease interval”) of the period for which possession or use of the particular property is provided under the arrangement.

Presump-
tions

The rules referred to in the first paragraph are as follows:

(1) the supplier is deemed to have made, and the lessee is deemed to have received, a separate supply of the particular property for each lease interval; and

(2) the periodic payment that is attributable to a particular lease interval is deemed to be consideration payable in respect of the separate supply of the particular property for the particular lease interval or, where section 31 applies to property that includes the particular property, the portion of the periodic payment that may reasonably be attributed to the particular property.”

(2) Subsection 1 applies from 1 January 1993.

c. T-0.1,
s. 32,
replaced

379. (1) Section 32 of the said Act is replaced by the following section:

Supply by
way of sale
of a multiple
unit residen-
tial complex
and addition

“**32.** Where a builder of an addition to a multiple unit residential complex makes a supply of the complex or an interest in it by way of sale that, but for this section, would be a taxable supply and, but for the construction of the addition, would be an exempt supply described in section 97,

(1) the addition and the remainder of the complex are each deemed to be a separate property;

(2) the sale of the addition or interest in it is deemed to be a supply separate from the sale of the remainder of the complex or interest in it; and

(3) neither supply is incidental to the other.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 32.1, added

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

Supply of a
residential
trailer park
and addi-
tional area

“**32.1** Where a person who has increased the area of land included in a residential trailer park of the person (in this section referred to as the “additional area”) makes a supply of the park or an interest in it that, but for this section, would be a taxable supply and, but for the additional area, would be an exempt supply described in section 97.3,

(1) the additional area and the remainder of the park are each deemed to be a separate property;

(2) the sale of the additional area or the interest therein is deemed to be a supply separate from the sale of the remainder of the park or the interest in the park; and

(3) neither supply is incidental to the other.”

(2) Subsection 1 applies from 1 July 1992. However, section 32.1 of the said Act, as enacted by subsection 1, does not apply to a supply of a residential trailer park or an interest therein where the supply is made under an agreement in writing entered into before 6 November 1991.

c. T-0.1,
s. 34.2,
replaced

381. (1) Section 34.2 of the said Act, enacted by section 175 of chapter 19 of the statutes of 1993, is replaced by the following section:

Restriction
in respect of
the input
tax refund

“34.2 Section 34 does not apply for the purpose of determining the rebate to which an organization is entitled under section 386 or 386.1 in respect of the particular property or service or the other property or service referred to in section 34, where, but for the said section, the organization, were it a registrant, would not be entitled to claim an input tax refund in respect of the other property or service by reason of section 206.1.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 34.4, added

382. (1) The said Act is amended by inserting, after section 34.3, the following section:

Exception

“34.4 Notwithstanding section 34, the second paragraph applies where

(1) admission to a convention is supplied together with food, beverages or entertainment for a single consideration;

(2) the provision of food, beverages or entertainment may reasonably be regarded as incidental to the provision of the admission; and

(3) the recipient of the admission is required to acquire the food, beverages or entertainment.

Presumption

The food, beverages or entertainment are deemed to form part of the admission so supplied.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 35, am.

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

Financial
services in a
mixed supply

“35. Where a listed financial institution makes a supply of one or more financial services together with one or more other services that are not financial services, or with properties that are not capital properties of the institution, for a single consideration, the supply of each of the services and properties is deemed to be a supply of a financial service if

(1) the financial services are related to the other services or the properties, as the case may be;

(2) it is the usual practice of the listed financial institution to supply those or similar services, or those or similar properties and services, together in the ordinary course of the business of the institution; and

(3) the amount which would be the consideration for the financial service so supplied if that financial service had been supplied separately, is greater than 50 % of the amount which would be the consideration for a service or property so supplied if that service or property had been supplied separately.”

(2) Subsection 1 applies to supplies made after 14 September 1992.

c. T-0.1,
s. 36,
replaced

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

Supply of
membership
with security

“36. Where a person makes a supply of a share, bond, debenture or other security that represents capital stock or debt of a particular organization, and ownership of the security by the recipient of the supply is a condition of the recipient's, or another person's, obtaining a membership, or a right to acquire a membership, in the particular organization or in another organization that is related to the particular organization, the supply of the security is deemed to be a supply of a membership and not a supply of a financial service.

Share in a
credit union
or in a coop-
erative cor-
poration

A share in a credit union or in a cooperative corporation the main purpose of which is not to provide recreational, sporting or dining facilities is not a security for the purposes of the first paragraph.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 37, 38,
repealed

385. (1) Sections 37 and 38 of the said Act are repealed.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 39.1, 39.2,
added

386. (1) The said Act is amended by inserting, after section 39, the following sections:

“feed”

“39.1 For the purposes of section 39.2, “feed” means

(1) grain or seed that is described in paragraph 2 of section 178 and used as feed for farm livestock that is ordinarily raised or kept to produce, or to be used as, food for human consumption or to produce wool; and

(2) feed that is a complete feed, supplement, macro-premix or micro-premix, the supply of which in bulk quantity of at least 20 kg would be a zero-rated supply.

Supply by a
feedlot

“39.2 Where, in the course of operating a feedlot that is a farming business within the meaning of the Taxation Act (R.S.Q., chapter I-3), a person makes a supply of a service and the consideration for the supply (in this section referred to as the “total charge”) includes a particular amount that is identified in the invoice or agreement in writing for the supply as being attributable to feed,

(1) the provision of the feed is deemed to be a supply separate from the supply of the service and not to be incidental to the provision of any other property or service;

(2) the portion, not exceeding 90 %, of the total charge that is reasonably attributable to the feed and is included in the particular amount is deemed to be the consideration for the supply of the feed; and

(3) the difference between the total charge and the consideration for the supply of the feed is deemed to be the consideration for the supply of the service.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 40, 41,
replaced

387. (1) Sections 40 and 41 of the said Act are replaced by the following sections:

Supply of
rights relat-
ing to natu-
ral resources

“40. The supply of the following rights is deemed not to be a supply:

(1) any right to exploit any mineral deposits, peat bogs or deposits of peat or any forestry, fishery or water resources;

(2) any right to explore relating to the deposits, peat bogs or resources referred to in subparagraph 1;

(3) any right of entry or user relating to a right referred to in subparagraph 1 or 2; or

(4) any right to an amount computed by reference to the production, including profit, from, or to an amount computed by reference to the value of production from, the deposits, peat bogs or resources referred to in subparagraph 1.

Fees and
royalties

Any consideration paid or due, or any fee or royalty charged or reserved, in respect of a right referred to in the first paragraph is deemed not to be consideration for the right.

Exception

“41. Section 40 does not apply to a supply of a right to take or remove forestry products, products that grow in water, fishery products, minerals or peat or to any right of entry or user relating thereto, where the supply is made

(1) to a consumer; or

(2) to a person who is not a registrant and who acquires the right in the course of a business of the person to make supplies of the products, minerals or peat to consumers.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 41.1-41.6,
added

388. (1) The said Act is amended by adding, after section 41, the following subdivision:

“2. — Mandatary

Supply by a
registrant
on behalf of
a person not
required to
collect tax

“41.1 Where a registrant (in this section referred to as the “mandatary”), acting as mandatary of a person (in this section referred to as the “mandator”) in the course of a commercial activity of the mandatary, makes a supply, other than a non-taxable supply, of movable property, otherwise than by auction, on behalf of the mandator, in the case where the mandator is not required to collect tax in respect of the supply and the mandatary does not disclose to the recipient in writing that the mandatary is making the supply on behalf of another person who is not required to collect tax in respect of the supply, the following rules apply:

(1) the mandator is deemed not to have made the supply to the recipient;

(2) the mandatary is deemed to have made the supply to the recipient;

(3) the mandatary is deemed not to have made a supply to the mandator of a service relating to the supply to the recipient; and

(4) where at one or more times the mandatary remits to, or credits in favour of, the mandator an amount on account of the supply to the recipient, the mandator is deemed to have made a supply of the property to the mandatary, and the mandatary is deemed to have received that supply from the mandator, for consideration, paid at the earliest of those times, equal to

(a) where the rate of the tax applicable in respect of the supply of the property is 8 %, the amount determined by the formula

$$(A - B/2) \times 1.08, \text{ and}$$

(b) where the rate of the tax applicable in respect of the supply of the property is 4 %, the amount determined by the formula

$$(A - B) \times 1.04.$$

Interpreta-
tion

For the purposes of these formulas,

(1) A is the consideration for the supply of the property to the recipient; and

(2) B is the consideration that would be determined in respect of the supply of a service relating to the supply to the recipient that, but for this section and subsection 1.1 of section 177 of the Excise Tax Act (Statutes of Canada), would be made by the mandatary to the mandator.

Supply by
an auction-
eer on
behalf of a
person not
required to
collect tax

“41.2 Where a registrant (in this section referred to as the “auctioneer”), acting as auctioneer and mandatary for another person (in this section referred to as the “mandator”) in the course of a commercial activity of the auctioneer, makes, on behalf of the mandator, a supply by auction, other than a non-taxable supply, of movable property, in the case where the mandator is not required to collect tax in respect of the supply, the following rules apply:

(1) the supply is deemed to have been made by the auctioneer and not by the mandator; and

(2) where at one or more times the auctioneer remits to, or credits in favour of, the mandator an amount on account of the supply to the recipient, the mandator is deemed to have made the supply of the property to the auctioneer, and the auctioneer is deemed to have received that supply from the mandator, for consideration, paid at the earliest of those times, equal to the total of the consideration for the supply to the recipient and of the tax payable by the recipient in respect of that supply.

Exception

“41.3 Sections 41.1 and 41.2 do not apply in respect of a supply to the recipient

(1) of property referred to in section 20.1; or

(2) of property in respect of which a recipient may not claim an input tax refund by reason of section 206.1.

Supply by a registrant of used corporeal movable property

“41.4 Where a registrant makes a supply of movable property on behalf of a person in circumstances in which the registrant is deemed, under section 41.1 or 41.2, to have received a supply of the property from the person and to have paid consideration equal to the amount determined under subparagraph 4 of the first paragraph of section 41.1 or paragraph 2 of section 41.2, the following rules apply:

(1) for the purposes of subdivision 3 of Division II of Chapter V,

(a) the property is deemed to be used corporeal movable property, and

(b) in the case of incorporeal movable property, the necessary adaptations shall be made in respect of the tax fraction and rate of the tax applicable; and

(2) subdivision 3 of Division II of Chapter V does not apply to the supply deemed to have been received by the registrant unless the registrant remits to, or credits in favour of, the person an amount on account of the supply of the property made on the person's behalf equal to

(a) where section 41.2 applies, the amount by which the amount determined under paragraph 2 of that section exceeds the total of the consideration for the supply made by the registrant to the person of a service relating to the supply of the property made on the person's behalf and the tax payable by the person in respect of the supply of that service, and

(b) where section 41.1 applies, the amount determined by the formula

$$A - (B \times 1.04).$$

Interpretation

For the purposes of this formula,

(1) A is the total of the consideration for the supply of the property to the recipient and the tax payable by the recipient; and

(2) B is the consideration that would be determined in respect of the supply of a service relating to the supply to the recipient that, but for subsection 1.1 of section 177 of the Excise Tax Act (Statutes of Canada), would be made by the mandatary to the mandator.

Manner of
supplying
property

“41.5 For the purposes of this subdivision, where a registrant makes a supply of property on behalf of a person by way of sale or in any other manner, any supply of the property that is, as a result of that supply, deemed under this subdivision to have been made by the person to the registrant is deemed to have been made in the same manner.

Supply of
incorporeal
movable
property on
behalf of an
artist

“41.6 Except for sections 294 to 297, where a prescribed registrant, acting in the course of a commercial activity, makes a supply on behalf of another person of incorporeal movable property in respect of a product of an author, performing artist, painter, sculptor or other artist, the following rules apply:

(1) the other person is deemed not to have made the supply to the recipient;

(2) the registrant is deemed to have made the supply to the recipient; and

(3) the registrant is deemed not to have made a supply to the other person of a service in relation to the supply to the recipient.”

(2) Subsection 1 applies from 1 July 1992. However, in respect of supplies made before 1 January 1993, section 41.1 of the said Act, as enacted by subsection 1, shall be read as follows:

Supply by a
registrant
on behalf of
a person not
required to
collect tax

“41.1 Where, at any time, a registrant (in this section referred to as the “mandatary”), acting as mandatary of another person who is not a registrant (in this section referred to as the “mandator”) in the course of a commercial activity of the mandatary, makes a supply, other than a non-taxable supply, of movable property, otherwise than by auction, on behalf of the mandator to a recipient and the mandatary does not disclose to the recipient in writing that the mandatary is making the supply on behalf of a person who is not a registrant, the following rules apply:

(1) the mandator is deemed not to have made the supply to the recipient;

(2) the mandatary is deemed to have made the supply to the recipient;

(3) the mandatory is deemed not to have made a supply to the mandator of a service relating to the supply to the recipient; and

(4) the mandator is deemed to have made a supply of the property to the mandatory, and the mandatory is deemed to have received that supply from the mandator, for consideration, paid at that time, equal to

(a) where the rate of the tax applicable in respect of the supply of the property is 8 %, the amount determined by the formula

$$(A - B/2) \times 1.08, \text{ and}$$

(b) where the rate of the tax applicable in respect of the supply of the property is 4 %, to the amount determined by the formula

$$(A - B) \times 1.04.$$

Interpreta-
tion

For the purposes of these formulas,

(1) A is the consideration for the supply of the property to the recipient; and

(2) B is the consideration that would be determined in respect of the supply of a service relating to the supply to the recipient that, but for this section and subsection 1.1 of section 177 of the Excise Tax Act (Statutes of Canada), would be made by the mandatory to the mandator.”

c. T-0.1,
s. 42,
repealed

389. (1) Section 42 of the said Act is repealed.

(2) Subsection 1 applies from 1 October 1992. However, for the period from 1 July 1992 to 30 September 1992, except for the purpose of determining any amount claimed or reported in a return under Chapter VIII of Title I that was filed before 1 October 1992, paragraph 1 of section 42 of the said Act, repealed by that subsection, shall be read as follows:

“(1) in the course of a commercial activity described in subparagraph 1 or 2 of the definition of the expression “commercial activity”;

c. T-0.1,
ss. 42.1-42.6,
added

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

Supply of
movable
property in
the course
of commer-
cial activities

“42.1 A person is deemed to have made a supply of movable property in the course of a commercial activity where the person

makes a supply, other than an exempt supply, of movable property that

(1) was last acquired or brought into Québec by the person for consumption or use in the course of the person's commercial activities;

(2) was consumed or used by the person in the course of a commercial activity of the person after it was last acquired or brought into Québec by the person;

(3) was manufactured or produced by the person in the course of a commercial activity of the person or for consumption or use in the course of a commercial activity of the person, and was not deemed to have been acquired by the person; or

(4) was manufactured or produced by the person and consumed or used in the course of a commercial activity of the person, and was not deemed to have been acquired by the person.

Supply of
movable
property
otherwise
than in the
course of
commercial
activities

“42.2 A person is deemed to have made a supply of movable property otherwise than in the course of commercial activities where the person makes a supply, other than a supply made by way of lease, licence or similar arrangement in the course of a business of the person, of movable property that

(1) was last acquired or brought into Québec by the person exclusively for consumption or use in the course of activities of the person that are not commercial activities and was not consumed or used by the person in the course of commercial activities of the person after it was last acquired or brought into Québec by the person; or

(2) was manufactured or produced by the person in the course of activities of the person that are not commercial activities exclusively for consumption or use in the course of activities of the person that are not commercial activities, was not consumed or used in the course of a commercial activity of the person and was not deemed to have been acquired by the person.

Supply by
way of sale
of movable
property or
a service in
the course
of commercial
activities

“42.3 A person is deemed to have made a supply of movable property or a service in the course of commercial activities of the person where the person makes a supply by way of sale of movable property or a service that was acquired, brought into Québec, manufactured or produced by the person exclusively for the purpose of making a supply of that property or service by way of sale in the course of a business of the person or in the course of an adventure or concern of the person in the nature of trade, except where

(1) the supply is an exempt supply;

(2) section 42.4 applies in respect of the supply; or

(3) the person is an individual or a partnership, all of the members of which are individuals, who carries on the business or engages in the adventure or concern without a reasonable expectation of profit.

Supply by way of sale of movable property or a service

“42.4 Where a person makes a supply by way of sale of movable property or a service that was acquired, brought into Québec, manufactured or produced by the person exclusively for the purpose of making an exempt supply of the property or service by way of sale, the person is deemed to have made the supply otherwise than in the course of commercial activities.

Things done in the course of commercial activities

“42.5 To the extent that a person does anything, other than make a supply, in connection with the acquisition, establishment, disposition or termination of a commercial activity of the person, the person is deemed to have done that thing in the course of commercial activities of the person.

Things done otherwise than in the course of commercial activities

“42.6 To the extent that a person does anything, other than make a supply, in connection with the acquisition, establishment, disposition or termination of an activity of the person that is not a commercial activity, the person is deemed to have done that thing otherwise than in the course of commercial activities.”

(2) Subsection 1 applies from 1 October 1992.

c. T-0.1, ss. 43-47, replaced

391. (1) Sections 43 to 47 of the said Act are replaced by the following sections:

Use in commercial activities

“43. Where substantially all of the consumption or use of property or a service by a person is in the course of the person's commercial activities, all of the consumption or use of the property or service by the person is deemed to be in the course of those activities.

Intended use in commercial activities

“44. Where substantially all of the consumption or use for which a person acquired or brought into Québec property or a service is in the course of the person's commercial activities, all of the consumption or use for which the person acquired or brought the property or service is deemed to be in the course of those activities.

Use in other activities

“45. Where substantially all of the consumption or use of property or a service by a person is in the course of particular activities of the person that are not commercial activities, all of the consumption or use is deemed to be in the course of those particular activities.

Intended
use in other
activities

“46. Where substantially all of the consumption or use for which a person acquired or brought into Québec property or a service is in the course of particular activities of the person that are not commercial activities, all of the consumption or use for which the person acquired or brought the property or service is deemed to be in the course of those particular activities.

Immovable
that
includes a
residential
complex

“47. For the purposes of sections 43 to 46, where an immovable includes a residential complex and another part that is not part of the residential complex,

(1) the residential complex is deemed to be a property separate from the other part; and

(2) where property or a service is acquired for consumption or use in relation to the immovable, sections 43 to 46 apply to the property or service only to the extent that it is acquired for consumption or use in relation to the part that is not part of the residential complex.”

(2) Subsection 1 applies from 1 October 1992.

c. T-0.1,
s. 48, am.

392. (1) Section 48 of the said Act is amended by replacing paragraph 3 by the following paragraph:

“(3) a supply of a right to take or remove forestry products, products that grow in water, fishery products, minerals or peat, where the supply is made to

(a) a consumer, or

(b) a person who is not a registrant and who acquires the right in the course of a business of the person of making supplies of the products, minerals or peat to consumers;”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 48.1, added

393. (1) The said Act is amended by inserting, after section 48, the following section:

Foreign
convention

“48.1 The following supplies, when made by a sponsor of a foreign convention, are deemed to have been made otherwise than in the course of a commercial activity of the sponsor:

(1) a supply of an admission to the convention;

(2) a supply by way of lease, licence or similar arrangement of an immovable for use by the recipient of the supply exclusively as the

site for the promotion, at the convention, of a business of, or of property or services supplied by, the recipient; and

(3) a supply of related convention supplies to the recipient of the supply referred to in paragraph 2.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 49,
replaced

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

Methods for
determining
use

“49. The methods that are used by a person in a fiscal year to determine the extent to which properties or services are consumed, used or supplied, or intended to be consumed, used or supplied, in the course of commercial activities of the person shall be fair and reasonable in the circumstances and shall be used consistently throughout the fiscal year.

Interpreta-
tion

For the purposes of this section, the fiscal year of a person is the person's fiscal year within the meaning of section 458.1.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 51.1, added

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

Deemed con-
sideration –
supply on
behalf of
another per-
son

“51.1 Where a registrant makes a supply of property or a service on behalf of another person to a recipient, in the case where section 177 of the Excise Tax Act (Statutes of Canada) applies in respect of the supply and sections 41.1 and 41.2 do not apply in respect of the supply, the following rules apply:

(1) the consideration for the supply of the property or service to the recipient is determined without reference to the said section 177; and

(2) the consideration for the supply of the service relating to the supply to the recipient is determined without reference to the said section 177.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 55, am.

396. (1) Section 55 of the said Act, amended by section 177 of chapter 19 of the statutes of 1993, is again amended by replacing the second paragraph by the following paragraph:

Exception

“This section does not apply where

(1) the supplier of the property or service, by reason of section 206.1, is not entitled to include, in determining an input tax refund, an amount in respect of the tax payable by him in respect of the property or service or, if the supplier is an organization referred to in section 386 or 386.1, would not be entitled to include such an amount were it a registrant; or

(2) the supply is referred to in sections 148 to 152.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 58,
replaced

397. (1) Section 58 of the said Act is replaced by the following section:

Fund-raising
activities

“58. Where a charity or an authorized party makes a supply of an admission to a fund-raising dinner, ball, concert, show or like fund-raising event, the value of the consideration for the supply is deemed to be the lesser of the actual value of the consideration for the supply and the fair market value of the supply.”

(2) This section applies from 1 July 1992.

c. T-0.1,
ss. 58.1-58.3,
added

398. (1) The said Act is amended by inserting, after section 58, the following sections:

Contribu-
tion to a
political
party

“58.1 Where an authorized party makes a supply to a person, part of the consideration for the supply may reasonably be regarded as an amount (in this section referred to as the “amount contributed”) that is contributed to the authorized party and the person may claim a deduction or credit in determining tax payable by the person under the Taxation Act (R.S.Q., chapter I-3) or the Income Tax Act (Statutes of Canada) in respect of the total of such amounts contributed, the amount contributed is deemed not to be consideration for the supply.

“authorized
party”

“58.2 For the purposes of sections 58 and 58.1, “authorized party” means a party, including any regional or local association of the party, a candidate or a referendum committee governed by a law of Québec or of Canada that imposes requirements relating to election finances or referendum expenses.

Payment by
a trade
union or
association

“58.3 Where an individual, because of membership in a trade union or association referred to in paragraph 1 of section 172, participates in activities of the union or association and, as a consequence, is unable to perform duties, under a contract of employment, for the individual’s employer during a period during which the individual would, were it not for the individual’s

participation in those activities, be obligated to provide such services, and the union or association pays an amount to the employer as compensation for expenses incurred by the employer as a consequence of the individual's participation in those activities or for remuneration or benefits given by the employer to the individual in respect of that period, the amount is deemed not to be consideration for a supply."

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 59,
repealed

399. (1) Section 59 of the said Act is repealed.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 62.1, added

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

Penalty for
failure to
return roll-
ing stock

"62.1 An amount that is paid as or on account of demurrage, or by one railway corporation to another railway corporation as or on account of a penalty for failure to return rolling stock within a stipulated time, is deemed not to be consideration for a supply."

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 69.1, 69.2,
added

401. (1) The said Act is amended by inserting, after section 69, the following sections:

Fractional
amount –
telephone
service

"69.1 Where the consideration for a supply of a telephone service is paid by depositing coins in a coin-operated telephone and the tax is equal to a fraction of \$0.05 or to the total of a multiple of \$0.05 and a fraction of \$0.05, the fraction

(1) if less than \$0.025, may be disregarded; and

(2) if equal to or greater than \$0.025, is deemed to be an amount equal to \$0.05.

Fractional
amount

"69.2 The rules prescribed in section 69 apply where the amount determined under section 297.2, 297.3, 350.30 or 350.40 includes a fraction of a cent."

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 70,
repealed

402. (1) Section 70 of the said Act is repealed.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 72, 73,
74, repealed

403. (1) Section 72, section 73, amended by section 179 of chapter 19 of the statutes of 1993, and section 74 of the said Act are repealed.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 75,
replaced

404. (1) Section 75 of the said Act, amended by section 180 of chapter 19 of the statutes of 1993, is replaced by the following section:

Supply of
assets of a
business

“75. Where a supplier makes a supply of a business or part of a business that was established or carried on by the supplier or that was established or carried on by another person and acquired by the supplier, and, under the agreement for the supply, the recipient is acquiring ownership, possession or use of all or substantially all of the property that can reasonably be regarded as being necessary for the recipient to be capable of carrying on the business or part as a business,

(1) the supplier is deemed to have made a separate supply of each property and service that is supplied under the agreement for consideration equal to that part of the consideration for the supply of the business or part that can reasonably be attributed to that property or service; and

(2) except where the supplier is a registrant and the recipient is not a registrant, the supplier and the recipient may make a joint election in prescribed form containing prescribed information to have section 75.1 apply to those supplies.”

(2) Subsection 1 applies to any supply of a business or part of a business under which ownership, possession or use of all or substantially all of the property of the business or part that is included in the supply is transferred to the recipient after 30 September 1992. However,

(a) where a supplier made a supply of a business or part of a business for the period beginning on 1 October 1992 and ending on 31 December 1992, in circumstances described in section 75 of the said Act, as enacted by subsection 1,

i. the supplier and the recipient of the supply are deemed to have made a joint election under the said section 75 in respect of the supply, and

ii. if, on or before the day referred to in the first paragraph of section 75.1 of the said Act, as enacted by section 405, the supplier files with the Minister a notice in writing respecting the supply that contains substantially all of the information that must be contained

in the prescribed form filed under section 75 of the said Act as that section read before being replaced by subsection 1, the supplier is deemed to have filed the election referred to in subparagraph i on or before that day;

(b) where a supplier makes a taxable supply of property before 1 January 1993 and ownership, possession or use of the property is transferred to the recipient after 30 September 1992, and the supplier, in all good faith, mistakenly believed that he was making a supply of a business or part of a business described in section 75 of the said Act, as enacted by subsection 1, in circumstances described in the said section 75, the supplier is not required to collect the tax in respect of the supply where the supplier,

i. on or before the day on or before which the return under Chapter VIII is required to be filed for the supplier's first reporting period in which tax became payable in respect of the supply of the property, filed with the Minister the notice described in subparagraph ii of paragraph *a* respecting the supply, and

ii. failed to collect tax in respect of the supply as required by the Act respecting the Québec sales tax.

(3) In applying section 75 of the said Act, as replaced by subsection 1, in respect of a supply before 1 October 1992 of all or substantially all of the property used in the course of a commercial activity that is the whole or part of a business carried on by the supplier, all or substantially all of the property shall be determined as if the supply of a financial service were an exempt supply, where an election is made under subsection 1 of section 167 of the Excise Tax Act (Statutes of Canada) in respect of the supply.

c. T-0.1,
ss. 75.1, 75.2,
added

405. (1) The said Act is amended by inserting, after section 75, the following sections:

Effect of
election

“75.1 Where a supplier and a recipient make an election under section 75 and the recipient, if a registrant, files the election with the Minister not later than the day on or before which the return under Chapter VIII is required to be filed for the recipient's first reporting period in which tax would, but for this section, have become payable in respect of the supply of any property or service made under the agreement for the supply of the business or part of the business to which the election applies, or on such later day as the Minister may determine on application of the recipient,

(1) no tax is payable in respect of a supply of any property or service made under the agreement other than

(a) a taxable supply of a service that is to be rendered by the supplier,

(b) a taxable supply of property by way of lease, licence or similar arrangement,

(c) where the recipient is not a registrant, a taxable supply by way of sale of an immovable, and

(d) where the recipient does not carry on the business or part of the business, a taxable supply of any property or service in respect of which the recipient, if a registrant who is acquiring it for consumption or use exclusively in the course of commercial activities of the recipient, would not be entitled to claim an input tax refund by reason of section 206.1;

(2) where, but for this section, tax would have been payable by the recipient, otherwise than by reason of section 20.1, in respect of a supply made under the agreement of property that was capital property of the supplier and that is being acquired by the recipient for use as capital property of the recipient, the recipient is deemed to have so acquired the property for use exclusively in the course of commercial activities of the recipient; and

(3) where, notwithstanding this section, tax would not have been payable by the recipient or would have been payable by the recipient under section 20.1 in respect of a supply made under the agreement of property that was capital property of the supplier and that is being acquired by the recipient for use as capital property of the recipient, the recipient is deemed to have so acquired the property for use exclusively in activities of the recipient that are not commercial activities.

Goodwill

“75.2 Where a supplier makes a supply of a business or part of a business that was established or carried on by the supplier or that was established or carried on by another person and acquired by the supplier, the recipient is acquiring ownership, possession or use of all or substantially all of the property that can reasonably be regarded as being necessary for the recipient to be capable of carrying on the business or part as a business, and part of the consideration for the supply can reasonably be attributed to goodwill of the business or part, that part of the consideration shall not be included in calculating the tax payable in respect of the supply.”

(2) Subsection 1, where it enacts section 75.1 of the said Act, applies in respect of a supply of a business or part of a business under which ownership, possession or use of all or substantially all of the property of the business or part that is included in the supply is

transferred to the recipient of the supply after 30 September 1992. However,

(a) in respect of a supply under which ownership, possession or use of all or substantially all of the property is transferred to the recipient for the period commencing on 1 October 1992 and ending on 31 December 1992, that part of section 75.1, as enacted by subsection 1, preceding paragraph 1 thereof shall be read as follows:

Effect of
election

“75.1 Where a supplier and a recipient make an election under section 75 and the supplier, if a registrant, files the election with the Minister not later than the day on or before which the return under Chapter VIII is required to be filed for the supplier’s first reporting period in which tax would, but for this section, have become payable in respect of the supply of any property or service made under the agreement for the supply of the business or part of the business to which the election applies, or on such later day as the Minister may determine on application of the supplier,”;

(b) where a supplier made a supply of a business or part of a business, for the period beginning on 1 October 1992 and ending on 31 December 1992, in circumstances described in section 75 of the said Act, as enacted by subsection 1 of section 404,

i. the supplier and the recipient of the supply are deemed to have made a joint election under the said section 75 in respect of the supply, and

ii. if, on or before the day referred to in section 75.1 of the said Act, as enacted by subsection 1, the supplier files with the Minister a notice in writing respecting the supply that contains substantially all of the information that must be contained in the prescribed form, filed under section 75 of the said Act as that section read before being replaced by subsection 1 of section 404, the supplier is deemed to have filed the election referred to in subparagraph i on or before that day.

(3) Subsection 1, where it enacts section 75.2 of the said Act, applies from 1 July 1992. However, for the period ending on 30 September 1992, section 75.2 of the said Act, as enacted by subsection 1, shall be read as follows:

Goodwill

“75.2 Where a supplier makes a supply of a business or part of a business that was established or carried on by the supplier in Québec or that was established or carried on by another person and acquired by the supplier, the recipient is acquiring ownership, possession or use of all or substantially all of the property that can reasonably be regarded as being necessary for the recipient to be capable of carrying

on the business or part as a business, and part of the consideration for the supply can reasonably be attributed to goodwill of the business or part,

(1) where the goodwill is primarily attributable to commercial activities of the supplier, that part of the consideration shall not be included in calculating the tax payable in respect of the supply, except to the extent that the goodwill is attributable to those commercial activities, and

(2) in any other case, that part of the consideration shall not be included in calculating the tax payable in respect of the supply.”

c. T-0.1,
s. 76, am.

406. (1) Section 76 of the said Act is amended by replacing paragraph 2 by the following paragraph:

“(2) for the purposes of sections 297.8 and 297.9, 350.36 and 350.37, 444 to 446 and 462 to 462.2, for the purpose of applying the provisions of this title in respect of property or a service acquired or brought into Québec by a merged or amalgamated corporation, and for prescribed purposes and provisions, the new corporation is deemed to be the same corporation as, and a continuation of, each merged or amalgamated corporation; and”.

(2) Subsection 1 applies from 1 July 1992. However, for the period from 1 July 1992 to 31 December 1992, the reference to sections “462 to 462.2” in paragraph 2 of section 76 of the said Act, as enacted by subsection 1, shall be read as a reference to sections “462 and 462.2”.

c. T-0.1,
s. 77, am.

407. (1) Section 77 of the said Act is amended by replacing paragraph 1 by the following paragraph:

“(1) for the purposes of sections 297.8 and 297.9, 350.36 and 350.37, 444 to 446 and 462 to 462.2, for the purpose of applying the provisions of this title in respect of property or a service acquired or brought into Québec by the other corporation as a consequence of the winding-up, and for prescribed purposes and provisions, the other corporation is deemed to be the same corporation as, and a continuation of, the particular corporation; and”.

(2) Subsection 1 applies from 1 July 1992. However, for the period from 1 July 1992 to 31 December 1992, the reference to sections “462 to 462.2” in paragraph 1 of section 77 of the said Act, as enacted by subsection 1, shall be read as a reference to sections “462 and 462.2”.

c. T-0.1,
s. 80, am.

408. (1) Section 80 of the said Act is amended by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) the personal representative and the other individual make a joint election for the purposes of this section.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 80.3, added

409. (1) The said Act is amended by inserting, after section 80.2, the following section:

Convention
supplies to a
person not
resident in
Québec

“80.3 Where a sponsor of a convention makes a taxable supply by way of lease, licence or similar arrangement to a person not resident in Québec of an immovable that is acquired by the person exclusively for use as a site for the promotion, at the convention, of a business of, or of property or services supplied by, the person, no tax is payable in respect of that supply to the person or in respect of any supply by the sponsor to the person of property or services that are acquired by the person for consumption or use as related convention supplies in respect of the convention.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 81, am.

410. (1) Section 81 of the said Act, amended by section 183 of chapter 19 of the statutes of 1993, is again amended

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

“(1) goods that are classified under heading No. 98.01, 98.02, 98.03, 98.04, 98.05, 98.06, 98.07, 98.10, 98.11, 98.12, 98.15, 98.16, 98.19 or 98.21 of Schedule I to the Customs Tariff (Statutes of Canada), to the extent that the goods are not subject to duty under that Act, but not including goods that are classified under tariff item No. 9804.30.00 of that Act and road vehicles, other than pleasure vehicles, classified under tariff item No. 98.01 of that Act in respect of which a registrant who acquired them could not claim an input tax refund by reason of section 206.1;”;

(2) by replacing paragraph 8 by the following paragraph:

“(8) goods, other than prescribed goods, that are sent to the recipient of the supply of the goods at an address in Québec by mail or courier, that are from outside Canada and the value of which is not more than \$20;”;

(3) by inserting, after paragraph 8, the following paragraph:

“(8.1) goods that are prescribed property for the purposes of section 24.1 and that are sent, by mail or courier, to the recipient of the supply of the goods at an address in Québec, where the supplier is registered under Division I of Chapter VIII at the time the goods are brought into Québec;”;

(4) by replacing paragraph 9 by the following paragraph:

“(9) prescribed goods brought into Québec in prescribed circumstances, under prescribed terms and conditions;”;

(5) by adding, after paragraph 9, the following paragraphs:

“(10) containers that, because of regulations made under paragraph c of Note 11 to Chapter 98 of Schedule I to the Customs Tariff (Statutes of Canada), may be imported in Canada free of customs duties;

“(11) money, certificates or other documents evidencing a right that is a financial instrument.”

(2) Subsection 1 applies from 1 July 1992. However, paragraph 8.1 of section 81 of the said Act, as enacted by subsection 1, applies only to goods brought into Québec after 31 December 1992.

c. T-0.1,
ss. 94-97,
replaced

411. (1) The said Act is amended by replacing sections 94 to 97 by the following sections:

Supply of a
residential
complex or
addition by
a person
other than
the builder

“94. A supply by way of sale of a residential complex or an interest therein made by a person who is not a builder of the complex or, where the complex is a multiple unit residential complex, an addition thereto is exempt, unless the person claimed an input tax refund in respect of the last acquisition by the person of the complex, or in respect of the acquisition or bringing into Québec by the person, after the complex was last acquired by the person, of an improvement to the complex.

Supply of a
residential
complex or
addition by
the builder

“95. A supply by way of sale of a residential complex or an interest therein made by an individual who is a builder of the complex or, where the complex is a multiple unit residential complex, an addition thereto is exempt, if

(1) at any time after the construction or substantial renovation of the complex or addition is substantially completed, the complex is used primarily as a place of residence of the individual, an individual related to the individual or a former spouse of the individual; and

(2) the complex is not used primarily for any other purpose after the construction or substantial renovation is substantially completed and before that time.

Application

The first paragraph does not apply if the individual claimed an input tax refund in respect of the last acquisition by the individual of the immovable included in the residential complex or in respect of the acquisition or bringing into Québec by the individual, after the immovable was last acquired by the individual, of an improvement to the immovable.

Supply of a single unit residential complex or residential unit held in co-ownership by the builder

“96. A supply by way of sale of a single unit residential complex (in this section referred to as the “complex”) or a residential unit held in co-ownership (in this section referred to as the “unit”) or an interest in the complex or unit made by a builder of the complex or unit is exempt where,

(1) in the case of a unit situated in a residential complex (in this section referred to as the “premises”) that was converted by the builder from use as a multiple unit residential complex to use as a complex held in co-ownership, the builder received an exempt supply of the premises by way of sale or was deemed under section 225 to have received a taxable supply of the premises by way of sale, and that supply was the last supply of the premises made by way of sale to the builder; or

(2) in any case, the builder received an exempt supply of the complex or unit by way of sale or was deemed under section 223 or 224 to have received a taxable supply of the complex or unit by way of sale, and that supply was the last supply of the complex or unit made by way of sale to the builder.

Application

The first paragraph does not apply if,

(1) after the complex, unit or premises were last acquired by the builder, the builder carried on, or engaged another person to carry on for the builder, the substantial renovation of the complex, unit or premises; or

(2) the builder claimed an input tax refund in respect of the last acquisition by the builder of the complex, unit or premises or in respect of the acquisition or bringing into Québec by the builder, after the complex, unit or premises were last acquired by the builder, of an improvement to the complex, unit or premises.

Supply of a multiple unit residential complex or addition by the builder

“97. A supply by way of sale of a multiple unit residential complex or an interest therein made by a person who is a builder of the complex or an addition thereto is exempt where

(1) in the case of a person who is a builder of the complex, the person received an exempt supply of the complex by way of sale, or was deemed under section 225 to have received a taxable supply of the complex by way of sale, and that supply was the last supply of the complex made by way of sale to the person; and

(2) in the case of a person who is a builder of an addition to the complex, the person received an exempt supply of the addition by way of sale, or was deemed under section 226 to have received a taxable supply of the addition by way of sale, and that supply was the last supply of the addition made by way of sale to the person.

Application

The first paragraph does not apply if,

(1) after the complex was last supplied to the person, the person carried on, or engaged another person to carry on for the person, the substantial renovation of the complex; or

(2) the person claimed an input tax refund in respect of the last acquisition by the person of the complex or an addition thereto or in respect of the acquisition or bringing into Québec by the person, after the complex was last acquired by the person, of an improvement to the complex, other than an input tax refund in respect of the construction of an addition to the complex.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 97.1-97.3,
added

412. (1) The said Act is amended by inserting, after section 97, the following sections:

Supply of a
building

“97.1 A supply by way of sale of a building, or that part of a building, in which one or more residential units are located, or an interest in such a building or part, is exempt where

(1) both immediately before and immediately after the earlier of the time ownership of the building, part or interest is transferred to the recipient of the supply (in this section referred to as the “purchaser”) and the time possession thereof is transferred to the purchaser under the agreement for the supply, the building or part forms part of a residential complex; and

(2) immediately after the earlier of the time ownership of the building, part or interest is transferred to the purchaser and the time possession thereof is transferred to the purchaser under the agreement for the supply, the purchaser is a recipient described in subparagraph *a* of subparagraph 1 of the first paragraph of section 100 of an exempt supply, described by subparagraph 1 of the first paragraph of that section, of the land included in the complex.

Supply of
land

“97.2 A supply by way of sale of land that forms part of a residential complex or an interest in such land is exempt where

(1) immediately before the earlier of the time ownership thereof is transferred to the recipient of the supply and the time possession thereof is transferred to the recipient of the supply under the agreement for the supply, the land is subject to a lease, licence or similar arrangement by which a supply that is an exempt supply described by subparagraph 1 of the first paragraph of section 100 was made; and

(2) if a supply by way of sale were made of the residential complex immediately before that earlier time, the supply would be an exempt supply described in any of sections 94 to 97.

Supply of a
residential
trailer park

“97.3 A supply of a residential trailer park or an interest therein made by a person is exempt where

(1) the person received an exempt supply, described by this section, of the park or was deemed under section 222.2, 243, 258 or 261 to have received a taxable supply of the land included in the park as a consequence of using the land for purposes of the park, and that supply was the last supply of the park made by way of sale to the person; and

(2) if the person increased the area of land included in the park (in this section referred to as the “additional area”), the person received an exempt supply, described by this section, of the additional area or was deemed under section 222.3, 243, 258 or 261 to have made a taxable supply of the additional area as a consequence of using the additional area for purposes of the park, and that supply was the last supply of the additional area made by way of sale to the person.

Application

The first paragraph does not apply if the person claimed an input tax refund in respect of the last acquisition by the person of the park or an additional area thereof or in respect of the acquisition or bringing into Québec by the person, after the park was last acquired by the person, of an improvement to the park, other than an input tax refund in respect of an improvement to an additional area that was acquired or brought into Québec by the person before the additional area was last acquired by the person.”

(2) Subsection 1 applies from 1 July 1992. However, section 97.1 of the said Act, as enacted by subsection 1, does not apply to supplies made under an agreement in writing entered into before 28 March 1991.

c. T-0.1,
ss. 98, 99,
replaced

413. (1) Sections 98 and 99 of the said Act are replaced by the following sections:

Supply of a
residential
complex or a
residential
unit by way
of lease

“98. A supply is exempt where the supply is

(1) of a residential complex or a residential unit in a residential complex by way of lease, licence or similar arrangement for the purpose of its occupation as a place of residence or lodging by an individual, where it is occupied by the same individual for a period of at least one month; or

(2) of a residential unit by way of lease, licence or similar arrangement for the purpose of its occupation as a place of residence or lodging by an individual, where the consideration for the supply does not exceed \$20 for each day of occupation.

Supply to a
lessee mak-
ing exempt
supplies

“99. A supply of property is exempt where the property is either land or a building, or that part of a building, that forms part of a residential complex, or a residential complex, and the supply is made by way of lease, licence or similar arrangement for a lease interval, within the meaning assigned by section 31.1, throughout which the lessee or any sub-lessee makes, or holds the property for the purpose of making, one or more supplies of the property or parts of the property and all or substantially all of those supplies are

(1) exempt supplies described by section 98 or 100; or

(2) supplies that are made, or are reasonably expected to be made, to other lessees or sub-lessees described in this section.”

(2) Subsection 1,

(a) where it enacts section 98 of the said Act, applies from 1 July 1992; and

(b) where it enacts section 99 of the said Act, applies from 1 January 1993.

c. T-0.1,
s. 99.1, added

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

Supply of
meals

“99.1 A supply of meals made by a person who is making a supply, described by paragraph 1 of section 98, of a residential complex or unit is exempt where the meals are provided, to the occupant of the complex or unit, in the complex or unit or in the residential complex in which the unit is located under an arrangement whereby at least ten meals per week are supplied for a single

consideration determined before any meal is provided under the arrangement.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 100, 101,
replaced

415. (1) Sections 100 and 101 of the said Act are replaced by the following sections:

Supply of
land or a
site in a resi-
dential
trailer park

“100. A supply is exempt where the supply is

(1) of land, other than a site in a residential trailer park, by way of lease, licence or similar arrangement for a period of at least one month, made to

(a) the owner, lessee or person in occupation or possession of a residential unit that is or is to be affixed to the land for the purpose of its use and enjoyment as a place of residence for individuals, or

(b) a person who is acquiring possession of the land for the purpose of constructing a residential complex on it in the course of a commercial activity;

(2) of a site in a residential trailer park by way of lease, licence or similar arrangement for a period of at least one month, made to the owner, lessee or person in occupation or possession of

(a) a mobile home situated or to be situated on the site, or

(b) a travel trailer, motor home or similar vehicle or trailer situated or to be situated on the site; or

(3) of a lease, licence or similar arrangement referred to in subparagraph 1 or 2 by way of assignment.

Application

The first paragraph does not apply to a supply of land on which the residential unit, mobile home, travel trailer, motor home or similar vehicle or trailer is or is to be affixed or situated, or any land contiguous to it, that is not reasonably necessary for the use and enjoyment of the unit, home, vehicle or trailer as a place of residence for individuals.

Supply of a
parking
space by
way of sale

“101. A supply by way of sale of a parking space in a complex held in co-ownership made by a supplier to a person is exempt where

(1) the supplier, at the same time or as part of the same supply, makes a supply, included in any of sections 94 to 96, that is made by way of sale to the person of a residential unit held in co-ownership in the complex held in co-ownership; and

(2) the space was, at any time, supplied to the supplier by way of sale and the supplier did not, after that time, claim an input tax refund in respect of the acquisition or bringing into Québec of an improvement to the space.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 101.1,
added

416. (1) The said Act is amended by inserting, after section 101, the following section:

Supply of a
parking
space by
way of
lease,
licence or
similar
arrangement

“101.1 A supply by way of lease, licence or similar arrangement of a parking space for a period of at least one month is exempt where the supply is

(1) made to a person (in this paragraph referred to as an “occupier”) who is a lessee or person in occupation or possession of a single unit residential complex, a residential unit in a multiple unit residential complex or a site in a residential trailer park where

(a) the space forms part of the residential complex or residential trailer park, as the case may be, or

(b) the supplier of the space is an owner or occupier of the single unit residential complex, residential unit or site, as the case may be, and the use of the space is incidental to the use and enjoyment of the complex, unit or site, as the case may be, as a place of residence for individuals;

(2) made to the owner, lessee or person in occupation or possession of a residential unit held in co-ownership in a complex held in co-ownership where the space forms part of the complex; or

(3) made by a supplier to the owner, lessee or person in occupation or possession of a floating home where the home is moored to mooring facilities or a wharf under an agreement with the supplier for a supply that is an exempt supply described in section 106.2 and the use of the space is incidental to the use and enjoyment of the home as a place of residence for individuals.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 102, am.

417. (1) Section 102 of the said Act is amended

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

Exempt sup-
ply – excep-
tion

“102. A supply of an immovable by way of sale made by an individual or a trust all the beneficiaries of which, other than

contingent beneficiaries, are individuals and all the contingent beneficiaries of which, if any, are individuals or charities, is exempt, except where the supply is”;

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

“(b) in the course of an adventure or concern in the nature of trade of the individual or trust, where the individual or trust has filed an election with and as prescribed by the Minister for that purpose in prescribed form containing prescribed information;”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 106.1,
106.2, added

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

Supply by a
cooperative
housing cor-
poration to a
person

“**106.1** A supply of property or a service made by a cooperative housing corporation to a person who, because the person is a shareholder of the corporation or a lessee or sub-lessee of a shareholder of the corporation, is entitled to occupy or use a residential unit in a residential complex administered or owned by the corporation, where the supply relates to the occupation or use of a residential unit in the complex, is exempt.

Supply of a
right to use
mooring
facilities or
a wharf

“**106.2** A supply, made to a person who is the owner, lessee or person in occupation or possession of a floating home, of a right to use mooring facilities or a wharf for a period of at least one month in connection with the use and enjoyment of the home as a place of residence for individuals, is exempt.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 107,
replaced

419. (1) Section 107 of the said Act is replaced by the following section:

Ss. 222.2,
222.3 and
223-231.1
deemed in
force at all
times

“**107.** For the purposes of sections 96, 97, 97.2 and 97.3, sections 222.2, 222.3 and 223 to 231.1 are deemed to have been in force at all times.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 108, am.

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

(1) by replacing paragraph 2 of the definition of “health care institution” by the following paragraph:

“(2) a facility, or part thereof, operated for the purpose of providing residents of the facility who have limited physical or mental capacity for self-supervision and self-care with

(a) nursing and personal care under the direction or supervision of qualified medical and nursing care staff or other personal and supervisory care, other than domestic services of an ordinary household nature, according to the individual requirements of the residents,

(b) assistance with the activities of daily living and social, recreational and other related services to meet the psycho-social needs of the residents, and

(c) meals and accommodation;”;

(2) by inserting, after the definition of “health care institution”, the following definition:

“homemaker
service”

“ “homemaker service” means a household or personal service, such as cleaning, laundering, meal preparation and child care, that is rendered to an individual who, due to age, infirmity or disability, requires assistance;”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 119.1,
added

421. (1) The said Act is amended by inserting, after section 119, the following section:

Homemaker
service

“119.1 A supply of a homemaker service that is rendered to an individual in the individual’s place of residence is exempt where the supply is made to any recipient by

(1) a government;

(2) a municipality; or

(3) a person who receives an amount in respect of the supply paid by a government, municipality or organization administering a provincial or municipal program in respect of homemaker services.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 120, am.

422. (1) Section 120 of the said Act is amended by replacing the definition of “regulatory body” by the following definition:

“regulatory
body”

“ “regulatory body” means a body constituted or empowered by an Act of the legislature of Québec to regulate the practice of a

profession or trade in Québec by setting standards of knowledge or proficiency for practitioners of a profession or trade;”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 125,
replaced

423. (1) Section 125 of the said Act is replaced by the following section:

Course lead-
ing to a pro-
fessional
accredita-
tion or title

“125. The following supplies, made by a professional association, public college, vocational school, government, regulatory body or university are exempt:

(1) a supply that consists in providing an individual with an educational service leading to, or for the purpose of maintaining or upgrading, a professional accreditation or professional title recognized by the regulatory body;

(2) a supply that consists in administering an examination or a supply of a certificate in respect of an educational service, a professional accreditation or a professional title referred to in subparagraph 1.

Exception -
election

This section does not apply if the supplier has made an election under this section in prescribed form containing prescribed information.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 126.1,
added

424. (1) The said Act is amended by inserting, after section 126, the following section:

Supply in
respect of a
course

“126.1 A supply of a service or membership the consideration for which is required to be paid by the recipient of a supply because the recipient receives the supply included in section 126 is exempt.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 127, 128,
replaced

425. (1) Section 127 and section 128, amended by section 72 of chapter 51 of the statutes of 1993 and by section 50 of chapter 16 of the statutes of 1994, of the said Act are replaced by the following sections:

Vocational
training

“127. A supply, other than a zero-rated supply, made by a school authority, vocational school, public college or university that consists in providing an individual with, or administering an examination in respect of, an educational service leading to a

certificate, diploma, permit or similar document, or a class or rating in respect of a licence or permit, that attests to the competence of an individual to practise a trade or vocation is exempt where

(1) the document, class or rating is prescribed by federal or provincial regulation;

(2) the supplier is governed by federal or provincial legislation respecting vocational schools; or

(3) the supplier is a non-profit organization or a charity.

“128. The following supplies to an individual are exempt:

(1) a supply of an educational service that consists in instructing the individual in a course that either follows a program of studies established or approved by the Minister of Education or is approved for credit by the Minister;

(2) a supply of an educational service that consists in instructing the individual in a course that is a prescribed equivalent of a course described in paragraph 1;

(3) a supply of an educational service that consists in instructing the individual in a prerequisite course the successful completion of which is mandatory for admittance into a course described in paragraph 1 or 2.”

(2) Subsection 1 applies from 1 July 1992. However,

(a) for the period from 1 July 1992 to 1 December 1993, the reference to the “Minister of Education and Science” in section 128 of the said Act, as enacted by subsection 1, shall be read as a reference to the “Minister of Education”;

(b) for the period from 2 December 1993 to 16 June 1994, the reference to the “Minister of Education” in section 128 of the said Act, as enacted by subsection 1, shall be read as a reference to the “Minister of Education and Science”.

426. (1) Section 129 of the said Act, amended by section 72 of chapter 51 of the statutes of 1993 and by section 50 of chapter 16 of the statutes of 1994, is repealed.

(2) Subsection 1 applies from 1 July 1992.

427. (1) Section 135 of the said Act is replaced by the following section:

Private and
prerequisite
courses

c. T-0.1,
s. 129,
repealed

c. T-0.1,
s. 135,
replaced

Public college or university courses not leading to a diploma

“135. A supply made by a school authority, public college or university of an educational service that consists in instructing individuals in, or administering an examination in respect of, a course is exempt where the service is part of a program that consists of two or more courses and is subject to the review of, and is approved by, the school authority, college or university.

Exception

This section does not apply to courses in sports, games, hobbies or other recreational pursuits that are designed to be taken primarily for recreational purposes.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 137,
replaced

428. (1) Section 137 of the said Act is replaced by the following section:

Personal care service

“137. A supply of a service of providing care and supervision and a place of residence for children or disabled or underprivileged individuals in an institution operated by the supplier for the purpose of providing such services is exempt.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 139, am.

429. (1) Section 139 of the said Act is amended

(1) by inserting, before the definition of “direct cost”, the following definition:

“designated activity”

“ “designated activity” of an organization means an activity in respect of which the organization is designated to be a municipality for the purposes of section 165 or 166 or sections 383 to 397;”;

(2) by inserting, in alphabetical order, the following definitions:

“designated body of the Government of Québec”

“ “designated body of the Government of Québec” means a body that is established by the Government of Québec and designated to be a municipality for the purposes of sections 383 to 397;

“local municipality”

“ “local municipality” of a regional municipality means a municipality that has jurisdiction over an area that forms part of the territory of the regional municipality;

“municipal body”

“ “municipal body” means a municipality or a designated body of the Government of Québec;

“para-municipal organization”

“ “para-municipal organization” of a municipal body means an organization, other than a government, of the municipal body and that

(1) where the municipal body is a municipality,

(a) is designated to be a municipality for the purposes of section 165 or 166 or sections 383 to 397, or

(b) is established by the municipal body and is a municipality by reason of paragraph 2 of the definition of “municipality” in section 1; or

(2) where the municipal body is a designated body of the Government of Québec, is a municipality by reason of paragraph 2 of the definition of “municipality” in section 1;

“regional municipality”

“regional municipality” means a municipality that has general jurisdiction over the territory of more than one local municipality within the meaning of the Act respecting municipal territorial organization (R.S.Q., chapter O-9);”;

(3) by striking out the definition of “homemaker service”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 140.1,
added

430. (1) The said Act is amended by inserting, after section 140, the following section:

Para-municipal organization

“140.1 For the purposes of the definition of “para-municipal organization” in section 139, such an organization is the organization of a municipal body if

(1) all or substantially all of the shares of the organization are owned by the municipal body or all or substantially all of the assets held by the organization are owned by the municipal body or are assets the disposition of which is controlled by the municipal body so that, in the event of a winding-up of the organization, those assets are vested in the municipal body; or

(2) the organization is required to submit to the municipal body the periodic operating and, where applicable, capital budget of the organization for approval and a majority of the members of the governing body of the organization are appointed by the municipal body.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 141, am.

431. (1) Section 141 of the said Act, amended by section 185 of chapter 19 of the statutes of 1993, is again amended

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

“(1) property or a service provided for in Chapter IV;”;

(2) by replacing that part of paragraph 8 preceding subparagraph *a* thereof by the following:

“(8) a membership where the membership”;

(3) by replacing paragraph 13 by the following paragraph:

“(13) an admission in respect of

(a) a place of amusement,

(b) a seminar, conference or similar event where the supply is made by a public college or a university; or

(c) any fund-raising event.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 143, am.

432. (1) Section 143 of the said Act is amended by replacing paragraph 2 by the following paragraph:

“(2) a supply of an admission in respect of a place of amusement at which the principal activity is the placing of bets or the playing of games of chance;”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 146, am.

433. (1) Section 146 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**146.** A supply made by a charity or non-profit organization of a right, other than an admission, to play or participate in a game of chance is exempt.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 148,
replaced

434. (1) Section 148 of the said Act is replaced by the following section:

Supply
made in the
course of a
business –
symbolic
consideration

“**148.** The following supplies made by a public service body are exempt where the value of the consideration for the supply paid or payable by the recipient is equal to the usual charge by the body for such supplies to such recipients and does not, or could not reasonably be expected to, exceed the direct cost of the supply:

(1) a supply of a service where the supply is made in the course of a business of making supplies of the service;

(2) a supply of corporeal movable property, other than capital property of the body, made by way of sale; or

(3) a supply of corporeal movable property made by way of lease, licence or similar arrangement under an agreement in writing entered into before 28 March 1991.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 158,
repealed

435. (1) Section 158 of the said Act is repealed.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 159, am.

436. (1) Section 159 of the said Act is amended by replacing the second paragraph by the following paragraph:

Exception –
election

“This section does not apply where the body has made an election under this section in prescribed form containing prescribed information.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 160, am.

437. (1) Section 160 of the said Act is amended by replacing the second paragraph by the following paragraph:

Exception –
election

“This section does not apply where the supplier has made an election under this section in prescribed form containing prescribed information.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 162, am.

438. (1) Section 162 of the said Act is amended

(1) by inserting, after paragraph 2, the following paragraph:

“(2.1) a service of filing of a document under an Act;”;

(2) by replacing paragraph 3 by the following paragraph:

“(3) a quota, licence, permit or similar right, other than such a right supplied in respect of the bringing of alcoholic beverages into Québec and any service in respect of an application for such a right;”;

(3) by replacing paragraph 6 by the following paragraph:

“(6) a service of providing information under the Access to Information Act (Revised Statutes of Canada, 1985, chapter A-1), the

Privacy Act (Statutes of Canada) or the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1);”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 163, am.

439. (1) Section 163 of the said Act is amended by replacing paragraph 2 by the following paragraph:

“(2) a supply of a right to take or remove forestry products, products that grow in water, fishery products, minerals or peat, where the supply is made to

(a) a consumer; or

(b) a person who is not a registrant and who acquires the right in the course of a business of the person of making supplies of the products, minerals or peat to consumers;”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 165, 166,
replaced

440. (1) Sections 165 and 166 of the said Act are replaced by the following sections:

Water distribution, sewerage or drainage system

“165. A supply of a service, made by a municipality or by an organization that operates a water distribution, sewerage or drainage system and that is designated by the Minister to be a municipality for the purposes of this section, of installing, repairing or maintaining a water distribution, sewerage or drainage system that is for the use of all occupants and owners of immovables situated in a particular geographic area, is exempt.

Exception

This section does not apply to a supply of a service, for which a separate charge is made to the recipient, of repairing or maintaining any part of the system referred to in the first paragraph where the recipient is the occupant or owner of a particular parcel of an immovable situated in the particular geographic area and the part of the system is for the exclusive use of occupants and owners of the particular parcel.

Supply of unbottled water

“166. A supply of unbottled water, including the service of delivering the water, when made by a person other than a government or by a government designated by the Minister to be a municipality for the purposes of this section is exempt.

Exception

This section does not apply to a supply of unbottled water that is a zero-rated supply or a supply of water dispensed in single servings

to consumers through a vending machine or at a permanent establishment of the supplier.”

(2) Subsection 1 applies from 1 July 1992. However, for the period ending on 30 September 1992, the first paragraph of section 165 of the said Act, as enacted by subsection 1, shall be read as follows:

Water distribution, sewerage or drainage system

“165. A supply of a service, made by a municipality or by an organization designated by the Minister to be a municipality for the purposes of this section, of installing, repairing or maintaining a water distribution, sewerage or drainage system that is for the use of all occupants and owners of immovables situated in a particular geographic area, is exempt.”

Furthermore, where an organization was designated by the Minister to be a municipality for the purposes of section 165 of the said Act before 17 June 1994 and the designation is not revoked on that date, the organization is deemed to have been designated for the purposes of section 166, as enacted by subsection 1.

c. T-0.1,
s. 168, am.

441. (1) Section 168 of the said Act is amended

(1) by replacing paragraph 3 by the following paragraph:

“(3) an immovable where the supply is made by way of sale to an individual or to a trust all the beneficiaries of which, other than contingent beneficiaries, are individuals and all the contingent beneficiaries of which, if any, are individuals or charities, other than a supply of an immovable on which is situated a structure that was used by the body either as an office or in the course of commercial activities or of making exempt supplies;”;

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

“(6) an immovable, other than short-term accommodation, where the supply is made by way of lease, where the term of the lease is less than a month, or a licence, where the supply is made in the course of a business carried on by the body;”.

(2) Subsection 1 applies

(a) as regards paragraph 1 thereof, from 1 July 1992, except in respect of supplies of immovables made under an agreement in writing entered into before 28 March 1991;

(b) as regards paragraph 2 thereof, in respect of supplies made under an agreement entered into after 14 September 1992.

c. T-0.1,
ss. 169.1,
169.2, added

442. (1) The said Act is amended by inserting, after section 169, the following sections:

Poppy or
wreath

“169.1 A supply of a poppy or wreath made by the Minister of Veterans Affairs in the course of operating a sheltered employment workshop, by the Dominion Command, or by any provincial command or branch of the Royal Canadian Legion, is exempt.

Supply
between
municipal
organizations

“169.2 A supply between the following persons is exempt:

- (1) a municipal body and any of its para-municipal organizations;
- (2) a para-municipal organization of a municipal body and any other para-municipal organization of the municipal body;
- (3) a regional municipality and any of its local municipalities or any para-municipal organization of any of those local municipalities;
- (4) a para-municipal organization of a regional municipality and any local municipality of the regional municipality or any para-municipal organization of the local municipality; or
- (5) a regional municipality or any of its para-municipal organizations and any other organization, other than a government, the designated activities of which include the provision of water or municipal services within a territory over which the regional municipality has jurisdiction.

Exception

This section does not apply to any supply made or received by the following persons otherwise than in the course of their designated activities:

- (1) a designated body of the Government of Québec;
 - (2) a para-municipal organization designated as a municipality under section 165 or 166 or under sections 383 to 397;
 - (3) another organization referred to in subparagraph 5 of the first paragraph.”
- (2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 170,
replaced

443. (1) Section 170 of the said Act is replaced by the following section:

Ferrying by
watercraft

“170. A supply, other than a zero-rated supply, of a service of ferrying by watercraft passengers or property where the principal

purpose of the ferrying is to transport motor vehicles and passengers between parts of a road or highway system that are separated by a stretch of water is exempt.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 172.1,
added

444. (1) The said Act is amended by inserting, after section 172, the following:

“DIVISION IX

“FEES PAID TO A GOVERNMENT

Fees paid to
a govern-
ment

“172.1 Where a government or municipality or a board, commission or other body established by a government or municipality collects from the holder of or applicant for a right the supply of which is referred to in paragraph 3 of section 162 an amount that is levied for the purpose of recovering the costs of administration of a regulatory program relating to the right and the holder’s or the applicant’s failure to pay the amount would result in a loss of, a restriction in the exercise of, a change in the person’s entitlements under, or a denial of, the right,

(1) the government, municipality, board, commission or other similar body is deemed to have made an exempt supply to the person; and

(2) the amount is deemed to be consideration for that supply.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
Title I,
Chap. IV,
Division I,
heading,
replaced

445. (1) The heading of Division I of Chapter IV of Title I of the said Act is replaced by the following heading:

“DRUGS AND BIOLOGICALS”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 174, am.

446. (1) Section 174 of the said Act is amended

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

“(a) a drug described in Schedules C and D to the Food and Drugs Act (Revised Statutes of Canada, 1985, chapter F-27);”;

(2) by adding, after subparagraph *e* of paragraph 1, the following subparagraph:

“(f) a drug the supply of which is authorized under the Food and Drug Regulations made under the Food and Drugs Act for use in an emergency treatment;”;

(3) by adding, after paragraph 3, the following paragraph:

“(4) a supply of human sperm.”

(2) Subsection 1 applies from 1 July 1992. However, subparagraph *f* of paragraph 1 of section 174, as enacted by subsection 1, applies only to drugs brought into Québec after 30 September 1992 and to supplies of drugs delivered to the recipient after 30 September 1992.

c. T-0.1,
s. 176, am.

447. (1) Section 176 of the said Act is amended

(1) by inserting, after paragraph 4, the following paragraph:

“(4.1) a supply of an aerosol chamber or a metered dose inhaler for use in the treatment of asthma when the supply is made to a consumer on the written order of a physician;”;

(2) by inserting, after paragraph 20, the following paragraphs:

“(20.1) a supply of an extremity pump, intermittent pressure pump or similar device for use in the treatment of lymphedema when the supply is made to a consumer on the written order of a physician;

“(20.2) a supply of a catheter for sub-cutaneous injections or a lancet when the supply is made to a consumer on the written order of a physician;”;

(3) by inserting, after paragraph 22, the following paragraph:

“(22.1) a supply of an orthotic device when the supply is made to a consumer on the written order of a physician;”;

(4) by inserting, after paragraph 32, the following paragraph:

“(32.1) a supply of

(a) a dog that is or is to be trained to assist a person with a hearing impairment in respect of problems arising from the impairment, or

(b) a service of training the person with a hearing impairment to use such a dog,

where the supply is made to or by an organization that is operated for the purpose of supplying such dogs to persons with a hearing impairment;”;

(5) by replacing paragraph 33 by the following paragraph:

“(33) a supply of a service, other than a service the supply of which is provided for in Division II of Chapter III or a service related to the provision of a surgical or dental service that is performed for cosmetic purposes and not for medical or reconstructive purposes, of maintaining, installing, modifying, repairing or restoring a property described in any of paragraphs 1 to 31, or any part for such a property where the part is supplied in conjunction with the service;”;

(6) by adding, after paragraph 33, the following paragraphs:

“(34) a supply of a graduated compression stocking, an anti-embolic stocking or similar article when the supply is made to a consumer on the written order of a physician;

“(35) a supply of clothing that is specially designed for use by a disabled person when the supply is made to a consumer on the written order of a physician.”

(2) Subsection 1 applies from 1 July 1992, except paragraph 5 thereof, which applies only in respect of supplies made after 14 September 1992.

c. T-0.1,
s. 177, am.

448. (1) Section 177 of the said Act is amended

(1) by replacing paragraph 15 by the following paragraph:

“(15) pudding, including flavoured gelatine, mousse, flavoured whipped dessert product or any other products similar to pudding, or beverages, other than unflavoured milk, except

(a) when prepared and prepackaged specially for consumption by babies,

(b) when sold in multiples, prepackaged by the manufacturer or producer, of single servings, or

(c) when the cans, bottles or other primary containers in which the beverages or products are sold contain a quantity exceeding a single serving;”;

(2) by adding the following paragraph:

“(19) unbottled water, other than ice.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 177.1,
added

449. (1) The said Act is amended by inserting, after section 177, the following section:

Unbottled
water

“177.1 A supply of unbottled water for human consumption made to a consumer, when the water is dispensed in a quantity exceeding a single serving through a vending machine or at a permanent establishment of the supplier, is a zero-rated supply.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 178, am.

450. (1) Section 178 of the said Act is amended

(1) by inserting, after paragraph 2, the following paragraph:

“(2.1) a supply of feed, made by the operator of a feedlot, that is deemed to be a separate supply under paragraph 1 of section 39.2;”;

(2) by replacing paragraph 5 by the following paragraph:

“(5) a supply of fertilizer made at any time to a recipient when the fertilizer is supplied in bulk, or in a container that contains at least 25 kg of fertilizer, where the total quantity of fertilizer supplied at that time to the recipient is at least 500 kg;”.

(2) Subsection 1 applies from 1 July 1992. However, in applying paragraph 5 of section 178 of the said Act, as enacted by subsection 1, to supplies of fertilizer delivered before 1 October 1992, it shall be read as follows:

“(5) a supply of fertilizer made at any time to a recipient when the fertilizer is supplied in bulk, or in a bag that contains at least 25 kg of fertilizer, where the total quantity of fertilizer supplied at that time to the recipient is at least 500 kg;”.

c. T-0.1,
s. 179, am.

451. (1) Section 179 of the said Act is amended

(1) by replacing paragraph 4 by the following paragraph:

“(4) the person maintains evidence satisfactory to the Minister of the shipment of the property outside Québec by the recipient.”;

(2) by striking out paragraph 5.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 180.1,
added

452. (1) The said Act is amended by inserting, after section 180, the following section:

Supply of
fuel to a reg-
istered car-
rier

“180.1 A supply of fuel is a zero-rated supply when it is made to a person who is registered under Division I of Chapter VIII at the time the supply is made, where

(1) the person carries on the business of transporting property or passengers to or from Québec by aircraft, railway or ship; and

(2) the fuel is acquired by the person for use in the course of so transporting property or passengers.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 185,
replaced

453. (1) Section 185 of the said Act is replaced by the following section:

Supply to a
person not
resident in
Québec

“185. A supply of a service made to a person not resident in Québec, other than an individual, or to an individual not resident in Québec who is outside Québec at all times when the individual has contact with the supplier in relation to the supply, is a zero-rated supply, except a supply of

(1) a service that is primarily for consumption, use or enjoyment in Québec;

(2) an advisory, consulting or professional service;

(3) a postal service;

(4) a service in respect of an immovable situated in Québec;

(5) a service in respect of corporeal movable property that is situated in Québec at the time the service is performed;

(6) a service of acting as a mandatary of the person not resident in Québec or the individual; or

(7) a transportation service.”

(2) Subsection 1 applies in respect of supplies of services the performance of which begins after 9 June 1993.

c. T-0.1,
s. 191,
replaced

454. (1) Section 191 of the said Act is replaced by the following section:

Supply of
movable
property or
a service
pursuant to
a warranty

“191. A supply made to a person not resident in Québec who is not registered under Division I of Chapter VIII of corporeal movable property or of a service performed in respect of corporeal movable property is a zero-rated supply where the property or service

is acquired by the person for the purpose of fulfilling an obligation of the person under a warranty.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 191.1-
191.11, added

455. (1) The said Act is amended by inserting, after section 191, the following sections:

Definitions

“191.1 For the purposes of section 191.2,

“die”

“die” means a solid or hollow form used for shaping materials by stamping, pressing, extruding, drawing or threading;

“fixture”

“fixture” means a device for holding goods in process while working tools are in operation that does not contain any special arrangement for guiding the working tools;

“jig”

“jig” means a device used in the accurate machining of goods in process by holding the goods firmly and guiding tools exactly to position;

“mould”

“mould” means a hollow form, matrix or cavity into which materials are placed to produce goods of desired shapes;

“tool”

“tool” means a device for use in, or attachment to, production machinery that is for the assembling of materials or the working of materials by turning, milling, grinding, polishing, drilling, punching, boring, shaping, shearing, pressing or planing.

Supply of a
fixture, jig,
die, mould
and tool

“191.2 A supply of property that is a fixture, jig, die, mould or tool, or an interest therein, made to a person not resident in Québec who is not registered under Division I of Chapter VIII at the time the supply is made is a zero-rated supply where the property is to be used directly in the manufacture or production of corporeal movable property for the person.

Supply of
natural gas

“191.3 A supply of natural gas made by a person to a recipient who intends to transmit the gas outside Québec through a pipeline is a zero-rated supply where

(1) the recipient transmits the gas outside Québec as soon after it is delivered by the person to the recipient as is reasonable having regard to the circumstances surrounding the transmission outside Québec and, where applicable, to the normal business practice of the recipient;

(2) the gas is not acquired by the recipient for consumption, use or supply in Québec, except to the extent that it is used by a carrier

as fuel or compressor gas to transport the gas by pipeline, before the transmission of the gas outside Québec by the recipient;

(3) after the supply is made and before the recipient transmits the gas outside Québec, the gas is not further processed, transformed or altered in Québec except to the extent reasonably necessary or incidental to its transportation; and

(4) the person maintains evidence satisfactory to the Minister of the transmission of the gas outside Québec by the recipient.

Supply in
respect of
securities of
a person not
resident in
Québec
Vocational
training

“191.4 A supply made to a person not resident in Québec of a custodial or nominee service in respect of securities of the person is a zero-rated supply.

“191.5 A supply made to a person not resident in Québec, other than an individual, who is not registered under Division I of Chapter VIII that consists in providing an individual not resident in Québec with, or in administering an examination in respect of, an educational service leading to a certificate, diploma, permit or similar document, or a class or rating in respect of a licence, that attests to the competence of the individual to whom the service is rendered or the examination is administered to practise a trade or vocation, is a zero-rated supply.

Service of
destroying
or discard-
ing property

“191.6 A supply made to a person not resident in Québec who is not registered under Division I of Chapter VIII of a service of destroying or discarding corporeal movable property is a zero-rated supply.

Service of
dismantling
property

“191.7 A supply made to a person not resident in Québec who is not registered under Division I of Chapter VIII of a service of dismantling property for the purpose of shipping the property outside Québec is a zero-rated supply.

Service of
testing or
inspecting
property

“191.8 A supply made to a person not resident in Québec who is not registered under Division I of Chapter VIII of a service of testing or inspecting corporeal movable property that is acquired in or brought into Québec for the sole purpose of having the service performed and that is to be destroyed or discarded in the course of providing, or on completion of, the service, is a zero-rated supply.

Postal or
telecommuni-
cation ser-
vice

“191.9 A supply of a service in respect of a postal or telecommunication service is a zero-rated supply where the supply is made by a registrant who carries on the business of supplying postal or telecommunication services to a person not resident in Québec who is not a registrant and who carries on such a business.

Consulting
or profes-
sional ser-
vice

“191.10 A supply of an advisory, consulting or professional service made to a person not resident in Québec is a zero-rated supply, except a supply of

(1) a service rendered to an individual in connection with criminal, civil or administrative litigation in Québec, other than a service rendered before the commencement of such litigation;

(2) a service in respect of an immovable situated in Québec;

(3) a service in respect of corporeal movable property that is situated in Québec at the time the service is performed; or

(4) a service of acting as a mandatary of the person.

Mobile and
floating
homes

“191.11 For the purposes of this division, a floating home and a mobile home that is not affixed to land are each deemed to be corporeal movable property and not immovable property.”

(2) Subsection 1 applies from 1 July 1992. However, sections 191.9 and 191.10, as enacted by subsection 1, have effect in respect of supplies of services the performance of which begins after 9 June 1993.

c. T-0.1,
s. 193, am.

456. (1) Section 193 of the said Act is amended by striking out the definition of “carrier”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 197, am.

457. (1) Section 197 of the said Act is amended

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

“(1) a supply of a freight transportation service in respect of the transportation of corporeal movable property from a place in Québec to a place outside Québec where the value of the consideration for the supply is \$5.00 or more, without reference to tax paid or payable under Part IX of the Excise Tax Act (Statutes of Canada);”;

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

“(c) the value of the consideration for the supply is \$5.00 or more, without reference to tax paid or payable under Part IX of the Excise Tax Act (Statutes of Canada);”;

(3) by striking out paragraph 3;

(4) by adding, after paragraph 8, the following paragraphs:

“(9) a supply by a licensee under paragraph *a* of subsection 1 of section 24 of the Customs Act (Statutes of Canada) of a service of warehousing goods imported into Canada at a sufferance warehouse operated by the licensee, where the purpose of the service is to enable examination of the goods before their release, within the meaning of the said Act;

“(10) a supply of a service of ferrying by watercraft passengers or property to or from a place outside Québec, where the principal purpose of the ferrying is to transport motor vehicles and passengers between parts of a road or highway system that are separated by a stretch of water.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 198, am.

458. (1) Section 198 of the said Act is amended by adding the following paragraph:

“(3) a supply of an admission to a convention, other than an admission to a foreign convention, made by a sponsor of the convention to a person not resident in Québec.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 199,
replaced

459. (1) Section 199 of the said Act is replaced by the following section:

General rule

“199. Where property or a service is supplied to or brought into Québec by a person, the input tax refund of the person in respect of the property or service for a reporting period of the person during which the person is a registrant, and during which tax in respect of the supply or bringing into Québec of the property or service becomes payable by the person or is paid by the person without having become payable, is the amount determined by the formula

$$A \times B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the total of all tax in respect of the supply or bringing into Québec of the property or service that becomes payable by the person during the reporting period or that is paid by the person during the period without having become payable; and

(2) B is

(a) where the tax is deemed under section 252 to have been paid in respect of the property on the last day of a taxation year of the

person, the extent, expressed as a percentage of the total use of the property in the course of commercial activities and businesses of the person during that taxation year, to which the person used the property in the course of commercial activities of the person during that taxation year;

(b) where the property or service is acquired or brought into Québec by the person for use in improving capital property of the person, the extent, expressed as a percentage, to which the person was using the capital property in the course of commercial activities of the person immediately after the capital property or a portion thereof was last acquired or brought into Québec by the person; and

(c) in any other case, the extent, expressed as a percentage, to which the person acquired or brought into Québec the property or service for consumption, use or supply in the course of commercial activities of the person.”

(2) Subsection 1 applies from 1 July 1992. However, where it applies to property in respect of which tax is deemed, under section 252 of the said Act, to have been paid during a taxation year ending before 1 October 1992, subparagraph *a* of subparagraph 2 of the second paragraph of section 199 of the said Act, as enacted by subsection 1, shall be read as follows:

“(a) where the tax is deemed under section 252 to have been paid in respect of the property on the last day of a taxation year of the person, the percentage that the intended use of the property in the course of commercial activities and businesses of the person is of the intended use of the property in the course of commercial activities of the person;”.

c. T-0.1,
ss. 199.1-
199.4, added

460. (1) The said Act is amended by inserting, after section 199, the following sections:

Determining
a refund for
improvement

“**199.1** Where a person acquires or brings into Québec property or a service partly for use in improving capital property of the person and partly for another purpose, for the purpose of determining an input tax refund of the person in respect of the property or service,

(1) the provision of that part of the property or service that is acquired or brought into Québec for use in improving the capital property and the provision of the remaining part of the property or service are each deemed to be a separate supply that is not incidental to the other;

(2) the tax payable in respect of the supply of that part of the property or service that is acquired or brought into Québec for use

in improving the capital property is deemed to be equal to the amount determined by the formula

$$A \times B$$

where

(a) A is the tax payable (in this section referred to as the “total tax payable”) by the person in respect of the supply or bringing into Québec of the property or service, determined without reference to this section; and

(b) B is the extent, expressed as a percentage, to which the total consideration paid or payable by the person for the supply in Québec of the property or service or the value of the property brought into Québec is or would be, if the person were a taxpayer within the meaning of the Taxation Act (R.S.Q., chapter I-3), included in determining the adjusted cost base to the person of the capital property for the purposes of that Act; and

(3) the tax payable in respect of that part of the property or service that is not for use in improving the capital property is deemed to be equal to the difference between the total tax payable and the amount determined under paragraph 2.

Determining
a refund for
leased prop-
erty

“199.2 Where property is supplied by way of lease, licence or similar arrangement to a person for consideration that includes two or more periodic payments that are attributable to successive parts (each of which is referred to in this section as a “lease interval”) of the period for which possession or use of the property is provided under the arrangement and tax in respect of the supply, calculated on a particular periodic payment, at any time becomes payable by the person or is paid by the person without having become payable, for the purpose of determining an input tax refund of the person in respect of the property,

(1) the person is deemed to have received, at that time, a separate supply of the property for the lease interval to which the particular periodic payment is attributable; and

(2) the tax calculated on the particular periodic payment is deemed to be tax payable in respect of the separate supply.

Determining
a refund for
ongoing ser-
vices

“199.3 Where a service is supplied to a person for consideration that includes two or more payments that are attributable to different parts (each of which is referred to in this section as a “billing period”) of the period during which the service is or is to be rendered under

the agreement for the supply and tax in respect of the supply, calculated on a particular payment, at any time becomes payable by the person or is paid by the person without having become payable, for the purpose of determining an input tax refund of the person in respect of the service,

(1) the person is deemed to have received, at that time, a separate supply of the service rendered or to be rendered during the billing period to which the particular periodic payment is attributable; and

(2) the tax calculated on the particular payment is deemed to be tax payable in respect of the separate supply.

Time tax is
payable

“199.4 For the purposes of sections 199 to 199.3, where an invoice for an amount is issued to a person in respect of a taxable supply made in Québec to the person, except where the second paragraph of section 83 applies to the supply, tax under section 16 calculated on that amount is deemed to have become payable on the date of the invoice.”

(2) Subsection 1 applies from 1 July 1992. However,

(a) section 199.1 of the said Act, as enacted by subsection 1, applies only to property or services acquired or brought into Québec after 30 September 1992 by a person partly for use in improving capital property of the person; and

(b) in applying section 199.4 of the said Act, as enacted by subsection 1, to invoices dated before 1 October 1992, it shall be read without reference to the words “except where the second paragraph of section 83 applies to the supply,”.

c. T-0.1,
s. 199.4,
repealed

461. (1) Section 199.4 of the said Act, as enacted by subsection 1 of section 460, is repealed.

(2) Subsection 1 applies from 1 January 1993.

c. T-0.1,
s. 200,
repealed

462. (1) Section 200 of the said Act is repealed.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 201, am.

463. (1) Section 201 of the said Act is amended

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

Required
documenta-
tion

“201. A registrant may not claim an input tax refund for a reporting period unless, before filing the return in which the refund is claimed,”;

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

“(2) where the input tax refund is in respect of an immovable supplied by way of sale to the registrant in circumstances in which section 423 applies, the registrant filed the return required to be filed under section 438.”

(2) Subsection 1 applies from 30 September 1992.

c. T-0.1,
s. 202, am.

464. (1) Section 202 of the said Act is amended by replacing that part preceding paragraph 2 by the following:

Exemption

“202. Where the Minister is satisfied that there are or will be sufficient records available to establish the particulars of any supply or bringing into Québec or of any supply or bringing into Québec of a specific class and the tax paid or payable in respect of the supply or bringing into Québec, the Minister may

(1) exempt a specified registrant, a specified class of registrants or registrants generally from any of the requirements of section 201 in respect of that supply or bringing into Québec or a supply or bringing into Québec of that class; and”.

(2) Subsection 1 applies from 30 September 1992.

c. T-0.1,
s. 203, am.

465. (1) Section 203 of the said Act is amended by replacing paragraph 1 by the following paragraph:

“(1) a supply of a membership, or a right to acquire a membership, in a club the main purpose of which is to provide recreational, sporting or dining facilities, except where the registrant acquires the membership or right, as the case may be, exclusively for supply in the course of a business of the registrant of supplying such memberships or rights;”.

(2) Subsection 1 applies from 1 July 1992. However, paragraph 1 of section 203 of the said Act, as enacted by subsection 1, does not apply to a supply of a right to acquire a membership where the right is acquired before 1 October 1992.

c. T-0.1,
s. 206.3.1,
added

466. (1) The said Act is amended by inserting, after section 206.3, the following section:

Convention
supplies

“206.3.1 Section 206.1 does not apply in respect of the following property and services that are acquired by the organizer or sponsor of a convention as related convention supplies:

(1) electricity;

(2) a telephone service;

(3) a telecommunication service or any telecommunication in respect of which the tax prescribed by the Telecommunications Tax Act (R.S.Q., chapter T-4) would apply but for section 14 of that Act.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 206.6,
added

467. (1) The said Act is amended by inserting, after section 206.5, the following section:

Exception

“206.6 Notwithstanding section 206.1, the tax payable by a registrant in respect of a supply made by the holder of a taxi permit which consists in entrusting the operation and custody of a taxi to the registrant may be included in determining the input tax refund of the registrant.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 207,
replaced

468. (1) Section 207 of the said Act is replaced by the following section:

Small sup-
plier becom-
ing a regis-
trant – prop-
erty

“207. Where at any time a person becomes a registrant and immediately before that time the person was a small supplier, for the purpose of determining an input tax refund of the person, the following rules apply:

(1) the person is deemed to have received, at that time, a supply by way of sale of each property of the person that immediately before that time was held for consumption or use in the course of commercial activities of the person; and

(2) the person is deemed to have paid, at that time, tax in respect of the supply equal to the amount determined by the formula

$$A \times B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the lesser of

(a) the total of the tax that, before that time, became payable or was paid by the person in respect of the last acquisition or bringing into Québec of the property by the person and the tax that, before that time, became payable or was paid by the person in respect of an improvement to the property acquired or brought into Québec by the person after the property was last so acquired or brought into Québec, and

(b) tax calculated on the fair market value of the property at that time; and

(2) B is

(a) where the person was entitled to claim a rebate under sections 383 to 397 in respect of any tax included in the total referred to in subparagraph *a* of subparagraph 1, the difference between 100 % and the percentage prescribed for the purposes of section 386 or 386.1 that applied in determining the amount of that rebate, and

(b) in any other case, 100 %.”

(2) Subsection 1 applies from 1 October 1992.

c. T-0.1,
s. 209, am.

469. (1) Section 209 of the said Act, amended by section 188 of chapter 19 of the statutes of 1993, is again amended by replacing the first paragraph by the following paragraph:

Person ceas-
ing to be a
registrant –
property

“209. Where a person ceases at any time to be a registrant, the following rules apply:

(1) the person is deemed

(a) to have made, immediately before that time, a supply of each property of the person, other than capital property, that immediately before that time was held by the person for consumption, use or supply in the course of commercial activities of the person and to have collected, immediately before that time, tax in respect of the supply, except where the supply is a non-taxable supply, calculated on the fair market value of the property at that time, and

(b) to have received, at that time, a supply of the property by way of sale and to have paid, at that time, tax in respect of the supply, except where the supply is a non-taxable supply, equal to the amount determined under subparagraph *a*; and

(2) where the person was, immediately before that time, using capital property of the person in commercial activities of the person,

the person is deemed to have, immediately before that time, ceased using the property in commercial activities.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 210.1-
210.5, added

470. (1) The said Act is amended by inserting, after section 210, the following:

Application
of ss. 207 to
210

“210.1 Sections 207 to 210 do not apply where sections 210.2 to 210.4 apply.

Application
of s. 209

Section 209 does not apply to property held by a person immediately before the person ceases to be a registrant where section 297.2 applied to that property at an earlier time.

“1.1—Taxi Business

Small sup-
plier

“210.2 Where at any time a person who is a small supplier is engaged in a taxi business and other commercial activities in Québec, other than the supply by way of sale of an immovable, and the registration of the person does not apply to those other activities, the following rules apply:

(1) the person is deemed not to be a registrant at that time except in respect of the taxi business and anything done by the person in the course of that business or in connection with it; and

(2) for the purposes of sections 199 to 202 and subdivision 5, the other activities of the person are deemed not to be commercial activities of the person at that time.

Becoming a
registrant
for other
activities

“210.3 Where at any time a person is engaged in a taxi business and other commercial activities in Québec, other than the supply by way of sale of an immovable, and the person’s registration begins, at that time, to apply to those other activities, the following rules apply:

(1) for the purpose of determining an input tax refund of the person, the person is deemed to have received, at that time, a supply by way of sale of each property of the person, other than capital property, that was held immediately before that time for consumption or use in the course of those other activities and to have paid, at that time, tax in respect of the supply equal to the lesser of

(a) the tax that, before that time, became payable or was paid by the person in respect of the last acquisition or bringing into Québec of the property by the person, and

(b) tax calculated on the fair market value of the property at that time; and

(2) for the purpose of determining the input tax refund of the person for the reporting period that includes that time, there may be included the total of any tax that became payable by the person before that time, to the extent that the tax is calculated on consideration, or a part thereof,

(a) that is reasonably attributable to a service that is to be rendered to the person after that time and that was acquired by the person for consumption, use or supply in the course of those other activities, or

(b) that is a rent, royalty or similar payment in respect of property and that is reasonably attributable to a period after that time during which the property is used in the course of those other activities.

Ceasing to
be a regis-
trant for
other activi-
ties

“210.4 Where at any time a person is engaged in a taxi business and other commercial activities in Québec, other than the supply by way of sale of an immovable, and the person’s registration ceases, at that time, to apply to those other activities, the following rules apply:

(1) the person is deemed

(a) to have made, immediately before that time, a supply of each property of the person, other than capital property, that was held immediately before that time for consumption, use or supply in the course of those other activities, and to have collected, immediately before that time, tax in respect of the supply, except where the supply is a non-taxable supply, calculated on the fair market value of the property at that time, and

(b) to have received, at that time, a supply of the property by way of sale and to have paid, at that time, tax in respect of the supply, except where the supply is a non-taxable supply, equal to the amount determined under subparagraph *a*;

(2) in determining the input tax refund of the person for the reporting period that includes that time, there may be included tax that becomes payable by the person after that time, to the extent that the tax is calculated on consideration, or a part thereof,

(a) that is reasonably attributable to a service that was rendered to the person before that time and that was acquired by the person for consumption, use or supply in the course of those other activities, or

(b) that is a rent, royalty or similar payment in respect of property and that is reasonably attributable to a period before that time during which the property was used in the course of those other activities; and

(3) an amount shall be added in determining the net tax for the reporting period of the person that includes that time where, in determining an input tax refund claimed by the person in a return under section 468 for a reporting period ending before that time, there was included an amount in respect of tax calculated on consideration, or a part thereof,

(a) that is reasonably attributable to services that are to be rendered to the person after that time, or

(b) that is a rent, royalty or similar payment in respect of property and that is reasonably attributable to a period (in this section referred to as the "lease period") after that time.

Application

For the purposes of subparagraph 3 of the first paragraph, the amount shall be added in determining the net tax to the extent to which the property is used by the person during the lease period, or the services were acquired by the person for consumption, use or supply, in the course of those other activities.

Exception

"210.5 Subparagraph 1 of the first paragraph of section 210.4 does not apply to a person who is engaged in a taxi business where, by reason of section 206.1, the person is not entitled to include, in determining the input tax refund, an amount in respect of the tax payable by the person in relation to the property."

(2) Subject to subsection 3, subsection 1 applies from 1 October 1992.

(3) Subsection 1 applies, with respect to the second paragraph of section 210.1 of the said Act, as enacted thereby, from 1 July 1992.

c. T-0.1,
s. 211,
replaced

471. (1) Section 211 of the said Act, amended by section 189 of chapter 19 of the statutes of 1993, is replaced by the following section:

Travel and
other allow-
ances

"211. A person is deemed to have received a taxable supply of a service for use in commercial activities of the person to the same extent as the property or service acquired by an employee or, if the person is a partnership, by a member of the partnership, is for consumption or use in relation to a commercial activity of the person and to have paid, at the time the allowance referred to in paragraph 1 is paid, tax in respect of the supply equal to the tax fraction, determined in accordance with section 211.1, of the allowance where

(1) the person pays an allowance to the employee or member

(a) for supplies all or substantially all of which are taxable supplies, other than zero-rated supplies, of property or services acquired in Québec by the employee or member in relation to an activity engaged in by the person, or

(b) for the use in Québec, in relation to an activity engaged in by the person, of a motor vehicle;

(2) an amount in respect of the allowance is deductible in computing the income of the person for a taxation year of the person for the purposes of the Taxation Act (chapter I-3), or would have been so deductible if the person were a taxpayer under that Act and the activity were a business; and

(3) at the time of paying an allowance in respect of which paragraph *e* of section 39 or section 40 of the Taxation Act (R.S.Q., chapter I-3) would apply if the allowance were a reasonable allowance for the purposes of that paragraph or that section and, where the person is a partnership and the allowance is paid to a member of the partnership, if the member were an employee of the partnership, the person considered the allowance to be a reasonable allowance for the purposes of paragraph *e* of section 39 or section 40 and it is reasonable for the person to have considered, at that time, the allowance to be a reasonable allowance for those purposes.

Exception

This section does not apply where the allowance relates to property or a service in respect of which the person, if a registrant who acquired the property or service for consumption or use exclusively in commercial activities of the registrant, could not claim an input tax refund by reason of section 206.1."

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 213, am.

472. (1) Section 213 of the said Act is amended

(1) by replacing that part preceding subparagraph 1 of the first paragraph by the following:

Acquisition
of used cor-
poreal mov-
able prop-
erty

"213. A registrant is deemed, except where the supply is a zero-rated supply or where section 75.1 or 80 applies in respect of the supply, to have paid, at the time any amount is paid as consideration for the supply, tax in respect of the supply equal to the tax fraction of that amount, where";

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

Presump-
tion – value
of the consid-
eration

“For the purposes of this section, where a person makes a supply of used corporeal movable property to a registrant with whom the person is not dealing at arm’s length for consideration that exceeds the fair market value of the property at the time possession of the property is transferred to the registrant, the value of the consideration for the supply is deemed to be equal to the fair market value of the property at that time.”

(2) Paragraph 1 of subsection 1 applies from 1 July 1992. However, for the period ending on 30 September 1992, the reference in that part preceding subparagraph 1 of the first paragraph of section 213 of the said Act, as enacted by subsection 1, to section 75.1 shall be read as a reference to section 75.

(3) Paragraph 2 of subsection 1 applies to supplies for which consideration is paid or becomes due after 1 July 1992, other than supplies for which consideration is paid or becomes due before 1 October 1992.

c. T-0.1,
s. 215,
replaced

473. (1) Section 215 of the said Act is replaced by the following section:

Returnable
containers

“215. Where a registrant is the recipient of a supply of a usual covering or a container of a particular class in which property, other than property the supply of which is a zero-rated supply, is ordinarily delivered, section 213 does not apply unless the registrant pays to the supplier a consideration for the supply not less than the total of the following amounts:

(1) an amount equal to the consideration that the registrant charges for supplies made by the registrant of used coverings or containers of that class; and

(2) an amount equal to the tax calculated on that consideration.

Exception

This section does not apply to a container that is a returnable container within the meaning of section 350.24 of a particular class that is not supplied by the registrant when filled and sealed.”

(2) Subsection 1 applies from 1 October 1992.

c. T-0.1,
s. 216, am.

474. (1) Section 216 of the said Act, amended by section 192 of chapter 19 of the statutes of 1993, is again amended

(1) by replacing that part preceding subparagraph 1 of the first paragraph by the following:

Shipment or
supply out-
side Québec

“216. Where a registrant at any time before 1 January 1994 makes a zero-rated supply, or a supply outside Québec, by way of sale of used corporeal movable property, and the registrant, or any person with whom the registrant is not dealing at arm’s length, is deemed under section 213 to have paid tax in respect of the acquisition of the property, the following rules apply:”;

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

“(b) an amount equal to the tax that was paid or deemed under section 213 to have been paid by the registrant or that the registrant would, but for sections 75.1, 80 and 334 or for the fact that the registrant acquired the property by way of a non-taxable supply, have been required to pay in respect of the acquisition of the property.”

(2) Paragraph 1 of subsection 1 applies from 1 July 1992.

(3) Paragraph 2 of subsection 1 applies from 1 October 1992.

c. T-0.1,
s. 217,
replaced

475. (1) Section 217 of the said Act is replaced by the following section:

Shipment or
supply out-
side Québec

“217. Where a registrant makes a zero-rated supply or a supply outside Québec by way of sale of used specified corporeal movable property that the registrant acquired by way of purchase for consideration that exceeds the prescribed amount in respect of the property and the registrant paid tax or would, but for sections 75.1, 80 and 334 or for the fact that the registrant acquired the property by way of a non-taxable supply, have been required to pay tax in respect of the acquisition of the property, the following rules apply:

(1) the supply is deemed to be a supply made in Québec; and

(2) the registrant is deemed to have collected tax at that time in respect of the supply equal to the least of

(a) an amount equal to the tax that would be payable in respect of the supply if the supply were a supply made in Québec, other than a zero-rated or non-taxable supply,

(b) an amount equal to the tax, if any, that was deemed under section 213 to have been paid by the registrant in respect of the acquisition of the property, and

(c) an amount equal to the prescribed percentage of the tax, if any, that was paid, other than tax deemed to have been paid under

section 213, or the tax that would, but for sections 75.1, 80 and 334 or for the fact that the registrant acquired the property by way of a non-taxable supply, have been required to be paid by the registrant in respect of the acquisition of the property.”

(2) Subsection 1 applies from 15 September 1992. However, for the period ending on 30 September 1992, any reference to section 75.1 in section 217 of the said Act, as enacted by subsection 1, shall be read as a reference to section 75. Furthermore, section 217 of the said Act, as enacted by section 67 of the statutes of 1991, is repealed from 1 July 1992.

c. T-0.1,
s. 217.1,
added

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

Consider-
ation less
than the fair
market value

“217.1 For the purposes of sections 216 and 217, where a registrant makes a taxable supply by way of sale of used corporeal movable property to a recipient with whom the registrant is not dealing at arm’s length for no consideration or for consideration that is less than the fair market value of the property at the time the possession of the property is transferred to the recipient, except where section 55 applies, the recipient is deemed to have paid tax in respect of the supply calculated on that fair market value.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 220, am.

477. (1) Section 220 of the said Act is amended

(1) by replacing, in the French text, subparagraphs *a* and *b* of subparagraph 2 of the first paragraph by the following subparagraphs:

“*a*) celui où l’immeuble d’habitation est occupé par un particulier à titre de résidence ou d’hébergement;

“*b*) celui où la personne transfère la propriété de l’immeuble d’habitation à une autre personne;”;

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

“(3) the person is deemed to be a builder of the complex, except where the person is

(*a*) a particular individual who acquires the immovable at that time to hold and use exclusively as a place of residence of the particular individual or another individual who is related to the particular individual or who is a former spouse of the particular individual, or

(b) a trust, all the beneficiaries, other than contingent beneficiaries, of which are individuals and all the contingent beneficiaries of which, if any, are individuals or charities, that acquires the immovable at that time to hold and use exclusively as a place of residence of an individual who is a beneficiary of the trust.”;

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

“(a) was last acquired by the person to be held or used as a residential complex, or”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 222.1-
222.5, added

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

“I.1—Self-supply of land

Lease of
land for resi-
dential use

“222.1 Where a person who has an interest in land makes a supply of the land by way of lease, licence or similar arrangement and at any time gives possession of the land as set out in subparagraph 2 of the second paragraph, the person is deemed

(1) to have made, immediately before that time, a taxable supply by way of sale of the land and to have collected, at that time, tax in respect of the supply calculated on the fair market value of the land at that time; and

(2) to have received, at that time, a taxable supply by way of sale of the land and to have paid, at that time, tax in respect of that supply calculated on the fair market value of the land at that time.

Exception

However, the first paragraph applies only where

(1) the supply is an exempt supply referred to in section 99 or paragraph 1 of section 100;

(2) the person at any time gives possession of the land to the recipient of the supply under the arrangement;

(3) the last use of the land by the person before that time was not under an arrangement for a supply referred to in subparagraph 1 of this paragraph;

(4) the person was not deemed under section 243, 258 or 261 to have made a supply of the land at or immediately before that time; and

(5) the recipient of the supply is not acquiring possession of the land for the purpose of

(a) constructing a residential complex thereon in the course of a commercial activity, or

(b) making an exempt supply of the land referred to in section 99.

“1.2—Self-supply of a site in a residential trailer park

First use of
a residential
trailer park

“222.2 Where a person makes a supply of a site in a residential trailer park of the person by way of lease, licence or similar arrangement and at any time gives possession or occupancy of the site as set out in subparagraph 2 of the second paragraph, the person is deemed

(1) to have made, immediately before that time, a taxable supply by way of sale of the park and to have collected, at that time, tax in respect of the supply calculated on the fair market value of the park at that time; and

(2) to have received, at that time, a taxable supply by way of sale of the park and to have paid, at that time, tax in respect of the supply calculated on the fair market value of the park at that time.

Exception

However, the first paragraph applies only where

(1) the supply is an exempt supply referred to in paragraph 2 of section 100;

(2) the person at any time gives possession or occupancy of the site to the recipient of the supply under the arrangement;

(3) none of the sites in the park were occupied immediately before that time under an arrangement for a supply referred to in subparagraph 1 of this paragraph; and

(4) either

(a) the last acquisition of the park by the person was not an exempt supply referred to in section 97.3 and the person was not deemed to have made a supply of land included in the park as a consequence of using the land for purposes of the park,

- i. before that time under this section, or
- ii. at or immediately before that time under section 243, 258 or 261; or

(b) the person was entitled, after the park or land was last acquired or deemed to have been supplied by the person, to claim an input tax refund in respect of the acquisition thereof or an improvement thereto.

First use of
an addi-
tional area

“222.3 Where a person who increases the area of land included in a residential trailer park of the person makes a supply of a site in the area of land by which the park was increased (in this section referred to as the “additional area”) by way of lease, licence or similar arrangement and at any time gives possession or occupancy of the site as set out in subparagraph 2 of the second paragraph, the person is deemed

(1) to have made, immediately before that time, a taxable supply by way of sale of the additional area and to have collected, at that time, tax in respect of the supply calculated on the fair market value of the additional area at that time; and

(2) to have received, at that time, a taxable supply by way of sale of the additional area and to have paid, at that time, tax in respect of the supply calculated on the fair market value of the additional area at that time.

Exception

However, the first paragraph applies only where

(1) the supply is an exempt supply referred to in paragraph 2 of section 100;

(2) the person at any time gives possession or occupancy of the site to the recipient of the supply under the arrangement;

(3) none of the sites in the additional area were occupied immediately before that time under an arrangement for a supply referred to in subparagraph 1 of this paragraph; and

(4) either

(a) the last acquisition of the additional area by the person was not an exempt supply referred to in section 97.3 and the person was not deemed to have made a supply of the additional area as a consequence of using the additional area for purposes of the park,

- i. before that time under this subdivision 4, or

ii. at or before that time under section 243, 258 or 261; or

(b) the person was entitled, after the additional area was last acquired or deemed to have been supplied by the person, to claim an input tax refund in respect of the acquisition thereof or an improvement thereto.

“I.3—Supply of a mobile home or floating home – Builder

Mobile or
floating
home

“222.4 Any person who makes a supply of a mobile home or a floating home before it has been used or occupied by any individual as a place of residence or lodging is deemed to have engaged in the construction of the home and to have substantially completed the construction at the earlier of the time ownership of the home is transferred to the recipient of the supply and the time possession of the home is transferred to the recipient under the agreement for the supply.

Substantial
renovation
of a mobile
or floating
home

“222.5 Where a person engages in the substantial renovation of a mobile home or a floating home, the home is deemed not to have been used or occupied, at any time before the person began to substantially renovate the home, by any individual as a place of residence or lodging.”

(2) Subsection 1 applies from 1 July 1992. However,

(a) section 222.1 of the said Act, as enacted by subsection 1, does not apply to any supply of land where possession of the land is transferred under an agreement in writing entered into before 28 March 1991;

(b) sections 222.2 and 222.3 of the said Act, as enacted by subsection 1, do not apply to the supply of a site in a residential trailer park under a lease, licence or similar arrangement in writing entered into before 6 November 1991;

(c) section 222.5 of the said Act, as enacted by subsection 1, does not apply to the substantial renovation of a mobile home or floating home where the substantial renovation

i. is substantially completed before 1 October 1992, or

ii. is carried out for the purpose of making a supply of the mobile home or floating home under an agreement in writing entered into before 1 October 1992.

c. T-0.1,
s. 223,
replaced

479. (1) Section 223 of the said Act is replaced by the following section:

Self-supply
of a single
unit residen-
tial complex
or residen-
tial unit
held in
co-ownership

“223. Where the construction or substantial renovation of a residential complex that is a single unit residential complex or a residential unit held in co-ownership is substantially completed, the builder of the complex is deemed

(1) to have made and received, at the latest of the time the construction or substantial renovation is substantially completed, the time possession of the complex is given as set out in subparagraph *a* or *b* of subparagraph 1 of the second paragraph and the time the residential complex is occupied as set out in subparagraph *c* of that subparagraph, a taxable supply by way of sale of the complex; and

(2) to have paid as a recipient and to have collected as a supplier, at the latest of those times, tax in respect of the supply calculated on the fair market value of the complex at the latest of those times.

Conditions

However, the first paragraph applies only where

(1) the builder of the residential complex

(a) gives possession of the complex to a particular person under a lease, licence or similar arrangement, other than an arrangement, arising as a consequence of an agreement of purchase and sale of the complex, for the possession or occupancy of the complex until ownership of the complex is transferred to the purchaser under the agreement, entered into for the purpose of its occupation by an individual as a place of residence,

(b) gives possession of the complex to a particular person under an agreement, other than an agreement for the supply of a mobile home and a site for the home in a residential trailer park, for

i. the supply by way of sale of the building or any part thereof in which the residential unit forming part of the complex is located, and

ii. the supply by way of lease of the land forming part of the complex or the supply of such a lease by way of assignment, or

(c) is an individual and occupies the complex as a place of residence; and

(2) the builder, the particular person or an individual who is a tenant or licensee of the particular person is the first individual to occupy the complex as a place of residence after substantial completion of the construction or renovation.”

(2) Subsection 1 applies from 1 July 1992. However, in respect of a supply of a residential complex under an agreement in writing entered into before 28 March 1991,

(a) subparagraphs 1 and 2 of the first paragraph of section 223, as enacted by subsection 1, shall be read as follows:

“(1) to have made and received, at the latest of the time the construction or substantial renovation is substantially completed, the time possession of the complex is given as set out in subparagraph *a* of subparagraph 1 of the second paragraph and the time the residential complex is occupied as set out in subparagraph *b* of that subparagraph, a taxable supply by way of sale of the complex; and

(2) to have paid as a recipient and to have collected as a supplier, at the latest of those times, tax in respect of the supply calculated on the fair market value of the complex at the latest of those times.”;

(b) subparagraphs *a* and *b* of subparagraph 1 of the second paragraph of section 223, as enacted by subsection 1, shall be read as follows:

“(a) gives possession of the complex to a particular person under a lease, licence or similar arrangement entered into for the purpose of its occupation by an individual as a place of residence and the particular person is not a purchaser under an agreement of purchase and sale of the complex, or

(b) is an individual and occupies the complex as a place of residence;”.

c. T-0.1,
s. 224, am.

480. (1) Section 224 of the said Act is amended by replacing subparagraphs 1 and 2 of the first paragraph by the following subparagraphs:

“(1) to have made and received, at the time referred to in subparagraph 3 of the second paragraph, a taxable supply by way of sale of the unit; and

“(2) except where possession of the unit was transferred to the particular person referred to in subparagraph 1 of the second paragraph before 1 July 1992, to have paid as a recipient and to have collected as a supplier, at that time, tax in respect of the supply calculated on the fair market value of the unit at that time.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 225, am.

481. (1) Section 225 of the said Act is amended by replacing subparagraphs 1 and 2 of the first paragraph by the following subparagraphs:

“(1) to have made and received, at the latest of the time the construction or substantial renovation is substantially completed, the time possession of the unit referred to in subparagraph *a* of subparagraph 1 of the second paragraph is given as set out in that subparagraph and the time the unit referred to in subparagraph *b* of that subparagraph is occupied as set out in that subparagraph, a taxable supply by way of sale of the complex; and

“(2) to have paid as a recipient and to have collected as a supplier, at the latest of those times, tax in respect of the supply calculated on the fair market value of the complex at the latest of those times.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 226, am.

482. (1) Section 226 of the said Act is amended by replacing subparagraphs 1 and 2 of the first paragraph by the following subparagraphs:

“(1) to have made and received, at the latest of the time the construction of the addition is substantially completed, the time possession of the unit referred to in subparagraph *a* of subparagraph 1 of the second paragraph is given as set out in that subparagraph and the time the unit referred to in subparagraph *b* of that subparagraph is occupied as set out in that subparagraph, a taxable supply by way of sale of the addition; and

“(2) to have paid as a recipient and to have collected as a supplier, at the latest of those times, tax in respect of the supply calculated on the fair market value of the addition at the latest of those times.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 229, am.

483. (1) Section 229 of the said Act is amended

(1) by replacing that part preceding subparagraph 1 of the first paragraph by the following:

Remote
work site

“229. The supply of a residential complex or a residential unit therein, as a place of residence or lodging, is deemed not to be a supply and the occupation of the residential complex or unit, as a place of residence or lodging, is deemed not to be such an occupation where”;

(2) by replacing subparagraphs 2 and 3 of the first paragraph by the following subparagraphs:

“(2) the construction or substantial renovation of the complex or addition is carried out, or the complex is acquired, for the purpose of providing a place of residence or lodging for an employee of the registrant at a location at which the employee is required to be in the performance of the duties of the employee’s office or employment and at which, by reason of its remoteness from any established community, the employee could not reasonably be expected to establish and maintain a self-contained domestic establishment; and

“(3) the registrant makes, for the purposes of this section, an election in prescribed form containing prescribed information in respect of the residential complex or addition.”;

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

Duration

“The presumptions under the first paragraph apply until the complex is supplied by way of sale, or is supplied by way of lease, licence or similar arrangement primarily to persons who are not employees of the registrant or individuals who are related to the employees.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 230, 231,
replaced

484. (1) Sections 230 and 231 of the said Act are replaced by the following sections:

Deemed
election

“**230.** Where the registrant makes an election under subsection 7 of section 191 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex or addition referred to in section 229, the registrant is deemed to have made an election under subparagraph 3 of the first paragraph of section 229.

Substantial
completion
of construc-
tion or reno-
vation

“**231.** For the purposes of sections 223 to 229, the construction or substantial renovation of a multiple unit residential complex or a complex held in co-ownership, or the construction of an addition to a multiple unit residential complex, is deemed to be substantially completed not later than the day all or substantially all of the residential units in the complex or addition are occupied after the construction or substantial renovation is begun.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 231.1,
added

485. (1) The said Act is amended by inserting, after section 231, the following section:

Transfer of
possession
attributed
to the
builder

“**231.1** Where a builder of a residential complex or an addition to a multiple unit residential complex makes a supply of the complex

or a residential unit in the complex or addition by way of lease, licence or similar arrangement and the supply is an exempt supply under section 99, the builder is deemed, at the time referred to in paragraph 2, to have given possession of the complex or unit to an individual under a lease, licence or similar arrangement entered into for the purpose of its occupancy by an individual as a place of residence if

(1) the recipient of the supply is acquiring the complex or unit for the purpose of making one or more supplies of the complex, unit or residential units in the complex and those supplies are described in section 98; and

(2) the builder at any time gives possession of the complex or unit to the recipient under the arrangement.”

(2) Subsection 1 applies from 1 January 1993.

c. T-0,1,
ss. 233, 234,
replaced

486. (1) The said Act is amended by replacing sections 233 and 234 by the following sections:

Sale of
immovable

“233. Where at a particular time a registrant makes a taxable supply of an immovable by way of sale, the registrant may, notwithstanding sections 203 to 206 and subdivision 5, claim an input tax refund for the reporting period in which tax in respect of the taxable supply became payable or is deemed to have been collected, as the case may be, equal to the amount determined by the formula

$$A \times B \times C.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the lesser of

(a) an amount equal to the total (in this section referred to as the “total tax charged in respect of the immovable”) of the tax that was payable by the registrant in respect of the last acquisition of the immovable by the registrant and the tax that was payable by the registrant in respect of improvements to the immovable acquired, or brought into Québec, by the registrant after the immovable was last so acquired, and

(b) an amount equal to the tax that is or would, but for sections 75.1 and 80, be payable in respect of the taxable supply of the immovable;

(2) B is the percentage that, immediately before the particular time, the use of the immovable, otherwise than in commercial activities of the registrant, was of the total use of the immovable; and

(3) C is

(a) where the registrant was entitled to claim a rebate under sections 383 to 397 in respect of any tax included in the total tax charged in respect of the immovable and the taxable supply is not deemed under section 258 to have been made, the difference between 100 % and the percentage prescribed for the purposes of section 386 or 386.1 that applied in determining the amount of that rebate, and

(b) in any other case, 100 %.

Exception

This section does not apply

(1) to a supply deemed under section 259 or 262 to have been made; or

(2) to a supply made by a public sector body of an immovable in respect of which an election by the body under sections 272 to 276 is not in effect at the particular time.

Sale by a
public ser-
vice body

“234. Except where section 233 applies, where at a particular time a registrant that is a public service body makes a taxable supply of an immovable by way of sale, other than a supply that is deemed under section 243 to have been made, and, immediately before the time tax becomes payable in respect of the taxable supply, the immovable was not used by the registrant primarily in commercial activities of the registrant, the registrant may, notwithstanding sections 203 to 206 and subdivision 5, claim an input tax refund for the reporting period in which tax in respect of the taxable supply became payable or is deemed to have been collected, as the case may be, equal to the amount determined by the formula

$$A \times B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the lesser of

(a) an amount equal to the total (in this section referred to as the “total tax charged in respect of the immovable”) of the tax that was payable by the registrant in respect of the last acquisition of the immovable by the registrant and the tax that was payable by the registrant in respect of improvements to the immovable acquired, or brought into Québec, by the registrant after the immovable was last so acquired, and

(b) an amount equal to the tax that is or would, but for sections 75.1 and 80, be payable in respect of the taxable supply of the immovable; and

(2) B is

(a) where the registrant was entitled to claim a rebate under sections 383 to 397 in respect of any tax included in the total tax charged in respect of the immovable, the difference between 100 % and the percentage prescribed for the purposes of section 386 or 386.1 that applied in determining the amount of the rebate, and

(b) in any other case, 100 %.”

(2) Subsection 1 applies from 1 October 1992. However, for the period from 1 July 1992 to 30 September 1992,

(a) any reference in the French text of section 233 of the said Act, as enacted by subsection 1, to “un moment quelconque” shall be read as a reference to “un moment donné”, and subparagraph *b* of subparagraph 1 of the second paragraph of that section shall be read as follows:

“(b) an amount equal to the tax payable or deemed to have been collected, as the case may be, in respect of the taxable supply of the immovable at the particular time;”;

(b) that part of section 234 of the said Act, as enacted by subsection 1, preceding paragraph 1 thereof shall be read as follows:

“234. Where at a particular time a registrant that is a government makes a taxable supply of an immovable by way of sale, other than a supply deemed under section 243 to have been made, or a registrant that is a public service body deemed under sections 220 and 221 or section 273 to have made at a particular time a taxable supply of an immovable, and, immediately before the time tax is payable in respect of the supply, the immovable was used by the registrant otherwise than primarily in commercial activities of the registrant, the registrant may claim an input tax refund for the reporting period in which tax in respect of the taxable supply became payable, equal to the lesser of”.

Sale by a
public ser-
vice body

c. T-0.1,
s. 235, am.

487. (1) Section 235 of the said Act is amended by replacing that part preceding paragraph 1 by the following:

Incorrect
statement

“235. Where a supplier makes a taxable supply by way of sale of an immovable and incorrectly states or certifies in writing to the

recipient of the supply that the supply is an exempt supply described in any of sections 94 to 97.3, 101 and 102, except where the recipient knows or ought to know that the supply is not an exempt supply.”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 237,
replaced

488. (1) Section 237 of the said Act is replaced by the following section:

Prescribed
property

“237. Where a person acquires or brings into Québec prescribed property for use as capital property of the person, the property is deemed to be movable property.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 237.1-
237.4, added

489. (1) The said Act is amended by inserting, after section 237, the following sections:

Residential
complex
deemed not
to be capital
property

“237.1 Except for the purposes of sections 294 to 297 and 462 to 462.2, a residential complex is deemed not to be, at a particular time, capital property of a builder of the complex unless

(1) at or before the particular time, the construction or substantial renovation of the complex was substantially completed; and

(2) between the time at which the construction or substantial renovation of the complex was substantially completed and the particular time, the builder received an exempt supply of the complex or was deemed under sections 223 to 225 to have received a taxable supply of the complex.

Addition
deemed not
to be capital
property

“237.2 Except for the purposes of sections 294 to 297 and 462 to 462.2, an addition to a multiple unit residential complex is deemed not to be, at a particular time, capital property of a builder of the addition unless

(1) at or before the particular time, the construction of the addition was substantially completed; and

(2) between the time at which the construction of the addition was substantially completed and the particular time, the builder received an exempt supply of the complex or was deemed under section 226 to have received a taxable supply of the addition.

Last acquisi-
tion or bring-
ing into
Québec

“237.3 Except for the purposes of sections 17 and 81, a bringing into Québec of property shall not be considered in determining the last acquisition or bringing in of the property

(1) where tax under section 17 was not paid on the property in respect of that bringing into Québec because the property was described in paragraph 1, 2 or 10 of section 81 or the property was described in paragraph 9 of that section and was classified under heading 98.13 or 98.14 of Schedule I to the Customs Tariff (Statutes of Canada), or would have been so classified but for paragraph *a* of Note 11 to Chapter 98 of that Schedule;

(2) where tax under section 17 on the property in respect of that bringing into Québec was calculated on a value determined under sections 17R1 to 17R7 and 17R9 to 17R11 of the Regulation respecting the Québec sales tax (O.C. 1607-92), other than a prescribed section of that regulation; or

(3) in prescribed circumstances.

Coming into
force before
1 July 1992

“237.4 For the purpose of determining the last acquisition or bringing into Québec of property, this title is deemed to have been in force at all times before 1 July 1992.”

(2) Subsection 1,

(a) where it enacts sections 237.1 and 237.2, applies from 1 July 1992; and

(b) where it enacts sections 237.3 and 237.4, applies from 1 October 1992.

c. T-0.1,
s. 238,
replaced

490. (1) Section 238 of the said Act is replaced by the following section:

Intended
and actual
use

“238. Where a person at any time acquires, brings into Québec or appropriates property for use as capital property of the person to a particular extent in a particular way, the person is deemed to use the property immediately after that time to the particular extent in the particular way.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 238.1,
added

491. (1) The said Act is amended by inserting, after section 238, the following section:

Appropriation to use as capital property

“238.1 Where a registrant, at a particular time, appropriates property of the registrant for use as capital property of the registrant or in improving capital property of the registrant and, immediately before the particular time, the property was not capital property of the registrant or an improvement to capital property of the registrant, the following rules apply:

(1) the registrant is deemed

(a) to have made, immediately before the particular time, a supply of the property by way of sale, and

(b) to have collected, at the particular time, tax in respect of the supply calculated on the fair market value of the property at the particular time where the property was last acquired or brought into Québec by the registrant before the particular time for consumption, use or supply, or was consumed or used before the particular time, in the course of commercial activities of the registrant; and

(2) the registrant is deemed to have received, at the particular time, a supply of the property by way of sale and to have paid, at the particular time, tax in respect of the supply equal to

(a) where the supply is not an exempt supply and the property was last acquired or brought into Québec by the registrant before the particular time for consumption, use or supply, or was consumed or used before the particular time, in the course of commercial activities of the registrant, tax calculated on the fair market value of the property at the particular time, and

(b) in any other case, the amount determined by the formula

$$A \times B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the lesser of the tax that was payable by the registrant in respect of the last acquisition or bringing into Québec of the property by the registrant, and tax calculated on the fair market value of the property at the particular time; and

(2) B is

(a) where the registrant was entitled to claim a rebate under sections 383 to 397 in respect of the tax that was payable by the registrant in respect of the last acquisition or bringing into Québec of the property, the difference between 100 % and the percentage prescribed for the purposes of section 386 or 386.1 that applied in determining the amount of that rebate, and

(b) in any other case, 100 %.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 239,
replaced

492. (1) Section 239 of the said Act, amended by section 193 of chapter 19 of the statutes of 1993, is replaced by the following section:

Insignificant
change in
use

“239. For the purposes of sections 256, 257, 259, 262, 264 and 265, where in any period beginning on the later of

(1) the day a registrant last acquired or brought into Québec property for use as capital property of the registrant, and

(2) the day section 257, 259, 262 or 265 was last applicable in respect of the property,

and ending at any time after that day, the extent to which the registrant changes the use of the property in commercial activities of the registrant is less than 10 % of the total use of the property, the registrant is deemed to have used the property throughout that period to the same extent and in the same way as the registrant used the property at the beginning of that period.

Exception

The first paragraph does not apply where the registrant is an individual who began in that period to use the property primarily for the personal use and enjoyment of the individual or a related individual.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 239.1,
239.2, added

493. (1) The said Act is amended by inserting, after section 239, the following sections:

Change in
use

“239.1 The third paragraph applies for the purpose of calculating the amount of tax that is deemed under section 243, 253, 258 or 261 to have been collected or paid at a particular time by a registrant if the presumptions under any of those sections and mentioned in the second paragraph are applicable to the registrant by reason of

(1) the application of paragraph 2 of section 209,

(2) the application of paragraph 2 of section 210.2 at the time the registration of the registrant ceases to apply to particular commercial activities of the registrant, or

(3) a division or branch of the registrant becoming a small supplier division within the meaning of section 337.2.

Presump-
tions

The presumptions referred to in the first paragraph are as follows:

(1) the registrant is deemed to have made a supply of property that was originally supplied to or brought into Québec by the registrant before 1 July 1992, or corporeal movable property that was originally supplied to the registrant in Québec before 1 January 1994 as used corporeal movable property in circumstances in which tax was not payable in respect of the supply;

(2) the registrant is deemed to have collected, at that time, tax in respect of the supply.

Presumption

The amount of tax calculated on the fair market value of the property at the particular time is deemed not to exceed the total of the tax that was or would, but for section 75.1 or 80, have been payable by the registrant in respect of the last acquisition or bringing into Québec of the property by the registrant and the tax that was payable by the registrant in respect of improvements to the property acquired or brought into Québec by the registrant after the property was last so acquired or brought into Québec.

**Capital
acquisition
outside
Québec**

“239.2 For the purposes of sections 239.1, 257 to 259, 261, 262, 265 and 273, a registrant who is the recipient of a taxable supply of movable property or a service made outside Québec is deemed to have paid at the time referred to in subparagraph 1 tax in respect of the supply calculated at the rate specified in the second paragraph on the value of the consideration for the supply as determined for the purposes of section 18, and to have claimed, in the return to be filed under Chapter VIII by the registrant for the reporting period of the registrant that includes that time, an input tax refund in respect of the property or service equal to that tax if,

(1) but for the fact that the registrant was acquiring the property or service for consumption, use or supply exclusively in the course of commercial activities of the registrant, tax in respect of the supply would have become payable by the registrant at any time under section 18; and

(2) the registrant, in the case of a supply of movable property, acquired the property for use as capital property, or in any case, acquired the property or service for consumption or use in improving capital property of the registrant that was used at that time exclusively in commercial activities of the registrant.

Rate of tax

The rate of tax referred to in the first paragraph is the rate that would be applicable under section 16 in respect of the supply if the supply were made in Québec.”

(2) Subsection 1 applies from 1 July 1992. However,

(a) for the period from 1 July 1992 to 30 September 1992, the reference in section 239.1 of the said Act, as enacted by subsection 1, to section 75.1 shall be read as a reference to section 75; and

(b) section 239.2 of the said Act, as enacted by subsection 1, applies only in respect of supplies which, after 31 December 1992, are deemed to have been made under any of sections 257 to 259, 261, 262, 265 and 273.

c. T-0.1,
s. 241, am.

494. (1) Section 241 of the said Act, amended by section 194 of chapter 19 of the statutes of 1993, is again amended by replacing the first paragraph by the following paragraph:

Improve-
ment

“241. Where a registrant acquires or brings into Québec an improvement to movable property that is capital property of the registrant, tax payable by the registrant in respect of the acquisition or bringing into Québec of the improvement shall not be included in determining an input tax refund of the registrant unless, at the time that tax becomes payable or is paid without having become payable, the capital property is used primarily in commercial activities of the registrant.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 242,
replaced

495. (1) Section 242 of the said Act is replaced by the following section:

Change in
use

“242. Where a registrant last acquired or brought into Québec movable property for use as capital property of the registrant but not for use primarily in commercial activities of the registrant and the registrant begins, at any time, to use the property as capital property primarily in commercial activities of the registrant, except where the registrant becomes a registrant at that time, the registrant is deemed

(1) to have received, at that time, a supply of the property by way of sale; and

(2) except where the supply is an exempt supply, to have paid, at that time, tax in respect of the supply equal to the amount determined by the formula

$$A \times B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the lesser of

(a) the total (in this section referred to as “the total tax charged in respect of the property”) of the tax that was or would, but for section 75.1 or 80, have been payable by the registrant in respect of the last acquisition or bringing into Québec of the property by the registrant and the tax that was payable by the registrant in respect of improvements to the property acquired or brought into Québec by the registrant after the property was last so acquired or brought into Québec, and

(b) tax calculated on the fair market value of the property at that time; and

(2) B is

(a) where the registrant was entitled to claim a rebate under sections 383 to 397 in respect of any tax included in the total tax charged in respect of the property, the difference between 100 % and the percentage prescribed for the purposes of section 386 or 386.1 that applied in determining the amount of that rebate, and

(b) in any other case, 100 %.”

(2) Subsection 1 applies from 1 October 1992.

c. T-0.1,
s. 243, am.

496. (1) Section 243 of the said Act, amended by section 195 of chapter 19 of the statutes of 1993, is again amended by replacing the first paragraph by the following paragraph:

Change in
use

“243. Where a registrant last acquired or brought into Québec property for use as capital property primarily in commercial activities of the registrant and the registrant begins, at any time, to use the property primarily for other purposes, the following rules apply:

(1) the registrant is deemed, immediately before that time, to have made a supply of the property by way of sale and to have collected, at that time, tax in respect of the supply calculated on the fair market value of the property at that time; and

(2) the registrant is deemed to have received, at that time, a supply of the property by way of sale and to have paid, at that time, tax in respect of the supply calculated on the fair market value of the property at that time.”

(2) Subsection 1 applies from 30 September 1992.

c. T-0.1,
s. 244,
replaced

497. (1) Section 244 of the said Act, replaced by section 197 of chapter 19 of the statutes of 1993, is again replaced by the following section:

Sale

“244. Notwithstanding section 42.1, where a registrant makes a supply by way of sale of movable property that is capital property of the registrant and, before the earlier of the time that ownership of the property is transferred to the recipient of the supply and the time possession of the property is transferred to the recipient under the agreement for the supply, the registrant was last using the property otherwise than primarily in commercial activities of the registrant, the supply is deemed to be made in the course of activities of the registrant that are not commercial activities, except where, in the case of a road vehicle, section 243.1 applied in respect of the vehicle.”

(2) Subsection 1 applies from 30 September 1992. However, in applying section 244 of the said Act, as enacted by subsection 1, to supplies of property under which ownership or possession of the property is transferred to the recipient of the supply on or before that date, the said section 244 shall be read as follows:

Sale

“244. Notwithstanding section 42.1, where a registrant makes a supply by way of sale of movable property that is capital property of the registrant and, immediately before ownership of the property is transferred to the recipient of the supply, the registrant was using the property otherwise than primarily in commercial activities of the registrant, the supply is deemed not to be a taxable supply.”

c. T-0.1,
s. 244.1,
added

498. (1) The said Act is amended by inserting, after section 244, the following section:

Sale of capi-
tal property
of the gov-
ernment

“244.1 Notwithstanding sections 42.2 and 244, where a government, other than a prescribed mandatary of the Government, makes a supply by way of sale of movable property that is capital property of the government, the supply is deemed to have been made in the course of commercial activities of the government.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 247,
replaced

499. (1) Section 247 of the said Act is replaced by the following section:

Acquisition
or bringing
into Québec
of a passen-
ger vehicle

“247. For the purpose of determining an input tax refund of a registrant in respect of a passenger vehicle acquired or brought into Québec at a particular time by the registrant for use as capital property in commercial activities of the registrant, the tax payable by the registrant in respect of the acquisition or bringing into Québec of the vehicle at that time is deemed to be the lesser of

(1) an amount equal to the tax payable by the registrant in respect of the acquisition or bringing into Québec of the vehicle at that time; and

(2) the amount determined by the formula

$$A \times B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the tax that would be payable by the registrant in respect of the vehicle if the registrant acquired the vehicle for consideration equal to the amount deemed under paragraph *d.3* or *d.4* of section 99 of the Taxation Act (chapter I-3) to be, for the purposes of that section, the capital cost to a taxpayer of a passenger vehicle to which that paragraph applies; and

(2) B is

(a) where the registrant is deemed under section 242, 256 or 257 to have acquired the vehicle or any portion thereof at that time and the registrant was entitled to claim a rebate under sections 383 to 397 in respect of any acquisition or bringing into Québec of the vehicle or any improvement to it, the difference between 100 % and the percentage prescribed for the purposes of section 386 or 386.1 that applied in determining the amount of the rebate, and

(b) in any other case, 100 %."

(2) Subsection 1 applies from 1 October 1992.

c. T-0.1,
s. 249, am.

500. (1) Section 249 of the said Act, amended by section 199 of chapter 19 of the statutes of 1993, is again amended by replacing that part preceding the third paragraph by the following:

Sale of a pas-
senger vehi-
cle

"249. Where a registrant, at any time in a reporting period of the registrant, makes a taxable or non-taxable supply by way of sale of a passenger vehicle that, immediately before that time, was used as capital property in commercial activities of the registrant, the registrant may, notwithstanding sections 203 to 206, paragraph 1 of section 240 and sections 241 and 248, claim an input tax refund for that period equal to the lesser of

(1) the amount determined by the formula

$$A - B; \text{ and}$$

(2) the amount determined by the formula

$$C \times \frac{D}{E}.$$

Interpreta-
tion

For the purposes of these formulas,

(1) A is the total, determined without reference to section 247, of the tax that was or would, but for section 75.1 or 80, be payable by the registrant in respect of the last acquisition or bringing into Québec of the vehicle by the registrant and the tax that was payable by the registrant in respect of improvements to the vehicle acquired or brought into Québec by the registrant after the property was last so acquired or brought into Québec;

(2) B is the total of all input tax refunds and all rebates under sections 383 to 397 that the registrant was entitled to claim in respect of any tax included in the total referred to in subparagraph 1;

(3) C is the amount determined under subparagraph 1 of the first paragraph;

(4) D is the lesser of the value of the consideration for the taxable or non-taxable supply and the amount determined under subparagraph 5; and

(5) E is the total of all amounts, each of which is

(a) the consideration that was payable by the registrant in respect of the last acquisition of the vehicle by the registrant, or where the registrant brought the vehicle into Québec, the value of the vehicle determined under section 17 in respect of the last bringing into Québec of the vehicle by the registrant, or

(b) where the registrant acquired or brought into Québec an improvement to the vehicle after the vehicle was last so acquired or brought into Québec by the registrant, the consideration that was payable by the registrant in respect of the improvement or the value thereof determined under section 17, as the case may be.”

(2) Subsection 1 applies from 1 July 1992. However,

(a) for the period from 1 July 1992 to 30 September 1992, the reference in section 249 of the said Act, as enacted by subsection 1, to section 75.1 shall be read as a reference to section 75; and

(b) where that part of section 249 preceding the third paragraph thereof, as enacted by subsection 1, applies to a supply of a passenger vehicle the ownership or possession of which is transferred to the recipient before 1 October 1992, it shall be read as follows:

Sale of a passenger vehicle

“249. Where a registrant, at any time in a reporting period of the registrant, makes a taxable or non-taxable supply by way of sale of a passenger vehicle that, immediately before that time, was used as capital property in commercial activities of the registrant, the registrant may, notwithstanding sections 203 to 206, paragraph 1 of section 240 and sections 241 and 248, claim an input tax refund for that period equal to the lesser of

(1) the amount determined by the formula

$$A - B; \text{ and}$$

(2) the amount determined by the formula

$$C \times \frac{D}{E}.$$

Interpretation

For the purposes of these formulas,

(1) A is the total, determined without reference to section 247, of the tax that was payable by the registrant in respect of the original acquisition or bringing into Québec of the vehicle by the registrant and the tax that was payable by the registrant in respect of improvements to the vehicle acquired or brought into Québec by the registrant after the vehicle was so acquired or brought into Québec;

(2) B is the total of all input tax refunds that the registrant was entitled to claim before that time in respect of the vehicle or improvements to it;

(3) C is the amount determined under subparagraph 1 of the first paragraph;

(4) D is the lesser of the value of the consideration for the taxable or non-taxable supply and the amount determined under subparagraph 5; and

(5) E is the total of all amounts, each of which is

(a) the consideration that was payable by the registrant in respect of the original acquisition of the vehicle by the registrant, or where the registrant brought the vehicle into Québec, the value of the vehicle determined under section 17 in respect of the original bringing into Québec of the vehicle by the registrant, or

(b) where the registrant acquired or brought into Québec an improvement to the vehicle, the consideration that was payable by

the registrant in respect of the improvement or the value thereof determined under section 17, as the case may be.”

c. T-0.1,
s. 250,
replaced

501. (1) Section 250 of the said Act is replaced by the following section:

Acquisition
or bringing
into Québec
of a passen-
ger vehicle
or aircraft

“250. Where a registrant who is an individual or a partnership acquires or brings into Québec a passenger vehicle or an aircraft for use as capital property of the registrant, the tax payable by the registrant in respect of the acquisition or bringing into Québec of the vehicle or aircraft shall not be included in determining an input tax refund of the registrant unless the vehicle or aircraft was acquired or brought into Québec for use exclusively in commercial activities of the registrant.

Exception

This section does not apply in respect of tax deemed under section 252 to have been paid by the registrant.”

(2) Subsection 1 applies from 1 October 1992.

c. T-0.1,
s. 251, am.

502. (1) Section 251 of the said Act, amended by section 200 of chapter 19 of the statutes of 1993, is again amended by replacing the first paragraph by the following paragraph:

Improve-
ment to a
passenger
vehicle or
aircraft

“251. Where a registrant who is an individual or a partnership acquires or brings into Québec an improvement to a passenger vehicle or an aircraft that is capital property of the registrant, the tax payable by the registrant in respect of the improvement shall not be included in determining an input tax refund of the registrant unless, throughout the period beginning on the later of the day the vehicle or aircraft was originally acquired or brought into Québec by the registrant and the day the individual or partnership becomes a registrant, and ending on the day tax in respect of the improvement becomes payable or is paid without having become payable, the vehicle or aircraft was used exclusively in commercial activities of the registrant.”

(2) Subsection 1 applies from 1 July 1992. However, where the first paragraph of section 251 of the said Act, as enacted by subsection 1, applies to improvements acquired or brought into Québec before 1 October 1992, it shall be read as follows:

Improve-
ment to a
passenger
vehicle or
aircraft

“251. Where a registrant who is an individual or a partnership acquires or brings into Québec an improvement to a passenger vehicle or an aircraft that is capital property of the registrant, the tax payable by the registrant in respect of the improvement shall not be included

in determining an input tax refund of the registrant unless, throughout the period beginning on the day the vehicle or aircraft was acquired or brought into Québec by the registrant and ending on the day tax in respect of the improvement becomes payable or is paid without having become payable, the vehicle or aircraft was used exclusively in commercial activities of the registrant.”

c. T-0.1,
s. 252, am.

503. (1) Section 252 of the said Act, amended by section 201 of chapter 19 of the statutes of 1993, is again amended by replacing that part preceding the third paragraph by the following:

Non-
exclusive use

“252. Notwithstanding sections 250 and 251, for the purpose of determining an input tax refund of a registrant who is an individual or a partnership, where the registrant at a particular time acquires or brings into Québec a passenger vehicle or an aircraft, in respect of which tax is payable by the registrant, for use as capital property of the registrant but not for use exclusively in commercial activities of the registrant, the following rules apply:

(1) the registrant is deemed to have acquired the vehicle or aircraft on the last day of each taxation year of the registrant ending after that time; and

(2) the registrant is deemed to have paid, at that time, tax in respect of the acquisition or bringing into Québec of the vehicle or aircraft, equal to the amount determined by the formula

$$A \times B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the tax fraction; and

(2) B is

(a) where an amount in respect of the vehicle or aircraft is required by section 41 or 111 of the Taxation Act (R.S.Q., chapter I-3) to be included in computing the income of an individual for a taxation year of the individual ending in that taxation year of the registrant, nil, and

(b) in any other case, the part or amount, prescribed under the Taxation Act (chapter I-3), of the capital cost of the vehicle or aircraft that was deducted under that Act in computing the income of the registrant from those commercial activities for that taxation year of the registrant.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 253, am.

504. (1) Section 253 of the said Act, amended by section 202 of chapter 19 of the statutes of 1993, is again amended by replacing subparagraph 2 of the first paragraph by the following subparagraph:

“(2) the registrant is deemed to have collected, at that time, tax in respect of the supply, calculated on that consideration.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 255,
256-259,
replaced

505. (1) Section 255 of the said Act, amended by section 204 of chapter 19 of the statutes of 1993, and sections 256 to 259 of the said Act are replaced by the following sections:

Sale of a pas-
senger vehi-
cle or air-
craft

“255. Notwithstanding section 42.1, where a registrant who is an individual or a partnership makes, at a particular time, a supply by way of sale of a passenger vehicle or an aircraft that is capital property of the registrant, and at any time after the individual or partnership became a registrant and before the particular time, the registrant did not use the vehicle or aircraft exclusively in commercial activities of the registrant, the supply is deemed not to be a taxable supply, except where, in the case of a passenger vehicle, the third paragraph of section 252 or section 253.1 applied in respect of the vehicle.

Beginning
use in com-
mercial
activities

“256. Where a registrant last acquired an immovable for use as capital property of the registrant but not for use in commercial activities of the registrant and the registrant begins, at a particular time, to use the immovable as capital property in commercial activities of the registrant, except where the registrant becomes a registrant at the particular time, the registrant is deemed

(1) to have received, at the particular time, a supply of the immovable by way of sale; and

(2) except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$A \times B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the lesser of

(a) an amount equal to the total (in this section referred to as “the total tax charged in respect of the immovable”) of the tax that was payable by the registrant in respect of the last acquisition of the immovable by the registrant and the tax that was payable by the

registrant in respect of improvements to the immovable acquired or brought into Québec by the registrant after the immovable was last so acquired, and

(b) tax calculated on the fair market value of the immovable at the particular time; and

(2) B is

(a) where the registrant was entitled to claim a rebate under sections 383 to 397 in respect of any tax included in the total tax charged in respect of the immovable, the difference between 100 % and the percentage prescribed for the purposes of section 386 or 386.1 that applied in determining the amount of that rebate, and

(b) in any other case, 100 %.

Increasing
use in com-
mercial
activities

“257. Where a registrant last acquired an immovable for use as capital property in commercial activities of the registrant and the registrant increases, at a particular time, the extent to which the immovable is used in commercial activities of the registrant, for the purpose of determining an input tax refund of the registrant, the registrant is deemed

(1) to have received, immediately before the particular time, a supply of a portion of the immovable for use as capital property exclusively in commercial activities of the registrant; and

(2) except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$A \times B \times C.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the lesser of

(a) an amount equal to the total (in this section referred to as “the total tax charged in respect of the immovable”) of the tax that was or would, but for sections 75.1 and 80, have been payable by the registrant in respect of the last acquisition of the immovable by the registrant and the tax that was payable by the registrant in respect of improvements to the immovable acquired or brought into Québec by the registrant after the immovable was last so acquired, and

(b) an amount equal to the tax calculated on the fair market value of the immovable at the particular time;

(2) B is the extent, expressed as a percentage of the total use of the immovable by the registrant at the particular time, to which the registrant increased the use of the immovable in commercial activities of the registrant at the particular time; and

(3) C is

(a) where the registrant was entitled to claim a rebate under sections 383 to 397 in respect of any tax included in the total tax charged in respect of the immovable, the difference between 100 % and the percentage prescribed for the purposes of section 386 or 386.1 that applied in determining the amount of that rebate, and

(b) in any other case, 100 %.

Ceasing use
in commercial
activities

“258. Where a registrant last acquired an immovable for use as capital property in commercial activities of the registrant and the registrant begins, at a particular time, to use the immovable exclusively for other purposes, the registrant is deemed

(1) to have made, immediately before the particular time, a supply by way of sale of the immovable and, except where the supply is an exempt supply, to have collected, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$(A \times B \times C) + [D \times (100 \% - B) \times E]; \text{ and}$$

(2) to have received, at the particular time, a supply of the immovable by way of sale and, except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the amount determined under subparagraph 1.

Interpreta-
tion

For the purposes of the formula in subparagraph 1 of the first paragraph,

(1) A is the tax calculated on the fair market value of the immovable at the particular time;

(2) B is the extent, expressed as a percentage of the total use of the immovable by the registrant immediately before the particular time, to which the registrant used the immovable in commercial activities of the registrant immediately before the particular time;

(3) C is

(a) the difference between 100 % and the percentage prescribed for the purposes of section 386 or 386.1 that applied, or would have

applied, in determining the amount of that rebate under sections 383 to 397, where the registrant

i. was entitled to claim a rebate under sections 383 to 397 in respect of any tax payable in respect of the last acquisition of the immovable by the registrant or, where the last acquisition of the immovable was deemed to have been made under section 256, the second last acquisition of the immovable by the registrant, or in respect of an improvement to the immovable acquired or brought into Québec by the registrant after the last or second last acquisition of the immovable by the registrant, as the case may be, or

ii. would have been entitled to claim a rebate under sections 383 to 397 in respect of the tax payable in respect of the last acquisition of the immovable, the second last acquisition of the immovable or the improvement, as the case may be, but for the fact that the immovable was acquired by the registrant at the time of that last acquisition or second last acquisition, as the case may be, for use exclusively in commercial activities of the registrant, or

(b) in any other case, 100 %;

(4) D is the lesser of

(a) an amount equal to the total (in this section referred to as “the total tax charged in respect of the immovable”) of the tax that was or would, but for sections 75.1 and 80, have been payable by the registrant in respect of the last acquisition of the immovable by the registrant and the tax that was payable by the registrant in respect of improvements to the immovable acquired or brought into Québec by the registrant after the immovable was last so acquired, and

(b) an amount equal to the tax calculated on the fair market value of the immovable at the particular time; and

(5) E is

(a) where the registrant was entitled to claim a rebate under sections 383 to 397 in respect of any tax included in the total tax charged in respect of the immovable, or would have been so entitled but for the fact that the registrant last acquired the immovable for use exclusively in commercial activities of the registrant, the difference between 100 % and the percentage prescribed for the purposes of section 386 or 386.1 that applied, or would have applied, in determining the amount of that rebate, and

(b) in any other case, 100 %.

Reducing
use in com-
mercial
activities

“259. Except where section 258 applies, where a registrant last acquired an immovable for use as capital property in commercial activities of the registrant and the registrant reduces, at a particular time, the extent to which the immovable is used in commercial activities of the registrant, for the purpose of determining the net tax of the registrant for the reporting period of the registrant that includes the particular time, the registrant is deemed

(1) to have made a supply of a portion of the immovable immediately before the particular time; and

(2) except where the supply is an exempt supply, to have collected, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$A \times B \times C.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the lesser of

(a) an amount equal to the total (in this section referred to as “the total tax charged in respect of the immovable”) of the tax that was or would, but for sections 75.1 and 80, have been payable by the registrant in respect of the last acquisition of the immovable by the registrant and the tax that was payable by the registrant in respect of improvements to the immovable acquired or brought into Québec by the registrant after the immovable was last so acquired, and

(b) an amount equal to the tax calculated on the fair market value of the immovable at the particular time;

(2) B is the extent, expressed as a percentage of the total use of the immovable by the registrant at the particular time, to which the registrant reduced the use of the immovable in commercial activities of the registrant at the particular time; and

(3) C is

(a) where the registrant was entitled to claim a rebate under sections 383 to 397 in respect of any tax included in the total tax charged in respect of the immovable, or would have been so entitled but for the fact that the registrant last acquired the immovable for use exclusively in commercial activities of the registrant, the difference between 100 % and the percentage prescribed for the purposes of section 386 or 386.1 that applied, or would have applied, in determining the amount of that rebate, and

(b) in any other case, 100 %.”

(2) Subsection 1 applies from 1 October 1992. However, section 255 of the said Act, as enacted by subsection 1, applies to any supply of a passenger vehicle or aircraft, other than a supply under which ownership or possession of a vehicle or aircraft is transferred to a recipient before 1 October 1992.

c. T-0.1,
ss. 261-268,
replaced

506. (1) Sections 261 to 268 of the said Act are replaced by the following sections:

Individual
ceasing use
in commercial
activities

“261. Where an individual who is a registrant last acquired an immovable for use as capital property in commercial activities of the individual, and not primarily for the personal use and enjoyment of the individual or a related individual, and the individual begins, at a particular time, to use the immovable exclusively for other purposes, or primarily for the personal use and enjoyment of the individual or a related individual, the individual is deemed

(1) to have made, immediately before the particular time, a supply of the immovable by way of sale and, except where the supply is an exempt supply, to have collected, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$(A \times B) + [C \times (100 \% - B)] - D; \text{ and}$$

(2) to have received, at the particular time, a supply of the immovable by way of sale and, except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the amount determined under subparagraph 1.

Interpreta-
tion

For the purposes of the formula in subparagraph 1 of the first paragraph,

(1) A is the tax calculated on the fair market value of the immovable at the particular time;

(2) B is the extent, expressed as a percentage of the total use of the immovable by the individual immediately before the particular time, to which the individual used the immovable in commercial activities of the individual immediately before the particular time;

(3) C is the lesser of

(a) an amount equal to the total of the tax that was or would, but for sections 75.1 and 80, have been payable by the individual in respect of the last acquisition of the immovable by the individual and the tax that was payable by the individual in respect of improvements to the

immovable acquired or brought into Québec by the individual after the immovable was last so acquired, and

(b) an amount equal to the tax calculated on the fair market value of the immovable at the particular time; and

(4) D is the tax, if any, that the individual is deemed under section 221 or sections 222.1 to 222.3 to have collected at the particular time in respect of the immovable.

Individual
reducing use
in commer-
cial activities

“262. Except where section 261 applies, where an individual who is a registrant last acquired an immovable for use as capital property in commercial activities of the individual, and not primarily for the personal use and enjoyment of the individual or a related individual, and the individual reduces, at a particular time, the extent to which the immovable is used in commercial activities of the individual without beginning to use the immovable primarily for the personal use and enjoyment of the individual or a related individual, for the purposes of determining the net tax of the individual, the individual is deemed

(1) to have made, immediately before the particular time, a supply by way of sale of a portion of the immovable; and

(2) except where the supply is an exempt supply, to have collected, at the particular time, tax in respect of the supply equal to the amount determined by the formula

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

Interpreta-
tion

For the purposes of this formula,

(1) A is the lesser of

(a) an amount equal to the total of the tax that was or would, but for sections 75.1 and 80, have been payable by the individual in respect of the last acquisition of the immovable by the individual and the tax that was payable by the individual in respect of improvements to the immovable acquired or brought into Québec by the registrant after the immovable was last so acquired, and

(b) an amount equal to the tax calculated on the fair market value of the immovable at the particular time;

(2) B is the extent, expressed as a percentage of the total use of the immovable by the individual at the particular time, to which the individual reduced the use of the immovable in commercial activities of the individual at the particular time; and

(3) C is the tax, if any, that the individual is deemed under section 221 or sections 222.1 to 222.3 to have collected at the particular time in respect of the immovable.

Acquisition
by an indi-
vidual of an
immovable
primarily
for personal
use

“263. Subject to sections 264 to 266, where an individual who is a registrant acquires an immovable for use as capital property of the individual but primarily for the personal use and enjoyment of the individual or a related individual, the tax payable by the individual in respect of the acquisition of the immovable shall not be included in determining an input tax refund of the individual.

Individual
beginning
use in com-
mercial
activities

“264. Where an individual who is a registrant last acquired an immovable for use as capital property of the individual but primarily for the personal use and enjoyment of the individual or a related individual and the individual begins, at a particular time, to use the immovable as capital property in commercial activities of the individual, and not primarily for the personal use and enjoyment of the individual or a related individual, the individual is deemed

(1) to have received, at the particular time, a supply by way of sale of the immovable; and

(2) except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the lesser of

(a) an amount equal to the total of the tax that was payable by the individual in respect of the last acquisition of the immovable by the individual and the tax that was payable by the individual in respect of improvements to the immovable acquired or brought into Québec by the individual after the immovable was last so acquired, and

(b) an amount equal to the tax calculated on the fair market value of the immovable at the particular time.

Individual
increasing
use in com-
mercial
activities

“265. Where an individual who is a registrant last acquired an immovable for use as capital property in commercial activities of the individual and not primarily for the personal use and enjoyment of the individual or a related individual, and the individual increases, at a particular time, the extent to which the immovable is used in commercial activities of the individual without beginning to use the immovable primarily for the personal use and enjoyment of the individual or a related individual, for the purposes of determining an input tax refund of the individual, the individual is deemed

(1) to have received, at the particular time, a supply by way of sale of a portion of the immovable for use as capital property exclusively in commercial activities of the individual; and

(2) except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$A \times B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the lesser of

(a) an amount equal to the total of the tax that was or would, but for sections 75.1 and 80, have been payable by the individual in respect of the last acquisition of the immovable by the individual and the tax that was payable by the individual in respect of improvements to the immovable acquired or brought into Québec by the individual after the immovable was last so acquired, and

(b) an amount equal to the tax calculated on the fair market value of the immovable at the particular time; and

(2) B is the extent, expressed as a percentage of the total use of the immovable by the individual at the particular time, to which the individual increased the use of the immovable in commercial activities of the individual at the particular time.

Improve-
ment to capi-
tal property
by an indi-
vidual

“266. Where an individual who is a registrant brings into Québec or acquires an improvement to an immovable that is capital property of the individual, the tax payable by the individual in respect of the improvement shall not be included in determining an input tax refund of the individual if, at the time that tax becomes payable or is paid without having become payable, the immovable is primarily for the personal use and enjoyment of the individual or a related individual.

Acquisition
and improve-
ments

“267. Where a registrant is a public service body, other than a government, or a prescribed mandatary of the Government, sections 240 to 244.1 apply, adapted as required, to an immovable acquired by the registrant for use as capital property of the registrant, and to improvements to an immovable that is capital property of the registrant, as if the immovable were movable property.

Exception

“268. Notwithstanding section 267, section 244 does not apply to

(1) a supply of a residential complex or an interest therein made by way of sale by a public service body; or

(2) a supply of an immovable made by way of sale by a public service body to an individual.”

(2) Subsection 1 applies, with respect to sections 261 to 265 of the said Act as replaced by subsection 1, from 1 October 1992.

(3) Subsection 1 applies, with respect to sections 266 to 268 of the said Act as replaced by subsection 1, from 1 July 1992. However, section 268 of the said Act, as enacted by subsection 1, does not apply to any supply of an immovable made under an agreement in writing entered into before 6 November 1991.

c. T-0.1,
ss. 269-271,
repealed

507. (1) Sections 269 to 271 of the said Act are repealed.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 272, 273,
replaced

508. (1) Sections 272 and 273 of the said Act are replaced by the following sections:

Election

“272. Where a public service body files an election under this section in respect of an immovable described in the second paragraph, throughout the period the election is in effect, sections 233 and 256 to 260 apply, and sections 267 and 268 do not apply to the immovable.

Interpreta-
tion

The immovable referred to in the first paragraph is

(1) an immovable that is capital property of the body;

(2) an immovable of the body that is held by the body in inventory for the purpose of supply; or

(3) an immovable acquired by the body by way of lease, licence or similar arrangement for the purpose of making a supply of the immovable by way of lease, licence or similar arrangement or making a supply of the arrangement by way of assignment.

Deemed sale
where elec-
tion

“273. Where a public service body has filed an election under section 272 that takes effect on a particular day in respect of an immovable described in subparagraph 1 or 2 of the second paragraph of the said section and the body does not acquire the immovable on that day or become a registrant on that day, the body is deemed

(1) to have made, immediately before the particular day, a taxable supply of the immovable by way of sale and to have collected, on the particular day, tax in respect of the supply equal to the lesser of

(a) an amount equal to the total of the tax that was or would, but for sections 75.1 and 80, have been payable by the body in respect of the last acquisition of the immovable by the body and the tax that was payable by the body in respect of improvements to the immovable acquired or brought into Québec by the body after the immovable was last so acquired, and

(b) an amount equal to the tax calculated on the fair market value of the immovable on the particular day; and

(2) to have received, on the particular day, a taxable supply of the immovable by way of sale and to have paid, on the particular day, tax in respect of the supply equal to the amount determined under paragraph 1.”

(2) Subsection 1 applies from 1 July 1992. However, for the period from 1 July 1992 to 30 September 1992, the reference in section 273 of the said Act, as enacted by subsection 1, to section 75.1 shall be read as a reference to section 75.

c. T-0.1,
s. 275,
replaced

509. (1) Section 275 of the said Act is replaced by the following section:

Deemed sale
where revoca-
tion

“275. Where an election made under section 272 by a public service body in respect of an immovable described in subparagraph 1 or 2 of the second paragraph of the said section is revoked and ceases to be effective on a particular day and the body does not cease to be a registrant on that day, the body is deemed

(1) to have made, immediately before that day, a taxable supply of the immovable by way of sale and to have collected, on that day, tax in respect of the supply calculated on the fair market value of the immovable on that day; and

(2) to have received, on that day, a taxable supply of the immovable by way of sale and to have paid, on that day, tax in respect of the supply calculated on the fair market value of the immovable on that day.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 279,
replaced

510. (1) Section 279 of the said Act, amended by section 205 of chapter 19 of the statutes of 1993, is replaced by the following section:

Net tax of a
prescribed
registrant

“279. Where a registrant is a prescribed registrant at any time in a reporting period, the registrant’s net tax for the period shall be determined in prescribed manner.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 287,
replaced

511. (1) Section 287 of the said Act, replaced by section 206 of chapter 19 of the statutes of 1993, is again replaced by the following section:

Exception

“287. Sections 285 and 286 do not apply to property or a service appropriated by a registrant to or for the benefit of a person where

(1) the registrant was, by reason of section 203, 205, 206 or 206.1, not entitled to claim an input tax refund in respect of the last acquisition or bringing into Québec of the property or service by the registrant; or

(2) Division II applies to the property or service so appropriated for the purpose of making it available to the person.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 288,
repealed

512. (1) Section 288 of the said Act is repealed.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 290,
replaced

513. (1) Section 290 of the said Act, amended by section 210 of chapter 19 of the statutes of 1993, is replaced by the following section:

Benefit to
an employee
or share-
holder

“290. Where a registrant makes a supply, other than an exempt supply, to a person of property or a service, and an amount (in this paragraph referred to as the “benefit amount”) in respect of the property or service is required by section 37, 41 or 111 of the Taxation Act (chapter I-3) to be included in computing the person’s income for a taxation year of the person, the following rules apply:

(1) in the case of a supply of property otherwise than by way of sale, the use made by the registrant in so providing the property to the person is deemed to be use in commercial activities of the registrant, and to the extent that the registrant acquired the property for the purpose of making that supply, the registrant is deemed to have so acquired the property for use in commercial activities of the registrant; and

(2) for the purpose of determining the net tax of the registrant,

(a) the registrant is deemed to have made that supply to the person for consideration equal to the total of

i. the consideration, if any, for the supply, as otherwise determined, and

ii. the amount (in this paragraph referred to as the “adjusted benefit”) that is the total of the amount by which the benefit amount exceeds the amount, if any, included in the benefit amount that may reasonably be attributed to tax imposed under an Act of the legislature of a province other than Québec or of the Northwest Territories or the Yukon Territory that is a prescribed tax for the purposes of section 154 of the Excise Tax Act (Statutes of Canada) and the amount that is required under section 41.2 or 112.2 of the Taxation Act to be included in computing the person’s income for the year in respect of the property or service; and

(b) tax calculated on the adjusted benefit is deemed to have become collectible, and to have been collected, by the registrant

i. in the case of a supply of property or a service in respect of which an amount is required under section 37 or 41 of the Taxation Act (R.S.Q., chapter I-3) to be included in computing the person’s income for a particular taxation year of the person, on the last day of February of the year following the particular taxation year, and

ii. in the case of a supply of property or a service in respect of which an amount is required under section 111 of the Taxation Act (R.S.Q., chapter I-3) to be included in computing the person’s income, on the last day of the registrant’s taxation year in which the property or service is so supplied to the person.

Exceptions

This section does not apply where

(1) the registrant is, by reason of section 203, 205, 206 or 206.1, not entitled to include, in determining an input tax refund, an amount in respect of the tax payable by the registrant in respect of the last acquisition or bringing into Québec of the property or service;

(2) the property or service is acquired or brought into Québec before 1 July 1992, but if it were acquired or brought into Québec after 30 June 1992, the registrant would not be entitled to claim an input tax refund in respect thereof by reason of section 206.1;

(3) the tax prescribed in Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) applies in respect of the property or service for the taxation year 1992; or

(4) the tax prescribed in Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) does not apply in respect of the property or service for the taxation year 1992, by reason of an exemption under Division III of that chapter.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 291,
repealed

514. (1) Section 291 of the said Act is repealed.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 292,
replaced

515. (1) Section 292 of the said Act, replaced by section 211 of chapter 19 of the statutes of 1993, is again replaced by the following section:

Exceptions

“292. Subparagraph 2 of the first paragraph of section 290 does not apply in respect of property where

(1) the registrant is an individual or a partnership and the property is a passenger vehicle or an aircraft of the registrant that is not used by the registrant exclusively in commercial activities of the registrant;

(2) the registrant is not an individual or a partnership and the property is a passenger vehicle or an aircraft of the registrant that is not used by the registrant primarily in commercial activities of the registrant;

(3) an election made by the registrant under section 293 in respect of the property is in effect at that time; or

(4) section 243.1, 253.1 or 288.2 applied in respect of the property that is a road vehicle.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 293,
replaced

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

Election
relating to a
passenger
vehicle or
aircraft
acquired by
way of lease

“293. Where in a reporting period of a registrant, the registrant acquires a passenger vehicle or an aircraft by way of lease for use otherwise than primarily in commercial activities of the registrant or the registrant uses, otherwise than primarily in commercial activities of the registrant, a passenger vehicle or an aircraft that was last acquired by the registrant by way of lease, the registrant may make an election in respect of the vehicle or aircraft to take effect on the first day of that reporting period of the registrant, in which event the following rules apply:

(1) notwithstanding subparagraph 1 of the first paragraph of section 290, the registrant is deemed to have begun, on that day, to use the property exclusively in activities of the registrant that are not commercial activities and, as soon as the election becomes effective

and until the registrant ceases to lease the property, the registrant is deemed to use it exclusively in activities other than commercial activities of the registrant; and

(2) where the property was last supplied to the registrant by way of lease,

(a) there shall not be included, in determining an input tax refund claimed by the registrant in the return under section 468 for the particular or any subsequent reporting period, tax calculated on consideration, or a part thereof, for that supply that is reasonably attributable to a reporting period after the day the election becomes effective, and

(b) where an amount in respect of any tax referred to in subparagraph *a* was included in determining an input tax refund claimed by the registrant in a return under section 468 for a reporting period ending before the particular reporting period, that amount shall be added in determining the net tax of the registrant for the particular reporting period.

Form of election

Any election under the first paragraph shall be made in prescribed form containing prescribed information."

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 294, am.

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

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

"(a) the total of all amounts each of which is the value of the consideration, other than consideration referred to in section 75.2 that is attributable to goodwill of a business, that became due in the four calendar quarters immediately preceding the particular calendar quarter, or that was paid in those four calendar quarters without having become due, to the person or an associate of the person at the beginning of the particular calendar quarter for taxable or non-taxable supplies, other than supplies by way of sale of capital property of the person or of the associate, made inside or outside Québec by the person or the associate in the course of commercial activities;"

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

"(2) all or substantially all of the amounts referred to in subparagraph *a* of paragraph 1 relate to a supply of incorporeal movable property, immovables or services."

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 295, am.

518. (1) Section 295 of the said Act is amended

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

“(a) the total of all amounts each of which is the value of the consideration, other than consideration referred to in section 75.2 that is attributable to goodwill of a business, that became due in the calendar quarter or was paid in that calendar quarter without having become due, to a person or an associate of the person at the beginning of the calendar quarter for taxable or non-taxable supplies, other than supplies by way of sale of capital property of the person or of the associate, made inside or outside Québec by the person or the associate in the course of commercial activities;”;

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

“(2) all or substantially all of the amounts referred to in subparagraph *a* of paragraph 1 do not relate to a supply of incorporeal movable property, immovables or services.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 297.1-
297.15, added

519. (1) The said Act is amended by inserting, after Division III of Chapter VI of Title I, the following:

“DIVISION III.1

“DIRECT SELLERS

Definitions

“297.1 For the purposes of this division,

“collection
officer”

“collection officer” means a direct seller or a distributor of the direct seller;

“direct
seller”

“direct seller” means a person who sells exclusive products of the person to independent sales contractors of the person;

“distributor”

“distributor” of a direct seller means a person who is an independent sales contractor of the direct seller and who, in the course of the contractor’s business, sells some or all of the exclusive products of the direct seller acquired by the contractor to other independent sales contractors of the direct seller;

“exclusive product”

“exclusive product” of a direct seller means movable property that is acquired, manufactured or produced by the direct seller for sale, in the ordinary course of a business of the direct seller, to an independent sales contractor of the direct seller, with the expectation that the property would be ultimately sold, otherwise than as used corporeal movable property, by an independent sales contractor of the direct seller, in the ordinary course of a business of the contractor, for consideration to a person other than an independent sales contractor;

“independent sales contractor”

“independent sales contractor” of a direct seller means a person, other than a mandatary or employee of the direct seller or of a distributor of the direct seller, who

(1) has a contractual right to purchase exclusive products of the direct seller from the direct seller or from a distributor of the direct seller;

(2) purchases exclusive products of the direct seller for the purpose of resale to another independent sales contractor of the direct seller or to a purchaser; and

(3) does not solicit, negotiate or enter into contracts for the sale of exclusive products of the direct seller to purchasers primarily at a fixed place of business of the person other than a private residence;

“purchaser”

“purchaser” of an exclusive product of a direct seller means a person who is the recipient of a supply of the product and who is not acquiring the product for the purpose of supplying it for consideration;

“sales aid”

“sales aid” of a person who is a direct seller or a distributor of a direct seller means a customized business form or a sample, demonstration kit, promotional or instructional item, catalogue or other movable property that is acquired, manufactured or produced by the person for sale to assist in the distribution, promotion or sale of exclusive products of the direct seller, but does not include an exclusive product of the direct seller or property that is sold, or held for sale, by the person to an independent sales contractor of the direct seller who is acquiring the property for use as capital property;

“suggested retail price”

“suggested retail price” at any time of an exclusive product of a direct seller means the lowest price published by the direct seller applicable to supplies of the product made at that time to purchasers and includes the duties, fees and taxes described in section 52, but does not include tax payable under this title and duties, fees and taxes prescribed for the purposes of the second paragraph of section 52.

Collection
by the
direct seller

“297.2 Where a direct seller makes in Québec a supply by way of sale, other than an exempt supply, of an exclusive product of the direct seller to an independent sales contractor of the direct seller, the following rules apply:

(1) the direct seller shall, as a mandatary of the Minister, collect an amount from the contractor in respect of the supply equal to the tax payable under section 16 by a purchaser in respect of the supply of the product, calculated on the suggested retail price of the product at the time the supply is made to the contractor; and

(2) the amount referred to in subparagraph 1 shall

(a) be collected by the direct seller at the time part of the consideration for the supply becomes due or at the time part of the consideration is paid, whichever time is earlier, and

(b) be added in determining the net tax of the direct seller for the reporting period of the direct seller that includes the time described in subparagraph *a*.

Application
of s. 83

For the purposes of subparagraph *a* of subparagraph 2 of the first paragraph, section 83 applies, adapted as required, in determining the time at which a part of the consideration for the supply is deemed to become due.

Collection
by the dis-
tributor of a
direct seller

“297.3 Where a distributor of a direct seller makes in Québec a supply by way of sale, other than an exempt supply, of an exclusive product of the direct seller to an independent sales contractor of the direct seller, the following rules apply:

(1) the distributor shall, as a mandatary of the Minister, collect an amount from the contractor equal to the tax payable under section 16 by a purchaser in respect of the supply of the product, calculated on the suggested retail price of the product at the time the supply of the product is made by way of sale by the direct seller; and

(2) the amount referred to in subparagraph 1 shall

(a) be collected by the distributor at the time part of the consideration for the supply becomes due or at the time part of the consideration is paid, whichever time is earlier, and

(b) be added in determining the net tax of the distributor for the reporting period of the distributor that includes the time described in subparagraph *a*, unless the distributor paid an amount to a collection officer equal to that amount in respect of the acquisition of the exclusive product.

Application
of s. 83

For the purposes of subparagraph *a* of subparagraph 2 of the first paragraph, section 83 applies, adapted as required, in determining the time at which a part of the consideration for the supply is deemed to become due.

Exception

This section does not apply if the supply is made by the distributor of a direct seller to another distributor of the direct seller who is acquiring the exclusive product solely for the purpose of sale to the direct seller.

Failure to
collect

“297.4 Every collection officer who fails to collect the amount provided for in section 297.2 or 297.3 or who fails to add in determining the net tax of the collection officer the amount that the collection officer has collected and is required under those sections to add in that determination becomes a debtor of the amount towards the Government of Québec.

Presumption

The amount referred to in the first paragraph is deemed to be a duty within the meaning of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).

Exception

“297.5 Where an independent sales contractor of a direct seller makes in Québec a taxable supply by way of sale, other than a zero-rated supply, of an exclusive product of the direct seller to a purchaser and has paid the amount under section 297.2 or 297.3 in respect of the acquisition of the product to a collection officer, the following rules apply:

(1) if the contractor is not a registrant, sections 437 and 470 do not apply; and

(2) if the contractor is a registrant, the tax collected or that becomes collectible by the contractor in respect of the supply shall not be included in determining the net tax of the contractor.

Exception

“297.6 Where a direct seller has made a supply of an exclusive product of the direct seller in circumstances in which an amount was required under section 297.2 to be added in determining the net tax of the direct seller and an independent sales contractor of the direct seller subsequently supplies the product to the direct seller in a reporting period of the direct seller, the following rules apply:

(1) the supply by the contractor is deemed not to be a taxable supply; and

(2) the direct seller may deduct an amount equal to that amount in determining the net tax of the direct seller for the particular

reporting period in which the direct seller pays such an amount to, or credits in favour of, the contractor, or for any subsequent period ending on or before the day that is four years after the day the particular period ends.

Adjustment
to the direct
seller's net
tax

“297.7 A direct seller may deduct the amount determined under subparagraph 3 in determining the net tax of the direct seller for the particular reporting period in which the direct seller pays the amount to, or credits in favour of, an independent sales contractor of the direct seller, or for any subsequent period ending on or before the day that is four years after the day the particular period ends where

(1) at a particular time the direct seller made a supply of an exclusive product of the direct seller in circumstances in which an amount was required under section 297.2 to be added in determining the net tax of the direct seller;

(2) an independent sales contractor of the direct seller

(a) makes a supply of the product that is

i. a zero-rated supply,

ii. a supply made outside Québec, or

iii. a supply in respect of which the recipient is not required to pay tax under a law of Canada or a province,

(b) makes a supply of the product to a person other than an independent sales contractor for consideration that is less than the suggested retail price of the product at the particular time and more than nominal, and on which was calculated tax that was paid by the person, or

(c) makes a supply of the product to a person other than an independent sales contractor of the direct seller for no consideration or for nominal consideration or appropriates the product for the consumption, use or enjoyment of the particular contractor or that of an individual related thereto; and

(3) the direct seller pays to, or credits in favour of, an independent sales contractor of the direct seller an amount in respect of the product equal to

(a) where subparagraph *a* of subparagraph 2 applies, the amount collected by the direct seller under section 297.2 in respect of the product, and

(b) where subparagraph *b* or *c* of subparagraph 2 applies, the amount determined by the formula

$$A - B.$$

Interpreta-
tion

For the purposes of this formula,

(1) *A* is an amount equal to the amount collected by the direct seller under section 297.2 in respect of the product; and

(2) *B* is

(a) where subparagraph *b* of subparagraph 2 of the first paragraph applies, an amount equal to the tax paid by the person, and

(b) where subparagraph *c* of subparagraph 2 of the first paragraph applies, an amount equal to the tax that would have been payable by the contractor in respect of the acquisition of the product if the supply had been a supply other than a non-taxable supply.

Bad debts

“297.8 Where a direct seller has made a supply in the course of a commercial activity for consideration to an independent sales contractor with whom the direct seller was dealing at arm’s length and has filed a return accounting for, and remitted the amount provided for in section 297.2 in respect of, the supply as required under Division III of Chapter VIII, to the extent that it is established that the consideration and the amount have become in whole a bad debt, the direct seller may, in determining the net tax for the reporting period of the direct seller in which the bad debt is written off in the direct seller’s books of account or for a reporting period that ends within four years after the end of that period, deduct an amount equal to that amount.

Recovery of
a bad debt

“297.9 Where a direct seller recovers all or part of a bad debt in respect of which the direct seller has made a deduction under section 297.8, the direct seller shall, in determining the net tax for the direct seller’s reporting period in which the bad debt or part thereof is recovered, add an amount equal to the deduction.

Sales aid

“297.10 Where a direct seller or a distributor of the direct seller makes a supply by way of sale of a sales aid to an independent sales contractor of the direct seller, the supply is deemed not to be a supply.

Host gift

“297.11 Where an independent sales contractor of the direct seller makes a supply of property to a person as consideration for the supply by the person of a service of acting as a host at an occasion that is organized for the purpose of the distribution, promotion or sale by

the contractor of exclusive products of the direct seller, the person is deemed not to have made a supply of the service and the service is deemed not to be consideration for a supply.

Benefit to
an independent
sales
contractor

“297.12 Where a person who is a direct seller or a distributor of the direct seller acquires or brings into Québec property, other than an exclusive product of the direct seller, or a service for supply, at any time, to an independent sales contractor of the direct seller or an individual related thereto for no consideration or for consideration that is less than the fair market value of the property or service and the contractor or individual is not acquiring the property or service for consumption, use or supply exclusively in the course of commercial activities of the contractor or individual, the following rules apply:

(1) no tax is payable in respect of the supply;

(2) the person is deemed to have made the supply for consideration equal to the consideration paid or payable by the person for the supply of the property or service or to the value of the property brought into Québec within the meaning of section 17; and

(3) the person is deemed to have collected, at that time, tax in respect of the supply, unless the supply is an exempt supply, calculated on the consideration.

Use by an
independent
sales con-
tractor

“297.13 Where a person who is a direct seller or a distributor of the direct seller, in the course of the commercial activities of the person, acquired, manufactured or produced property, other than an exclusive product of the direct seller, or acquired or performed a service, appropriates the property or service, at any time, to or for the benefit of an independent sales contractor of the direct seller or an individual related thereto for no consideration or for consideration that is less than the fair market value of the property or service, and the contractor or individual is not acquiring the property or service for consumption, use or supply exclusively in the course of commercial activities of the contractor or individual, the following rules apply:

(1) the person is deemed to have made the supply of the property or service for consideration, paid at that time, equal to the fair market value of the property or service at that time; and

(2) the person is deemed to have collected, at that time, tax in respect of the supply, except where the supply is an exempt supply, calculated on the consideration.

Exception

This section does not apply to a person who, by reason of sections 203, 205, 206 or 206.1, is not entitled, in determining an input tax

refund, to include an amount in respect of tax payable by the person in respect of a property or service appropriated to or for the benefit of an independent sales contractor or an individual related thereto.

Independent sales contractor ceasing to be a registrant

“297.14 Where an independent sales contractor of the direct seller ceases to be a registrant, section 209 does not apply to sales aids supplied to the contractor by the direct seller or a distributor of the direct seller.

Non-arm's length supplies

“297.15 Section 55 does not apply to supplies described in subparagraph *b* or *c* of subparagraph 2 of the first paragraph of section 297.7 or in section 297.11.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1, ss. 298-300, replaced

520. (1) Sections 298 to 300 of the said Act are replaced by the following sections:

Transfer of property to an insurer

“298. Where at any time after 1 July 1992 property is transferred to an insurer by a person in the course of settling an insurance claim,

(1) the person is deemed to have made, and the insurer is deemed to have received, at that time, a supply by way of sale of the property;

(2) the supply is deemed to have been made for no consideration, except for the purposes of sections 233, 234, 379 and 380;

(3) in the case of a taxable supply of an immovable, for the purposes of sections 233, 234, 379 and 380, the tax payable in respect of the supply is deemed to be equal to tax calculated on the fair market value of the property at that time; and

(4) in the case of a supply referred to in section 102 or 168, for the purposes of sections 233, 234, 379 and 380, the supply is deemed to be a taxable supply and the tax payable in respect of the supply is deemed to be equal to tax calculated on the fair market value of the property at that time.

Supply in a commercial activity

“299. Where at any time an insurer makes a supply, other than an exempt supply, of property transferred to the insurer in circumstances in which section 298 applies, except where any of sections 300 to 300.2 applied at an earlier time in respect of the use of the property by the insurer,

(1) the insurer is deemed to have made the supply in the course of a commercial activity of the insurer; and

(2) anything done by the insurer in the course of, or in connection with, the making of the supply and not in connection with the transfer of the property is deemed to have been done in the course of the commercial activity.

Use of prop-
erty

“300. Where at any time an insurer to whom an immovable has been transferred, in circumstances in which section 298 applies, begins to use the immovable otherwise than in the making of a supply of the immovable, the insurer is deemed to have made a supply of the property at that time and, except where the supply is an exempt or non-taxable supply,

(1) the insurer is deemed to have collected, at that time, tax in respect of the supply equal to the tax fraction of the fair market value of the property at that time; and

(2) the insurer is deemed to have acquired the property and to have paid that tax at that time.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 300.1,
300.2, added

521. (1) The said Act is amended by inserting, after section 300, the following sections:

Use of mov-
able prop-
erty trans-
ferred
before 1 Jan-
uary 1994

“300.1 Where an insurer to whom movable property has been transferred from a person before 1 January 1994, in circumstances in which section 298 applies, begins at a particular time to use the property otherwise than in the making of a supply of the property, the following rules apply:

(1) the insurer is deemed

(a) to have received, immediately after the particular time, a supply of the property, and

(b) where the property was, at the time it was transferred, specified corporeal movable property having a fair market value in excess of the amount prescribed in respect of the property for the purposes of subdivision 3 of Division II of Chapter V, to have acquired the property for use, and to use the property at all times after that acquisition until the insurer disposes of the property, exclusively in activities other than commercial activities; and

(2) where tax would have been payable had the property been purchased in Québec, from the person, otherwise than by way of a non-taxable supply, for consideration at the time it was transferred, the insurer is deemed

(a) to have made, at the particular time, a taxable supply of the property and to have collected, at the particular time, tax in respect of that supply equal to the tax fraction of the fair market value of the property at the time it was transferred, and

(b) to have paid, immediately after the particular time, tax in respect of the supply referred to in subparagraph *a* of paragraph 1 equal to the amount determined under subparagraph *a*.

Use of movable property transferred after 31 December 1993

“300.2 Where an insurer to whom movable property has been transferred from a person after 31 December 1993, in circumstances in which section 298 applies, begins at a particular time to use the property otherwise than in the making of a supply of the property, the following rules apply:

(1) the insurer is deemed

(a) to have received, immediately after the particular time, a supply of the property and to have paid, immediately after the particular time, tax in respect of that supply equal to the tax fraction of the fair market value of the property at the time it was transferred, and

(b) where the property was, at the time it was transferred, specified corporeal movable property having a fair market value in excess of the amount prescribed in respect of the property for the purposes of subdivision 3 of Division II of Chapter V, to have acquired the property for use, and to use the property at all times after that acquisition until the insurer disposes of the property, exclusively in activities other than commercial activities; and

(2) where tax would have been payable had the property been purchased in Québec from the person, otherwise than by way of a non-taxable supply, at the time it was transferred, the insurer is deemed

(a) to have made, at the particular time, a taxable supply of the property, and

(b) to have collected, at the particular time, tax in respect of that supply equal to the tax fraction of the fair market value of the property at the time it was transferred.”

(2) Subsection 1 applies from 1 July 1992. However, where an insurer begins, before 1 October 1992, to use property in the circumstances in which section 300.1 or 300.2 of the said Act, as enacted by subsection 1, applies,

(a) the said section 300.1 applies to the insurer without reference to subparagraph *b* of paragraph 1 thereof; and

(b) the said section 300.2 applies to the insurer without reference to subparagraph *b* of paragraph 1 thereof.

c. T-0.1,
s. 301,
replaced

522. (1) Section 301 of the said Act is replaced by the following section:

Sale of mov-
able prop-
erty

“301. The rules set out in the second paragraph apply where

(1) an insurer to whom movable property has been transferred from a person in circumstances in which section 298 applies makes at any time a taxable or non-taxable supply of the property by way of sale, other than a supply deemed, under any provision of this Act other than sections 41.1 to 41.6, to have been made;

(2) the insurer was not deemed under section 300.1, 300.2 or 301.2 to have received a supply of the property at an earlier time;

(3) no tax would have been payable by the insurer had the insurer purchased the property in Québec from the person, otherwise than by way of a non-taxable supply, at the time the property was transferred; and

(4) the person had not last acquired the property by way of a non-taxable supply before it was transferred.

Presump-
tions

The insurer is deemed to have received a supply of the property immediately before that time for consideration equal to the consideration for the supply referred to in subparagraph 1 of the first paragraph and to have paid, immediately before that time, tax in respect of the supply deemed under this paragraph to have been received equal to the amount determined by the formula

$$A - B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is tax calculated on that consideration; and

(2) B is the total of all amounts each of which is a rebate under Division I of Chapter VII that the insurer was entitled to claim in respect of the property or an improvement thereto.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 301.1-
301.3, added

523. (1) The said Act is amended by inserting, after section 301, the following sections:

Exception

“301.1 Section 301 does not apply where

(1) the supply referred to in subparagraph 1 of the first paragraph of the said section is made outside Québec or is a zero-rated supply; and

(2) the property was transferred to the insurer before 1 January 1994 or was, at the time it was transferred, used specified corporeal movable property having a fair market value in excess of the amount prescribed in respect of the property for the purposes of subdivision 3 of Division II of Chapter V.

Lease of
movable
property**“301.2** The rules set out in the second paragraph apply where

(1) at any time an insurer to whom movable property has been transferred from a person in circumstances in which section 298 applies makes a taxable or non-taxable supply of the property by way of lease, licence or similar arrangement;

(2) the insurer was not deemed under section 300.1 or 300.2 to have received a supply of the property at an earlier time;

(3) no tax would have been payable had the property been purchased in Québec from the person, otherwise than by way of a non-taxable supply, at the time the property was transferred; and

(4) the person had not last acquired the property by way of a non-taxable supply before it was transferred.

Presumption

The insurer is deemed to have received a supply of the property immediately before that time and to have paid, immediately before that time, tax in respect of that supply calculated on the fair market value of the property at the time it was transferred.

Exception

“301.3 Section 301.2 does not apply where

(1) the supply referred to in subparagraph 1 of the first paragraph of the said section is made outside Québec or is a zero-rated supply; and

(2) the property was transferred to the insurer before 1 January 1994 or was, at the time it was transferred, used specified corporeal movable property having a fair market value in excess of the amount prescribed in respect of the property for the purposes of subdivision 3 of Division II of Chapter V.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 302,
replaced

524. (1) Section 302 of the said Act is replaced by the following section:

Application

“302. Sections 303 to 309 apply where on a particular day a person becomes a bankrupt.

“bankrupt”
and “estate
of the bank-
rupt”

In this section and in sections 303 to 309, “bankrupt” and “estate of the bankrupt” have the same meanings as in the Bankruptcy and Insolvency Act (Statutes of Canada).”

(2) Subsection 1 applies from 1 January 1993 in respect of persons who become bankrupt, and in respect of persons appointed as their trustees in bankruptcy, from that date.

c. T-0.1,
s. 304,
replaced

525. (1) Section 304 of the said Act is replaced by the following section:

Ownership

“304. The property and the money of the person immediately before the particular day are deemed not to pass to and be vested in the trustee in bankruptcy on the receiving order being made or the assignment in bankruptcy being filed, but to remain vested in the bankrupt.”

(2) Subsection 1 applies from 1 January 1993 in respect of persons who become bankrupt, and in respect of persons appointed as their trustees in bankruptcy, from that date. However, for the period prior to 1 January 1993, section 304 of the said Act, as replaced by subsection 1, shall be read as follows:

Ownership

“304. The property and the money of the bankrupt immediately before that time are deemed not to pass to and be vested in the trustee in bankruptcy on the receiving order being made or the assignment in bankruptcy being filed, but to remain vested in the bankrupt.”

c. T-0.1,
ss. 304.1,
304.2, added

526. (1) The said Act is amended by inserting, after section 304, the following sections:

Registration

“304.1 Where on the particular day the person is registered under Division I of Chapter VIII, the registration continues in relation to the activities of the person to which the bankruptcy relates as though the trustee in bankruptcy were the registrant in respect of those activities and ceases to apply to the activities of the person in which the person begins to engage on or after the particular day and to which the bankruptcy does not relate.

Activities

“304.2 Where on or after the particular day the person begins to engage in particular activities to which the bankruptcy does not relate,

(1) the particular activities are deemed to be separate from the activities of the person to which the bankruptcy relates as though the particular activities were activities of a separate person; and

(2) the person may apply for, and be granted, registration under Division I of Chapter VIII, and establish fiscal periods and make elections respecting reporting periods under Division IV of that chapter, in relation to the particular activities as though they were the only activities of the person.”

(2) Subsection 1 applies from 1 January 1993 in respect of persons who become bankrupt, and in respect of persons appointed as their trustees in bankruptcy, from that date.

c. T-0.1,
ss. 305-307,
replaced

527. (1) Sections 305 to 307 of the said Act are replaced by the following sections:

Reporting
periods of
the bankrupt

“305. Subject to sections 306 and 307, the reporting periods of the person begin and end on the days on which they would have begun and ended if the bankruptcy had not occurred.

Reporting
period of the
person
becoming a
bankrupt

“306. The reporting period of the person during which the person becomes a bankrupt shall end on the particular day and a new reporting period of the person in relation to the activities of the person to which the bankruptcy relates shall begin on the day immediately after the particular day.

Reporting
period of the
person in
relation to
the activi-
ties to which
the bank-
ruptcy
relates

“307. The reporting period of the person, in relation to the activities of the person to which the bankruptcy relates, during which the trustee in bankruptcy is discharged under the Bankruptcy and Insolvency Act (Statutes of Canada) shall end on the day the order of discharge is granted.”

(2) Subsection 1 applies from 1 January 1993 in respect of persons who become bankrupt, and in respect of persons appointed as their trustees in bankruptcy, from that date. However, a person who files a return for a reporting period referred to in Division V of Chapter VI of Title I of the said Act, as it read before 17 June 1994 or as it reads on 17 June 1994, is deemed to have filed the return under the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1).

In applying the preceding paragraph to the period from 1 July 1992 to 28 February 1994, the reference therein to the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) shall be read as a reference to the Act respecting the Québec sales tax and amending various fiscal legislation (1991, chapter 67).

c. T-0.1,
s. 308,
repealed

528. (1) Section 308 of the said Act is repealed.

(2) Subsection 1 applies from 1 January 1993 in respect of persons who become bankrupt, and in respect of persons appointed as their trustees in bankruptcy, from that date. However, a person who files a return for a reporting period referred to in Division V of Chapter VI of Title I of the said Act, as it read before 17 June 1994 or as it reads on 17 June 1994, is deemed to have filed the return under the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1).

In applying the preceding paragraph to the period from 1 July 1992 to 28 February 1994, the reference therein to the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) shall be read as a reference to the Act respecting the Québec sales tax and amending various fiscal legislation (1991, chapter 67).

c. T-0.1,
s. 309,
replaced

529. (1) Section 309 of the said Act is replaced by the following section:

Effect of the
order of dis-
charge

“309. The property and the money held by the trustee in bankruptcy for the person on the day on which an absolute order of discharge of the person is granted under the Bankruptcy and Insolvency Act (Statutes of Canada) are deemed not to pass to the person on the order being granted but to have been vested in and held by the person continuously since the day they were acquired by the person or the trustee, as the case may be.”

(2) Subsection 1 applies from 1 January 1993 in respect of persons who become bankrupt, and in respect of persons appointed as their trustees in bankruptcy, from that date. However, for the period prior to 1 January 1993, section 309 of the said Act, as replaced by subsection 1, shall be read as follows:

Effect of the
order of dis-
charge

“309. The property and the money held by the trustee for the bankrupt immediately before an absolute order of discharge of the bankrupt is granted under the Bankruptcy and Insolvency Act (Statutes of Canada) are deemed not to pass to the bankrupt on the order being granted but to have been vested in and held by the bankrupt continuously since the day they were acquired by the bankrupt or the trustee, as the case may be.”

c. T-0.1,
ss. 310-312,
replaced

530. (1) Sections 310 to 312 of the said Act are replaced by the following sections:

Application

“310. This division applies where on a particular day a receiver is vested with authority to manage, operate or liquidate any business or property, or to manage or care for the affairs or the assets, of a person.

Definitions

In this division,

“business”

“business” includes a part of a business;

“receiver”

“receiver” means a person who

(1) under the authority of a debenture, bond or other debt security, of a court order or of an Act of the legislature of Québec, another province, the Northwest Territories, the Yukon Territory or of the Parliament of Canada, is empowered to manage or operate a business or property of another person,

(1.1) is appointed by a trustee under a trust deed in respect of a debt security to exercise the authority of the trustee to manage or operate a business or property of the debtor under the debt security,

(1.2) is appointed by a bank to act as mandatary of the bank in the exercise of the authority of the bank under subsection 3 of section 426 of the Bank Act (Statutes of Canada) in respect of property of another person,

(2) is appointed as a liquidator to liquidate the assets of a corporation or to wind up the affairs of a corporation, or

(3) is appointed as a committee, tutor or curator with authority to manage and care for the affairs and assets of an individual who is incapable of managing his affairs and assets,

and includes a person who is appointed to exercise the authority of a creditor under a debenture, bond or other debt security to manage or operate a business or property of another person but, where a person is appointed to exercise the authority of a creditor under a debenture, bond or other debt security to manage or operate a business or property of another person, does not include that creditor;

“relevant assets”

“relevant assets” of a receiver means

(1) where the receiver’s authority relates to all the businesses, affairs, properties and assets of a person, all those businesses, affairs, properties and assets; and

(2) where the receiver’s authority relates to only part of the businesses, affairs, properties or assets of a person, that part of the businesses, affairs, properties or assets, as the case may be.

Mandatary of the person

“311. The receiver is deemed to be a mandatary of the person and any supply made or received and any act performed by the receiver in respect of the relevant assets of the receiver is,

(1) in the case of a supply, deemed to have been made or received by the receiver as mandatary of the person; and

(2) in the case of any act, deemed to have been performed by the receiver as mandatary of the person.

Estate of
the person

“312. The receiver is deemed not to be a trustee of the estate or any part of the estate of the person.”

(2) Subsection 1 applies to receivers who are vested with authority or appointed from 1 January 1993 and to the persons in respect of whose businesses, affairs, properties or assets those receivers are vested with authority or are appointed.

c. T-0.1,
s. 312.1,
added

531. (1) The said Act is amended by inserting, after section 312, the following section:

Relevant
assets

“312.1 Where the relevant assets of the receiver are a part and not all of the person’s businesses, affairs, properties or assets, the relevant assets of the receiver are deemed to be, throughout the period during which the receiver is acting as receiver of the person, separate from the remainder of the businesses, affairs, properties or assets of the person as though the relevant assets were businesses, affairs, properties or assets, as the case may be, of a separate person.”

(2) Subsection 1 applies to receivers who are vested with authority or appointed from 1 January 1993 and to the persons in respect of whose businesses, affairs, properties or assets those receivers are vested with authority or are appointed.

c. T-0.1,
ss. 313, 314,
replaced

532. (1) Sections 313 and 314 of the said Act are replaced by the following sections:

Joint and
several lia-
bility

“313. The person and the receiver are jointly and severally liable for the payment or remittance of all amounts that become payable or remittable by the person before or during the period during which the receiver is acting as receiver of the person to the extent that the amounts can reasonably be considered to relate to the relevant assets of the receiver or to the businesses, affairs, properties or assets of the person that would have been the relevant assets of the receiver if the receiver had been acting as receiver of the person at the time the amounts became payable or remittable, as the case may be.

Limitation

Notwithstanding the first paragraph, the following rules apply:

(1) the receiver is liable for the payment or remittance of amounts that became payable or remittable before that period only

to the extent of the property and money of the person in possession or under the control and management of the receiver after

(a) satisfying the claims of creditors whose claims ranked, on the particular day, in priority to the claim of the Crown in respect of the amounts, and

(b) paying any amounts that the receiver is required to pay to a trustee in bankruptcy of the person;

(2) the person is not liable for the remittance of any tax collected or collectible by the receiver; and

(3) the payment or remittance by the person or the receiver of an amount in respect of the liability shall discharge the joint liability to the extent of that amount.

Reporting
periods of
the person

“314. Subject to sections 314.1 and 315, the reporting periods of the person begin and end on the days on which they would have begun and ended if the vesting had not occurred.”

(2) Subject to subsections 3 and 4, subsection 1 applies to receivers who are vested with authority or appointed from 1 January 1993 and to the persons in respect of whose businesses, affairs, properties or assets those receivers are vested with authority or are appointed.

(3) For the period from 1 October 1992 to 31 December 1992, that part preceding the third paragraph of section 313 of the said Act, as enacted by chapter 67 of the statutes of 1991, shall be read as follows:

Joint and
several lia-
bility

“313. The person and the receiver are jointly and severally liable for the payment or remittance of all amounts, other than amounts relating to activities to which the appointment of the receiver does not relate, that become payable or remittable by the person before that time or during the period during which the receiver is acting as receiver of the person.

Limitation

Notwithstanding the first paragraph, the receiver is liable for the payment or remittance of amounts that became payable or remittable before that time only to the extent of the property and money of the person in possession or under the control and management of the receiver.”

(4) In respect of amounts that became payable or remittable for the period from 1 July 1992 to 30 September 1992, that part preceding the third paragraph of section 313 of the said Act, as enacted by chapter 67 of the statutes of 1991, shall be read as follows:

Joint and
several lia-
bility

“313. The person and the receiver are jointly and severally liable for the payment of any tax payable by the person before that time or during the period during which the receiver is acting as receiver for the person, and for the remittance of any tax collected by the person before that time or during that period.

Limitation

Notwithstanding the first paragraph, the receiver is liable for the payment of tax payable before that time and the remittance of tax collected before that time only to the extent of the property and money of the person in possession or under the control and management of the receiver.”

c. T-0.1,
s. 314.1,
added

533. (1) The said Act is amended by inserting, after section 314, the following section:

Reporting
period of the
person

“314.1 The reporting period of the person, in relation to the relevant assets of the receiver, during which the receiver begins to act as receiver of the person, shall end on the particular day and a new reporting period of the person in relation to the relevant assets shall begin on the day immediately after the particular day.”

(2) Subsection 1 applies to receivers who are vested with authority or appointed from 1 January 1993 and to the persons in respect of whose businesses, affairs, properties or assets those receivers are vested with authority or are appointed.

c. T-0.1,
ss. 315, 316,
replaced

534. (1) Sections 315 and 316 of the said Act are replaced by the following sections:

Reporting
period of the
person

“315. The reporting period of the person, in relation to the relevant assets of the receiver, during which the receiver ceases to act as receiver of the person, shall end on the day the receiver ceases to act as receiver of the person.

Filing of the
person's
returns

“316. The receiver shall file with the Minister in prescribed form containing prescribed information all returns that are required to be filed by the person in respect of

(1) the relevant assets of the receiver for reporting periods ending in the period during which the receiver is acting as receiver of the person; and

(2) supplies of immovables that can reasonably be considered to relate to the relevant assets and that were made to the person in those periods.

Relevant
assets

The receiver shall file the returns referred to in the first paragraph as if the relevant assets were the only businesses, affairs, properties and assets of the person.”

(2) Subsection 1 applies to receivers who are vested with authority or appointed from 1 January 1993 and to the persons in respect of whose businesses, affairs, properties or assets those receivers are vested with authority or are appointed.

c. T-0.1,
s. 317,
repealed

535. (1) Section 317 of the said Act is repealed.

(2) Subsection 1 applies to receivers who are vested with authority or appointed from 1 January 1993 and to the persons in respect of whose businesses, affairs, properties or assets those receivers are vested with authority or are appointed.

e. T-0.1,
ss. 317.1-
317.3, added

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

Filing of a
return

“317.1 The receiver shall, unless the Minister waives in writing the requirement for the receiver to file the return, file with the Minister in prescribed form containing prescribed information a return for the reporting period referred to in the second paragraph that relates to the businesses, affairs, properties or assets of the person that would have been the relevant assets of the receiver if the receiver had been acting as receiver of the person during that reporting period.

Application

The rules set out in the first paragraph apply if the person has not on or before the particular day filed a return required to be filed by the person for a reporting period of the person ending

(1) on or before the particular day; and

(2) in or immediately before the fiscal year of the person that included the particular day.

Filing of a
return –
immovable

“317.2 The receiver shall, unless the Minister waives in writing the requirement for the receiver to file the return, file with the Minister in prescribed form containing prescribed information a return in respect of the supply referred to in the second paragraph that can reasonably be considered to relate to the businesses, affairs, properties or assets of the person that would have been the relevant assets of the receiver if the receiver had been acting as receiver of the person in the reporting period referred to in the second paragraph.

Application

The rules set out in the first paragraph apply if the person has not on or before the particular day filed a return required to be filed

by the person in respect of a supply of an immovable made to the person in a reporting period ending

(1) on or before the particular day; and

(2) in or immediately before the fiscal year of the person that included the particular day.

Fiscal year
of a person

“317.3 For the purposes of this division, the fiscal year of a person is the fiscal year of the person within the meaning of section 458.1.”

(2) Subsection 1 applies to receivers who are vested with authority or appointed from 1 January 1993 and to the persons in respect of whose businesses, affairs, properties or assets those receivers are vested with authority or are appointed.

c. T-0.1,
s. 318,
replaced

537. (1) Section 318 of the said Act is replaced by the following section:

Forfeiture

“318. Where at any time, as a consequence of the breach, modification or termination, after 30 June 1992, of an agreement for the making of a taxable supply, other than a zero-rated supply, of property or a service in Québec by a registrant, an amount is paid or forfeited by a person to the registrant otherwise than as consideration for the supply, the following rules apply:

(1) the registrant is deemed to have made to the person, and the person is deemed to have received from the registrant, a taxable supply of the property or service for consideration equal to the consideration fraction of the amount paid or forfeited; and

(2) the registrant is deemed to have collected, and the person is deemed to have paid, at that time, tax in respect of the supply calculated on that consideration.

Exception

However, where the agreement was entered into in writing before 1 July 1992, the amount is paid or forfeited after 1992 and tax in respect of the amount was not contemplated in the agreement, subparagraph 2 of the first paragraph does not apply.”

(2) Subsection 1 applies from 1 July 1992. However, section 318 of the said Act, as enacted by subsection 1, applies to amounts that became payable by a person at any time before 1993 as though those amounts were paid at that time by the person.

c. T-0.1,
s. 318.1,
added

538. (1) The said Act is amended by inserting, after section 318, the following section:

Exception

“318.1 Section 318 does not apply to that part of any amount paid or forfeited in respect of the breach, modification or termination of an agreement for the making of a supply where that part is

(1) an additional amount that is charged to a person because the consideration for the supply is not paid within a reasonable period and is such an amount referred to in section 57;

(2) an amount paid by one railway corporation to another railway corporation as or on account of a penalty for failure to return rolling stock within a stipulated time; or

(3) an amount paid as or on account of demurrage.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 319-321,
replaced

539. (1) Sections 319 to 321 of the said Act are replaced by the following sections:

Extinguish-
ment or
reduction of
a debt

“319. Where at any time, as a consequence of the breach, modification or termination, after 30 June 1992, of an agreement for the making of a taxable supply, other than a zero-rated supply, of property or a service in Québec by or to a registrant, a debt or other obligation, other than consideration for the supply, of the registrant to a person is extinguished or reduced without payment on account of the debt or obligation, the following rules apply:

(1) the registrant is deemed to have made to the person, and the person is deemed to have received from the registrant, a taxable supply of the property or service for consideration equal to the consideration fraction of the amount by which the debt or obligation was extinguished or reduced; and

(2) the registrant is deemed to have collected, and the person is deemed to have paid, at that time tax in respect of the supply calculated on that consideration.

Exception

However, where the agreement was entered into in writing before 1 July 1992, the debt or obligation is reduced or extinguished after 1992 and tax in respect of the amount was not contemplated in the agreement, subparagraph 2 of the first paragraph does not apply.

Seizure or
repossession

“320. Where at any time after 1 July 1992 property of a person is, for the purpose of satisfying in whole or in part a debt or other obligation owing by the person to another person (in this section and in sections 321 to 324.6 referred to as the “creditor”), seized or repossessed by the creditor under a right or power exercisable by the creditor, other than a right or power that the creditor has under, or

because of being a party to, a lease, licence or similar arrangement by which the person acquired the property, the following rules apply:

(1) the person is deemed to have made, and the creditor is deemed to have received, at that time a supply of the property by way of sale;

(2) the supply is deemed to have been made for no consideration, except for the purposes of sections 233, 234, 379 and 380;

(3) where the supply is a taxable supply of an immovable, for the purposes of sections 233, 234, 379 and 380, the tax payable in respect of the supply is deemed to be equal to the tax calculated on the fair market value of the property at that time; and

(4) where the supply is referred to in section 102 or section 168, for the purposes of sections 233, 234, 379 and 380, the supply is deemed to be a taxable supply and the tax payable in respect of the supply is deemed to be equal to the tax calculated on the fair market value of the property at that time.

Supply in
commercial
activities

“321. Subject to section 323, where at any time a creditor who has seized or repossessed property, in circumstances in which section 320 applies, makes a supply, other than an exempt supply, of the property, except where any of sections 323.1 to 323.3 applied at an earlier time in respect of the use of the property by the creditor, the following rules apply:

(1) the creditor is deemed to have made the supply in the course of a commercial activity of the creditor; and

(2) anything done by the creditor in the course of, or in connection with, the making of the supply and not in connection with the seizure or repossession is deemed to have been done in the course of the commercial activity.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 322,
repealed

540. (1) Section 322 of the said Act is repealed.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 323,
replaced

541. (1) Section 323 of the said Act is replaced by the following section:

Court sei-
zures

“323. Where a court, for the purpose of satisfying an amount owing under a judgment of the court, orders a sheriff, bailiff or other

officer of the court to seize property of a debtor and subsequently makes a supply of the property, the supply of the property by the court is deemed to be made otherwise than in the course of a commercial activity.”

(2) Subsection 1 applies from 1 July 1992. However, in applying section 323 of the said Act, as enacted by subsection 1, to supplies made by a court before 1 January 1993, it shall be read as follows:

Court seizures

“323. Where under an order of a court an officer of the court seizes property and the court subsequently makes a supply of the property, the supply of the property by the court is deemed to be a supply made otherwise than in the course of a commercial activity.”

c. T-0.1,
ss. 323.1-
323.3, added

542. (1) The said Act is amended by inserting, after section 323, the following sections:

Use of
seized prop-
erty

“323.1 Where a creditor who has seized or repossessed an immovable in circumstances in which section 320 applies or would, but for section 324.6, apply, begins at any time to use the immovable otherwise than in the making of a supply of the property, the creditor is deemed to have made a supply of the property at that time and, except where the supply is an exempt or a non-taxable supply, the following rules apply:

(1) the creditor is deemed to have collected, at that time, tax in respect of the supply equal to the tax fraction of the fair market value of the property at that time; and

(2) the creditor is deemed to have acquired the property and paid that tax at that time.

Use of mov-
able prop-
erty seized
before 1 Jan-
uary 1994

“323.2 Where a creditor who has seized or repossessed movable property from a person before 1 January 1994, in circumstances in which section 320 applies or would, but for section 324.6, apply, begins at a particular time to use the property otherwise than in the making of a supply of the property, the following rules apply:

(1) the creditor is deemed

(a) to have received, immediately after the particular time, a supply by way of sale of the property, and

(b) where the property was, at the time it was seized or repossessed, specified corporeal movable property having a fair market value in excess of the amount prescribed in respect of the property for the purposes of subdivision 3 of Division II of Chapter

V, to have acquired the property for use, and to use the property after that acquisition until the creditor disposes of the property, exclusively in activities other than commercial activities; and

(2) where tax would have been payable had the property been purchased in Québec from the person, otherwise than by way of a non-taxable supply, at the time it was seized or repossessed, the creditor is deemed

(a) to have made, at the particular time, a taxable supply of the property and to have collected, at that time, tax in respect of that supply equal to the tax fraction of the fair market value of the property at the time it was seized or repossessed, and

(b) to have paid, immediately after the particular time, tax in respect of the supply referred to in subparagraph *a* of paragraph 1 equal to the amount determined under subparagraph *a*.

Use of movable property seized after 31 December 1993

“323.3 Where a creditor who has seized or repossessed movable property from a person after 31 December 1993, in circumstances in which section 320 applies or would, but for section 324.6, apply, begins at a particular time to use the property otherwise than in the making of a supply of the property, the following rules apply:

(1) the creditor is deemed

(a) to have received, immediately after the particular time, a supply of the property and to have paid, immediately after that time, tax in respect of that supply equal to the tax fraction of the fair market value of the property at the time it was seized or repossessed, and

(b) where the property was, at the time it was seized or repossessed, specified corporeal movable property having a fair market value in excess of the amount prescribed in respect of the property for the purposes of subdivision 3 of Division II of Chapter V, to have acquired the property for use, and to use the property after that acquisition until the creditor disposes of the property, exclusively in activities other than commercial activities; and

(2) where tax would have been payable had the property been purchased in Québec from the person, otherwise than by way of a non-taxable supply, at the time it was seized or repossessed, the creditor is deemed

(a) to have made, at the particular time, a taxable supply of the property, and

(b) to have collected, at the particular time, tax in respect of that supply equal to the tax fraction of the fair market value of the property at the time it was seized or repossessed.”

(2) Subsection 1 applies from 1 July 1992. However, where a creditor begins, before 1 October 1992, to use property in circumstances in which section 323.2 or section 323.3 of the said Act, as enacted by subsection 1, applies,

(a) in applying the said section 323.2 to the creditor, it shall be read without reference to subparagraph b of paragraph 1 thereof; and

(b) in applying the said section 323.3 to the creditor, it shall be read without reference to subparagraph b of paragraph 1 thereof.

c. T-0.1,
s. 324,
replaced

543. (1) Section 324 of the said Act is replaced by the following section:

Seized prop-
erty of a
non-
registrant

“324. The rules set out in the second paragraph apply where

(1) a creditor makes at any time a taxable or non-taxable supply by way of sale, other than a supply deemed under any provision of this Act other than sections 41.1 to 41.6 to have been made, of movable property seized or repossessed from a person in circumstances in which section 320 applies;

(2) the creditor was not deemed under section 323.2, 323.3 or 324.2 to have received a supply of the property at an earlier time;

(3) no tax would have been payable by the creditor had the property been purchased in Québec by the creditor from the person, otherwise than by a non-taxable supply, at the time it was seized or repossessed; and

(4) the person had not last acquired the property by way of a non-taxable supply before the property was seized or repossessed.

Presumption

The creditor is deemed to have received a supply of the property, immediately before that time, for consideration equal to the consideration for the supply referred to in subparagraph 1 of the first paragraph, and to have paid, immediately before that time, tax in respect of the supply deemed to have been received under this paragraph equal to the amount determined by the formula

$$A - B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is tax calculated on that consideration; and

(2) B is the total of all amounts each of which is an input tax refund or a rebate under Division I of Chapter VII that the creditor was entitled to claim in respect of the property or an improvement thereto.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 324.1-
324.6, added

544. (1) The said Act is amended by inserting, after section 324, the following sections:

Sale of mov-
able prop-
erty

“324.1 Section 324 does not apply where

(1) the supply referred to in subparagraph 1 of the first paragraph of the said section is made outside Québec or is a zero-rated supply; and

(2) the property was seized or repossessed by the creditor before 1 January 1994 or was, at the time it was seized or repossessed, used specified corporeal movable property having a fair market value in excess of the amount prescribed in respect of the property for the purposes of subdivision 3 of Division II of Chapter V.

Lease of
movable
property

“324.2 The rules set out in the second paragraph apply where

(1) a creditor makes at any time a taxable or non-taxable supply by way of lease, licence or similar arrangement of movable property seized or repossessed from a person in circumstances in which section 320 applies;

(2) the creditor was not deemed under section 323.2 or 323.3 to have received a supply of the property at an earlier time;

(3) no tax would have been payable had the property been purchased in Québec from the person, otherwise than by way of a non-taxable supply, at the time it was seized or repossessed; and

(4) the person had not last acquired the property by way of a non-taxable supply before the property was seized or repossessed.

Presumption

The creditor is deemed to have received a supply of the property, immediately before that time, and to have paid, immediately before that time, tax in respect of the supply calculated on the fair market value of the property at the time it was seized or repossessed.

Exception

“324.3 Section 324.2 does not apply where

(1) the supply referred to in subparagraph 1 of the first paragraph of the said section is made outside Québec or is a zero-rated supply; and

(2) the property was seized or repossessed by the creditor before 1 January 1994 or was, at the time of the seizure or repossession, used specified corporeal movable property having a fair market value in excess of the amount prescribed in respect of the property for the purposes of subdivision 3 of Division II of Chapter V.

Voluntary
transfer

“324.4 For the purposes of sections 320 to 324.3 and sections 324.5 and 324.6, where property is at any time voluntarily transferred by a particular person to another person for the purpose of satisfying in whole or in part a debt or other obligation in respect of which the particular person is in default, the other person is deemed to have seized or repossessed the property from the particular person at that time in circumstances in which section 320 applies.

Debt
security

“324.5 For the purposes of sections 320 to 324.4 and section 324.6, the rules set out in the second paragraph apply where

(1) for the purposes of satisfying in whole or in part a debt or other obligation owing by a person, a creditor exercises a right under a debt security to cause the supply of property;

(2) section 323 does not apply to the supply; and

(3) a receiver, within the meaning assigned by section 310, does not have authority in respect of the property.

Presumption

The creditor is deemed to have seized the property immediately before the supply and that supply is deemed to have been made by the creditor and not by the person.

Application
of Division
VI

“324.6 Division VI applies and sections 320, 321 and 324 to 324.4 do not apply where a creditor

(1) is a receiver, within the meaning of section 310, in respect of property and exercises a right or power to seize or repossess property for the purpose of satisfying in whole or in part a debt or other obligation owing by a person; or

(2) appoints a mandatory who is a receiver within the meaning of section 310, in respect of property to exercise a right or power to seize or repossess property for the purpose of satisfying in whole or in part a debt or other obligation owing by a person.”

(2) Sections 324.1 to 324.4, as enacted by subsection 1, apply from 1 July 1992.

(3) Section 324.5, as enacted by subsection 1, applies from 1 October 1992.

(4) Section 324.6, as enacted by subsection 1, applies to receivers who are vested with authority or appointed from 1 January 1993.

c. T-0.1,
s. 326,
replaced

545. (1) Section 326 of the said Act is replaced by the following section:

Distribution
to beneficia-
ries

“326. Subject to sections 78, 79 and 302 to 317.3, where a trustee of a trust distributes property of the trust to beneficiaries of the trust, the distribution of the property is deemed to be a supply of the property made by the trust for consideration equal to the amount determined under the Taxation Act (chapter I-3) to be the proceeds of the disposition of the property.”

(2) Subsection 1 applies from 1 January 1993.

c. T-0.1,
s. 329, am.

546. (1) Section 329 of the said Act is amended by adding, at the end, the following paragraph:

“(3) where the particular corporation is a member of a mutual insurance group, every other member of that group.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 331,
replaced

547. (1) Section 331 of the said Act is replaced by the following section:

“specified
member”

“331. For the purposes of sections 334 to 336, “specified member” of a closely related group means a corporation that is a member of the group all or substantially all of the property of which was last manufactured, constructed, produced, acquired or brought into Québec for consumption, use or supply exclusively in the course of commercial activities of the corporation or, where the corporation has no property, all or substantially all of the supplies made by which are taxable or non-taxable supplies.”

(2) Subsection 1 applies from 1 October 1992.

c. T-0.1,
s. 332, am.

548. (1) Section 332 of the said Act is amended by striking out subparagraph *f* of subparagraph 1 of the first paragraph.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 333.1,
added

549. (1) The said Act is amended by inserting, after section 333, the following section:

Investment
fund
deemed to
be a corpora-
tion

“333.1 For the purposes of sections 332 and 333, an investment fund that is a member of a mutual insurance group is deemed to be a corporation.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 334, 335,
336, replaced

550. (1) Section 334 of the said Act, amended by section 213 of chapter 19 of the statutes of 1993, and sections 335 and 336 of the said Act are replaced by the following sections:

Election for
nil consider-
ation

“334. For the purposes of this section, where a specified member of a closely related group elects jointly with a corporation that is also a specified member of the group, every taxable supply made between the specified member and the corporation at a time when the election is in effect is deemed to have been made for no consideration.

Exception

This section does not apply in respect of

(1) a supply by way of sale of an immovable;

(2) a supply of property, or of a service, that is not acquired by the recipient of the supply for consumption, use or supply exclusively in the course of commercial activities of the recipient;

(3) a supply of property or a service in respect of which the recipient may not claim an input tax refund by reason of section 206.1 and in respect of which

(a) the supplier was not required to pay the tax or the tax prescribed in Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1), or

(b) the supplier has applied or is entitled to apply for a rebate of the tax or of the tax prescribed in Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1);

(4) a supply of property or a service to an insurer who is a registrant and who acquires it for any of the purposes referred to in section 280;

(5) a supply of property or a non-financial service to a registrant who acquires it for the purposes referred to in section 281.

Cessation

“335. An election under section 334 made jointly by a person who is a specified member of a closely related group and a corporation ceases to have effect on the earliest of

(1) the day the person ceases to be a specified member of the group;

(2) the day the corporation ceases to be a specified member of the group; and

(3) the day a revocation of the election made jointly by the person and the corporation takes effect.

Form of elec-
tion and
revocation

“336. An election under section 334 and a revocation of the election shall be made in prescribed form containing prescribed information and shall specify the effective date thereof.”

(2) Subsection 1 applies from 1 October 1992. However, for the period from 1 July 1992 to 30 September 1992,

(a) section 335 of the said Act, as enacted by subsection 1, shall be read as follows:

Form of elec-
tion and
revocation

“335. An election under section 334 made jointly by two persons and a revocation of the election shall be made in prescribed form containing prescribed information and shall specify the day in a particular fiscal year of either person (in this section referred to as the “filer”) on which the election or revocation, as the case may be, takes effect, which day shall be

(1) in the case of an election,

(a) where either person becomes a specified member of the group during a reporting period of the filer in the particular fiscal year, the first day of that reporting period, and

(b) where subparagraph *a* does not apply, the first day of the particular fiscal year; and

(2) in the case of the revocation of an election, the first day of the reporting period of the filer commencing during the filer’s fiscal year following the fiscal year in which the election took effect.”;

(b) that part of section 336 of the said Act, as enacted by subsection 1, preceding paragraph 1 thereof shall be read as follows:

Cessation

“336. An election under section 334 made jointly by a specified member of a closely related group and a corporation ceases to have effect on the earliest of”;

(c) paragraph 3 of the said section 336 shall be read as follows:

“(3) the day the revocation of the election made by the member or the corporation takes effect.”

c. T-0.1,
s. 337.1,
added

551. (1) The said Act is amended by inserting, after section 337, the following section:

Mutual
insurance
group

“337.1 The following rules apply to the members of a mutual insurance group:

(1) every member of a mutual insurance group is deemed to be at all times a member of a closely related group of which every other member of the mutual insurance group is a member; and

(2) every member of a mutual insurance group is deemed to have made, with every other member of the mutual insurance group, an election under section 334 that is in effect at all times.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 338-341,
replaced

552. (1) Division XI of Chapter VI of Title I of the said Act is replaced by the following division:

“DIVISION XI

“DIVISIONS OR BRANCHES OF PUBLIC SERVICE BODY

Small sup-
plier divi-
sion of a pub-
lic service
body

“337.2 For the purposes of this division, a small supplier division of a public service body, at any time, means a division or branch of the public service body that, at that time,

(1) is a division or branch designated by the Minister as an eligible division for the purposes of this section and of sections 338 to 341.3; and

(2) would be a small supplier if

(a) the division or branch were a person separate from the public service body and its other divisions or branches,

(b) the division or branch were not associated with any other person, and

(c) every supply made by the public service body through the division or branch were made by the division or branch.

Application
for eligible
division des-
ignation

“338. A public service body that is engaged in one or more activities in separate divisions or branches may apply to the Minister,

in prescribed form containing prescribed information, to have the division or branch specified in the application designated by the Minister as an eligible division for the purposes of section 337.2, this section and sections 339 to 341.3.

Designation
by the Minis-
ter

“339. Where the Minister receives an application under section 338, the Minister may, by notice in writing, designate the division or branch specified in the application as an eligible division for the purposes of sections 337.2 and 338, this section and sections 340 to 341.3, effective on a day specified in the notice, if the Minister is satisfied that the division or branch can be separately identified by reference to its location or the nature of the activities engaged in by it, that separate records, books of account and accounting systems are maintained in respect of the division or branch and that a revocation pursuant to a request made under paragraph 3 of section 340 by the public service body in respect of the division or branch has not become effective in the 365-day period ending on the day specified in the notice.

Revocation
of designa-
tion

“340. The Minister may, in writing, revoke a designation under section 339 of a division or branch of a public service body where

(1) the division or branch can no longer be separately identified by reference to its location or the nature of the activities engaged in by it;

(2) separate records, books of account and accounting systems are not maintained in respect of the division or branch; or

(3) the public service body makes a request in writing to the Minister that the designation be revoked.

Notice of
revocation

“341. Where under section 340 the Minister revokes a designation, the Minister shall send a notice in writing of the revocation to the public service body and shall specify therein the effective date of the revocation.

Supply of
property on
becoming a
small sup-
plier division

“341.1 Where a division or branch of a public service body that is a registrant becomes at any time a small supplier division and the public service body does not, at that time, cease to be a registrant, the public service body is deemed

(1) to have made, immediately before that time, a supply of each of its properties, other than capital property or an improvement thereto, that was held immediately before that time for consumption, use or supply in the course of commercial activities of the body and

that the body begins, immediately after that time, to hold for consumption, use or supply primarily in the course of activities engaged in by the body through its small supplier divisions; and

(2) except where the supply is an exempt or non-taxable supply, to have collected, immediately before that time, tax in respect of the supply equal to the total of all input tax refunds in respect of the property that the body was entitled to claim at or before that time.

Rented properties and services acquired on becoming a small supplier division

“341.2 Where, at any time in a particular reporting period of a public service body that is a registrant, a division or branch of the body becomes a small supplier division and the body does not, at that time, cease to be a registrant, the rules prescribed in section 341.3 apply in determining the input tax refund and in determining the net tax of the body if, in or before the particular reporting period, tax became payable, or was paid without having become payable, by the body and is calculated on consideration, or a part thereof, that

(1) is a rent, royalty or similar payment in respect of property and that is reasonably attributable to a period (referred to as the “lease period” for the purposes of section 341.3) after that time; or

(2) is reasonably attributable to services that are to be rendered after that time.

Input tax refund in respect of rented properties and services

“341.3 In determining the input tax refund claimed in respect of the tax referred to in section 341.2 by the public services body in the return under section 468 for the particular reporting period or any subsequent reporting period, there shall not be included any portion of the amount determined by the formula

$$A \times B.$$

Interpretation

For the purposes of this formula,

(1) A is the tax referred to in section 341.2; and

(2) B is the extent, expressed as a percentage, to which the property is used by the public service body during the lease period, or the services were acquired or brought into Québec by the body for consumption, use or supply, in the course of activities engaged in by the body through the division or branch.

Amount to be included in determining the net tax

Where all or any portion of the amount determined under the first paragraph was included in determining an input tax refund claimed by the public service body in a return under section 468 for a reporting period ending before the particular reporting period, that amount or

portion thereof shall be added in determining the net tax for the particular reporting period.

Supply by a
small sup-
plier division

“341.4 Where a public service body makes a taxable supply, other than a supply of an immovable by way of sale, through a division or branch of the body and the consideration or a part thereof for the supply becomes due to the body at a time when the division or branch is a small supplier division or is paid to the body at such a time without having become due,

(1) that consideration or part thereof, as the case may be, shall not be included in calculating the tax payable in respect of the supply ;

(2) no amount that became collectible or other amount or part thereof collected as or on account of tax under section 16 in respect of the supply shall be included in determining the threshold amount under sections 462 to 462.2; and

(3) that supply is deemed not to have been made by a registrant.

Restriction
on an input
tax refund
for pur-
chases

“341.5 In determining the input tax refund of a public service body, there shall not be included an amount in respect of tax that at any time became payable, or was paid without having become payable, by the body, to the extent that the tax

(1) is in respect of the acquisition or bringing into Québec of property, other than capital property or an improvement thereto, of the body for the purpose of consumption, use or supply in the course of activities engaged in by the body through a small supplier division of the body; or

(2) is calculated on consideration, or a part thereof, that is reasonably attributable to services that were, before that time, consumed, used or supplied by the body in the course of activities engaged in by the body through a small supplier division of the body or that are, at that time, intended to be so consumed, used or supplied.

Restriction
on an input
tax refund
for leases

“341.6 Where property is supplied by way of lease, licence or similar arrangement to a public service body for consideration that includes two or more periodic payments that are attributable to successive parts (each of which is referred to in this section as a “lease interval”) of the period for which possession or use of the property is provided under the arrangement, no amount of tax that became payable, or was paid without having become payable, by the body, in a reporting period in respect of the supply of property, calculated on a particular periodic payment, shall be included in determining an input tax refund of the body for the reporting period to the extent that

the body intended, at the beginning of the lease interval to which the particular periodic payment is attributable, to use the property in the course of activities engaged in by the body through a small supplier division of the body.

Change in
use of prop-
erty

“341.7 Where a public service body that is a registrant begins at any time to hold property of the body, other than capital property, for consumption, use or supply primarily in the course of activities engaged in by the body through its small supplier divisions, and immediately before that time, the body was holding the property for consumption, use or supply in the course of commercial activities of the body, and otherwise than primarily in the course of activities engaged in by the body through its small supplier divisions, the body is deemed, except where section 341.1 or section 209 applies,

(1) to have made, immediately before that time, a supply of the property; and

(2) except where the supply is an exempt or non-taxable supply, to have collected, immediately before that time, tax in respect of the supply equal to the total of all input tax refunds in respect of the property that the body was entitled to claim at or before that time.

Change in
use of prop-
erty

“341.8 For the purpose of determining an input tax refund of a public service body, the second paragraph applies, except where section 207 applies, where

(1) the body begins, at any time, to hold property of the body, other than capital property, for consumption, use or supply primarily in the course of activities engaged in by the body otherwise than through its small supplier divisions;

(2) immediately before that time the property was held by the body for consumption, use or supply primarily in the course of activities engaged in by the body through its small supplier divisions; and

(3) immediately after that time the property is held by the body for consumption, use or supply in the course of commercial activities engaged in by the body otherwise than through its small supplier divisions.

Rule applica-
ble

The body is deemed to have received a supply of the property and to have paid, at that time, tax in respect of the supply, other than a non-taxable supply, equal to the lesser of

(1) the amount, if any, by which the total of all amounts each of which is tax that, before that time, was paid or became payable by

the body in respect of the last acquisition or bringing into Québec of the property or that was deemed under section 341.1 to have been collected by the body in respect of the property exceeds the total of all refunds and rebates that the body was entitled to claim under this title before that time in respect of that acquisition or bringing into Québec; and

(2) the amount that is the tax calculated on the fair market value of the property at that time.

Use of capital property

“341.9 For the purpose of determining an input tax refund in respect of capital property of a public service body and for the purposes of subdivision 5 of Division II of Chapter V, an activity engaged in by a public service body is deemed not to be a commercial activity of the body to the extent that the activity is engaged in through a small supplier division of the body.”

(2) Subsection 1 applies from 1 July 1992. However,

(a) where before 17 June 1994, an application is approved under sections 338 to 341 of the said Act, replaced by subsection 1, in respect of a division or branch of a public service body, and the approval is not revoked before that date, the division or branch is deemed to have been designated under section 339, as enacted by subsection 1, as an eligible division for the purposes of sections 337.2 to 341.3; and

(b) for the period from 1 July 1992 to 31 December 1992, the reference in paragraph 2 of section 341.4 of the said Act, as enacted by subsection 1, to sections “462 to 462.2” shall be read as a reference to sections “462 and 462.2”.

c. T-0.1,
s. 346,
replaced

553. (1) Section 346 of the said Act is replaced by the following section:

Joint venture election

“346. Where a registrant (in this division referred to as an “operator”) is a participant in a joint venture, other than a partnership, under an agreement, evidenced in writing, with another person (in this division referred to as a “co-venturer”) for the exploration or exploitation of mineral deposits or for a prescribed activity, and the operator and the co-venturer jointly make an election under this section, the following rules apply:

(1) all properties and services that are, during the period the election is in effect, supplied, acquired or brought into Québec under the agreement by the operator on behalf of the co-venturer in the course of the activities for which the agreement was entered into are deemed to be supplied, acquired or brought into Québec, as the case may be, by the operator and not by the co-venturer;

(2) sections 41.1 to 41.6 do not apply in respect of a supply referred to in paragraph 1; and

(3) all supplies of property or services made, during the period the election is in effect, under the agreement by the operator to the co-venturer are deemed not to be supplies to the extent that the property or services are, but for this division, acquired by the co-venturer for consumption, use or supply in the course of commercial activities for which the agreement was entered into.”

(2) Subsection 1 applies from 1 July 1992. However, in respect of supplies made before 15 September 1992, paragraph 3 of section 346 of the said Act, as replaced by subsection 1, shall be read as follows:

“(3) all supplies of property or services made under the agreement by the operator to the co-venturer in the course of the activities for which the agreement was entered into are deemed not to be supplies.”

c. T-0.1,
ss. 346.1-
346.4, added

554. (1) The said Act is amended by inserting, after section 346, the following sections:

Exception

“346.1 Paragraph 1 of section 346 does not apply to the acquisition or bringing into Québec of property or a service by an operator on behalf of a co-venturer in respect of which, were the property or service acquired by the co-venturer, the co-venturer would not be entitled to claim an input tax refund by virtue of section 206.1, or that is acquired or brought into Québec for consumption, use or supply in the course of activities that are not commercial activities, and the operator

(1) is a government other than a prescribed mandatary of the Government; or

(2) would not be required, because of a federal Act or an Act of the legislature of Québec other than this Act, to pay tax in respect of the acquisition or bringing into Québec of the property or service if the operator acquired or brought into Québec the property or service for that purpose otherwise than on behalf of the co-venturer.

Revocation

“346.2 An operator and a co-venturer who have jointly made an election under this division may jointly revoke the election.

Form of elec-
tion or revo-
cation

“346.3 An election or revocation under this division shall be made in prescribed form containing prescribed information and shall specify the effective date of the election or revocation.

Joint and
several lia-
bility

“346.4 Where a registrant and another person make, or purport to make, an election under section 346, the registrant and the other person are jointly and severally liable for all obligations under this title and under the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) that result from the activities for which the agreement was entered into and that are or would be, but for this division, engaged in by the registrant on behalf of the other person.”

(2) Subsection 1 applies from 1 July 1992. However, section 346.1 of the said Act, as enacted by subsection 1, does not apply to acquisitions or the bringing into Québec of property or services before 12 December 1992.

c. T-0.1,
ss. 347, 348,
replaced

555. (1) Sections 347 and 348 of the said Act are replaced by the following sections:

Joint ven-
ture begin-
ning before
1 July 1992

“347. Where an operator who is a participant in a joint venture, other than a partnership, under an agreement referred to in section 346 and entered into before 1 July 1992 with a co-venturer files a return for the operator’s first reporting period beginning after 30 June 1992 in which all property and services supplied, acquired or brought into Québec by the operator on behalf of the co-venturer in the course of the activities for which the agreement was entered into were supplied, acquired or brought into Québec, as the case may be, by the operator and not by the co-venturer, the operator is deemed to have made an election jointly with the co-venturer in accordance with section 346.3.

Restriction

This section applies as between an operator and a co-venturer, only where

(1) the operator sends a notice in writing to the co-venturer not later than 30 June 1992, of the operator’s intention to file the return referred to in the first paragraph; and

(2) the co-venturer has not, on or before the day that is the earlier of 1 August 1992 and the day that is 30 days after receipt of the notice from the operator, advised the operator, in writing that all property and services supplied, acquired or brought into Québec under the agreement by the operator on the co-venturer’s behalf in the course of the activities for which the agreement was entered into are not to be treated as having been supplied, acquired or brought into Québec by the operator.

Interest in a
joint venture

“348. For the purposes of this division, where a particular person has made an election under this division with respect to a joint

venture and at any time during the period the election is in effect another person becomes a participant in the venture by acquiring an interest in it from the particular person, the other person is deemed to have made, at that time, an election in accordance with section 346.3 with respect to the venture jointly with the operator of the venture.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1, ss.
350.1-350.42,
added

556. (1) The said Act is amended by adding, after Division XIV of Chapter VI of Title I, the following:

“DIVISION XV

“COUPONS, DISCOUNTS AND GIFT CERTIFICATES

Coupon

“350.1 For the purposes of sections 350.2 to 350.5, “coupon” includes a ticket, receipt or other device but does not include a gift certificate.

Acceptance
of a reim-
bursable cou-
pon

“350.2 Where at any time a registrant accepts, in full or partial consideration for a taxable supply of property or a service, other than a zero-rated supply, a coupon that entitles the recipient of the supply to a reduction of the price of the property or service equal to a fixed dollar amount specified in the coupon (in this section referred to as the “coupon value”) and the registrant can reasonably expect to be paid an amount for the redemption of the coupon by another person, the following rules apply, except in respect of section 425:

(1) the tax collectible by the registrant in respect of the supply is deemed to be the tax that would be collectible if the coupon were not accepted;

(2) the registrant is deemed to have collected, at that time, a portion of the tax collectible equal to the amount obtained by multiplying the coupon value by the tax fraction relating to the property or service in respect of which the coupon is used; and

(3) the tax payable by the recipient in respect of the supply is deemed to be the amount determined by the formula

$$A - B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the tax collectible by the registrant in respect of the supply; and

(2) B is the amount obtained by multiplying the coupon value by the tax fraction relating to the property or service in respect of which the coupon is used.

Acceptance
of a non-
reimburs-
able coupon

“350.3 Where at any time a registrant accepts, in full or partial consideration for a taxable supply of property or a service, other than a zero-rated supply, a coupon that entitles the recipient of the supply to a reduction of the price of the property or service equal to a fixed dollar amount specified in the coupon (in this section referred to as the “coupon value”) and the registrant can reasonably expect not to be paid an amount for the redemption of the coupon by another person, the registrant shall treat the coupon

(1) as reducing the value of the consideration for the supply as provided for in section 350.4, where subsection 4 of section 181 of the Excise Tax Act (Statutes of Canada) applies to the coupon; or

(2) as a partial cash payment that does not reduce the value of the consideration, in which event section 350.2 applies and the registrant may claim an input tax refund for the reporting period of the registrant that includes that time equal to the amount obtained by multiplying the coupon value by the tax fraction relating to the property or service in respect of which the coupon is used.

Acceptance
of other cou-
pons

“350.4 Where a registrant accepts, in full or partial consideration for a supply of property or a service, a coupon that may be exchanged for the property or service or that entitles the recipient of the supply to a reduction of the price of the property or service and section 350.2 does not apply in respect of the coupon, the value of the consideration for the supply is deemed to be the amount by which the value of the consideration for the supply as otherwise determined exceeds the discount or exchange value of the coupon.

Redemption
of a coupon

“350.5 Where a supplier who is a registrant, in full or partial consideration for a taxable supply of property or a service, other than a zero-rated supply, accepts a coupon that may be exchanged for the property or service or that entitles the recipient of the supply to a reduction of the price of the property or service, and a particular person at any time pays, in the course of a commercial activity of the particular person, an amount to the supplier for the redemption of the coupon, the following rules apply:

(1) the amount is deemed not to be consideration for a supply; and

(2) where the coupon entitled the recipient to a reduction of the price of the property or service equal to a fixed dollar amount specified

in the coupon, the particular person, if a registrant at the time of the payment may claim an input tax refund for the reporting period of that particular person that includes that time equal to the amount obtained by multiplying the fixed dollar amount specified in the coupon by the tax fraction relating to the property or service in respect of which the coupon is used.

Exception

Subparagraph 2 of the first paragraph does not apply where all or part of the amount is an amount of an adjustment, refund or credit to which section 449 applies or where the particular person is, at the time of the payment, a prescribed registrant referred to in section 279.

Rebates

“350.6 Where a registrant makes a taxable or non-taxable supply in Québec of property or a service, other than a zero-rated supply, a particular person acquires the property or service, either from the registrant or from another person, the registrant pays, at any time, a rebate in respect of the property or service to the particular person and therewith provides written indication that a portion of the rebate is an amount on account of tax, and section 449 does not apply to the rebate, the following rules apply:

(1) the registrant may claim an input tax refund for the reporting period of the registrant that includes that time equal to the amount obtained by multiplying the amount of the rebate by the tax fraction relating to the property or service in respect of which the rebate was paid;

(2) where the particular person is a registrant who was entitled to claim an input tax refund, or a rebate under Division I of Chapter VII, in respect of the acquisition of the property or service, the particular person is deemed

(a) to have made a taxable supply, and

(b) to have collected, at that time, tax in respect of the supply equal to the amount determined by the formula

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

Interpretation

For the purposes of this formula,

(1) A is the tax fraction relating to the property or service in respect of which the rebate was paid;

(2) B is the input tax refund, or the rebate under Division I of Chapter VII, that the particular person was entitled to claim in respect of the acquisition of the property or service;

(3) C is the tax payable by the particular person in respect of the acquisition of the property or service; and

(4) D is the amount of the rebate paid to the particular person by the supplier.

Exception However, where a rebate was paid to the particular person who is a registrant in respect of a non-taxable supply, subparagraph 1 of the first paragraph does not apply.

Gift certificate “**350.7** The issuance or sale of a gift certificate for consideration is deemed not to be a supply.

Presumption In addition, when given as consideration for a supply of property or a service, the gift certificate is deemed to be money.

“DIVISION XVI

“GAMES OF CHANCE

Definitions “**350.8** For the purposes of this division,

“distributor” “distributor” of an issuer means a person who supplies rights of an issuer

(1) as mandatary of the issuer, or

(2) on the person’s own behalf;

“issuer” “issuer” means a registrant who is a prescribed registrant referred to in section 279;

“right” “right” of an issuer means a right to play or participate in a game of chance conducted by the issuer.

Supply by an issuer “**350.9** Where an issuer makes a supply of a right of the issuer to a distributor of the issuer,

(1) in the case of a taxable supply, tax is deemed not to be payable by the distributor in respect of the supply; and

(2) the distributor is not entitled to any rebate under sections 400 to 402.0.2 in respect of the supply.

Supply by a distributor “**350.10** Where a particular distributor of an issuer makes a supply of a right of the issuer,

(1) if the recipient of the supply is another distributor of the issuer, the supply is deemed, except for the purposes of this division, not to have been made by the particular distributor and not to have been received by the other distributor;

(2) if the recipient of the supply is the issuer, the supply is deemed, except for the purposes of this division, not to have been made by the particular distributor; and

(3) if the recipient of the supply is any other person,

(a) the supply is deemed to be a supply made by the issuer and not by the particular distributor, and

(b) any tax in respect of the supply that is collected by the particular distributor is deemed to have been collected by the issuer and not by the particular distributor.

Deemed
non-supplies

“350.11 The following supplies are deemed not to be supplies:

(1) supplies made to an issuer by a distributor of the issuer of a service in respect of

(a) the supply of rights of the issuer,

(b) the awarding, payment or delivery of prizes won in games of chance conducted by the issuer, or

(c) the maintenance and repair of equipment used by the distributor in the supplying of rights of the issuer; and

(2) supplies made by an issuer to a distributor of the issuer of a service in respect of

(a) the supply of rights of the issuer, or

(b) the awarding, payment or delivery of prizes won in games of chance conducted by the issuer.

Deemed non-
consideration

“350.12 The following are deemed not to be consideration for a supply:

(1) promotional bonuses and prizes given by an issuer to a distributor of the issuer for or in respect of the supply by the distributor of rights of the issuer; and

(2) amounts paid to an issuer by a distributor of the issuer for or on account of damage to property of the issuer.

“DIVISION XVII

“BUYING GROUPS

Definitions

“350.13 For the purposes of this division,

“original
supplier”

“original supplier” of corporeal movable property or a service means a person who makes a non-taxable supply of the property or service to another person who, in turn, supplies the property or service by way of a pass-through supply;

“pass-
through
supply”

“pass-through supply” means a taxable or non-taxable supply of corporeal movable property or a service made by a person for consideration that is equal to the consideration paid or payable by the person to the supplier who supplied the property or service to the person;

“ultimate
recipient”

“ultimate recipient” means a recipient of a pass-through supply.

Application
for buyer
designation

“350.14 A particular person may apply to the Minister, in prescribed form containing prescribed information and filed with and as prescribed by the Minister, to be designated as a buyer where

(1) all or substantially all of the supplies of property and services made by the particular person in the ordinary course of the particular person’s business are pass-through supplies;

(2) in respect of each pass-through supply of corporeal movable property or a service made by the particular person, the original supplier of the property or service causes physical possession of the property to be transferred to, or renders the service to, the ultimate recipient, or to another person on behalf of the ultimate recipient, and not to the particular person; and

(3) in respect of each pass-through supply of corporeal movable property or a service made by the particular person, the ultimate recipient pays, on behalf of the particular person, to the original supplier of the property or service, the amount payable by the particular person to the original supplier as consideration for the property or service.

Designation
as buyer

“350.15 Where the Minister receives an application of a person under section 350.14, the Minister may, subject to such conditions as the Minister may at any time impose, designate the person as a buyer and notify the person in writing of the designation and the day it becomes effective.

Revocation
of designa-
tion

“350.16 The Minister may revoke a designation of a person made under section 350.15 on application of the person, or where the

person fails to comply with any condition imposed in respect of the designation.

Notice of
revocation

Where the designation is revoked, the Minister shall notify the person in writing of the day the designation ceases to be effective.

Buying
group

“350.17 Where a person makes a pass-through supply of corporeal movable property or a service at a time when a designation of the person as a buyer under section 350.15 is in effect, except for the purposes of sections 294, 295 and 297, Division IV of Chapter VIII and this division, the following rules apply:

(1) the supply of the property or service by the original supplier of the property or service is deemed to have been made to the ultimate recipient and not to the person;

(2) the person is deemed not to have received a supply of the property or service from the original supplier nor to have supplied the property or service to the ultimate recipient;

(3) the consideration payable for, and the tax payable in respect of, the supply by the original supplier of the property or service is deemed to be payable by the ultimate recipient and any amount paid in respect of the consideration or tax is deemed to have been paid by the ultimate recipient;

(4) notwithstanding subparagraph 3, the person and the ultimate recipient are jointly and severally liable for the payment of the tax in respect of the supply made by the original supplier; and

(5) if the amount charged or collected by the original supplier of the property or service as or on account of tax under section 16 in respect of the supply exceeds the tax that was collectible under that section in respect of the supply, or if the amount of tax collectible under that section in respect of the supply is reduced because of a reduction in the consideration for the supply, and the original supplier issues to, or receives from, the person a credit note or a debit note in respect of the supply, the person is deemed to have received or issued the note on behalf of the ultimate recipient.

Exception

The first paragraph does not apply where the pass-through supply of the property or service made by the person to the ultimate recipient is a non-taxable supply.

“DIVISION XVIII

“CERTIFICATE FOR GOODS BROUGHT INTO QUÉBEC

Security

“350.18 The Minister may require a person mentioned in section 17 to provide security, in an amount determined by the Minister and subject to such terms and conditions as the Minister may specify, for the payment of any amount that is or may become payable by the person under section 17.

Entry certificate for goods from outside Canada

“350.19 The Minister may, on the request of a registrant who brings into Québec goods from outside Canada, issue to the registrant, subject to such conditions as the Minister may specify, a certificate for goods brought into Québec (in this division referred to as an “entry certificate”) in respect of goods of a particular class, indicating an effective date and bearing a number to be disclosed when the goods are accounted for under section 32 of the Customs Act (Statutes of Canada), where it can reasonably be expected that the registrant will be bringing the goods into Québec in circumstances in which the goods would be goods described in section 81.

Entry certificate for goods from Canada outside Québec

The Minister may, on the request of a registrant who brings into Québec goods from Canada outside Québec, issue to the registrant, subject to such conditions as the Minister may specify, an entry certificate in respect of goods of a particular class, indicating an effective date, where it can reasonably be expected that the registrant will be bringing the goods into Québec in circumstances in which the goods would be goods described in section 81.

Exception

This section does not apply where tax under section 17 is not payable in respect of property by reason of subparagraph 3 or 4 of the fourth paragraph of section 17.

Application for an entry certificate

“350.20 An application for an entry certificate shall contain prescribed information and be filed with and as prescribed by the Minister.

Cancellation of an entry certificate

“350.21 The Minister may, after giving a person to whom an entry certificate has been issued reasonable written notice, cancel the entry certificate of the person if

(1) the person fails to comply with any condition attached to the certificate or any provision of section 17 or of this division;

(2) the Minister determines that the certificate is no longer required for the purposes for which it was issued, or for the purposes of section 17 or of this division; or

(3) it can reasonably be expected that the person will no longer be bringing into Québec goods of a class in respect of which the certificate was issued in circumstances in which the goods would be referred to in section 81.

Written
notice

Where the Minister cancels the entry certificate of a person, the Minister shall notify the person in writing of the cancellation and the effective date of the cancellation.

New certifi-
cate

“350.22 Where the Minister has cancelled the entry certificate of a person in circumstances described in subparagraph 1 of the first paragraph of section 350.21, the Minister shall not issue a new certificate under section 350.19 before the day that is two years after the day on which the cancellation is effective.

Cessation

“350.23 An entry certificate issued under this division ceases to have effect on the earlier of the day that is three years after the effective date of the certificate and the effective date of the cancellation of the certificate under section 350.21.

“DIVISION XIX

“RETURNABLE CONTAINERS

“§ 1.—*Interpretation*

Definitions

“350.24 For the purposes of this division,

“returnable
container”

“returnable container” means a beverage container, other than a usual container for a beverage the supply of which is described in Division III of Chapter IV, of a class that

- (1) is acquired by consumers;
- (2) when acquired by consumers, is filled and sealed; and
- (3) is supplied empty by consumers for consideration;

“specified
registrant”

“specified registrant” in respect of a supply of a returnable container of a particular class made by or to a registrant means a registrant whose usual practice, at the time tax or the amount provided for in section 350.30 in respect of the supply becomes payable, is

- (1) to charge consideration for supplies of filled and sealed containers of that class that exceeds the consideration the registrant pays to registrants for supplies of filled and sealed containers of that class;

(2) to charge consideration for supplies of empty containers of that class made to other registrants that exceeds the consideration the registrant pays or would pay to other registrants for supplies of empty containers of that class;

(3) to pay consideration for supplies of empty containers of that class received from persons who are not registrants that is less than the total of the consideration that the registrant charges for supplies of empty containers of that class and tax calculated on that consideration or the amount provided for in section 350.30 determined by reference to that consideration;

(4) to bring into Québec filled and sealed containers of that class;

(5) to engage other persons to fill and seal containers of that class for the registrant; or

(6) to manufacture, produce or fill and seal returnable containers of any class.

Separate
supply and
consideration

“350.25 For the purposes of this division, where a person supplies a beverage in a returnable container,

(1) the provision of the container is deemed to be a supply separate from, and not incidental to, the provision of the beverage;

(2) section 33 does not apply to deem the container to form part of the beverage;

(3) the consideration for the supply of the container is deemed to be equal to that part of the total consideration for the beverage and the container that is reasonably attributable to the container; and

(4) section 34.3 does not apply in respect of the supply of a service that is made together with the supply of the container.

“§ 2.—Determination of net tax

Tax collect-
ible

“350.26 Tax that is collected or that becomes collectible by a registrant in respect of a supply of a returnable container shall not be included in determining the net tax of the registrant.

Input tax
refund

“350.27 Tax that is paid or that becomes payable by a registrant in respect of a supply of a returnable container shall not be included in determining an input tax refund of the registrant unless the registrant is acquiring the container for the purpose of making a zero-rated supply of the container or a supply of the container outside Québec.

Exception **“350.28** Sections 350.26 and 350.27 do not apply to a specified registrant.

“§ 3. — Advance collection

Definitions **“350.29** For the purposes of this subdivision,

“collection officer” “collection officer” means a registrant who makes a supply of a returnable container otherwise than by way of a retail sale;

“purchaser” “purchaser” means a person who acquires a filled and sealed returnable container by way of a retail sale;

“retail sale” “retail sale” means a sale for purposes other than solely of resale.

Collection **“350.30** A collection officer who makes a supply, other than an exempt supply, in Québec of a returnable container shall, as a mandatary of the Minister, collect from the recipient an amount in respect of the supply equal to the tax payable under section 16 by a purchaser in respect of the supply of the container, calculated on the value of the consideration for the supply made to the recipient.

General rule The amount referred to in the first paragraph shall be collected by the collection officer on the earlier of the day on which the consideration for the supply made to the recipient by the collection officer is paid and the day on which that consideration becomes due.

Partial consideration **“350.31** Notwithstanding the second paragraph of section 350.30, where consideration for a supply of a returnable container made by a collection officer to a recipient is paid or becomes due on more than one day, section 85 applies, adapted as required, to the amount provided for in section 350.30 in respect of the supply.

Rule **“350.32** Notwithstanding the second paragraph of section 350.30 and section 350.31, the amount provided for in section 350.30 in respect of a supply of a returnable container, determined by reference to the value of all or part of the consideration for the supply, as the case may be, is collectible on or before the last day of the calendar month immediately following the calendar month in which, if all or any part of the consideration for the supply has not been paid or become due on or before that day,

(1) where the supply is a supply of a returnable container by way of sale, other than a supply described in subparagraph 2, ownership or possession of the container is transferred to the recipient, and

(2) where the supply is a supply of a returnable container by way of sale under which the collection officer delivers the container to the

recipient on approval, consignment or other similar terms, the recipient acquires ownership of the container.

Consideration non ascertainable

Where the amount is collectible on a particular day under the first paragraph and the value of all or any part of the consideration for the supply is not ascertainable on that day, section 89 applies, adapted as required.

Consideration deemed to become due

“350.33 For the purposes of the second paragraph of section 350.30 and of sections 350.31 and 350.32, section 83 applies, adapted as required, in determining the time at which all or any part of the consideration for the supply is deemed to become due.

Amount to be included in determining the net tax

“350.34 The amount provided for in section 350.30 that is collected or that becomes collectible by a collection officer who is a specified registrant in respect of a supply of a returnable container, shall be added in determining the net tax of the collection officer for the reporting period of the collection officer in which the amount is collected or becomes collectible.

Deduction in determining the net tax

“350.35 The amount provided for in section 350.30 or in subparagraph *b* of subparagraph 2 of the second paragraph of section 350.39 that is paid or that becomes payable by a registrant, may be deducted in determining the net tax of the registrant for the reporting period of the registrant in which that amount is paid or becomes payable or for any reporting period ending within four years after the end of that period if

(1) the registrant is acquiring the container for the purpose of making a zero-rated supply of the container or a supply of the container outside Québec; or

(2) the registrant is a specified registrant.

Bad debts

“350.36 Where a collection officer has made a supply in the course of a commercial activity for consideration to a person with whom the collection officer was dealing at arm's length and has filed a return accounting for, and remitted the amount provided for in section 350.30 in respect of, the supply as required under Division III of Chapter VIII, to the extent that it is established that the consideration and the amount provided for in section 350.30 have become in whole or in part a bad debt, the collection officer may, in determining the net tax for the reporting period of the collection officer in which the bad debt is written off in the collection officer's books of account or for a reporting period that ends within four years after the end of that period, deduct an amount equal to 8/108 of the bad debt written off.

Recovery of
a bad debt

“350.37 Where a collection officer recovers all or part of a bad debt in respect of which the collection officer has made a deduction under section 350.36, the collection officer shall, in determining the net tax for the collection officer’s reporting period in which the bad debt or part thereof is recovered, add an amount equal to 8/108 of the bad debt or part thereof so recovered.

Failure to
collect

“350.38 Every collection officer who fails to collect the amount provided for in section 350.30 or fails to add that amount as required under section 350.34 or the amount referred to in subparagraph *b* of subparagraph 1 of the second paragraph of section 350.40 in determining the net tax of the collection officer, becomes a debtor of the amount towards the Government of Québec.

Presumption

The amount referred to in the first paragraph is deemed to be a duty within the meaning of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).

“§ 4. — Acquisition or deemed supply

Presump-
tion – acqui-
sition

“350.39 The rules set out in the second paragraph apply where

(1) at any time section 350.26 ceases to apply to a registrant in respect of a returnable container owned by the registrant at that time or section 350.34 begins to apply to a registrant in respect of a returnable container owned by the registrant at that time; and

(2) in respect of the last acquisition of the container by the registrant, the registrant was not entitled, by reason of section 350.27, to claim an input tax refund or was not entitled to deduct an amount under section 350.35 in determining the net tax of the registrant.

Presump-
tion – acqui-
sition

The registrant is deemed

(1) to have received at that time a supply of the container; and

(2) to have paid at that time in respect of the supply

(a) tax equal to the tax that was payable in respect of the last acquisition of the container by the registrant, or

(b) an amount equal to the amount provided for in section 350.30 that was payable in respect of the last acquisition of the container by the registrant.

Presump-
tion – supply

“350.40 The rules set out in the second paragraph apply where

(1) at any time section 350.26 begins to apply to a registrant in respect of a returnable container owned by the registrant at that time or section 350.34 ceases to apply to a registrant in respect of a returnable container owned by the registrant at that time; and

(2) in respect of the last acquisition of the container by the registrant, the registrant was entitled to claim an input tax refund or to deduct an amount under section 350.35 in determining the net tax of the registrant.

Presump-
tion – supply

The registrant is deemed

(1) to have made immediately before that time a supply of the container and to have collected at that time in respect of the supply

(a) tax equal to the tax that was payable by the registrant in respect of the last acquisition of the container by the registrant, or

(b) an amount equal to the amount provided for in section 350.30 that was payable by the registrant in respect of the last acquisition of the container by the registrant; and

(2) to have received at that time a supply of the container and to have paid at that time in respect of the supply

(a) tax equal to the tax referred to in subparagraph *a* of subparagraph 1, or

(b) an amount equal to the amount referred to in subparagraph *b* of subparagraph 1.

Amount to
be included
in determin-
ing the net
tax

The amount referred to in subparagraph *b* of subparagraph 1 of the second paragraph that is collected by the registrant shall be added in determining the net tax of the registrant for the reporting period of the registrant in which that amount is collected.

Transfer of
business and
closely
related
group

“350.41 Where a supplier at any time makes a supply of a returnable container to a registrant in circumstances in which sections 75 and 75.1, section 80 or 331 and sections 334 to 336 apply and, if those sections had not applied, section 350.26 would not have applied to the supplier in respect of the supply and section 350.27 would have applied to the registrant in respect of the container,

(1) the registrant is deemed to have made a supply of the container at that time and to have collected at that time tax in respect of the supply calculated on the consideration that the registrant would charge if the registrant made the supply to a person with whom the

registrant was dealing at arm's length, and section 350.26 does not apply to the registrant in respect of the supply; and

(2) the registrant is deemed to have received a supply of the container immediately after that time and to have paid immediately after that time tax in respect of the supply equal to the amount determined under paragraph 1.

Transfer of
business and
closely
related
group

“350.42 Where a supplier at any time makes a supply of a returnable container to a registrant in circumstances in which sections 75 and 75.1, section 80 or 331 and sections 334 to 336 apply and, if those sections had not applied, section 350.26 would have applied to the supplier in respect of the supply and section 350.27 would not have applied to the registrant in respect of the container, the registrant is deemed to have paid at that time tax in respect of the supply calculated on the consideration that the registrant would charge if the registrant made the supply to a person with whom the registrant was dealing at arm's length.”

(2) Subsection 1 applies with respect to sections 350.1 to 350.12 of the said Act, as enacted thereby, from 1 July 1992. However, in its application in respect of rebates paid after 30 June 1992 and before 1 January 1993, section 350.6 of the said Act, as enacted by subsection 1, shall be read as follows:

Rebates

“350.6 Where a supplier makes a taxable or non-taxable supply in Québec of property or a service, other than a zero-rated supply, a particular person acquires the property or service, either from the supplier or from another person, and is, at a particular time, paid a rebate by the supplier in respect of the property or service, and section 449 does not apply to the rebate, the following rules apply:

(1) where the supply by the supplier was made at a time when the supplier was a registrant, for the purpose of determining an input tax refund, the supplier is deemed

(a) to have received a taxable supply of a service for use exclusively in a commercial activity of the supplier, and

(b) to have paid, at the particular time, tax in respect of the supply equal to the amount obtained by multiplying the amount of the rebate by the tax fraction relating to the property or service in respect of which the rebate was paid; and

(2) where the particular person is a registrant who was entitled to claim an input tax refund, or a rebate under Division I of Chapter VII, in respect of the acquisition of the property or service, the particular person is deemed

(a) to have made a taxable supply, and

(b) to have collected, at the particular time, tax in respect of the supply equal to the amount determined by the formula

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

Interpreta-
tion

For the purposes of this formula,

(1) A is the tax fraction relating to the property or service in respect of which the rebate was paid;

(2) B is the input tax refund or the rebate under Division 1 of Chapter VII that the particular person was entitled to claim in respect of the acquisition of the property or service;

(3) C is the tax payable by the particular person in respect of the acquisition of the property or service; and

(4) D is the amount of the rebate paid to the particular person by the supplier.

Exception

However, where a rebate was paid to the particular person who is a registrant in respect of a non-taxable supply, subparagraph 1 of the first paragraph does not apply."

(3) Subsection 1 applies, with respect to sections 350.13 to 350.23 of the said Act, as enacted thereby, from 1 July 1992.

(4) Subsection 1 applies, with respect to sections 350.24 to 350.42 of the said Act, as enacted by subsection 1, from 1 July 1992. However, where a supply of a business or a part of a business under which ownership, possession or use of all or substantially all of the property of the business or of the part of the business included in the supply was transferred to the recipient before 1 October 1992, sections 350.41 and 350.42 shall be read without reference to section 75.1.

c. T-0.1,
Title I,
Chap. VII,
Division I,
subdiv. 1,
heading,
added

557. (1) The said Act is amended by inserting, after the heading of subdivision 1 of Division I of Chapter VII of Title I of the said Act, the following subheading:

"I. — Movable property or services".

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 351,
replaced

558. (1) Section 351 of the said Act is replaced by the following section:

Supply of
corporeal
movable
property to
persons resi-
dent outside
Canada

“351. Subject to section 357, a person not resident in Canada who is the recipient of a supply of corporeal movable property acquired by the person for use primarily outside Québec is entitled to a rebate of the tax paid by the person in respect of the supply if the person takes or ships the property outside Québec within 60 days after it is delivered to the person.

Supply of
corporeal
movable
property to
persons
operating a
business out-
side Québec
but within
Canada

Subject to section 357, a person resident in Canada who carries on business outside Québec but within Canada and is the recipient of a supply of corporeal movable property acquired by the person for use primarily outside Québec in the course of carrying on the person's business is entitled to a rebate of the tax paid by the person in respect of the supply if the person takes or ships the property outside Québec as soon as is reasonable after it is delivered to the person.

Exclusions

This section does not apply in respect of a supply of the following:

(1) used specified corporeal movable property that was acquired by the person by way of purchase for consideration that exceeds the prescribed amount in respect of the property;

(2) goods on which a duty of excise is imposed under the Excise Act (Revised Statutes of Canada, 1985, chapter E-14) or would be imposed if the goods were manufactured or produced in Canada;

(3) wine; or

(4) gasoline, diesel fuel or other motive fuel, other than such fuel that is being transported in a vehicle designed for transporting gasoline, diesel fuel or other motive fuel in bulk and is for use otherwise than in the vehicle in which or with which it is being transported.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 353.1-
353.6, added

559. (1) The said Act is amended by inserting, after section 353, the following:

Work with
copyright
protection

“353.1 Subject to sections 353.2 and 357, a person not resident in Québec who is not a registrant is entitled to a rebate of the tax paid by the person in respect of the acquisition of property or a service, other than a service of storing or shipping property, where the person

(1) acquires the property or service for consumption or use exclusively in the manufacture or production of an original literary,

musical, artistic, cinematographic or other work in which copyright protection subsists and copies, if any, of that work;

(2) is not a consumer of the property or service; and

(3) is manufacturing or producing the work and all copies of it for shipment outside Québec by the person not resident in Québec.

Assignment
of rebate

“353.2 Notwithstanding section 33 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), where the recipient of a supply assigns, in prescribed form containing prescribed information, to the supplier the right to a rebate under section 353.1 to which the recipient would be entitled in respect of the supply if the recipient had paid the tax in respect of the supply and had satisfied the conditions set out in section 357, and the supplier pays to, or credits in favour of, the recipient the amount of that tax,

(1) the supplier may claim a deduction under section 455.1 in respect of the supply equal to that amount; and

(2) the recipient is not entitled to any rebate, refund, remission of or compensation for tax in respect of the supply.

Rebate for
corporeal
movable
property
produced for
shipment
outside
Québec

“353.3 Subject to sections 353.5 and 357, a person not resident in Québec who is not a registrant is entitled to a rebate of any amount paid as or an account of tax in respect of the acquisition of a particular processing service in respect of corporeal movable property or of the acquisition of particular property or a particular service, other than a service of storing or shipping property, if the person

(1) acquires a particular processing service in respect of corporeal movable property or acquires particular property or a particular service for consumption or use exclusively in the manufacture or production of corporeal movable property;

(2) is not a consumer of the particular property or service;

(3) is manufacturing or producing the corporeal movable property exclusively for shipment by the person outside Québec or for supply to another person who is not a registrant and who is acquiring the corporeal movable property for shipment outside Québec; and

(4) whether or not tax was payable by the person in respect of the acquisition of the particular property or service, paid an amount as or on account of tax in respect of the acquisition.

"processing
service"

"353.4 For the purposes of section 353.3, "processing service", in respect of corporeal movable property, means

(1) performing a manufacturing, production or processing operation on the property;

(2) assembling, blending, mixing, cutting to size, diluting, bottling, packaging or repackaging the property or applying coatings or finishes to the property;

(3) inspecting, testing, evaluating, repairing or maintaining the property; or

(4) recording or storing instructions or data on the property in such manner and form that the instructions or data can be read or processed by data processing equipment.

Assignment
of rebate

"353.5 Notwithstanding section 33 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), where the recipient of a supply assigns, in prescribed form containing prescribed information, to the supplier the right to a rebate under sections 353.1 and 353.3 to which the recipient would be entitled in respect of the supply if the recipient had paid the tax in respect of the supply and had satisfied the conditions set out in section 357, and the supplier pays to, or credits in favour of, the recipient the amount of that tax,

(1) the supplier may claim a deduction under section 455.1 in respect of the supply equal to that amount; and

(2) the recipient is not entitled to any rebate, refund, remission of or compensation for tax in respect of the supply.

"II. — Short-term accommodation

Definitions

"353.6 For the purposes of this subdivision and of section 357,

"short-term
accommoda-
tion"

"short-term accommodation" includes any type of overnight shelter (other than shelter on a train, trailer, boat or structure that has means of, or is capable of being readily adapted for, self-propulsion) when supplied as part of a tour package that also includes meals, or food therefor, and the services of a guide, but does not include short-term accommodation that is included in that part of a tour package that is not the taxable portion of the tour package within the meaning of section 63;

"tour
package"

"tour package" has the meaning assigned by section 63, but does not include a tour package that includes a convention facility or related convention supplies."

(2) Subject to subsection 3, subsection 1 applies from 1 July 1992. However, for the period from 1 July 1992 to 30 September 1992, the reference in section 353.1 of the said Act, as enacted by subsection 1, to section 353.2 shall be read as a reference to section 353.5.

(3) Subsection 1 applies, with respect to section 353.2 of the said Act, as enacted thereby, from 1 October 1992.

c. T-0.1,
ss. 353.3-
353.5,
repealed

560. (1) Sections 353.3 to 353.5 of the said Act, enacted by subsection 1 of section 559, are repealed.

(2) Subsection 1 applies from 1 October 1992.

c. T-0.1,
s. 354,
replaced

561. (1) Section 354 of the said Act is replaced by the following section:

Short-term
accommoda-
tion

“354. Subject to sections 356 and 357, a person not resident in Canada is entitled to a rebate of the tax paid by the person in respect of short-term accommodation if

(1) the person is the recipient of a supply made by a registrant of short-term accommodation or a tour package that includes short-term accommodation;

(2) the accommodation or tour package is acquired by the person otherwise than for use in the course of a business of the person and otherwise than for supply in the ordinary course of a business of the person of making such supplies; and

(3) the accommodation is made available to an individual not resident in Canada who is the consumer thereof.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 354.1,
added

562. (1) The said Act is amended by inserting, after section 354, the following section:

Short-term
accommoda-
tion

“354.1 Subject to sections 356 and 357, a particular person not resident in Canada is entitled to a rebate of the tax paid by the person in respect of short-term accommodation if

(1) the particular person is not registered under Division I of Chapter VIII and is the recipient of a supply of the accommodation or a tour package that includes the accommodation;

(2) the accommodation or tour package is acquired by the person for supply in the ordinary course of a business of the person of making such supplies;

(3) a supply of the accommodation or tour package is made to another person not resident in Canada and payment of the consideration for that supply is made at a place outside Canada at which the supplier, or a mandatary of the supplier, is conducting business; and

(4) the accommodation is made available to an individual not resident in Canada who is the consumer thereof.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 355,
replaced

563. (1) Section 355 of the said Act is replaced by the following section:

Tax paid in
respect of a
short-term
accommoda-
tion

“355. Where, in an application filed by a person for rebates under section 354 in respect of one or more supplies of short-term accommodation that is not included in a tour package and in respect of which tax was paid by the person, the person elects to have any of those rebates determined in accordance with the formula set out in this section, the amount of tax paid in respect of each of those supplies of short-term accommodation is deemed to be equal to

$$A \times \$3.00.$$

Interpreta-
tion

For the purposes of this formula, A is the total number of nights for which the short-term accommodation is made available under the agreement for the supply.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 355.1-
355.3, added

564. (1) The said Act is amended by inserting, after section 355, the following sections:

Tax paid in
respect of a
tour package

“355.1 Where a person files an application in which a rebate under section 354 or 354.1 is claimed in respect of one or more supplies of tour packages that include short-term accommodation and in respect of which tax was paid by the person, the amount of tax paid in respect of the accommodation is, for each tour package, deemed to be equal to

(1) where section 354 applies and the person elects in that application to have any rebate determined in accordance with the following formula, the amount determined by the formula

$$A \times \$3.00; \text{ and}$$

(2) in any other case, the amount determined by the formula

$$\frac{B}{C} \times \frac{D}{2}.$$

Interpreta-
tion

For the purposes of these formulas,

(1) A is the total number of nights for which short-term accommodation included in the tour package is made available under the agreement for the supply;

(2) B is the total number of nights for which short-term accommodation included in the tour package is made available under the agreement for the supply of the tour package;

(3) C is the number of nights that are spent in Québec by the consumer of the tour package during the period commencing on the earlier of the first day on which overnight shelter included in the tour package is made available to the consumer and the first day any overnight transportation service included in the tour package is rendered to the consumer and ending on the later of the last day such shelter is made available to the consumer and the last day any such transportation service is rendered to the consumer; and

(4) D is the tax paid by the person in respect of the supply of the tour package.

Multiple sup-
plies of
accommoda-
tion for the
same night

“355.2 For the purpose of determining a rebate to which a person is entitled under section 354, in accordance with the formula set out in section 355, where a registrant makes a particular supply to the person of short-term accommodation that is made available to the person for any night, any other supply by the registrant to the person of short-term accommodation that is made available to the person for the same night is deemed not to be a supply separate from the particular supply.

Multiple sup-
plies of
accommoda-
tion for the
same night

“355.3 For the purpose of determining a rebate to which a person is entitled under section 354, in accordance with the formula set out in subparagraph 1 of the first paragraph of section 355.1, where a registrant makes a supply to the person of a particular tour package that includes short-term accommodation that is made available to the person for the same night as that for which short-term accommodation included in another tour package supplied by the registrant to the person is made available, all the accommodation made available to the person for that night is deemed to be included in the particular tour package and not in any other tour package.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 356,
replaced

565. (1) Section 356 of the said Act is replaced by the following section:

Rebate paid
by the regis-
trant

“356. The second paragraph applies in cases where

(1) a registrant makes a supply of short-term accommodation or a tour package that includes short-term accommodation to a recipient not resident in Canada who is the consumer of the accommodation or who is acquiring the accommodation or tour package for supply in the ordinary course of a business of the recipient of making such supplies;

(2) the registrant pays to, or credits in favour of, the recipient an amount on account of a rebate under section 354 or 354.1 to which the recipient would be entitled in respect of the accommodation if the recipient had paid the tax in respect of the supply and had satisfied the conditions under section 357;

(3) the amount paid to, or credited in favour of, the recipient is equal to

(a) in the case of a supply of a tour package, the amount that would be determined in respect of the supply under subparagraph 2 of the first paragraph of section 355.1; and

(b) in the case of a supply of short-term accommodation that is not part of a tour package, the tax paid by the recipient in respect of the supply; and

(4) in the case of a rebate under section 354,

(a) payment of the consideration for the supply is made at a place outside Canada at which the registrant, or a mandatary of the registrant, is conducting business, or

(b) where the accommodation is supplied as part of a tour package that includes other property or services (other than meals or property or services that are provided or rendered by the person who provides the accommodation and as part of it), a deposit of at least 20 % of the total consideration for the tour package, excluding tax paid or payable under Part IX of the Excise Tax Act (Statutes of Canada), is paid

i. by the recipient to the registrant at least 14 days before the first day on which any short-term accommodation included in the tour package is made available under the agreement for the supply of the tour package, and

ii. by means of a credit card or charge card issued by, or a cheque, draft or other bill of exchange drawn on an account outside Canada

with, an institution not resident in Canada that is a cooperative credit society, bank, trust company or similar institution.

Deduction

The registrant may claim a deduction under section 455.1 in respect of the amount paid to, or credited in favour of, the recipient and the recipient is not entitled to any rebate or to any refund or remission of tax in respect of the accommodation.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 356.1 and
heading,
added

566. (1) The said Act is amended by inserting, after section 356, the following:

Deposit paid
by credit
card

“356.1 For the purposes of section 356, where the payment of a deposit in respect of a supply is effected by the crediting of an account of the supplier by the issuer of a credit card or charge card of the recipient, the deposit is deemed not to have been paid before the account is so credited.

“III.—Restrictions”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 357,
replaced

567. (1) Section 357 of the said Act is replaced by the following section:

Entitlement
to rebate

“357. A person is not entitled to a rebate under section 351, 353.1, 354 or 354.1 unless

(1) the person files an application for the rebate within one year after

(a) in the case of a rebate under section 351, the day the person ships the property to which the rebate relates outside Québec,

(b) in the case of a rebate under section 353.1, the day the tax to which the rebate relates became payable, and

(c) in any other case, the last day any tax to which the rebate relates became payable;

(2) except where the application is a prescribed application, where the person is an individual, the individual has not made another application under this section in the calendar quarter in which the application is made;

(3) where the person is not an individual, the person has not made another application under this section in the month in which the application is made;

(4) at the time the application is made,

(a) in the case of an application for a rebate under the first paragraph of section 351 or under section 354 or section 354.1, the person is not resident in Canada, and

(b) in the case of an application for a rebate under the second paragraph of section 351, the person is resident in Canada and carries on a business outside Québec but within Canada;

(5) the application for a rebate relates to supplies the total consideration for which is at least \$107.00;

(6) the total of all rebates for which the application is made that are in respect of short-term accommodation not included in a tour package and that are determined in accordance with the formula set out in section 355 does not exceed \$45.00; and

(7) the total of all rebates for which the application is made that are in respect of tour packages and that are determined in accordance with the formula set out in paragraph 1 of section 355.1, does not exceed \$45.00.”

(2) Subsection 1 applies from 1 July 1992. However, for the period from 1 July 1992 to 30 September 1992, the reference in section 357 of the said Act, as enacted by subsection 1, to section 353.1 shall be read as a reference to sections 353.1 and 353.3.

c. T-0.1,
ss. 357.1-
357.6, added

568. (1) The said Act is amended by inserting, after section 357, the following:

“IV.—Conventions

Rebate for
exhibitors
not resident
in Québec

“357.1 Where a person not resident in Québec who is not registered under Division I of Chapter VIII is the recipient of a supply by way of lease, licence or similar arrangement of an immovable that is acquired by the person exclusively for use as a site for the promotion, at a convention, of a business of the person or of property or services supplied by the person, the person is entitled, on the person’s application filed within one year after the day the convention ends, to

(1) a rebate equal to the tax paid by the person in respect of that supply; and

(2) a rebate equal to the tax paid by the person in respect of a supply to the person of related convention supplies in respect of the convention.

Rebate to
the sponsor
of a foreign
convention

“357.2 The rules set out in the second paragraph apply where the sponsor of a foreign convention pays tax in respect of

(1) a supply of property or services relating to the convention made by a registrant who is the organizer of the convention;

(2) a supply, made by a registrant who is not the organizer of the convention, of the convention facility, or of property or services that are acquired by the sponsor for consumption, use or supply by the sponsor as related convention supplies; or

(3) property or services that are brought into Québec by the sponsor for consumption, use or supply by the sponsor as related convention supplies.

Rules

Subject to section 357.3, and on the sponsor's application filed within one year after the day the convention ends, the sponsor is entitled,

(1) in the case of a supply made by the organizer, to a rebate equal to the tax paid by the sponsor calculated on that part of the consideration for the supply that is reasonably attributable to the convention facility or related convention supplies; and

(2) in any other case, to a rebate equal to the tax paid by the sponsor in respect of the supply or bringing into Québec.

Rebate paid
by the orga-
nizer

“357.3 Where a registrant who is the organizer of a foreign convention pays to, or credits in favour of, the sponsor of the convention an amount on account of a rebate under section 357.2 to which the sponsor would be entitled in respect of a supply made by the registrant to the sponsor if the sponsor had paid the tax in respect of the supply and had applied for the rebate in accordance with that section,

(1) the registrant may claim a deduction under section 455.1 in respect of the amount paid or credited to the sponsor; and

(2) the sponsor is not entitled to any rebate, refund or remission in respect of the tax to which the amount relates.

Rebate to
the organizer

“357.4 Where an organizer of a foreign convention who is not registered under Division I of Chapter VIII pays tax in respect of a

supply of the convention facility or a supply or bringing into Québec of related convention supplies, the organizer is entitled, on the organizer's application filed within one year after the day the convention ends, to a rebate equal to the tax paid by the organizer in respect of the supply or bringing into Québec.

Rebate paid
by the sup-
plier

“357.5 The second paragraph applies where

(1) a person who is the organizer of a foreign convention and who is not registered under Division I of Chapter VIII, or the sponsor of a foreign convention, is the recipient of

(a) a taxable supply of the convention facility, or related convention supplies, made by the operator of the facility who is not the organizer of the convention, or

(b) a taxable supply, made by a registrant other than the organizer of the convention, of short-term accommodation that is acquired by the person exclusively for supply in connection with the convention; and

(2) the operator of the facility or supplier of accommodation pays to, or credits in favour of, the person an amount on account of a rebate to which the person would be entitled under section 357.2 or 357.4 in respect of the supply of the facility or accommodation, as the case may be, if the person had paid the tax in respect of the supply and had applied for the rebate in accordance with that section.

Rules

The operator or supplier of accommodation, as the case may be, may claim a deduction under section 455.1 in respect of the amount paid to, or credited in favour of, the person, and the person is not entitled to any rebate, refund or remission in respect of the tax to which the amount relates.

“V.—Joint and several liability

Liability for
amount paid
or credited

“357.6 This section applies where, under sections 351, 353.1, 353.2, 353.6 to 356.1 and 357.2 to 357.5, a registrant at a particular time pays to, or credits in favour of, a person an amount on account of a rebate and

(1) the person does not satisfy the condition (in this section referred to as the “eligibility condition”) that the person would have been entitled to the rebate if the person had paid the tax to which the amount relates and had satisfied the conditions of section 357 or, in the case of a rebate under section 357.2, had applied for the rebate within the time limited by that section for filing an application for the rebate; or

(2) the amount paid to, or credited in favour of, the person exceeds the rebate to which the person would have been so entitled, by a particular amount.

Liability

Subject to the third paragraph, the person is liable to pay to the Minister the amount or particular amount, as the case may be, as if it had been paid at the particular time to the person as a rebate under this division.

Joint and
several lia-
bility

Where, at the particular time, the registrant knows or ought to know that the person does not satisfy the eligibility condition or that the amount paid to, or credited in favour of, the person exceeds the rebate to which the person is entitled, the registrant and the person are jointly and severally liable to pay to the Minister the amount or particular amount, as the case may be, as if it had been paid at the particular time as a rebate under this division to the registrant and the person."

(2) Subsection 1 applies from 1 July 1992. However, for the period from 1 July 1992 to 30 September 1992, the reference in section 357.6 of the said Act, as enacted by subsection 1, to section 353.2, shall be read as a reference to sections 353.3 to 353.5.

c. T-0.1,
ss. 358, 359,
360, replaced

569. (1) Sections 358 and 359 of the said Act, amended, respectively, by sections 216 and 217 of chapter 19 of the statutes of 1993, and section 360 of the said Act are replaced by the following sections:

Employees
and partners

"358. Where tax is payable in respect of the acquisition or bringing into Québec of an aircraft, a musical instrument, a motor vehicle or any other property or service, by an individual who is a member of a partnership that is a registrant or who is an employee of a registrant, and, in the case of the acquisition or bringing into Québec of a musical instrument, the individual is not entitled to claim an input tax refund in respect of the instrument, the individual is entitled, subject to sections 359 and 360, to a rebate in respect of the property or service for each calendar year equal to the amount determined by the formula

$$A \times B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the tax fraction relating to the property or service applicable on the last day of the calendar year; and

(2) B is the amount deducted under the Taxation Act (R.S.Q., chapter I-3) in computing the individual's income for the year from the partnership or from an office or employment, as the case may be, which is

(a) the part or amount prescribed under that Act of the capital cost of the aircraft, musical instrument or motor vehicle,

(b) the amount in respect of the acquisition and bringing into Québec of the other property brought into Québec by the individual, not exceeding the total of the value of that property within the meaning of section 17 and the tax calculated on it, or

(c) the amount in respect of the supply by way of lease, licence or similar arrangement of the aircraft, musical instrument or motor vehicle, the supply in Québec of the other property or the supply of the service.

Exception

This section does not apply where

(1) the individual has received in respect of the amount represented by the letter B in the formula under this section an allowance from a person, other than an allowance that, at the time the allowance was paid, the person considered was not a reasonable allowance for the purposes of paragraph *e* of section 39 or section 40 of the Taxation Act (R.S.Q., chapter I-3) or, where that person is a partnership of which the individual is a member, would not have been a reasonable allowance for the purposes of paragraph *e* of section 39 or section 40 had the member been an employee of that partnership at that time; or

(2) the individual, if the individual were a registrant and acquired or brought into Québec the property or service for consumption or use exclusively in commercial activities of the registrant, would not be entitled to claim an input tax refund in respect of the property or service by reason of section 206.1.

Restriction
on rebate to
a partner

“359. The rebate in respect of property or a service payable under section 358 for a calendar year to an individual who is a member of a partnership shall not exceed the amount that would be an input tax refund of the partnership in respect of the property or service for the last reporting period of the partnership in its last fiscal year ending in that calendar year if

(1) in the case of a musical instrument that is capital property of the individual, the partnership had, in that reporting period,

(a) acquired the instrument by way of lease exclusively for use in activities of the partnership and for use in commercial activities thereof to the same extent that the individual's consumption or use of the instrument during that calendar year in activities of the partnership was in commercial activities thereof, and

(b) paid tax in respect of the instrument equal to the tax fraction of the prescribed part or amount of the capital cost in respect of that instrument that was deductible under the Taxation Act (R.S.Q., chapter I-3) in computing the individual's income from the partnership for that calendar year;

(2) in the case of an aircraft or a motor vehicle that is capital property of the individual,

(a) the partnership had acquired the aircraft or vehicle in that reporting period in circumstances in which section 252 applies and had used the aircraft or vehicle during that last fiscal year of the partnership in commercial activities of the partnership to the same extent that the individual's use of the aircraft or vehicle during that calendar year in activities of the partnership was in commercial activities thereof, and

(b) the prescribed part or amount of the capital cost in respect of the aircraft or vehicle that was deductible under the Taxation Act (R.S.Q., chapter I-3) in computing the individual's income from the partnership for that calendar year were the prescribed part or amount of the capital cost so deductible in computing the income of the partnership for that last fiscal year of the partnership; and

(3) in any other case, the partnership had

(a) acquired the property or service exclusively for use in activities of the partnership and for use in commercial activities thereof to the same extent that the individual's consumption or use of the property or service during that calendar year in activities of the partnership was in commercial activities thereof, and

(b) paid, in that reporting period, tax in respect of that acquisition equal to the tax fraction of

i. in the case of property brought into Québec by the individual, the amount in respect of the acquisition and bringing into Québec of the property, not exceeding the total of the value of the property within the meaning of section 17 and the tax under that section that was deductible under the Taxation Act (R.S.Q., chapter I-3) in computing the individual's income from the partnership for that calendar year, and

ii. in any other case, the amount in respect of the acquisition of the property or service by the individual that was so deductible in computing that income.

Application
for rebate

“360. A rebate for a calendar year shall not be paid under section 358 to an individual unless, within four years after the end of the year, the individual files with the Minister an application for the rebate, in prescribed form containing prescribed information, at the same time as the fiscal return under section 1000 of the Taxation Act (R.S.Q., chapter I-3) that he is required to file, or would be required to file if he were liable for tax under Part I of that Act.

Provisions
applicable

Section 1052 of the Taxation Act applies, adapted as required, to such rebate.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 360.1-
360.4, added

570. (1) The said Act is amended by inserting, after section 360, the following:

One applica-
tion per year

“360.1 An individual shall not make more than one application for a rebate under section 360 for a calendar year.

“§ 2.1—Convention admission

Convention
admission –
individual

“360.2 Subject to section 360.4, an individual resident in Québec who acquires an admission to a convention that is supplied together with food or beverages for a single consideration is entitled to a rebate of the tax paid in respect of the supply of the admission to the extent that

(1) the consideration for the supply relates to food or beverages that the individual is required to acquire with the admission; and

(2) the consideration for the supply constitutes a deductible amount, under the Taxation Act (R.S.Q., chapter I-3), in computing the income of the individual.

Exception

Notwithstanding the first paragraph, the individual is not entitled to a rebate of the tax paid in respect of a supply the consideration for which subparagraph 2 of the first paragraph applies and in respect of which the individual received an allowance or reimbursement from any other person.

Convention
admission –
public ser-
vice body

“360.3 Subject to section 360.4, a public service body which acquires an admission to a convention that is supplied together with food or beverages for a single consideration or which reimburses to an individual an amount relating to such an admission acquired by the

individual, is entitled to a rebate of the tax paid in respect of the supply of the admission or the tax fraction of the amount reimbursed, as the case may be, to the extent that the consideration for the supply or the amount, as the case may be, relates to food or beverages that the body or the individual, as the case may be, is required to acquire with the admission.

Application
for rebate

“360.4 A rebate under section 360.2 or 360.3 shall not be paid to an individual or a public service body in respect of the supply of an admission to a convention unless

(1) the individual or body files an application for the rebate within four years after the day on which the convention ends;

(2) where the application for the rebate is filed by a public service body, the application is for a minimum amount of \$5.00; and

(3) where the application for the rebate is filed by an individual, the application is for a minimum amount equal to \$5.00 for each day of the convention.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 362,
362.1,
replaced

571. (1) Section 362 of the said Act, replaced by section 219 of chapter 19 of the statutes of 1993, and section 362.1 of the said Act, enacted by section 220 of chapter 19 of the statutes of 1993, are replaced by the following sections:

Group of
individuals

“362. For the purposes of sections 362.1, 366 to 368 and 370 to 370.4, “individual” means one or more individuals who are entitled to a rebate under subsection 2 of section 254, 254.1, 255 or 256 of the Excise Tax Act (Statutes of Canada), but only one of those individuals may apply for a rebate under any of those sections.

Amount of
rebate

“362.1 An individual is entitled to a rebate of the tax under section 16 paid on the amount of the rebate to which he is entitled under subsection 2 of section 254, 254.1 or 256 of the Excise Tax Act (Statutes of Canada) or to a rebate of 4 % of the amount of the rebate to which he is entitled under subsection 2 of section 255 of that Act.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 370.1-
370.4, added

572. (1) The said Act is amended by inserting, after section 370, the following:

“II.1—Residential complex and land

Application
to builder

“370.1 The builder of a single unit residential complex referred to in subsection 2 of section 254.1 of the Excise Tax Act (Statutes of Canada) may pay to, or credit in favour of, the individual the amount of the rebate under section 362.1 where

(1) the individual, within four years after the day possession of the complex is transferred to the individual under the agreement for the supply, submits to the builder, in the manner prescribed by the Minister, an application in prescribed form containing prescribed information for the rebate to which the individual would be entitled under section 362.1 in respect of the complex if the individual applied for it within the time allowed for such an application; and

(2) the builder agrees to pay to, or credit in favour of, the individual any rebate under section 362.1 that is payable to the individual in respect of the complex.

Forwarding
of applica-
tion by
builder

“370.2 Notwithstanding section 362.1, where an application of an individual for a rebate under this section in respect of a residential complex is submitted under section 370.1 to the builder of the complex,

(1) the builder shall transmit the application to the Minister with the builder's return filed under Chapter VIII for the reporting period in which the rebate was paid to, or credited in favour of, the individual; and

(2) notwithstanding section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), interest is not payable in respect of the rebate.

Rebate
under the
Excise Tax
Act

“370.3 Where the builder pays to or credits in favour of an individual under subsection 4 of section 254.1 of the Excise Tax Act (Statutes of Canada) the amount of the rebate under subsection 2 of that section in respect of the residential complex, the builder shall pay to or credit in favour of the individual, under section 370.1, the amount of the rebate under section 362.1 in respect of the residential complex.

Exception

Section 370.1 does not apply where the builder of a residential complex does not pay to or credit in favour of an individual, under subsection 4 of section 254.1 of the Excise Tax Act (Statutes of Canada), the amount of the rebate under subsection 2 of that section in respect of the residential complex.

Joint and
several lia-
bility

“370.4 Where the builder of a residential complex pays to or credits in favour of an individual a rebate under section 370.1 and the

builder knows or ought to know that the individual is not entitled to the rebate or that the amount paid or credited exceeds the rebate to which the individual is entitled, the builder and the individual are jointly and severally liable to pay the amount of the rebate or excess to the Minister.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 378.1-
378.3, added

573. (1) The said Act is amended by inserting, before subdivision V of subdivision 3 of Division I of Chapter VII, the following:

“IV.1—Supply of land

Rebate to
the owner of
land leased
for residen-
tial purposes

“378.1 Subject to section 378.3, each person (in this subdivision referred to as the “landlord”) who is an owner or lessee of land and is not the particular lessee and who makes an exempt supply of land described in section 99 to a particular lessee who is acquiring the land for the purpose of making a supply of an immovable that includes the land, is entitled to a rebate determined in accordance with section 378.2 where

(1) the supply made by the particular lessee is an exempt supply described in paragraph 1 of section 98 or in paragraph 1 or 2 of section 100, other than an exempt supply described in paragraph 1 of section 100 made to a person described in subparagraph *b* thereof; and

(2) as a result of the supply, the particular lessee is deemed under any of sections 222.1 to 222.3 and 223 to 231.1 to have made a supply of the immovable at a particular time.

Determina-
tion

“378.2 For the purposes of section 378.1, the rebate to which a landlord is entitled in respect of the exempt supply of land described in section 99 is determined by the formula

$$A - B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the total (in this section referred to as the “total tax charged in respect of the land”) of the tax that was or would, but for sections 75.1 and 80, have been payable by the landlord in respect of the last acquisition of the land by the landlord and the tax that was payable by the landlord in respect of improvements to the land acquired or brought into Québec by the landlord after the land was last so acquired; and

(2) B is the total of the input tax refund and all other rebates that the landlord was entitled to claim in respect of any tax included in the total tax charged in respect of the immovable.

Application
for rebate

“378.3 A rebate shall not be paid under section 378.1 to a landlord in respect of a supply of the land made to a person who will be deemed under any of sections 222.1 to 222.3 and 223 to 231.1 to have made on a particular day another supply of the immovable that includes the land, unless the landlord files an application for the rebate before the day that is four years after the particular day.”

(2) Subsection 1 applies from 1 July 1992. However, for the period from 1 July 1992 to 30 September 1992, the reference in section 378.2 of the said Act, as enacted by subsection 1, to section 75.1 shall be read as a reference to section 75.

c. T-0.1,
s. 379,
replaced

574. (1) Section 379 of the said Act is replaced by the following section:

Sale by
a non-
registrant

“379. Subject to section 380, a person who is not a registrant and who makes a taxable supply by way of sale of an immovable is entitled to a rebate equal to the amount determined by the formula

$$A \times B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the lesser of

(a) the total (in this section referred to as the “total tax charged in respect of the immovable”) of the tax that was payable by the person in respect of the last acquisition of the immovable by the person and the tax that was payable by the person in respect of improvements to the immovable acquired or brought into Québec by the person after the immovable was last so acquired, and

(b) the tax that is or would, but for sections 75.1 and 80, be payable in respect of the taxable supply; and

(2) B is

(a) where the person was entitled to claim a rebate under sections 383 to 397 in respect of any tax included in the total tax charged in respect of the immovable, the difference between 100 % and the percentage prescribed for the purposes of section 386 or 386.1 that was applicable in determining the amount of that rebate, and

(b) in any other case, 100 %.”

(2) Subsection 1 applies from 1 October 1992.

c. T-0.1,
s. 383, am.

575. (1) Section 383 of the said Act is amended

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

“municipal-
ity”

“ “municipality” includes a person designated by the Minister, for the purposes of this subdivision, to be a municipality, but only in respect of activities, specified in the designation, that involve the making of supplies, other than taxable supplies and non-taxable supplies, by the person of municipal services;”;

(2) by replacing the definition of “charity” by the following definition:

“charity”

“ “charity” includes a non-profit organization that operates, otherwise than for profit, a health care institution within the meaning of paragraph 2 of the definition of that expression in section 108;”;

(3) by inserting, after the definition of “municipality”, the following definition:

“non-profit
organization”

“ “non-profit organization” includes a prescribed government organization;”;

(4) by inserting, before the definition of “percentage of government funding”, the following definition:

“non-refund-
able input
tax charged”

“ “non-refundable input tax charged”, in respect of property or a service for a claim period of a person, means the amount, if any, by which

(1) the total (in this section and in sections 384 to 397 referred to as “the total tax charged in respect of the property or service”) of all amounts each of which is

(a) tax in respect of the supply or bringing into Québec of the property or service that became payable by the person during the period or that was paid by the person during the period without having become payable, other than tax deemed to have been paid by the person or in respect of which the person is not entitled to claim an input tax refund only because of section 350.27,

(b) tax deemed under sections 209, 223 to 231.1, 243, 273, 275, 323.1 to 323.3, 341.1 and 341.7 to have been collected during the period by the person in respect of the property or service,

(c) tax, calculated on the amount of an allowance in respect of the property or service, that is deemed under section 211 to have been paid during the period by the person,

(d) tax deemed under section 212, 283 or 284 to have been paid during the period by the person in respect of the property or service, or

(e) an amount in respect of the property or service that is required under sections 210 and 341.3 to be added in determining the net tax of the person for the period; exceeds

(2) the total of all amounts included in the total determined under paragraph 1 that are included in determining an input tax refund of the person in respect of the property or service for the period.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 384,
repealed

576. (1) Section 384 of the said Act is repealed.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 386, am.

577. (1) Section 386 of the said Act, amended by section 227 of chapter 19 of the statutes of 1993, is again amended

(1) by replacing that part preceding subparagraph 1 of the first paragraph by the following:

Rebate

“386. Subject to section 387, a person who, on the last day of a claim period of the person or of the fiscal year of the person that includes that claim period, is a selected public service body, a charity or a qualifying non-profit organization, is entitled to a rebate for the claim period equal to one of the following percentages, as the case may be, of the non-refundable input tax charged in respect of property or a service, other than a prescribed property or service:”;

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

Exception

“This section does not apply to a person who is a prescribed registrant for the purposes of section 279 or to a person designated to be a municipality for the purposes of this subdivision.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 386.1,
added

578. (1) The said Act is amended by inserting, after section 386, the following section:

Rebate for
designated
municipali-
ties

“386.1 Subject to section 387, a person who, on the last day of a claim period of the person or of the fiscal year of the person that includes that claim period, is designated, for the purposes of this subdivision, to be a municipality in respect of activities (in this section referred to as “designated activities”) specified in the designation, is entitled to a rebate in respect of property or a service, other than a prescribed property or service, equal to the amount determined by the formula

$$40 \% \times A \times B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the total tax charged in respect of the property or service for the claim period; and

(2) B is

(a) where the property was acquired by way of lease, licence or similar arrangement by the person for consideration that includes two or more periodic payments that are attributable to successive parts (each of which is in this section referred to as a “lease interval”) of the period for which possession or use of the property is provided under the arrangement and an amount calculated on such a periodic payment is included in the total tax charged in respect of the property for the claim period, the extent, expressed as a percentage, to which the person intended, at the beginning of the lease interval to which the periodic payment is attributable, to use the property in the course of the designated activities,

(b) where the service is supplied to the person for consideration that includes two or more payments, each of which is attributable to particular services rendered under the agreement for the supply, and at a particular time during the claim period tax calculated on a particular payment becomes payable, or is paid without having become payable, by the person and is included in the total tax charged in respect of the service for the claim period, the extent, expressed as a percentage, to which the person had, before the particular time, consumed, used or supplied the particular services to which the particular payment is attributable, or intended at the particular time to consume, use or supply those particular services, in the course of the designated activities, and

(c) in any other case, the extent, expressed as a percentage, to which the person intended, at the time the property or service was

acquired or brought into Québec by the person, to consume, use or supply the property or service in the course of the designated activities.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 387-389,
replaced

579. (1) Sections 387 to 389 of the said Act are replaced by the following sections:

Application
for rebate

“387. A person referred to in section 386 or 386.1 is not entitled to a rebate under those sections in respect of non-refundable input tax charged for a claim period of the person unless the person files an application for the rebate after the first day in the fiscal year that the person is a selected public service body, charity or qualifying non-profit organization and within four years after the day that is

(1) where the person is a registrant, the day on or before which the person is required to file a return under Chapter VIII for the period; and

(2) where the person is not a registrant, the last day of the claim period.

One applica-
tion per
claim period

“388. Except where section 396 or 397 applies, a person shall not make more than one application for rebates under section 387 for any claim period of the person.

Election

“389. A prescribed person may make an election to determine, in accordance with prescribed rules, the rebates to which the person is entitled under sections 383 to 388 and 390 to 397 in respect of non-refundable input tax charged in respect of property or a service for a claim period during which the election is in effect.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 390,
repealed

580. (1) Section 390 of the said Act is repealed.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 391-397,
replaced

581. (1) Sections 391 to 397 of the said Act are replaced by the following sections:

Time for
making an
election

“391. An election under section 389 by a person is not a valid election unless it is made on or before the day the person files with the Minister an application for rebates under sections 383 to 389 and sections 392 to 397 in respect of non-refundable input tax charged for

the claim period of the person that includes the day on which the election is to take effect, which day shall be the first day of a claim period of the person.

Revocation

“392. An election made under section 389 by a person may be revoked by the person effective on the first day of a claim period of the person.

Cessation

“393. An election made under section 389 by a person ceases to have effect at the earlier of

(1) the time at which the person ceases to be a prescribed person for the purposes of section 389, and

(2) the time at which a revocation of the election becomes effective.

Selected
public ser-
vice body

“394. Where a particular selected public service body described in any of the paragraphs of the definition of the expression in section 383 acquires or brings into Québec property or a service primarily for consumption, use or supply in the course of activities engaged in by another person described in any other of those paragraphs, for the purpose of determining the amount of a rebate under section 386 or 386.1 to the body in respect of the non-refundable input tax charged in respect of the property or service for any claim period of the body, the body is deemed to be engaged in those activities.

Selected
public ser-
vice body

“395. Where a person acquires or brings into Québec property or a service primarily for consumption, use or supply in the course of activities engaged in by the person acting in the capacity of a selected public service body described in any of the paragraphs of the definition of the expression in section 383, the amount of any rebate under section 386 or 386.1 to the person in respect of the non-refundable input tax charged in respect of the property or service for a claim period of the person shall be determined as if the person were not a selected public service body described in any other of those paragraphs.

Divisions
and branches

“396. Where a person who is entitled to a rebate under section 386 or 386.1 is engaged in one or more activities in separate divisions or branches and is authorized under section 475 to file separate returns under Chapter VIII in relation to a division or branch, the person

(1) shall file separate applications under section 387 in respect of the division or branch; and

(2) shall not make more than one such application in respect of the division or branch for any claim period of the person.

Application
of ss. 474
and 475

“397. Where a person who has not made an application under section 474 is entitled to a rebate under section 386 or 386.1 and is engaged in one or more activities in separate divisions or branches,

(1) sections 474 and 475 apply to the person as if the references therein to “commercial activities” were references to “activities”, as if the references therein to “separate returns under this chapter” and “separate returns” were references to “applications under section 387”, and as if the references therein to “registrant” were references to “person”;

(2) where, because of this section, a division or branch of the person is authorized under section 475 to file separate applications for rebates under section 387, the person shall not make more than one such application in respect of the division or branch for any claim period of the person; and

(3) where, because of this section, the person is authorized under section 475 to file separate applications for rebates under section 387 in relation to a division or branch and the person is required to file returns under Chapter VIII, the person shall file separate returns under that chapter in respect of the division or branch.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 400, am.

582. (1) Section 400 of the said Act is amended by adding, at the end, the following paragraph:

“(3) a rebate of the amount is payable under sections 17.5 and 17.6.”

(2) Subsection 1 applies to amounts paid after 10 June 1993 as tax under section 17 of the said Act in respect of corporeal property that is

(a) released within the meaning of subsection 1 of section 2 of the Customs Act (Statutes of Canada); or

(b) brought into Québec from Canada but from outside Québec.

c. T-0.1,
s. 402,
replaced

583. (1) Section 402 of the said Act is replaced by the following section:

“402. Subject to sections 402.0.1 and 402.0.2, not more than one application for a rebate under section 400 may be made by a person in any calendar month.”

One applica-
tion per
month

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 402.0.1,
402.0.2,
added

Application
by a division
or branch

584. (1) The said Act is amended by inserting, after section 402, the following sections:

“402.0.1 A person may file separate applications for rebate under section 400 in respect of a division or branch where

(1) the person is entitled to a rebate under section 400;

(2) the person is engaged in one or more activities in separate divisions or branches; and

(3) the person is authorized under section 475 to file separate returns under Chapter VIII in relation to a division or branch.

One applica-
tion per
month

Not more than one application for a rebate under section 400 in respect of the division or branch may be made by the person referred to in the first paragraph in any calendar month.

Application
under s. 400

“402.0.2 Where a person who has not made an application under section 474 is entitled to a rebate under section 400 and is engaged in one or more activities in separate divisions or branches, the following rules apply:

(1) sections 474 and 475 apply to the person as if the references therein to “commercial activities” were references to “activities”, as if the references therein to “separate returns under this chapter” and “separate returns” were references to “applications under section 400”, and as if the references therein to “registrant” were references to “person”; and

(2) where, because of this section, the person is authorized under section 475 to file separate applications for rebates under section 400 in relation to a division or branch, not more than one application for a rebate in respect of the division or branch may be made by the person in any calendar month.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 403, am.

585. (1) Section 403 of the said Act is amended by replacing the first paragraph by the following paragraph:

Form and
filing of
application

“403. An application for a rebate under this division, other than a rebate referred to in subdivision 2, shall be made in prescribed form containing prescribed information and shall be filed with and as prescribed by the Minister.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 404, am.

586. (1) Section 404 of the said Act is amended by replacing that part preceding paragraph 1 by the following:

Restriction

“404. A person shall not be entitled to a rebate of an amount under section 17.5 or 17.6 or under this division to the extent that it may reasonably be regarded that”.

(2) Subsection 1 applies to rebates of amounts paid after 10 June 1993 as tax under section 17 of the said Act in respect of corporeal property that is

(a) released within the meaning of subsection 1 of section 2 of the Customs Act (Statutes of Canada); or

(b) brought into Québec from Canada but outside Québec.

c. T-0.1,
s. 405,
replaced

587. (1) Section 405 of the said Act is replaced by the following section:

Fiscal year
of a person

“405. For the purposes of this division, the fiscal year of a person is the fiscal year of the person within the meaning of section 458.1.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 407,
replaced

588. (1) Section 407 of the said Act is replaced by the following section:

Registration
required

“407. Every person who makes a taxable or non-taxable supply in Québec in the course of a commercial activity engaged in by the person in Québec is required to be registered except where

(1) the person is a small supplier;

(2) the only commercial activity of the person is making supplies of immovables by way of sale otherwise than in the course of a business;

(3) the person is not resident in Québec and does not carry on any business in Québec; or

(4) the person is an independent sales contractor of a direct seller and the only business operated by the person consists in selling exclusive products of the direct seller to another independent sales contractor of the direct seller or to a purchaser.

Meaning of
“purchaser”,
“direct
seller”,
“independ-
ent sales
contractor”
and “exclu-
sive product”

For the purposes of subparagraph 4 of the first paragraph, “purchaser”, “direct seller”, “independent sales contractor” and

“exclusive product” have the meaning assigned to them by section 297.1.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 407.1,
added

589. (1) The said Act is amended by inserting, after section 407, the following section:

Taxi busi-
ness

“407.1 Notwithstanding section 407, every small supplier who carries on a taxi business is required to be registered in respect of that business.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 409, 410,
replaced

590. (1) Sections 409 and 410 of the said Act are replaced by the following sections:

Presumption

“409. A person is deemed to be carrying on business in Québec and is required to be registered where

(1) the person, other than a small supplier, whether or not resident in Québec, whether through an employee or a mandatary or by means of advertising directed at the Québec market, solicits orders in Québec for the supply by the person of, or offers to supply, property that is prescribed property for the purposes of section 24.1 and that is to be sent by mail or courier to the recipient at an address in Québec; or

(2) the person is not resident in Québec and makes, in Québec, a taxable supply, other than a zero-rated supply, of a passenger transportation service within the meaning of Division VII of Chapter IV.

Supplier of
admissions
not resident
in Québec

“410. Every person who enters Québec for the purpose of making taxable supplies of admissions in respect of an activity, seminar, event or place of amusement is required to be registered and shall, before making any such supply, apply to the Minister for registration.”

(2) Subsection 1,

(a) where it replaces section 409 of the said Act, applies from 1 January 1993; and

(b) where it replaces section 410 of the said Act, applies from 1 July 1992.

c. T-0.1,
s. 410.1,
added

591. (1) The said Act is amended by inserting, after section 410, the following section:

Filing of
application

“410.1 A person required under section 407 or 407.1 to be registered shall apply to the Minister for registration before

(1) in the case of a person required under section 407.1 to be registered in respect of a taxi business, the day the person first makes a taxable or non-taxable supply in Québec in the course of that business; and

(2) in any other case, the day the person first makes a taxable or non-taxable supply in Québec, otherwise than as a small supplier, in the course of a commercial activity engaged in by the person in Québec.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 411,
replaced

592. (1) Section 411 of the said Act is replaced by the following section:

Optional
registration

“411. A person who is not required under section 407, 407.1, 409 or 410 to be registered may make an application for registration to the Minister if the person

(1) is engaged in a commercial activity in Québec; or

(2) is not resident in Québec and, in the ordinary course of carrying on business outside Québec, regularly solicits orders for the supply of corporeal movable property for delivery in Québec.

Small
supplier

Notwithstanding subparagraph 1 of the first paragraph, no person who is a small supplier may make an application for registration under that paragraph unless the person applies to the Minister of National Revenue for registration under subsection 3 of section 240 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 411.1,
added

593. (1) The said Act is amended by inserting, after section 411, the following section:

Optional reg-
istration per-
mitted for a
taxi business

“411.1 A person who is a small supplier carrying on a taxi business may file with and as prescribed by the Minister a request, in prescribed form containing prescribed information, to have the registration of the person apply in respect of all commercial activities engaged in by the person in Québec.

Approval by
the Minister

The Minister may approve the request filed under the first paragraph and shall thereupon notify the person in writing of the date from which the registration so applies.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 415.1,
added

594. (1) The said Act is amended by inserting, after section 415, the following section:

Taxi busi-
ness

“415.1 Where, on the day on which the registration under the first paragraph of section 415 of a person becomes effective or is varied under section 417.1, the person is a small supplier carrying on a taxi business and an approval under section 411.1 in respect of the registration does not become effective on that day, the registration does not apply to any other commercial activity engaged in by the person in Québec throughout the period commencing on that day and ending on the earlier of

(1) the first day thereafter that the person ceases to be a small supplier; and

(2) the day, specified in a notice issued under section 411.1 in respect of that registration or varied registration, as the case may be, from which the registration is to apply to all commercial activities engaged in by the person in Québec.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 417, am.

595. (1) Section 417 of the said Act is amended by replacing that part preceding subparagraph 2 of the first paragraph by the following:

Cancellation
of registra-
tion

“417. The Minister shall cancel the registration of a person who is a small supplier who does not carry on a taxi business where

(1) the person has filed with and as prescribed by the Minister a request, in prescribed form containing prescribed information, to do so and has been a registrant for at least one year on the last day of a fiscal year of the person within the meaning of section 458.1 or”.

(2) Subsection 1 applies from 1 July 1992. In addition, notwithstanding subparagraph 1 of the first paragraph of section 417 of the said Act, a person may file a request for cancellation of the registration under the said section while being a registrant for less than one year at the time the request is filed if the person is a small supplier under paragraph 2 of section 294 of the said Act, as enacted by subsection 1 of section 517, at any time in the period from 1 July 1992 to 24 November 1992 and throughout the period following that

time by reason of the reference in that paragraph to “incorporeal movable property, immovables or”.

Notwithstanding subparagraph 1 of the second paragraph of section 417 of the said Act, the cancellation referred to in the first paragraph of this subsection takes effect on or after 25 November 1992.

c. T-0.1,
ss. 417.1,
417.2, added

596. (1) The said Act is amended by inserting, after section 417, the following sections:

Request for
variation

“417.1 Where a small supplier carrying on a taxi business files with the Minister in prescribed manner a request, in prescribed form containing prescribed information, to have the registration of the person varied to apply only to that business, the Minister shall so vary the registration.

Effective
date

The variation is effective on a day that is the first day of a fiscal year of the small supplier, within the meaning of section 458.1 and that is at least one year after the registration of the small supplier last became applicable to all commercial activities engaged in by the small supplier in Québec.

Request for
cancellation

“417.2 Where a person who is an independent sales contractor for the purposes of Division III.1 of Chapter VI files with the Minister in prescribed manner a request, in prescribed form containing prescribed information, to have the registration of the person cancelled, the Minister shall so cancel the registration.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 418,
replaced

597. (1) Section 418 of the said Act is replaced by the following section:

Notice of
cancellation
or variation

“418. Where the Minister cancels or varies the registration of a person, the Minister shall notify the person in writing of the cancellation or variation and the effective date thereof.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 428, 429,
replaced

598. (1) Sections 428 and 429 of the said Act are replaced by the following sections:

Net tax

“428. The net tax for a particular reporting period of a person is the positive or negative amount determined by the formula

$$A - B.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the total of

(a) all amounts that became collectible and all other amounts collected by the person in the particular reporting period as or on account of tax under section 16, and

(b) all amounts that are required under this title to be added in determining the net tax of the person for the particular reporting period; and

(2) B is the total of

(a) all amounts each of which is an input tax refund for the particular reporting period or a preceding reporting period of the person claimed by the person in the return under this chapter filed by the person for the particular reporting period, and

(b) all amounts each of which is an amount that may be deducted by the person under this title in determining the net tax of the person for the particular reporting period and that is claimed by the person in the return under this chapter filed by the person for the particular reporting period.

Restriction

“429. An amount shall not be included in the total for A in the formula set out in section 428 for a reporting period of a person to the extent that that amount was included in that total for a preceding reporting period of the person.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 429.1,
added

599. (1) The said Act is amended by inserting, after section 429, the following section:

Limitation

“429.1 Where a registrant becomes a bankrupt within the meaning of the Bankruptcy and Insolvency Act (Statutes of Canada),

(1) the total of all input tax refunds claimed, and all amounts deducted, in a return filed after the date of the bankruptcy for a reporting period of the registrant ending before that date shall not exceed the total of

(a) the amount that would be the net tax for the period if no input tax refunds were claimed, and no amounts were deducted, in determining the net tax for that period, and

(b) all amounts required to be remitted by the registrant in respect of reporting periods ending before that period and all amounts payable by the registrant in respect of those reporting periods; and

(2) an input tax refund, a rebate under Division I of Chapter VII or an amount that may be deducted in determining the net tax, for a reporting period of the registrant ending before the date of the bankruptcy shall not be claimed or deducted in a return for a reporting period of the registrant ending after the date of the bankruptcy.

Exception

The first paragraph does not apply where, on or before the day the return mentioned in subparagraph 1 thereof is filed, all returns required under this title to be filed for, or in respect of acquisitions of immovables made in, reporting periods of the registrant ending before the date of the bankruptcy have been filed and all amounts required to be remitted by the registrant and all amounts payable under this title by the registrant in respect of those reporting periods have been remitted or paid.”

(2) Subsection 1 applies in respect of returns filed after 30 September 1992.

c. T-0.1,
s. 430,
replaced

600. (1) Section 430 of the said Act is replaced by the following section:

Restriction

“430. An amount shall not be included in the total for B in the formula set out in section 428 for a reporting period of a person to the extent that

(1) that amount was included in the total for a preceding reporting period of the person; or

(2) before the end of the period, that amount became refundable to the person under this Act or any other Act of the legislature of Québec or was remitted to the person under the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 432,
replaced

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

Input tax
refund in
respect of a
residential
complex

“432. Where a registrant makes an exempt supply of a residential complex by way of sale, the registrant shall not claim an input tax refund in respect of the last acquisition by the registrant of the complex, or the acquisition or bringing into Québec by the registrant, after the complex was last acquired by the registrant, of an improvement to the complex, in a return filed on or after the day

the registrant transfers ownership or possession of the complex to the recipient of the supply.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 433,
repealed

602. (1) Section 433 of the said Act is repealed.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 434, am.

603. (1) Section 434 of the said Act is amended

(1) by replacing subparagraphs *a* and *b* of subparagraph 3 of the second paragraph by the following subparagraphs:

“(a) where the first reporting period of the registrant in which the election is in effect is the fiscal year of the registrant, on or before the first day of the second fiscal quarter of that fiscal year or on such later day as the Minister may determine on application of the registrant, and

“(b) in any other case, on or before the day on or before which the return of the registrant is required to be filed under this chapter for the first reporting period of the registrant in which the election is in effect or on such later day as the Minister may determine on application of the registrant.”;

(2) by adding, at the end, the following paragraph:

Fiscal year
of a person

“For the purposes of this section, the fiscal year of a person is the fiscal year of the person within the meaning of section 458.1.”

(2) This section applies from 1 July 1992.

c. T-0.1,
s. 437,
replaced

604. (1) Section 437 of the said Act is replaced by the following section:

Net tax

“437. Every person who is required to file a return under this chapter shall in the return calculate his net tax for the reporting period for which the return is required to be filed.

Remittance

Where the net tax for a reporting period of a person is a positive amount, the person shall remit that amount to the Minister on or before the day on or before which the return for that period is required to be filed.

Net tax
refund

Where the net tax for a reporting period of a person is a negative amount, the person may claim in the return for that reporting period

that amount as a net tax refund for the period, payable to the person by the Minister.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 438, 439,
replaced

605. (1) Section 438 of the said Act and section 439 of the said Act, replaced by section 231 of chapter 19 of the statutes of 1993, are replaced by the following sections:

Immovable
supplied by
a person not
required to
collect tax

“438. Where tax under section 16 is payable by a person in respect of a supply of an immovable, other than a deemed supply, that is made to the person in circumstances in which section 423 applies, the person shall pay the tax to the Minister and file with and as prescribed by the Minister a return in respect of the tax in prescribed form containing prescribed information,

(1) where the person is a registrant and acquired the property for use or supply primarily in the course of commercial activities of the person, on or before the day on or before which the person is required to file a return for the reporting period in which the tax became payable; and

(2) in any other case, on or before the last day of the month following the month in which the tax became payable.

Change in
use

“439. Where tax under section 16 is payable by a person by reason of section 289 or 289.1, the person shall remit the tax to the Minister and file with and as prescribed by the Minister a return in respect of the tax in prescribed form containing prescribed information,

(1) where the person is a registrant, on or before the day on or before which the person is required to file a return for the reporting period in which the tax became payable; and

(2) in any other case, on or before the last day of the month following the month in which the tax became payable.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 440,
repealed

606. (1) Section 440 of the said Act is repealed.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 443,
replaced

607. (1) Section 443 of the said Act is replaced by the following section:

Payment of
a net tax
refund

“443. Where a net tax refund payable to a person is claimed in a return filed under this chapter by the person, the Minister shall pay the refund to the person with all due dispatch after the return is filed.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 449,
replaced

608. (1) Section 449 of the said Act is replaced by the following section:

Rules appli-
cable

“449. Where a particular person has adjusted, refunded or credited an amount in favour of, or to, another person in accordance with section 447 or 448, the following rules apply:

(1) the particular person shall, within a reasonable time, issue to the other person a credit note, containing prescribed information, for the amount of the adjustment, refund or credit, unless the other person issues a debit note, containing prescribed information, for the amount;

(2) the amount may be deducted in determining the net tax of the particular person for the reporting period of the particular person in which, as the case may be, the credit note is issued to the other person or the debit note is received by the particular person, to the extent that the amount has been included in determining the net tax of the particular person for the reporting period or a preceding reporting period of the particular person; and

(3) the amount shall be added in determining the net tax of the other person for the reporting period of the other person in which, as the case may be, the debit note is issued to the particular person or the credit note is received by the other person, to the extent that the amount has been included in determining an input tax refund claimed by the other person in a return filed for the reporting period or a preceding reporting period of the other person.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 451, 452,
replaced

609. (1) Sections 451 and 452 of the said Act are replaced by the following sections:

“specified
amount”

“451. For the purposes of section 453, “specified amount”, in respect of a patronage dividend paid by a person in a fiscal year of the person, means the amount determined by the formula

$$A \times \frac{(B + D)}{(C + D)}.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the amount of the patronage dividend;

(2) B is the total value of all consideration that became due, or was paid without having become due, in the immediately preceding fiscal year of the person while the person was a registrant for taxable supplies, other than supplies by way of sale of capital property of the person and zero-rated supplies, made in Québec by the person;

(3) C is the total value of all consideration that became due, or was paid without having become due, in the immediately preceding fiscal year of the person for taxable and non-taxable supplies, other than supplies by way of sale of capital property of the person, made in Québec by the person; and

(4) D is the total of all tax that became payable, or was paid without having become payable, in the immediately preceding fiscal year of the person in respect of taxable supplies, other than supplies by way of sale of capital property of the person, made by the person.

Fiscal year
of a person

“452. For the purposes of this subdivision, the fiscal year of a person is the fiscal year of the person within the meaning of section 458.1.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 453, am.

610. (1) Section 453 of the said Act, amended by section 234 of chapter 19 of the statutes of 1993, is again amended by replacing subparagraph *b* of paragraph 1 by the following subparagraph:

“(b) where the particular person has made an election that is in effect for that fiscal year for the purposes of this subparagraph, the part of the dividend that is in respect of taxable supplies, other than zero-rated supplies, made to the other person; and”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 454,
replaced

611. (1) Section 454 of the said Act is replaced by the following section:

Exception –
election

“454. Section 453 does not apply to a patronage dividend paid by a person in a fiscal year of the person for which an election made

by the person under this section is in effect, in which event the dividend is deemed not to be a reduction of the consideration for any supplies.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 454.1-
454.3, added

612. (1) The said Act is amended by inserting, after section 454, the following sections:

Time for
election

“454.1 An election made under subparagraph *b* of paragraph 1 of section 453 or section 454 by a person shall be made before any patronage dividend is paid by the person in the fiscal year of the person in which the election is to take effect.

Revocation
of election

“454.2 An election made under subparagraph *b* of paragraph 1 of section 453 or section 454 by a person may be revoked by the person before any patronage dividend is paid by the person in the fiscal year of the person in which the revocation is to take effect.

Date of pay-
ment of divi-
dend

“454.3 For the purposes of this subdivision, a patronage dividend is deemed to be paid on the day that it is declared.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 455,
replaced

613. (1) Section 455 of the said Act is replaced by the following section:

Deduction in
determining
the net tax
of the
builder

“455. Where, in the circumstances described in section 366 or 370.1, a builder pays to, or credits in favour of, an individual an amount on account of a rebate referred to therein and transmits the application of the individual for the rebate to the Minister in accordance with section 367 or 370.2, the builder may deduct the amount in determining the net tax of the builder for the reporting period of the builder in which the amount was paid or credited.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
heading and
s. 455.1,
added

614. (1) The said Act is amended by inserting, after section 455, the following:

“§ 6.1—Payment of rebate by registrant

Deduction
for rebate in
respect of
supplies to
persons not
resident in
Québec

“455.1 Where, in the circumstances described in section 353.2, 356, 357.3 or 357.5, a registrant pays to, or credits in favour of, a

person an amount on account of a rebate referred to therein, the registrant may deduct the amount in determining the net tax of the registrant for

(1) the reporting period of the registrant that includes the particular day that is the later of the last day on which any tax to which the rebate relates became payable and the day on which the amount is paid or credited; or

(2) any subsequent reporting period of the registrant for which a return is filed within one year after the particular day.”

(2) Subsection 1 applies from 1 July 1992. However, for the period from 1 July 1992 to 30 September 1992, the reference in section 455.1 of the said Act, as enacted by subsection 1, to section 353.2 shall be read as a reference to section 353.5.

c. T-0.1,
s. 456,
replaced

615. (1) Section 456 of the said Act is replaced by the following section:

Leasing of a
passenger
vehicle

“456. Where, in a taxation year of a registrant, tax becomes payable, or is paid without having become payable, by the registrant in respect of a supply by way of lease of a passenger vehicle and the total of the consideration for the supply that would be deductible in computing the registrant’s income for the year for the purposes of the Taxation Act (R.S.Q., chapter I-3), if the registrant were a taxpayer under that Act and that Act were read without reference to section 421.6 thereof, exceeds the amount in respect of that consideration that is, or would be if the registrant were a taxpayer under the Taxation Act, deductible in computing the registrant’s income for the year for the purposes of that Act, there shall be added in determining the net tax for the appropriate reporting period of the registrant, an amount determined by the formula

$$A \times B \times C.$$

Interpreta-
tion

For the purposes of this formula,

(1) A is the result obtained by dividing that excess by that consideration;

(2) B is the tax paid or payable in respect of that supply, other than tax that, by reason of section 203, 206 or 206.1, may not be included in determining an input tax refund of the registrant; and

(3) C is the proportion that the use of the vehicle in commercial activities of the registrant is of the total use of the vehicle.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
Title I,
Chap. VIII,
Division IV,
heading,
replaced

616. (1) The said Act is amended by replacing the heading of Division IV of Chapter VIII of Title I by the following heading:

“FISCAL PERIOD, REPORTING PERIOD AND RETURN”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 458.1-
458.5, added

617. (1) The said Act is amended by inserting, after the heading of Division IV of Chapter VIII of Title I, the following:

“§ 0.1—*Fiscal period*

“I.—*Definitions*

Definitions

“458.1 For the purposes of this division and subject to section 458.6,

fiscal year of
a person

(1) the fiscal year of a person is

(a) where the person is not a registrant under Subdivision d of Division V of Part IX of the Excise Tax Act (Statutes of Canada),

i. if the election made by the person under section 458.4 is in effect, the period that the person elected under that section, and

ii. in all other cases, the taxation year of the person within the meaning of Part IX of the Excise Tax Act;

(b) where the fiscal year of the person is determined under section 458.2, the fiscal year determined under that section; and

(c) in all other cases, the fiscal year of the person for the purposes of Part IX of the Excise Tax Act;

fiscal quar-
ter in a
fiscal year of
a person

(2) a fiscal quarter in a fiscal year of a person is

(a) where the person is not a registrant under Subdivision d of Division V of Part IX of the Excise Tax Act, or the reporting period of the person is the fiscal year of the person for the purposes of Part IX of that Act, a fiscal quarter determined under section 458.2;

(b) in all other cases, a fiscal quarter determined under section 243 of the Excise Tax Act for the purposes of that Act;

fiscal month
in a fiscal
year of a
person

(3) a fiscal month in a fiscal year of a person is

(a) where the fiscal months in a fiscal year of the person are determined under section 458.2, a fiscal month determined under that section; and

(b) in all other cases, a calendar month.

“II. — Determination of fiscal year, fiscal quarters and fiscal months

Notice to
the Minister

“458.2 Subject to section 458.6, a person shall file with and as prescribed by the Minister, in prescribed form containing prescribed information, the information referred to in subsection 3 of section 243 of the Excise Tax Act (Statutes of Canada) in accordance with subsections 1 and 2 of that section, where

(1) the person is referred to in section 459.1; or

(2) the person makes or has made an election under section 459.4 that is in effect on the day described in the second paragraph and the person is not a registrant under Subdivision d of Division V of Part IX of the Excise Tax Act or the reporting period of the person is the fiscal year of the person within the meaning of Part IX of that Act for the purposes of that Act.

Time limit

The information referred to in the first paragraph shall be filed on or before the day that is

(1) where the person becomes a registrant in a fiscal year, the later of

(a) the day the person files an application for registration or, where the person was required under section 410 or 410.1 to file an application, the day the person was required to so file, and

(b) the day on which the registration became effective;

(2) where the reporting period of the person is the fiscal quarter in a fiscal year, the first day in that fiscal year immediately following the effective day of the election made by the person under section 459.4; and

(3) in any other case, the first day of the fiscal year of the person.

Presump-
tion in case
of failure to
file

Where a person fails to file the information referred to in the first paragraph with the Minister in accordance with this section, the following rules apply:

(1) where the fiscal year of the person is a calendar year, the fiscal quarters of the person are deemed to be calendar quarters; and

(2) notwithstanding section 458.4, where the fiscal year of the person is not a calendar year, the fiscal year of the person is deemed to be a calendar year and the fiscal quarters of the person are deemed to be calendar quarters.

Fiscal month **“458.3** Where a person who is not a registrant under Subdivision d of Division V of Part IX of the Excise Tax Act (Statutes of Canada) or whose reporting period is the fiscal year of the person for the purposes of Part IX of that Act files with the Minister the information referred to in section 458.2 in accordance with that section, the Minister, on request in writing made in prescribed form containing prescribed information and filed with and as prescribed by the Minister in prescribed manner, may allow the person to have one fiscal month in a fiscal quarter that is longer than 35 days or, except where the fiscal month is the first or last fiscal month in a fiscal quarter, shorter than 28 days.

“III. — Election for fiscal year

Election **“458.4** A person who is not a registrant under Subdivision d of Division V of Part IX of the Excise Tax Act (Statutes of Canada) may make an election under the second paragraph as prescribed by the Minister, in prescribed form containing prescribed information.

Election The person referred to in the first paragraph may elect,

(1) where the taxation year of the person within the meaning of Part IX of the Excise Tax Act is not a calendar year, to have fiscal years that are calendar years;

(2) where the taxation year of an individual or a trust, within the meaning of Part IX of the Excise Tax Act, is not a period that is, for the purposes of the Taxation Act (R.S.Q., chapter I-3), the fiscal period of a business carried on by the individual or trust, or by a partnership of which the individual or trust is a member, to have the fiscal year of the individual or trust be that fiscal period.

Rules For the purposes of the preceding paragraphs, the following rules apply:

(1) an election made under subparagraph 1 of the second paragraph shall become effective on the first day of the calendar year;

(2) an election made under subparagraph 2 of the second paragraph shall become effective on the first day of one of the fiscal periods of the individual or trust; and

(3) the election shall specify the day it is to become effective and shall be filed with the Minister on or before that day.

Revocation

“458.5 A person may revoke an election made under section 458.4 as prescribed by the Minister, in prescribed form containing prescribed information.

Rules

For the purposes of the first paragraph, the following rules apply:

(1) the revocation is effective on the first day of a taxation year of the person that begins more than one year after the day the election under section 458.4 became effective; and

(2) the revocation shall specify the day it is to become effective and shall be filed with the Minister on or before that day.”

(2) Subsection 1 applies, with respect to sections 458.1, 458.4 and 458.5 of the said Act, as enacted thereby, from 1 July 1992. However,

(a) for the period from 1 July 1992 to 23 November 1992, section 458.1 of the said Act shall be read as follows:

Definitions

“458.1 For the purposes of this division and subject to section 458.6,

fiscal year of
a person

(1) the fiscal year of a person is

(a) where the person is not a registrant under Subdivision d of Division V of Part IX of the Excise Tax Act (Statutes of Canada),

i. if the election made by the person under section 458.4 is in effect, the period that the person elected under that section, and

ii. in all other cases, the taxation year of the person within the meaning of Part IX of the Excise Tax Act; and

(b) in all other cases, the fiscal year of the person for the purposes of Part IX of the Excise Tax Act;

fiscal month
in a fiscal
year of a
person

(2) a fiscal month in a fiscal year of a person is a calendar month or the reporting period determined under the second paragraph of section 459.”;

(b) for the period from 24 November 1992 to 31 December 1992, section 458.1 of the said Act shall be read as follows:

Definitions

“458.1 For the purposes of this division and subject to section 458.6,

fiscal year of
a person

(1) the fiscal year of a person is

(a) where the person is not a registrant under Subdivision d of Division v of Part IX of the Excise Tax Act (Statutes of Canada),

i. if the election made by the person under section 458.4 is in effect, the period that the person elected under that section, and

ii. in all other cases, the taxation year of the person within the meaning of Part IX of the Excise Tax Act; and

(b) where the fiscal year of the person is determined under section 458.2, the fiscal year determined under that section; and

(c) in all other cases, the fiscal year of the person for the purposes of Part IX of the Excise Tax Act;

fiscal month
in a fiscal
year of a
person

(2) a fiscal month in a fiscal year of a person is

(a) where the fiscal months in a fiscal year of the person are determined under section 458.2, a fiscal month determined under that section; and

(b) in all other cases, a calendar month.”

(3) Subsection 1 applies, with respect to sections 458.2 and 458.3 of the said Act, as enacted thereby, to persons whose fiscal year begins after 24 November 1992. However,

(a) for the period from 25 November 1992 to 31 December 1992, section 458.2 of the said Act shall be read as follows:

Notice to
the Minister

“458.2 Subject to section 458.6, a person shall file with and as prescribed by the Minister, in prescribed form containing prescribed information, the information referred to in subsection 3 of section 243 of the Excise Tax Act (Statutes of Canada) in accordance with subsections 1 and 2 of that section, where the person is referred to in section 459.1.

Time limit

The information referred to in the first paragraph shall be filed on or before the day that is

(1) where the person becomes a registrant in a fiscal year, the later of

(a) the day the person files an application for registration or, where the person was required under section 410 or 410.1 to file an application, the day the person was required to so file, and

(b) the day on which the registration became effective; and

(2) in any other case, the first day of the fiscal year of the person.”;

(b) in applying section 458.2 of the said Act in respect of a person referred to in paragraph *b* of subsection 2 of section 620, that person shall file with the Minister the information referred to in the first paragraph of section 458.2 of the said Act within the calendar month preceding the first day of the fiscal month during which the reporting period of the person is the fiscal month of the person, in accordance with paragraph *b* of subsection 2 of section 620;

(c) in applying section 458.2 of the said Act in respect of a person referred to in paragraph *d* of subsection 2 of section 620, that person shall file with the Minister the information referred to in the first paragraph of section 458.2 of the said Act within the calendar month preceding the day the election referred to in paragraph *d* of subsection 2 of section 620 becomes effective;

(d) in applying section 458.2 of the said Act in respect of a person referred to in subsection 4 of section 620 who is not a registrant under Subdivision d of Division V of Part IX of the Excise Tax Act (Statutes of Canada) or whose reporting period is the fiscal year of the person for the purposes of Part IX of that Act, that person shall file with the Minister the information referred to in the first paragraph of section 458.2 of the said Act before the first day of the fiscal year immediately following the fiscal year beginning at any time during the year 1992 and ending during the year 1993.

618. (1) The said Act is amended by inserting, after the heading of subdivision 1 of Division IV of Chapter VIII, the following:

“I. — General provisions

“458.6 For the purposes of this division, the following rules apply notwithstanding section 459:

(1) where a person makes an election under section 459.4 and the reporting period of the person is the fiscal quarter of the person for the purposes of Part IX of the Excise Tax Act (Statutes of Canada) at the time the election under section 459.4 becomes effective, the reporting period of the person is deemed to be the reporting period of the person for the purposes of Part IX of that Act;

(2) where a person has made an election under section 459.4 and the reporting period of the person for the purposes of Part IX of the Excise Tax Act is modified to have that period be the fiscal quarter of the person, or where a person becomes a registrant under

c. T-0.1,
s. 458.6,
added

Reporting
period same
as under the
Excise Tax
Act

Subdivision d of Division v of Part IX of that Act and the reporting period of the person is the fiscal quarter of the person for the purposes of Part IX of that Act, the reporting period of the person is deemed to be the reporting period of the person for the purposes of Part IX of that Act at the time that reporting period becomes effective under that Act;

(3) where a person makes an election under section 460 and the reporting period of the person is the fiscal year of the person for the purposes of Part IX of the Excise Tax Act at the time the election under section 460 becomes effective, the reporting period of the person is deemed to be the reporting period of the person for the purposes of Part IX of that Act; and

(4) where a person has made an election under section 460 and the reporting period of the person for the purposes of Part IX of the Excise Tax Act is modified to have that period be the fiscal year of the person, or where a person becomes a registrant under Subdivision d of Division V of Part IX of that Act and the reporting period of the person is the fiscal year of the person for the purposes of Part IX of that Act, the reporting period of the person is deemed to be the reporting period of the person for the purposes of Part IX of that Act at the time that reporting period becomes effective under that Act.

Power of
the Minister

For the purposes of the first paragraph, the Minister may require to be informed by a person, as prescribed and within the time determined by the Minister in prescribed form containing prescribed information, of the reporting periods of the person for the purposes of Part IX of the Excise Tax Act for each of the person's fiscal periods."

(2) Subsection 1 applies from 1 July 1992. However,

(a) for the period from 1 July 1992 to 23 November 1992, section 458.6 of the said Act, as enacted by subsection 1, shall be read as follows:

Reporting
period same
as under the
Excise Tax
Act

"458.6 For the purposes of this division and notwithstanding section 459, where a person makes an election under section 460 and the reporting period of the person is the fiscal year of the person for the purposes of Part IX of the Excise Tax Act (Statutes of Canada) at the time the election under section 460 becomes effective, the reporting period of the person is deemed to be the reporting period of the person for the purposes of Part IX of that Act.";

(b) for the period from 24 November 1992 to 31 December 1992, section 458.6 of the said Act shall be read as follows:

Reporting
period same
as under the
Excise Tax
Act

“458.6 For the purposes of this division, the following rules apply notwithstanding section 459:

(1) where a person makes an election under section 460 and the reporting period of the person is the fiscal year of the person for the purposes of Part IX of the Excise Tax Act (Statutes of Canada) at the time the election under section 460 becomes effective, the reporting period of the person is deemed to be the reporting period of the person for the purposes of Part IX of that Act; and

(2) where a person has made an election under section 460 and the reporting period of the person for the purposes of Part IX of the Excise Tax Act is modified to have that period be the fiscal year of the person, or where a person becomes a registrant under Subdivision d of Division V of Part IX of that Act and the reporting period of the person is the fiscal year of the person for the purposes of Part IX of that Act, the reporting period of the person is deemed to be the reporting period of the person for the purposes of Part IX of that Act at the time that reporting period becomes effective under that Act.

Power of
the Minister

For the purposes of the first paragraph, the Minister may require to be informed by a person, as prescribed and within the time determined by the Minister in prescribed form containing prescribed information, of the fiscal year of the person for the purposes of Part IX of the Excise Tax Act.”

c. T-0.1,
s. 459,
replaced

619. (1) Section 459 of the said Act, replaced by section 237 of chapter 19 of the statutes of 1993, is again replaced by the following section:

Reporting
period

“459. The reporting period

(1) of a person who is not a registrant is, subject to sections 466 and 467, a calendar month; and

(2) of a person who is a registrant at a particular time in a fiscal year of the person is, subject to sections 464, 466 and 467,

(a) where the person has made an election under section 460 that is effective at that time, the fiscal year of the person that includes that time,

(b) where the person has made an election under section 459.4 that is effective at that time, the fiscal quarter of the person that includes that time, and

(c) in all other cases, the fiscal month of the person that includes that time.”

(2) Subsection 1 applies from 24 November 1992. However, for the period preceding 1 January 1993, section 459 of the said Act, as enacted by subsection 1, shall be read as follows:

Reporting
period

“459. The reporting period

(1) of a person who is not a registrant is, subject to sections 466 and 467, a calendar month; and

(2) of a person who is a registrant at a particular time in a fiscal year of the person is, subject to sections 460.1, 464, 466 and 467,

(a) where the person has made an election under section 460 that is effective at that time, the fiscal year of the person that includes that time, and

(b) in all other cases, the fiscal month of the person that includes that time.”

c. T-0.1,
ss. 459.1-
459.5, added

620. (1) The said Act is amended by inserting, after section 459, the following:

“II. — Election for periods

“1. — Notice of fiscal month

Fiscal
month not a
calendar
month

“459.1 Where the reporting period of a person is a fiscal month of the person that is a calendar month, the reporting period of the person may be the fiscal month of the person, other than the calendar month, if the person files with the Minister the information referred to in section 458.2 in accordance with that section.

Application

For the purposes of the first paragraph, the reporting period of the person is the fiscal month of the person, other than the calendar month, on the first day of the fiscal year of the person where the person is a registrant or on the day the person becomes a registrant.

Cessation of
fiscal month

The reporting period of the person ceases to be a fiscal month of the person, other than the calendar month, on the earlier of,

(1) where the person makes an election under section 459.4 or 460, the day the election takes effect; and

(2) where the person fails to file with the Minister the information referred to in section 458.2 in accordance with that section for a fiscal year, the first day of that fiscal year.

“2.—Election for fiscal month

Election for
fiscal month

“459.2 A person may make an election to have a reporting period that is a fiscal month of the person.

Duration of
election

“459.3 An election under section 459.2 shall take effect on the first day of the fiscal year of the person and shall remain in effect until the day an election by that person under section 459.4 or 460 takes effect.

“3.—Election for fiscal quarter

Election for
fiscal quarter

“459.4 A person may make an election to have a reporting period that is a fiscal quarter of the person where

(1) the threshold amount of the person for a fiscal year does not exceed \$12 000; and

(2) the reporting period of the person is a fiscal quarter of the person or a fiscal year of the person for the purposes of Part IX of the Excise Tax Act (Statutes of Canada) or the person is not a registrant under Subdivision d of Division V of Part IX of that Act.

Effective
date of elec-
tion

An election under the first paragraph shall take effect

(1) where the person is a registrant, on the first day of the fiscal year of the person;

(2) on the day the person becomes a registrant; or

(3) on the day an election under section 460 ceases to be in effect by reason of the application of paragraph 2 of section 461 in respect of the election under section 460.

Duration of
election

“459.5 An election made under section 459.4 shall remain in effect until the earliest of

(1) where the person makes an election under section 459.2 or 460, the day the election takes effect;

(2) where the reporting period of the person is a fiscal month of the person for the purposes of Part IX of the Excise Tax Act (Statutes of Canada), the first day of the fiscal month in which the reporting period of the person is a fiscal month of the person for the purposes of that Act;

(3) where the threshold amount of the person for a particular fiscal quarter exceeds \$12 000, the first day of that fiscal quarter; and

(4) where the threshold amount of the person for a particular fiscal year exceeds \$12 000, the first day of that fiscal year.”

(2) Subsection 1 applies, with respect to sections 459.1 to 459.3 of the said Act, as enacted thereby, to persons whose fiscal year commences after 24 November 1992. However,

(a) for the period from 25 November 1992 to 31 December 1992, subparagraph 1 of the third paragraph of section 459.1 of the said Act shall be read without reference to “of section 459.4 or”;

(b) in applying section 459.1 of the said Act in respect of a person whose fiscal year commences before 24 November 1992 and ends at any time during the year 1993, the reporting period of the person shall be the fiscal month of the person, other than the calendar month, during that fiscal year, the first day of the fiscal month following the calendar month in which the person files with the Minister the information referred to in section 458.2 of the said Act, as enacted by subsection 1 of section 617, in accordance with paragraph *b* of subsection 3 of section 617;

(c) for the period from 25 November 1992 to 31 December 1992, section 459.3 of the said Act shall be read without reference to “of section 459.4 or”; and

(d) for the purposes of section 459.3 of the said Act, where a person makes an election under section 459.2 and the reporting period of the person is the fiscal quarter of the person at the commencement of the first fiscal quarter commencing and ending during the year 1993, in the case where the person has not made an election under section 459.4 of the said Act, as enacted by subsection 1, the election under section 459.2 of the said Act shall take effect on the first day of the fiscal month following the calendar month during which the election is filed with the Minister in accordance with paragraph *b* of subsection 4 of section 624.

(3) Subject to subsections 4 and 5, subsection 1 applies, with respect to sections 459.4 and 459.5 of the said Act, as enacted thereby, to persons whose fiscal year commences on or after 1 January 1993.

(4) For the purposes of section 459.4 of the said Act, a person whose fiscal year commences at any time during the year 1992 and ends during the year 1993 may make an election under that section, before the commencement of the fiscal year immediately following that fiscal year, where

(1) from 1 July 1992, the total of the following amounts does not exceed \$1 000 in respect of a particular fiscal month of the fiscal year of the person:

(a) the amounts that became collectible and the other amounts collected by the person and which are referred to in subparagraph *a* of subparagraph 1 of the second paragraph of section 428, other than tax payable by a recipient in respect of a supply by way of sale of capital property of the person,

(b) the amounts which are required to be added in determining the net tax of the person under sections 297.2 and 350.30,

(c) the amounts collected and those that should have been collected by the person as or on account of tax under Title III, and

(d) the total of all amounts each of which is an amount in respect of an associate of the person equal to the total of

i. the amounts that became collectible and the other amounts collected by the associate and which are referred to in subparagraph *a* of subparagraph 1 of the second paragraph of section 428, other than tax payable by a recipient in respect of a supply by way of sale of capital property of the associate,

ii. the amounts that are required to be added in determining the net tax of the associate under sections 297.2 and 350.30, and

iii. the amounts collected and those that should have been collected by the associate as or on account of tax under Title III; and

(2) at the time the election made by the person under section 459.4 became effective, the reporting period of the person is a fiscal quarter or a fiscal year of the person for the purposes of Part IX of the Excise Tax Act (Statutes of Canada), or the person is not a registrant under Subdivision d of Division v of Part IX of that Act.

Notwithstanding subparagraph 1 of the first paragraph, a person may make an election under section 459.4 of the said Act if the person demonstrates, to the satisfaction of the Minister, that the total of the amounts referred to in subparagraphs *a* to *d* of the said subparagraph 1 will not exceed \$12 000 for the fiscal year commencing at any time during the year 1992 and ending during the year 1993.

For the purposes of this subsection, the election made by the person under section 459.4 of the said Act shall take effect on the first

day of the fiscal quarter following the calendar month during which the election is filed with the Minister in accordance with paragraph *c* of subsection 4 of section 624.

(5) For the purposes of sections 459.4 and 459.5 of the said Act, where a person whose reporting period is a fiscal quarter of the person and an election has not been made by the person under section 459.4, the person is deemed to have made the election under that section.

c. T-0.1,
s. 460,
replaced

621. (1) Section 460 of the said Act is replaced by the following:

“4. — Election for fiscal year

Election for
fiscal year

“460. Where the threshold amount of a person for a particular fiscal year does not exceed \$1 500, the person may make an election to have a reporting period that is a fiscal year of the person.

Effective
date of elec-
tion

An election under the first paragraph shall take effect

(1) where the person is a registrant, on the first day of a fiscal year of the person; or

(2) on the day the person becomes a registrant.”

(2) Subsection 1 applies from 1 July 1992. However, an election made by a person under section 460 of the said Act for the fiscal year of the person commencing before 24 November 1992 and ending at any time after that date, before the commencement of the fiscal year immediately following that fiscal year, shall take effect on the first day of the fiscal month immediately following the calendar month during which the election is filed with the Minister in accordance with paragraph *d* of subsection 4 of section 624.

c. T-0.1,
s. 460.1,
repealed

622. (1) Section 460.1 of the said Act, enacted by section 238 of chapter 19 of the statutes of 1993, is repealed.

(2) Subsection 1 applies from 1 January 1993.

c. T-0.1,
ss. 461, 462,
replaced

623. (1) Sections 461 and 462 of the said Act, amended by sections 239 and 240 of chapter 19 of the statutes of 1993, are replaced by the following:

Duration
of election

“461. An election made under section 460 shall remain in effect until the earliest of

(1) where the threshold amount of the person for a particular fiscal year exceeds \$1 500, the first day of that fiscal year;

(2) where the threshold amount of the person for a particular fiscal month exceeds \$1 500, the first day of that fiscal month; and

(3) where an election is made by the person under section 459.2 or 459.4, the day the election takes effect.

“III. — Terms of election

“1. — Determination of threshold amount

Threshold
amount for
fiscal year

“462. For the purposes of sections 459.4, 459.5, 460 and 461, the threshold amount of a person in respect of a particular fiscal year of the person is an amount equal to the total of

(1) the amount determined by the formula

$$A \times \frac{365}{B}; \text{ and}$$

(2) the total of all amounts each of which is an amount in respect of an associate of the person who was associated with the person at the end of the fiscal year of the associate that is the last such year ending at the same time as, or at any time in, the fiscal year immediately preceding the particular fiscal year of the person, determined by the formula

$$C \times \frac{365}{D}.$$

Interpreta-
tion

For the purposes of these formulas,

(1) A is the total of

(a) all amounts that became collectible and all other amounts collected by the person in the fiscal year immediately preceding the particular fiscal year and which are referred to in subparagraph *a* of subparagraph 1 of the second paragraph of section 428, other than tax payable by a recipient in respect of a supply by way of sale of capital property of the person,

(b) all amounts required under sections 297.2 and 350.30 to be added in determining the net tax of the person in the fiscal year immediately preceding the particular fiscal year, and

(c) all amounts collected and all amounts that should have been collected by the person in the fiscal year immediately preceding the particular fiscal year as or on account of tax under Title III;

(2) B is the number of days in the fiscal year immediately preceding the particular fiscal year;

(3) C is the total of

(a) all amounts that became collectible and all other amounts collected by the associate in the fiscal year of the associate and which are referred to in subparagraph *a* of subparagraph 1 of the second paragraph of section 428, other than tax payable by a recipient in respect of a supply by way of sale of capital property of the associate,

(b) all amounts required under sections 297.2 and 350.30 to be added in determining the net tax of the associate for the fiscal year of the associate, and

(c) all amounts collected and all amounts that should have been collected by the associate in the fiscal year of the associate as or on account of tax under Title III; and

(4) D is the number of days in the fiscal year of the associate.”

(2) Subsection 1 applies from 1 July 1992. However,

(a) for the period from 1 July 1992 to 23 November 1992, section 461 of the said Act, as enacted by subsection 1, shall be read as follows:

Duration
of election

“**461.** An election made under section 460 or 460.1 shall remain in effect until the earliest of

(1) where the threshold amount of the person for a particular fiscal year exceeds \$1 500 with respect to an election under section 460 or \$4 280 with respect to an election under section 460.1, the first day of that fiscal year;

(2) where the threshold amount of the person for a particular fiscal month exceeds \$1 500 with respect to an election under section 460 or \$4 280 with respect to an election under section 460.1, the first day of that fiscal month; and

(3) where the Minister revokes the election pursuant to section 463, the first day of the calendar year immediately following the calendar year in which the person files the request for revocation.”;

(b) for the period from 24 November 1992 to 31 December 1992, section 461 of the said Act shall be read as follows:

Duration
of election

“**461.** An election made under section 460 or 460.1 shall remain in effect until the earliest of

(1) where the threshold amount of the person for a particular fiscal year exceeds \$1 500 with respect to an election under section 460 or \$4 280 with respect to an election under section 460.1, the first day of that fiscal year;

(2) where the threshold amount of the person for a particular fiscal month exceeds \$1 500 with respect to an election under section 460 or \$4 280 with respect to an election under section 460.1, the first day of that fiscal month;

(3) where the Minister revokes the election pursuant to section 463, the first day of the calendar year immediately following the calendar year in which the person files the request for revocation; and

(4) the day an election by the person under section 459.2 takes effect.”;

(c) for the period from 1 July 1992 to 31 December 1992, the reference to sections 459.4, 459.5, 460 and 461 in the first paragraph of section 462 of the said Act, as enacted by subsection 1, shall be read as a reference to sections 460 to 461;

(d) for the purposes of subparagraphs 2 and 4 of the second paragraph of section 462 of the said Act, only the days in the fiscal year that follow 30 June 1992 shall be included in the number of days in the fiscal year immediately preceding the particular fiscal year.

c. T-0.1,
ss. 462.1-
462.3, added

624. (1) The said Act is amended by inserting, after section 462, the following sections:

Threshold
amount for
fiscal quarter

“462.1 For the purposes of sections 459.4 and 459.5, the threshold amount of a person for a particular fiscal quarter of the person at any time in a fiscal year of the person is an amount equal to the total of

(1) all amounts that became collectible and all other amounts collected by the person in the fiscal quarters ending in that fiscal year which immediately precede the particular fiscal quarter and which are referred to in subparagraph *a* of subparagraph 1 of the second paragraph of section 428, other than tax payable by a recipient in respect of a supply by way of sale of capital property of the person;

(2) all amounts required under sections 297.2 and 350.30 to be added in determining the net tax of the person for the fiscal quarters ending in that fiscal year which immediately precede the particular fiscal quarter of that fiscal year;

(3) all amounts collected and all amounts that should have been collected by the person in the fiscal quarters of that fiscal year which immediately precede the particular fiscal quarter of that fiscal year as or on account of tax under Title III; and

(4) the total of all amounts each of which is an amount in respect of an associate of the person at the beginning of the particular fiscal quarter equal to the total of

(a) all amounts that became collectible and all other amounts collected by the associate in the fiscal quarters of the associate ending in the fiscal year of the person before the beginning of the particular fiscal quarter and which are referred to in subparagraph *a* of subparagraph 1 of the second paragraph of section 428, other than tax payable by a recipient in respect of a supply by way of sale of capital property of the associate,

(b) all amounts required under sections 297.2 and 350.30 to be added in determining the net tax of the associate for the fiscal quarters of the associate ending in the fiscal year of the person before the beginning of the particular fiscal quarter, and

(c) all amounts collected and all amounts that should have been collected by the associate in the fiscal quarters of the associate ending in the fiscal year of the particular person before the beginning of the particular fiscal quarter as or on account of tax under Title III.

Threshold
amount for
fiscal month

“462.2 For the purposes of sections 460 and 461, the threshold amount of a person in respect of a particular fiscal month at any time in a fiscal year of the person is an amount equal to the total of

(1) all amounts that became collectible and all other amounts collected by the person in the fiscal months of that fiscal year which immediately precede the particular fiscal month and which are referred to in subparagraph *a* of subparagraph 1 of the second paragraph of section 428, other than tax payable by a recipient in respect of a supply by way of sale of capital property of the person;

(2) all amounts required under sections 297.2 and 350.30 to be added in determining the net tax of the person for the fiscal months of that fiscal year which immediately precede the particular fiscal month;

(3) all amounts collected and all amounts that should have been collected by the person in the fiscal months of that fiscal year which immediately precede the particular fiscal month as or on account of tax under Title III; and

(4) the total of all amounts each of which is an amount in respect of an associate of the person at the beginning of the particular fiscal month equal to the total of

(a) all amounts that became collectible and all other amounts collected by the associate in the fiscal months of the associate ending in the fiscal year of the person before the beginning of the particular fiscal month and which are referred to in subparagraph *a* of subparagraph 1 of the second paragraph of section 428, other than tax payable by a recipient in respect of a supply by way of sale of capital property of the associate,

(b) all amounts required under sections 297.2 and 350.30 to be added in determining the net tax of the associate for the fiscal months of the associate ending in the fiscal year of the person before the beginning of the particular fiscal month, and

(c) all amounts collected and all amounts that should have been collected by the associate in the fiscal months of the associate ending in the fiscal year of the person before the beginning of the particular fiscal month as or on account of tax under Title III.

Part of cal-
endar month

For the purposes of this section, any part of a calendar month included in the fiscal year of the person is a fiscal month.

“2.—Filing of election

Form and fil-
ing of elec-
tion

“462.3 An election made under section 459.2, 459.4 or 460 by a person shall be made in prescribed form containing prescribed information, be filed with the Minister in prescribed manner, and specify the first fiscal year in respect of which it applies.

Time limit

The election referred in the first paragraph shall be filed

(1) where the election is to take effect on the day the person becomes a registrant, at the time the person applies to be registered or, where the effective date of the person’s registration is after that time, at any time between that time and that effective date;

(2) where the election is made under section 460 and the reporting period of the person ending immediately before the day the election is to take effect is a fiscal quarter of the person, within three months after that day; and

(3) in all other cases, within two months after the day the election is to take effect.”

(2) Subsection 1, where it enacts section 462.1 of the said Act, applies from 1 January 1993. However, in applying that section in respect of fiscal years commencing at any time in the year 1992 and ending in the year 1993, only complete fiscal quarters commencing after 30 June 1992 shall be taken into account.

(3) Subsection 1, where it enacts section 462.2 of the said Act, applies from 1 July 1992.

(4) Subsection 1, where it enacts section 462.3 of the said Act, applies in respect of persons whose fiscal years commence after 24 November 1992. However,

(a) for the period from 25 November 1992 to 31 December 1992, that part of section 462.3 of the said Act preceding the second paragraph shall be read without reference to section 459.4;

(b) in applying section 462.3 of the said Act in respect of a person referred to in paragraph *d* of subsection 2 of section 620, an election made by the person under section 459.2 of the said Act, as enacted by subsection 1 of section 620, shall be filed with the Minister before the first day of the fiscal year immediately following the fiscal year in which the reporting period of the person is the fiscal quarter of the person without the person having made an election under section 459.4 of the said Act, as enacted by subsection 1 of section 620;

(c) in applying section 462.3 of the said Act in respect of a person referred to in subsection 4 of section 620, an election made by the person under section 459.4 of the said Act, as enacted by subsection 1 of section 620, shall be filed with the Minister before the first day of the fiscal year immediately following the fiscal year commencing at any time in the year 1992 and ending in the year 1993;

(d) in applying section 462.3 of the said Act in respect of a person referred to in subsection 2 of section 621, an election made by the person under section 460 of the said Act, as enacted by subsection 1 of section 621, shall be filed before the first day of the fiscal year immediately following the fiscal year commencing before 24 November 1992 and ending at any time after that date.

c. T-0.1,
s. 463,
repealed

625. (1) Section 463 of the said Act, amended by section 241 of chapter 19 of the statutes of 1993, is repealed.

(2) Subsection 1 applies from 1 January 1993. However,

(a) for the period from 1 July 1992 to 23 November 1992, section 463 of the said Act shall be read as follows:

Revocation

“463. The Minister shall revoke, in writing, an election made by a person under section 460 or 460.1 where the person has filed a request to that effect with and as prescribed by the Minister, in prescribed form containing prescribed information.

Effective
date of revo-
cation

Revocation becomes effective on the first day of the calendar year immediately following the calendar year in which the person files the request for revocation.”;

(b) for the period from 24 November 1992 to 31 December 1992, section 463 of the said Act shall be read as follows:

Revocation

“463. The Minister shall revoke, in writing, an election made by a person under section 460.1 where the person has filed a request to that effect with and as prescribed by the Minister, in prescribed form containing prescribed information.

Effective
date of revo-
cation

Revocation becomes effective on the first day of the calendar year immediately following the calendar year in which the person files the request for revocation.”

c. T-0.1,
heading,
added

626. (1) The said Act is amended by inserting, before section 464, the following subheading:

“IV.—Special provisions”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 464, 465,
466-468,
replaced

627. (1) Sections 464 and 465 of the said Act, replaced by sections 242 and 243 of chapter 19 of the statutes of 1993, and sections 466 to 468 of the said Act are replaced by the following sections:

Reporting
period

“464. Where, at any time, the reporting period of a person who is a registrant is modified, the reporting period of the person, determined under subdivision 1, preceding the effective day of the new reporting period is deemed to end on the day immediately preceding that day.

Remittance
of tax with
respect to
the sale of
capital prop-
erty

“465. Notwithstanding section 460, where a person whose reporting period is a fiscal year is required to collect tax under section 16 or collects an amount as or on account of that tax in respect of a supply by way of sale of capital property, the person shall remit the tax to the Minister and file with and as prescribed by the Minister a return relating to the tax, in prescribed form containing prescribed information, on or before the last day of the calendar month following the calendar month in which the tax became payable.

On becoming a registrant

“466. Where a person becomes a registrant on a particular day, the following periods are deemed to be separate reporting periods of the person:

(1) the period beginning on the first day of the calendar month that includes the particular day and ending on the day immediately preceding the particular day; and

(2) the period beginning on the particular day and ending on the last day of the reporting period of the person, determined under subdivision 1, that includes the particular day.

On ceasing to be a registrant

“467. Where a person ceases to be a registrant on a particular day, the following periods are deemed to be separate reporting periods of the person:

(1) the period beginning on the first day of the reporting period of the person, determined under subdivision 1, that includes the particular day and ending on the day immediately preceding the particular day; and

(2) the period beginning on the particular day and ending on the last day of the calendar month that includes the particular day.

Filing by a registrant

“468. Every registrant shall file a return with the Minister for each reporting period of the registrant

(1) where the reporting period is the fiscal year of the registrant, within three calendar months after the end of the fiscal year; and

(2) in every other case, within one calendar month after the end of the reporting period.

Exceptions

Notwithstanding the first paragraph, the following rules apply:

(1) where the reporting period is the fiscal month or fiscal quarter of the registrant and ends on one of the first seven days of a particular calendar month, the registrant shall file a return before the end of that particular calendar month; and

(2) where the reporting period is the fiscal year of the registrant and ends on one of the first seven days of a particular calendar month, the registrant shall file a return before the end of the second calendar month following the end of the fiscal year.”

(2) Subsection 1, where it enacts sections 464, 465 and 468, applies from 1 July 1992. However,

(a) for the period from 1 July 1992 to 31 December 1992, section 465 of the said Act shall be read as follows:

Remittance
of tax with
respect to
the sale of
capital prop-
erty

“465. Notwithstanding sections 460 and 460.1, where a person whose reporting period is a fiscal year or calendar quarter is required to collect tax under section 16 or collects an amount as or on account of that tax in respect of a supply by way of sale of capital property, the person shall remit the tax to the Minister and file with and as prescribed by the Minister a return relating to the tax, in prescribed form containing prescribed information, on or before the last day of the month following the month in which the tax became payable.”;

(b) for the period from 1 July 1992 to 23 November 1992, section 468 of the said Act shall be read without reference to the second paragraph thereof;

(c) for the period from 24 November 1992 to 31 December 1992, subparagraph 1 of the second paragraph of section 468 of the said Act shall be read without reference to the words “or fiscal quarter”.

(3) Subsection 1, where it enacts sections 466 and 467 of the said Act, applies from 24 November 1992.

c. T-0.1,
s. 470,
replaced

628. (1) Section 470 of the said Act is replaced by the following section:

Filing by
a non-
registrant

“470. Every person who is not a registrant shall file a return with the Minister for each reporting period of the person for which net tax is remittable by the person, within one month after the end of the reporting period.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 472, am.

629. (1) Section 472 of the said Act is amended by replacing the second paragraph by the following paragraph:

Remittance
of tax

“Every taxpayer shall file the return with and as prescribed by the Minister and remit the amount of tax under section 18 that became payable in the reporting period to which the return relates not later than

(1) where the taxpayer is a registrant, the day the return is required to be filed under this division by the taxpayer for the reporting period; and

(2) in any other case, the last day of the month following the end of that period.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 527,
replaced

630. (1) Section 527 of the said Act is replaced by the following section:

Mandatory
for the Min-
ister

“527. Every person who holds or who is required to hold a registration certificate shall act as mandatory for the Minister, keep an account of the tax he has collected or should have collected under this title in the reporting period of the person determined under subdivision 1 of Division IV of Chapter VIII of Title I, render an account to the Minister in prescribed form containing prescribed information, file the account with and as prescribed by the Minister and remit to the Minister the amount of such tax not later than the day he is required to file the return for the corresponding reporting period, in accordance with subdivision 2 of Division IV of Chapter VIII of Title I even if no payment of any insurance premium subject thereto has been received during that reporting period.”

(2) Subsection 1 applies from 24 November 1992.

c. T-0.1,
s. 620, am.

631. (1) Section 620 of the said Act is amended by replacing paragraph 3 by the following paragraph:

“(3) where the individual is a builder of the residential complex by reason only of paragraph 4 of the definition of “builder”, the individual is deemed not to be a builder of the residential complex and, for the purpose of determining whether any other person who, after that time, makes a supply of the complex or an interest therein is a builder of the complex, the complex is deemed to have been occupied at that time by an individual as a place of residence;”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 621, am.

632. (1) Section 621 of the said Act is amended by replacing paragraph 3 by the following paragraph:

“(3) where the person is a builder of the unit by reason only of paragraph 4 of the definition of “builder”, the person is deemed not to be a builder of the unit and, for the purpose of determining whether any other person who, after that time, makes a supply of the unit or an interest therein is a builder of the unit, the declaration of co-ownership relating to the residential complex held in co-ownership in which the unit is located is deemed to have been registered at that time and the unit is deemed to have been occupied at that time by an individual as a place of residence;”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 622, am.

633. (1) Section 622 of the said Act is amended by replacing paragraphs 2 and 3 by the following paragraphs:

“(2) section 223 does not apply in respect of a unit held in co-ownership situated in the residential complex before ownership of the complex is transferred to the person;

“(3) where the person is a builder of the residential complex by reason only of paragraph 4 of the definition of “builder”, the person is deemed not to be a builder of the residential complex or a unit held in co-ownership situated in the residential complex and, for the purpose of determining whether any other person who, after that time, makes a supply of the complex, a unit held in co-ownership situated in the residential complex or an interest in the complex or unit is a builder of the complex or of any unit situated in the complex, the declaration of co-ownership relating to the residential complex is deemed to have been registered at that time and each of the units is deemed to have been occupied at that time by an individual as a place of residence;”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 639,
replaced

634. (1) Section 639 of the said Act is replaced by the following section:

Consider-
ation paid or
due after
30 April 1992

“**639.** Subject to section 647, consideration for the taxable supply of a service, other than a transportation service, in respect of which tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) does not apply is deemed to have become due on 1 July 1992 and not to have been paid before 1 July 1992 if the consideration is paid after 30 April 1992 but before 1 July 1992 without having become due or becomes due after 30 April 1992 but before 1 July 1992.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 640, am.

635. (1) Section 640 of the said Act, amended by section 247 of chapter 19 of the statutes of 1993, is again amended by replacing the first paragraph by the following paragraph:

Supply in
the ordinary
course of
business

“**640.** Subject to sections 637 and 647, where a taxable supply of a service in respect of which tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) does not apply is made in Québec to a person other than a consumer by a supplier in the ordinary course of a business, to the extent that any consideration became due or was paid without having become due after 31 August 1990 and before

1 May 1992 for any of the service that was not performed before 1 July 1992, tax is payable in respect of that consideration.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 643.1-
643.3, added

636. (1) The said Act is amended by inserting, after section 643, the following sections:

Legal ser-
vice per-
formed
before
1 July 1992

“643.1 No tax is payable in respect of the consideration for a supply of a legal service to the extent that the consideration relates to any part of the service that was performed before 1 July 1992 and, under the agreement for the supply, does not become due

(1) until allowed, directed or ordered by a court; or

(2) until the completion or termination of the service provided by the supplier.

Service of
represent-
ative,
trustee,
receiver or
liquidator

“643.2 No tax is payable in respect of the consideration for a supply of a service of a personal representative in respect of the administration of a succession, or a service of a trustee, receiver or liquidator, to the extent that the consideration relates to any part of the service that was performed before 1 July 1992 and does not become due

(1) in the case of the service of a personal representative, until it is approved by all beneficiaries of the succession or in accordance with the terms of the trust binding the personal representative;

(2) in the case of the service of a trustee, until a date determined under the terms of the trust or an agreement in writing for the supply; or

(3) in any case, until it is allowed, directed or ordered by a court.

Presumption

“643.3 For the purposes of sections 643.1 and 643.2, where substantially all of a service is performed before 1 July 1992, all of the service is deemed to have been performed before 1 July 1992.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 663, am.

637. (1) Section 663 of the said Act is amended

(1) by replacing the definition of “specified single unit residential complex” by the following definition:

“specified
single unit
residential
complex”

“ “specified single unit residential complex” means a residential complex, other than a floating home or a mobile home,

(1) that is a single unit residential complex or a multiple unit residential complex containing not more than two residential units;

(2) the construction or substantial renovation of which began before 1 July 1992; and

(3) that was not occupied by any individual as a place of residence or lodging after the construction or substantial renovation began and before 1 July 1992;”;

(2) by replacing paragraph 1 of the definition of “specified residential complex” by the following paragraph:

“(1) a multiple unit residential complex containing more than two residential units where the construction or substantial renovation of the complex began before 1 July 1992 and section 225 did not apply and, notwithstanding sections 228 and 229, would not have applied, after the construction or substantial renovation began and before 1 July 1992 to deem a supply of the unit to have been made; or”.

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
ss. 664, 665,
666, 667-669,
replaced

638. (1) Sections 664, 665 and 666, amended respectively by sections 249, 250 and 251 of chapter 19 of the statutes of 1993, and sections 667 to 669 of the said Act are replaced by the following sections:

Rebate for
a specified
single unit
residential
complex

“664. Subject to sections 669 and 669.1, the builder of a specified single unit residential complex is entitled to a rebate determined under section 666 where

(1) the builder gives possession of the residential complex to a person under lease, licence or similar arrangement and is thereby deemed under section 223 or 225 to have made a taxable supply of the residential complex;

(2) tax under section 16 is payable in respect of the supply;

(3) the person takes possession of the residential complex for the first time after 30 June 1992 and before 1 January 1996; and

(4) the construction or substantial renovation of the residential complex is substantially completed before 1 January 1993.

Rebate for
a specified
single unit
residential
complex

“665. Subject to sections 669 and 669.1, where the builder of a specified single unit residential complex makes a taxable supply of

the residential complex by way of sale to an individual, the individual or the builder, by reason of section 683, is entitled to a rebate determined under section 666 where

(1) tax under section 16 is payable in respect of the supply;

(2) the individual takes possession of the residential complex for the first time after 30 June 1992 and before 1 January 1996; and

(3) the construction or substantial renovation of the residential complex is substantially completed before 1 January 1993.

Time when
rebate may
be granted

For the purposes of the first paragraph, the rebate may be granted to the builder only at the time of the transfer of possession of the residential complex.

Calculation

“666. The rebate to which a person is entitled in respect of a specified single unit residential complex under sections 664 and 665 is equal to

(1) where the construction or substantial renovation of the complex is at least 25 % but not more than 50 % completed on 1 July 1992 and possession is transferred before 1 October 1992, 50 % of the estimated tax for the complex;

(2) where the construction or substantial renovation of the complex is more than 50 % completed on 1 July 1992 and

(a) possession is transferred before 1 October 1992, 66 2/3 % of the estimated tax for the complex, or

(b) possession is transferred before 1 January 1993, 33 1/3 % of the estimated tax for the complex; and

(3) where the construction or substantial renovation of the complex is substantially completed on 1 July 1992 and possession is transferred after 1992 but before 1 January 1996, 33 1/3 % of the estimated tax for the complex.

Builder of
a specified
single unit
residential
complex
owned by
him

“667. Subject to sections 669 and 669.1, where, immediately before 1 July 1992, the builder of a specified residential complex owned or had possession of the complex and had not transferred ownership or possession under an agreement of purchase and sale to any person who is not a builder of the complex, the builder is entitled to a rebate determined under section 668.

Exception

The first paragraph does not apply to any builder of a specified residential complex to whom, by reason of section 227 or 228, sections 223 to 226 do not apply.

Calculation

“668. The rebate to which the builder of a specified residential complex is entitled under section 667 is equal to

(1) where the complex is a multiple unit residential complex,

(a) 50 % of the estimated tax for the complex, where the construction or substantial renovation of the complex was, on 1 July 1992, more than 25 % completed and not more than 50 % completed, or

(b) 75 % of the estimated tax for the complex, where the construction or substantial renovation of the complex was, on 1 July 1992, more than 50 % completed; and

(2) where the complex is a unit held in co-ownership in a complex held in co-ownership,

(a) 50 % of the estimated tax for the unit, where the construction or substantial renovation of the complex held in co-ownership in which the unit is situated was, on 1 July 1992, more than 25 % completed and not more than 50 % completed, or

(b) 75 % of the estimated tax for the unit, where the construction or substantial renovation of the complex held in co-ownership in which the unit is situated was, on 1 July 1992, more than 50 % completed.

Application
for a rebate

“669. No person is entitled to a rebate under this division in respect of a residential complex unless the person files with and as prescribed by the Minister an application for a rebate in prescribed form containing prescribed information, before 1 July 1996, and unless no rebate under this division in respect of the complex was paid to any other person entitled thereto.”

(2) Subsection 1 applies from 1 July 1992. However,

(a) sections 664 to 666 and section 668 of the said Act, as enacted by subsection 1, shall be read without reference to the words “the construction or substantial renovation of” in applying those sections to a residential complex in respect of which an application for a rebate is filed in accordance with Division II of Chapter VI of Title VI of the said Act before 15 September 1992;

(b) section 667 of the said Act, as enacted by subsection 1, shall be read without reference to section 228 as mentioned therein, in applying those sections to a residential complex the builder of which is a person to whom sections 223 to 226 do not apply by reason of

section 228 and in respect of which an application for a rebate is filed in accordance with Division II of Chapter VI of Title VI of the said Act before 15 September 1992.

c. T-0.1,
s. 669.1,
added

639. (1) The said Act is amended by inserting, after section 669, the following section:

Application
for a rebate

“669.1 Where the estimated tax for a residential complex is an amount based on the consideration, or a portion of the consideration, for a supply of the complex, a rebate in respect of the complex shall not be paid under this division to a person unless the person has applied for the rebate after tax under section 16 became payable in respect of that supply.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 670,
replaced

640. (1) Section 670 of the said Act is replaced by the following section:

Presumption

“670. For the purposes of this division, sections 223 to 231.1 are deemed to be in force before 1 July 1992.”

(2) Subsection 1 applies from 1 January 1993.

c. T-0.1,
ss. 674.5,
674.6, added

641. (1) The said Act is amended by adding, after Division III of Chapter VI of Title VI, the following:

“DIVISION IV

“REBATE FOLLOWING THE REDUCTION OF A CONSIDERATION

Presumption

“674.5 Where a person remits tax under section 628 or 640 calculated on the consideration or a part thereof for a taxable supply and that consideration or part thereof is subsequently reduced, to the extent that the person did not claim, and is not, but for this section, entitled to claim, an input tax refund or a rebate in respect of the portion of the tax that was calculated on the amount by which the consideration or part thereof was reduced, that portion is deemed, for the purpose of determining a rebate under sections 400 to 402.2, to be an amount that was not payable or remittable by the person.

Application

This section does not apply in circumstances in which section 57 or sections 213 to 219 apply.

“DIVISION V

“ANTI-AVOIDANCE RULE

Anti-avoidance rule

“674.6 Chapter IX of Title I applies to Divisions I to III of this Chapter, adapted as required.”

(2) Subsection 1 applies from 1 July 1992.

c. T-0.1,
s. 677, am.

642. (1) Section 677 of the said Act, amended by section 255 of chapter 19 of the statutes of 1993, is again amended

(1) by replacing subparagraph 5 by the following subparagraph:

“(5) determine, for the purposes of section 18, which supplies are prescribed supplies for the purposes of subparagraph 1 thereof and which supplies are prescribed supplies for the purposes of subparagraph 2 thereof;”;

(2) by striking out subparagraph 8;

(3) by inserting, after subparagraph 8, the following subparagraph:

“(8.1) determine, for the purposes of section 24.1, which corporeal movable property is prescribed corporeal movable property;”;

(4) by striking out subparagraph 10;

(5) by inserting, after subparagraph 10, the following subparagraph:

“(10.1) determine, for the purposes of section 41.6, which registrants are prescribed registrants;”;

(6) by replacing subparagraph 14 by the following subparagraph:

“(14) determine, for the purposes of section 81, which goods are prescribed goods for the purposes of paragraph 8 thereof and which circumstances, goods and terms and conditions are prescribed circumstances, prescribed goods and prescribed terms and conditions, for the purposes of paragraph 9 thereof;”;

(7) by striking out subparagraph 17;

(8) by inserting, after subparagraph 28, the following subparagraphs:

“(28.1) determine, for the purposes of section 237.3, which sections and circumstances are prescribed sections and prescribed circumstances;

“(28.2) determine, for the purposes of section 244.1, which mandataries of a government are prescribed mandataries;”;

(9) by inserting, after subparagraph 30, the following subparagraph:

“(30.1) determine, for the purposes of section 267, which mandataries of a government are prescribed mandataries;”;

(10) by inserting, after subparagraph 33, the following subparagraph:

“(33.1) determine, for the purposes of section 346.1, which mandataries of a government are prescribed mandataries;”;

(11) by striking out subparagraphs 36 and 37;

(12) by replacing subparagraph 39 by the following subparagraph:

“(39) determine, for the purposes of section 383, which government bodies are prescribed bodies and the prescribed manner;”;

(13) by inserting, after subparagraph 40, the following subparagraph:

“(40.0.1) determine, for the purposes of section 386.1, which property or services are prescribed property or services;”;

(14) by replacing subparagraph 41 by the following subparagraph:

“(41) determine, for the purposes of section 389, which persons are prescribed persons and which rules are prescribed rules;”;

(15) by striking out subparagraph 42;

(16) by replacing subparagraph 49 by the following subparagraph:

“(49) determine, for the purposes of section 449, which information is prescribed information in respect of a credit note and which information is prescribed information in respect of a debit note;”.

(2) Subsection 1 applies

(a) as regards paragraph 1 thereof, to supplies consideration for which is paid or becomes due after 30 September 1992, except supplies consideration for which was paid or became due before 1 October 1992;

(b) as regards paragraph 2 thereof, to supplies made after 1992;

(c) as regards paragraph 3 thereof, to supplies made after 31 December 1992;

(d) as regards paragraphs 4 to 7, 9 and 11 to 16 thereof, from 1 July 1992;

(e) as regards paragraph 8 thereof,

i. from 1 October 1992 with respect to subparagraph 28.1 of section 677 of the said Act, as enacted thereby, and

ii. from 1 July 1992 with respect to subparagraph 28.2 of section 677 of the said Act, as enacted thereby; and

(f) as regards paragraph 10 thereof, from 1 July 1992; however, paragraph 10 does not apply to acquisitions, or to the bringing into Québec, of property or services occurring before 12 December 1992.

c. T-0.1,
s. 685, am.

643. (1) Section 685 of the said Act is amended

(1) by replacing paragraphs 1 and 2 by the following paragraphs:

“(1) a supply of movable property or a service, other than a passenger transportation service or a freight transportation service, for which all of the consideration becomes due or is paid, or is deemed to have become due or have been paid, after 30 June 1992 and is not, or is deemed not to have been, paid before 1 July 1992 and does not, or is deemed not to have, become due before 1 July 1992;

“(2) a supply of movable property or a service, other than a passenger transportation service or a freight transportation service, for which part of the consideration becomes due or is paid, or is deemed to have become due or have been paid, after 30 June 1992; however, no tax is payable under Title I otherwise than by reason of sections 620 to 656 in respect of any part of consideration for the supply that becomes due or is paid before 1 July 1992 and that is not deemed to have become due or have been paid after 30 June 1992;”;

(2) by inserting, after paragraph 7, the following paragraphs:

“(7.1) any supply of an immovable by way of lease, licence or similar arrangement for which all of the consideration becomes due or is paid, or is deemed to have become due or have been paid, after 30 June 1992 and is not, or is deemed not to have been, paid before 1 July 1992 and does not, or is deemed not to have, become due before 1 July 1992;

“(7.2) any supply of an immovable by way of lease, licence or similar arrangement for which part of the consideration becomes due or is paid, or is deemed to have become due or have been paid, after 30 June 1992; however, no tax is payable under Title I otherwise than by reason of sections 618 to 656 in respect of any part of the consideration for the supply that becomes due or is paid before 1 July 1992 and that is not deemed to have become due or have been paid after 30 June 1992;”.

(2) Subsection 1 applies from 1 July 1992.

Retroactive
coming into
force

644. A provision of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) enacted by this Act and applying from 1 July 1992 shall be applied in conformity with sections 618 to 656 and section 685 of the said Act, as amended by this Act, where applicable.

Application

In applying the preceding paragraph to the period from 1 July 1992 to 28 February 1994, the reference therein to the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) shall be read as a reference to the Act respecting the Québec sales tax and amending various fiscal legislation (1991, chapter 67).

FUEL TAX ACT

c. T-1, s. 2,
am.

645. (1) Section 2 of the Fuel Tax Act (R.S.Q., chapter T-1), amended by section 164 of chapter 19 of the statutes of 1993, is again amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) \$0.126 per litre for fuel oil;”.

(2) This section has effect from 25 November 1992.

TELECOMMUNICATIONS TAX ACT

c. T-4, s. 5,
am.

646. (1) Section 5 of the Telecommunications Tax Act (R.S.Q., chapter T-4) is amended by replacing the fifth paragraph by the following paragraph:

Fraction
of \$0.05

“Nevertheless, where a telecommunication is sent through an instrument whereby the price is collected immediately in cash or counters and the tax is a fraction of \$0.05 or is the total of a multiple of \$0.05 and a fraction of \$0.05, the fraction

- (1) if less than \$0.025, may be disregarded; and
- (2) if equal to or greater than \$0.025, shall be counted as \$0.05.”
- (2) Subsection 1 applies from 1 January 1991.

ACT TO AGAIN AMEND THE TAXATION ACT AND OTHER FISCAL LEGISLATION

1991, c. 25,
s. 142, am.

647. (1) Section 142 of the Act to again amend the Taxation Act and other fiscal legislation (1991, chapter 25), amended by section 395 of chapter 16 of the statutes of 1993, is again amended by replacing paragraph *b* of subsection 2 by the following paragraph:

“(b) where section 961.6 of the Taxation Act, repealed by this section, applies

i. after 31 December 1987 and before 30 August 1990, it shall read by replacing subparagraph *d* of the second paragraph by the following subparagraph:

“(d) a registered retirement income fund or registered retirement savings plan of the individual’s spouse or former spouse 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 or conjugal relationship, on or after the breakdown of the marriage or relationship.”;

ii. after 29 August 1990 and before 1 January 1991, it shall read

(1) by replacing the period at the end of subparagraph *d* of the second paragraph, as enacted by subparagraph i, by a semicolon;

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

“(e) a registered pension plan of which the individual is a member within the meaning of section 965.0.1; or

“(f) a registered pension plan in accordance with section 965.0.9 or 965.0.11.” ”

(2) Subsection 1 has effect from 20 June 1991.

ACT TO AMEND THE TAXATION ACT AND OTHER FISCAL LEGISLATION

1993, c. 16,
s. 246, am.

648. (1) Section 246 of the Act to amend the Taxation Act and other fiscal legislation (1993, chapter 16) is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of transfers of property occurring after 31 December 1987.”

(2) Subsection 1 has effect from 15 June 1993.

1993, c. 16,
s. 365,
repealed

649. (1) Section 365 of the said Act is repealed.

(2) Subsection 1 has effect from 15 June 1993.

ACT TO AGAIN AMEND THE TAXATION ACT AND VARIOUS LEGISLATIVE PROVISIONS

1993, c. 64,
s. 162, am.

650. (1) Section 162 of the Act to again amend the Taxation Act and various legislative provisions (1993, chapter 64) is amended by replacing subsection 2 by the following subsection:

“(2) This section, where it replaces the first paragraph of section 1029.8.25 of the Taxation Act, otherwise than to insert therein the words “, subject to the second paragraph,” and “on the last day of that year”, applies to an amount representing the portion, incurred after 20 May 1993, of the cost of a training plan.”

(2) Subsection 1 has effect from 17 December 1993.

1993, c. 64,
s. 194, am.

651. (1) Section 194 of the said Act is amended

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

“(2) Paragraph 1 of subsection 1 applies to taxation years ending after 30 June 1989. However, where it applies to taxation years ending after 30 June 1989 but before 15 May 1992, subsection 1 of section 1138 of the Taxation Act, enacted by it, shall read as follows:

Reduction of
paid-up capital

“1138. (1) The paid-up capital of a corporation computed after the application of sections 1136 and 1137 shall be reduced in the proportion that the aggregate of the value of its investments in shares and bonds of other corporations, the amounts of the loans and advances to other corporations, the amounts of the loans and advances to a partnership or joint venture, to the extent that the amounts of the latter loans or advances are included in computing the paid-up capital of a corporation that has an interest in the partnership or joint venture, and the amount referred to in section 1138.4, is of the total of the corporation’s assets.”;”;

(2) by adding, after subsection 2, the following subsection:

“(3) Paragraph 2 of subsection 1 applies to taxation years ending after 14 May 1992.”

(2) Subsection 1 has effect from 17 December 1993.

Coming into
force

652. This Act comes into force on 17 June 1994.