

1990, chapter 59
**AN ACT TO AGAIN AMEND THE TAXATION ACT
AND OTHER FISCAL LEGISLATION**

Bill 83

Introduced by Mr Raymond Savoie, Minister of Revenue

Introduced 8 November 1990

Passage in principle 15 November 1990

Passage 13 December 1990

Assented to 14 December 1990

Coming into force: 14 December 1990

Acts amended:

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

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

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

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

Act respecting the application of the Taxation Act (1972, chapter 24)

Act to amend the Taxation Act and other fiscal legislation (1987, chapter 67)

Act to again amend the Taxation Act and other fiscal legislation (1988, chapter 18)





CHAPTER 59

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

[Assented to 14 December 1990]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

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

1. (1) Section 17 of the Retail Sales Tax Act (R.S.Q., chapter I-1), amended by section 3 of chapter 7 of the statutes of 1990, is again amended by replacing paragraph *af* by the following paragraph:

“(af) The sale of an aircraft which, within twelve months of delivery, is used by the purchaser under a licence or permit issued to him for that purpose under the Aeronautics Act (Statutes of Canada) or under the National Transportation Act, 1987 (Statutes of Canada) for tests or experiments or to operate a commercial air service, the leasing of an aircraft which the lessee operates under a licence or permit issued to him for that purpose under any of the said Acts, the sale of a component part of such an aircraft and the sale of a spare part used for the maintenance or repair of an aircraft;”.

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

c. I-1,
s. 20.25,
am.

2. (1) Section 20.25 of the said Act is amended by replacing paragraph *n* by the following paragraph:

“(n) a premium payable in respect of an aircraft used in the operation of a commercial air service under a licence or permit issued for that purpose under the Aeronautics Act (Statutes of Canada) or the National Transportation Act, 1987 (Statutes of Canada);”.

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

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

3. (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 20 of chapter 5 of the statutes of 1989 and by section 2 of chapter 77 of the statutes of 1989, is again amended

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

“tax
shelter”

““tax shelter” has the meaning assigned by section 1079.1;”;

(2) by inserting the following definition of “grandfathered share” after the definition of “grandfather” and by inserting the following definition of “taxable RFI share” after the definition of “taxable Québec property”:

“grand-
fathered
share”

““grandfathered share” has the meaning assigned by sections 21.11.20 and 21.11.21;

“taxable
RFI share”

““taxable RFI share” has the meaning assigned by sections 21.11.17 to 21.11.19;”;

(3) by replacing the definition of “short-term preferred share” by the following definition:

“short-
term
preferred
share”

““short-term preferred share” has the meaning assigned by sections 21.11.11 to 21.11.13;”;

(4) by inserting, after the definition of “taxable net gain”, the following definition:

“taxable
preferred
share”

““taxable preferred share” has the meaning assigned by sections 21.11.14 to 21.11.16;”;

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

“automobile”

““automobile”, which does not include an ambulance, a motor vehicle acquired or leased primarily for use as a taxi or in connection with funerals or, except for the purposes of sections 36 to 47.17, a motor vehicle acquired or leased to be sold or leased in the course of carrying on a business of selling or leasing motor vehicles, means

(a) a motor vehicle that is designed or adapted primarily to carry individuals and their luggage and that has a seating capacity for not more than the driver and eight passengers, and

(b) a motor vehicle that is

i. of a type commonly called a station wagon or van or a similar vehicle if it is equipped in a reasonably permanent way to carry at least

the driver and three passengers but not more than the driver and eight passengers, or

ii. of a type commonly called a van or pick-up truck or a similar vehicle unless it is designed or adapted to carry not more than the driver and two passengers and is used primarily for the transportation of goods or equipment in the course of a business or for the purposes of earning income;”;

(6) by replacing what precedes paragraph *a* of the definition of “small business corporation” by the following:

““small business corporation” at any particular time means 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,”;

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

““amortized cost” of a loan or lending asset has the meaning assigned by sections 21.26 and 21.27;”;

(8) by replacing paragraph *e* of the definition of “cost amount” by the following paragraphs:

“(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, or in the case of any other right of the taxpayer to receive an amount, 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;

“(e.1) in the case of a policy loan, within the meaning of paragraph *h* of section 835, of an insurer, nil;”;

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

““capital dividend” has the meaning assigned by sections 502 to 502.0.4;”;

(10) by replacing the definition of “business” by the following definition:

““business” includes a profession, calling, trade, manufacture or undertaking of any kind whatsoever and, except for the purposes of

subparagraph *a* of the first paragraph of section 164, section 250.4 and subparagraph *i* of the second paragraph of section 726.6.1, an adventure or concern in the nature of trade but does not include an office or employment;”;

(11) by inserting, after the definition of “personal services business”, the following definition:

“personal
trust”

““personal trust” has the meaning assigned by section 649.1;”;

(12) by replacing the definition of “specified financial institution” by the following definition:

“specified
financial
institution”

““specified financial institution” means

(a) a bank to which the Bank Act (Statutes of Canada) or the Quebec Savings Banks Act (Statutes of Canada) applies;

(b) a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on therein the business of offering its services as trustee;

(c) a savings and credit union;

(d) an insurance corporation;

(e) a corporation whose principal business is the lending of money to persons with whom it is dealing at arm’s length or the purchasing of debt obligations issued by such persons, or a combination thereof;

(f) a corporation that is controlled by one or more corporations described in any of paragraphs *a* to *e* and, for the purposes of this paragraph, one corporation is controlled by another corporation if more than 50 % of its issued share capital having full voting rights under all circumstances belongs to the other corporation, to persons with whom the other corporation does not deal at arm’s length, or to the other corporation and persons with whom the other corporation does not deal at arm’s length;

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

(13) by inserting, after the definition of “restricted farm loss”, the following definition:

"restricted
financial
institution"

"restricted financial institution" means

(a) a bank to which the Bank Act (Statutes of Canada) or the Quebec Savings Banks Act (Statutes of Canada) applies;

(b) a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on therein the business of offering its services as trustee;

(c) a savings and credit union;

(d) an insurance corporation;

(e) a corporation whose principal business is the lending of money to persons with whom it is dealing at arm's length or the purchasing of debt obligations issued by such persons, or a combination thereof;

(f) a corporation that is controlled by one or more corporations described in any of paragraphs a to e;"

(14) by inserting, before the definition of "advocate", the following definition:

"adjustment
time"

"adjustment time" has the meaning assigned by section 107.1;"

(15) by replacing the definition of "amount" by the following definition:

"amount"

"amount" means money, rights or things expressed in terms of an amount of money or their value in terms of money, except that

(a) in any case where section 21.4.3, 21.10, 21.10.1, 740.1, any of sections 740.2 to 740.3.1 or section 740.5 applies to a stock dividend, the amount of the stock dividend is equal to the greater of

i. the amount by which the paid-up capital of the corporation that paid the dividend is increased by reason of the payment of the dividend, and

ii. the fair market value of the share or shares paid as a stock dividend at the time of payment;

(b) in any other case, the amount of any stock dividend is equal to the amount by which the paid-up capital of the corporation that paid the dividend is increased by reason of the payment of the dividend;"

(16) by replacing the definition of "group term life insurance policy" by the following definition:

“group term life insurance policy” means a group life insurance policy under which no amount is payable to a person other than the group policyholder as a result of contributions made under the policy by the employer of the taxpayer before the death or disability of the taxpayer;”;

(17) by inserting, after the definition of “private corporation”, the following definition:

“private health services plan” means a contract of insurance in respect of medical expenses, hospital expenses or any combination of such expenses, or a medical care insurance plan or hospital care insurance plan or both a medical care and hospital care insurance plan, except any such contract or plan established or prescribed by a law of Canada or a province;”;

(18) by replacing paragraphs *a* and *b* of the definition of “mineral resource” by the following paragraphs:

“(a) an industrial mineral contained in a non-bedded deposit, as certified by the Minister of Energy and Resources;

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

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

“lending asset” means a bond, debenture, mortgage, note, hypothec, agreement of sale or any other indebtedness or a prescribed share, but does not include a prescribed security;”;

(20) by replacing the period at the end of the definition, in the French text, of “transport international” by a semicolon;

(21) by inserting the following definition of “motor vehicle” after the definition of “mother” and by inserting the following definition of “passenger vehicle” after the definition of “paid-up capital”:

“motor vehicle” means an automotive vehicle designed or adapted to be used on highways and streets, other than a trolleybus or a vehicle designed or adapted to be operated exclusively on rails;

“passenger vehicle” means an automobile acquired after 17 June 1987, other than an automobile acquired after that date pursuant to an obligation in writing entered into before 18 June 1987, and an automobile leased under a lease entered into, extended or renewed after 17 June 1987.”

(2) Paragraph 1 of subsection 1 applies in respect of interest acquired after 31 May 1990.

(3) Paragraph 2 of subsection 1, where it enacts the definition of “grandfathered share”, applies in respect of shares issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 and in respect of shares deemed under the Taxation Act, as amended by this Act, to have been issued after that time, and where it enacts the definition of “taxable RFI share”, it has effect from 19 June 1987.

(4) Paragraph 3 of subsection 1 applies in respect of shares issued after 15 December 1987 and in respect of shares deemed under the Taxation Act, as amended by this Act, to have been issued after that time.

(5) Paragraph 4 of subsection 1 applies in respect of shares issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 and in respect of shares deemed under the Taxation Act, as amended by this Act, to have been issued after that time.

(6) Paragraph 5 of subsection 1 applies to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987 in respect of automobiles acquired after 17 June 1987 or leased under a lease entered into, extended or renewed after that date.

(7) Paragraph 6 of subsection 1 applies from 13 September 1988.

(8) Paragraphs 7 and 19 to 21 of subsection 1 apply to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987.

(9) Paragraph 8 of subsection 1 has effect from 1 January 1987.

(10) Paragraph 9 of subsection 1 applies in respect of dividends paid after 4:00 p.m. Eastern Daylight Saving Time, 25 September 1987.

(11) Paragraph 10 of subsection 1 applies in respect of dispositions occurring after 31 December 1987.

(12) Paragraph 11 of subsection 1 has effect from 1 January 1985.

(13) Paragraphs 12 and 13 of subsection 1 have effect from 19 June 1987. However, where the definition of “specified financial institution”, enacted by the said paragraph 12, applies to paragraph *c* of section 740.3 of the Taxation Act, as it read on 22 May 1985, paragraph *e* of the said definition shall read as follows:

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

(14) Paragraphs 14 and 16 of subsection 1 have effect from 1 January 1988.

(15) Paragraph 15 of subsection 1 applies in respect of dividends paid after 18 June 1987.

(16) Paragraphs 17 and 18 of subsection 1 apply from the taxation year 1988.

c. 1-3,
s. 1.3,
replaced

4. (1) Section 1.3 of the said Act is replaced by the following section:

Reference
to series

“**1.3** For the purposes of this Part, except Title VI.1 of Book VII, where a corporation issues shares of a class of its capital stock in one or more series, a reference to the class shall be read, with such modifications as are required, as a reference to a series of the class.”

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

c. 1-3,
ss. 5.1,
5.2, added

5. (1) The said Act is amended by inserting, after section 5, the following sections:

Private
corporation
year-end
election

“**5.1** For the purposes of this Act and notwithstanding the definition of “taxation year” set forth in section 1, and section 5,

(a) the taxation year of a corporation that commenced before 1 January 1988 and that would, but for this paragraph, have ended after 31 December 1987 is deemed to have ended on 31 December 1987 and a new taxation year is deemed to have commenced on 1 January 1988 if the following conditions are met:

i. the corporation is a Canadian-controlled private corporation throughout the period extending from the beginning of its last taxation year commencing before 1 January 1988 to 31 December 1987;

ii. that corporation so elects in the fiscal return it is required to file under this Part for its taxation year that commenced before 1 January 1988 and would, but for this paragraph, have ended after 31 December 1987;

(b) the taxation year of a corporation that commenced before 1 July 1988 and that would, but for this paragraph, have ended after 30 June 1988 is deemed to have ended on 30 June 1988 and a new taxation year is deemed to have commenced on 1 July 1988 if the following conditions are met:

i. the corporation is a private corporation other than a Canadian-controlled private corporation throughout the period extending from the beginning of its last taxation year commencing before 1 July 1988 to 30 June 1988;

ii. that corporation so elects in the fiscal return it is required to file under this Part for its taxation year that commenced before 1 July 1988 and would, but for this paragraph, have ended after 30 June 1988.

Consequences
of the ap-
plication
of s. 5.1

“5.2 Where section 5.1 applies in respect of a corporation, the corporation is deemed not to have established a fiscal period before 1 January 1988 or 1 July 1988, as the case may be, for the purposes of determining its fiscal period after 31 December 1987 or 30 June 1988, as the case may be.”

(2) This section has effect from 13 September 1988.

c. I-3,
ss. 7.7,
7.8, added

6. (1) The said Act is amended by inserting, after section 7.6, the following sections:

Identical
obligations

“7.7 For the purposes of this Part, one bond, debenture, bill, note or similar obligation issued by a person is identical to another such obligation issued by that person if both are identical in respect of all rights, either immediately or in the future and either absolutely or contingently, attaching thereto, except as regards the principal amount of the obligation.

Interest in
a trust or
partnership

“7.8 For the purposes of sections 21.4.3, 21.5 to 21.11, paragraph *f* of section 21.11.16, sections 21.12 to 21.16, 508, where the latter section applies to a reduction of the paid-up capital in respect of a term preferred share, 508.1 and 740.7, where after 12 November 1981 a person has an interest in a trust or partnership, whether directly or indirectly through an interest in any other trust or partnership or in any manner whatever, that person is deemed to be a beneficiary of the trust or a member of the partnership, as the case may be.”

(2) This section, where it enacts section 7.7 of the Taxation Act, applies to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987, and where it enacts section 7.8 of the said Act, it has effect from 19 June 1987.

c. I-3,
s. 9,
replaced **7.** (1) Section 9 of the said Act is replaced by the following section:

Deemed
residence
in Québec

“9. Where, at a particular time in a taxation year, a taxpayer ceases to be an individual described in paragraph *b*, *c* or *d* of section 8 and the taxpayer would, but for this section, be deemed to have been resident in Québec throughout the year by reason of those paragraphs, the taxpayer is deemed to have been resident in Québec throughout the part of the year preceding that time.

Spouse and
child

The same applies to his spouse and child contemplated in paragraph *e* or *f* of section 8.”

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

c. I-3,
s. 20, am.

8. (1) Section 20 of the said Act, amended by section 24 of chapter 5 of the statutes of 1989, is again amended

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

Control by
related
group

“20. For the purposes of sections 19 and 21.19,”;

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

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

i. to, or to acquire, shares in a corporation, or to control the voting rights of shares in a corporation, is, except where the contract provides that the right is not exercisable until the death, bankruptcy or permanent disability of an individual designated therein, deemed to have the same position in relation to the control of the corporation as if he owned the shares; or

ii. to cause a corporation to redeem, acquire or cancel any shares of its capital stock owned by other shareholders of the corporation is, except where the contract provides that the right is not exercisable until the death, bankruptcy or permanent disability of an individual designated therein, deemed to have the same position in relation to the control of the corporation as if the shares were redeemed, acquired or cancelled by the corporation; and”.

(2) This section applies

(a) to taxation years commencing after 31 December 1988;

(b) to the taxation year 1989 commencing after 31 December 1987 and before 1 January 1989 of a corporation

i. that was incorporated, or formed as a result of an amalgamation, after 10 February 1988;

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

iii. where that taxation year did not end on approximately the same calendar date in 1989 as the calendar date in 1987 on which the taxation year 1987, if any, of the corporation ended.

c. 1-3,
s. 21.4,
replaced

9. (1) Section 21.4 of the said Act is replaced by the following section:

Corporation
deemed not
to be
controlled

"21.4 Where, but for this section, a particular corporation would be regarded as being controlled, or controlled, directly or indirectly in any manner whatever, by a person or partnership at a particular time and it is established that the conditions set forth in the second paragraph are fulfilled, the particular corporation is deemed not to be controlled by that person or partnership at that particular time.

Conditions

The conditions referred to in the first paragraph are:

(a) there is in effect at the particular time an enforceable agreement or arrangement under which, upon the happening of an event or the satisfaction of a condition that it is reasonable to expect will happen or be satisfied, the particular corporation will cease to be controlled, or controlled, directly or indirectly in any manner whatever, as the case may be, by the person or partnership, and will be or become controlled, or controlled, directly or indirectly in any manner whatever, as the case may be, by a person or group of persons with whom or with each of the members of which, as the case may be, the person or partnership is at the particular time dealing at arm's length;

(b) the purpose of the control referred to in the first paragraph is, at the particular time, the safeguarding of the rights or interests of the person or partnership in respect of any indebtedness owing to the person or partnership the whole or any part of the principal amount of which is outstanding at the particular time, or of any shares of the capital stock of the particular corporation that are owned by the person or partnership at the particular time and that are, under the enforceable agreement or arrangement referred to in subparagraph *a*, to be redeemed by the particular corporation or purchased by the person or group of persons referred to in subparagraph *a*."

(2) This section applies to taxation years commencing after 31 December 1988.

c. I-3,
s. 21.4.3,
added

10. (1) The said Act is amended by inserting, after section 21.4.2, the following:

“CHAPTER V.1

“DIVIDEND DEEMED TO BE INTEREST

Dividend
deemed
received as
interest

“21.4.3 Where a dividend is received on a share in a taxation year and after 18 June 1987 from a corporation not resident in Canada, other than a corporation in which the recipient of the dividend had or would have, if the corporation were a taxable Canadian corporation, a substantial interest within the meaning of section 191 of the Income Tax Act (Statutes of Canada), such dividend is deemed, for the purposes of paragraphs *c* and *l* of section 87, sections 746 to 749 and section 772, to have been received in the year as interest and not as a dividend on a share of the capital stock of the payer corporation, 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 or section 740.5 if the corporation that paid the dividend were a taxable Canadian corporation.”

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

c. I-3,
s. 21.5, am.

11. (1) Section 21.5 of the said Act is amended

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

Term
preferred
share

“21.5 A share of a class of the capital stock of a corporation is a term preferred share of the corporation if one of the following conditions is met:”;

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

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

“(c) it is issued between 16 November 1978 and 24 October 1979, between 23 October 1979 and 13 November 1981 or after 12 November 1981 and, under its terms or conditions, an agreement in respect of the share or a modification of such terms or conditions or such

agreement, the share is convertible or exchangeable, unless it is convertible into or exchangeable for a consideration described in section 21.5.5, or one or other of the provisions described in section 21.5.2, 21.5.3 or 21.5.4, applies."

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

c. 1-3,
s. 21.5.1,
am.

12. (1) Section 21.5.1 of the said Act, amended by section 26 of chapter 5 of the statutes of 1989, is again amended by replacing paragraphs *a* to *d* by the following paragraphs:

"(a) a corporation described in any of paragraphs *a* to *e* of the definition of "specified financial institution" set forth in section 1,

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

"(c) a corporation that acquired the share after 11 December 1979 and is related to a corporation referred to in paragraph *a* or *b*, or

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

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

c. 1-3,
s. 21.5.4,
am.

13. (1) Section 21.5.4 of the said Act is amended by replacing what precedes paragraph *c* by the following:

Shares
issued
between
12
November
1981 and
1 January
1983

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

(a) the owner thereof may cause the share to be acquired, cancelled or redeemed, otherwise than by reason only of a right to convert or exchange the share, or cause its paid-up capital to be reduced;

(b) a person or partnership is or may be required to acquire, cancel or redeem the share, in whole or in part, otherwise than by reason only of a right to convert or exchange the share, or to reduce its paid-up capital;".

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

c. I-3,
s. 21.5.5,
added

Conversion
or exchange
of shares

14. (1) The said Act is amended by inserting, after section 21.5.4, the following section:

“21.5.5 The consideration for which a share may be converted or exchanged and to which paragraph *c* of section 21.5 refers shall only include

(a) another share of the issuing corporation or a corporation related to it that, if issued, would not be a term preferred share,

(b) a right or warrant that, if exercised, would allow the person exercising it to acquire only a share of the issuing corporation or a corporation related to it that, if issued, would not be a term preferred share, or

(c) both a share described in subparagraph *a* and a right or warrant described in subparagraph *b*.

Considera-
tion deemed
not to be
consideration

For the purposes of the first paragraph, where a taxpayer may become entitled, upon the conversion or exchange of a share, to receive any particular consideration, other than consideration described in the first paragraph, in lieu of a fraction of a share, the particular consideration is deemed not to be consideration unless it may reasonably be considered that the particular consideration was receivable as part of a series of transactions or events one of the main purposes of which was to avoid or limit the application of section 21.10, 21.10.1 or 740.1.”

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

c. I-3,
s. 21.6, am.

15. (1) Section 21.6 of the said Act, amended by section 27 of chapter 5 of the statutes of 1989, is again amended

(1) by replacing paragraph *c* of the French text by the following paragraph:

“*c*) une action décrite à l’article 21.6.1;”;

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

(3) by replacing the period at the end of paragraph *e* by a semicolon;

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

“(f) a share that is a taxable preferred share held by a specified financial institution that acquired the share before 16 December 1987 or before 1 January 1989 pursuant to an agreement in writing entered into before 16 December 1987, other than a share that is

i. a share deemed, under section 21.9.4.2 or paragraph *a* of section 21.11.12, to have been issued after 15 December 1987, or

ii. a share that would be deemed, under paragraph *c* of section 21.11.16, to have been issued after 15 December 1987 if the reference in the said section to “8:00 p.m. Eastern Daylight Saving Time, 18 June 1987” were read as a reference to “15 December 1987”.”

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

c. I-3,
s. 21.6.1,
replaced

16. (1) Section 21.6.1 of the said Act is replaced by the following section:

Restriction

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

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

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

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

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

c. 1-3,
s. 21.7.1,
added

17. (1) The said Act is amended by inserting, after section 21.7, the following section:

Deemed time
of issuance

"21.7.1 Where at any particular time after 15 December 1987, otherwise than pursuant to a written arrangement entered into before 16 December 1987, the terms or conditions of a taxable preferred share of the capital stock of a corporation relating to any matter referred to in paragraph *c* of section 21.5 or sections 21.5.2 to 21.5.5 have been established or modified, or any agreement in respect of the share relating to any such matter has been entered into or changed by the corporation or a specified person in relation to it, within the meaning of paragraph *f* of section 21.11.16, the share is deemed after that particular time to have been issued at that particular time."

(2) This section applies in respect of shares issued after 15 December 1987 and in respect of shares deemed to have been issued after that date under section 21.7.1 of the Taxation Act, as enacted by this section.

c. 1-3,
s. 21.9.2,
replaced

18. (1) Section 21.9.2 of the said Act is replaced by the following section:

Restriction

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

Restriction

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

(*a*) the share described in subparagraph *i* of the said paragraph *c* is a share issued to a corporation referred to in any of paragraphs *a* to *f* of the definition of "specified financial institution" set forth in section 1, is acquired pursuant to an agreement in writing made before 24 October 1979 or is acquired from a corporation referred to in any of paragraphs *a* to *f* of the said definition;

(*b*) the share described in subparagraph *ii* of the said paragraph *c* is, in the case of a share issued before 13 November 1981, a share described in section 21.6.1, is acquired pursuant to an agreement in writing made before 24 October 1979 or an agreement referred to in section 21.5.3 or is acquired from a corporation referred to in any of paragraphs *a* to *f* of the definition of "specified financial institution" set forth in section 1 and such acquisition is not subject to a guarantee agreement, as described in section 740.2, entered into after 12 November 1981."

(2) This section has effect from 17 November 1978. However, for the period from 17 November 1978 to 18 June 1987, subparagraphs *a* and *b* of the second paragraph of section 21.9.2 of the Taxation Act, enacted by this section, shall read as follows:

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

“(b) the share described in subparagraph ii of the said paragraph *c* is, in the case of a share issued before 13 November 1981, a share described in section 21.6.1, is acquired pursuant to an agreement in writing made before 24 October 1979 or an agreement referred to in section 21.5.3 or is acquired from a corporation referred to in paragraph *a* or *b* of section 740.1 and such acquisition is not subject to a guarantee agreement, as described in section 740.2, entered into after 12 November 1981.”

c. 1-3,
s. 21.9.4.1,
added

19. (1) The said Act is amended by inserting, after section 21.9.4, the following section:

Share
deemed
a term
preferred
share

“21.9.4.1 Where it may reasonably be considered that the dividends that may be declared or paid at any time on a share, other than a prescribed share or a share described in section 21.6.1 during the applicable time period referred to in that section, of the capital stock of a corporation issued after 15 December 1987 or acquired after 15 June 1988 are derived primarily from dividends received on term preferred shares of the capital stock of another corporation, and that the share was issued or acquired as part of a transaction or event or series of transactions or events one of the main purposes of which was to avoid or limit the application of section 740.1 or 845, the share is deemed, at that time, to be a term preferred share acquired in the ordinary course of business.”

(2) This section applies in respect of shares issued after 15 December 1987 and in respect of shares deemed to have been issued after that date under section 21.7.1 of the Taxation Act, as enacted by section 17 of this Act.

c. 1-3,
s. 21.9.5,
repealed

20. (1) Section 21.9.5 of the said Act is repealed.

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

c. I-3,
ss. 21.10,
21.10.1,
replaced
Deemed
interest

21. (1) Sections 21.10 and 21.10.1 of the said Act are replaced by the following sections:

"21.10 Where a specified financial institution resident in Canada receives, in a taxation year, from a corporation not resident in Canada an amount as a dividend on a term preferred share, the amount is deemed, for the purposes of paragraphs *c* and *l* of section 87, sections 746 to 749 and section 772, to be received in the year as interest and not as a dividend on a share of the capital stock of a corporation.

Dividend
deemed
received as
interest

"21.10.1 The rule provided in section 21.10 applies also 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, 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 were a taxable Canadian corporation."

(2) This section applies in respect of dividends received or deemed under the Taxation Act, as amended by this Act, to be received on a share acquired after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987.

c. I-3,
ss. 21.11.1-
21.11.10,
repealed

22. (1) Sections 21.11.1 to 21.11.10 of the said Act are repealed.

(2) This section applies in respect of shares issued after 15 December 1987 and in respect of shares deemed under the Taxation Act, as amended by this Act, to have been issued after that date.

c. I-3,
ss. 21.11.11-
21.11.21,
added

Short-term
preferred
share

23. (1) The said Act is amended by inserting, before Chapter VII of Title II of Book I of Part I, the following:

"21.11.11 A short-term preferred share of a corporation at any particular time is a share, other than a grandfathered share, of the capital stock of the corporation issued after 15 December 1987 that, at that particular time, is

(a) a share where, under the terms and conditions of the share, any agreement relating to the share or any modification of such terms, conditions or agreement, the corporation or a specified person in relation to it is or may, at any time within 5 years from the date of its issue, be required to acquire, cancel or redeem, in whole or in part, the share or to reduce the paid-up capital of the share, unless the

requirement to acquire, cancel or redeem the share arises only in the event of the death of the shareholder or by reason only of a right to convert or exchange the share, or

(b) a share that is convertible or exchangeable at any time within 5 years from the date of its issue, unless

i. it is convertible into or exchangeable for

(1) another share of the corporation or a corporation related to the corporation that, if issued, would not be a short-term preferred share;

(2) a right or warrant that, if exercised, would allow the person exercising it to acquire only a share of the corporation or a corporation related to the corporation that, if issued, would not be a short-term preferred share, or

(3) both a share described in subparagraph 1 and a right or warrant described in subparagraph 2, and

ii. all the consideration receivable for the share on the conversion or exchange is the share described in subparagraph 1 of subparagraph i or the right or warrant described in subparagraph 2 of the said subparagraph i or both such share and such right or warrant, and, for the purposes of this subparagraph, where a taxpayer may become entitled upon the conversion or exchange of a share to receive any particular consideration, other than consideration described in any of subparagraphs 1 to 3 of subparagraph i, in lieu of a fraction of a share, the particular consideration is deemed not to be consideration unless it may reasonably be considered that the particular consideration was receivable as part of a series of transactions or events one of the main purposes of which was to avoid or limit the application of Part IV.1 or VI.1 of the Income Tax Act (Statutes of Canada).

Various
rules

“21.11.12 For the purposes of this chapter,

(a) where at any particular time after 15 December 1987, otherwise than pursuant to a written arrangement entered into before 16 December 1987, the terms or conditions of a share of the capital stock of a corporation that are relevant to any matter referred to in any of paragraphs *a* and *b* of section 21.11.11 or *d* and *f* of this section are established or modified, or any agreement in respect of any such matter to which the corporation or a specified person in relation to it is a party, is entered into or changed, the share is deemed after that particular time to have been issued at that particular time;

(b) where, at any particular time after 15 December 1987, a particular share of the capital stock of a corporation has been issued or its terms or conditions have been modified or an agreement in respect of the share is entered into or modified, the particular share is deemed after that particular time to have been issued at that particular time and to be a short-term preferred share of the corporation, if it may reasonably be considered, having regard to all the circumstances, including the rate of interest on any debt obligation or the dividend provided on any short-term preferred share, that

i. but for the existence at any time of such a debt obligation or such a short-term preferred share, the particular share would not have been issued or its terms or conditions modified or the agreement in respect of the share would not have been entered into or modified;

ii. one of the main purposes for the issue of the particular share or the modification of its terms or conditions or the entering into or modification of the agreement in respect of the share was to avoid or limit the tax payable under subsection 1 of section 191.1 of the Income Tax Act (Statutes of Canada);

(c) where at any particular time after 15 December 1987, otherwise than pursuant to a written arrangement entered into before 16 December 1987, the terms or conditions of a share of the capital stock of a corporation are established or modified or any agreement in respect of the share has been entered into or changed, and as a consequence thereof the corporation or a specified person in relation to it may reasonably be expected to acquire, cancel or redeem the share, in whole or in part, otherwise than by reason of the death of the shareholder or by reason only of a right to convert or exchange the share that would not cause the share to be a short-term preferred share by reason of paragraph b of section 21.11.11, or to reduce its paid-up capital, within 5 years from the particular time, the share is deemed to have been issued at that particular time and to be a short-term preferred share of the corporation from the particular time until the time that such reasonable expectation ceases to exist;

(d) where a share of the capital stock of a corporation was issued after 15 December 1987 and at the time the share was issued the existence of the corporation was, or there was an arrangement under which it could be, limited to a period that was within 5 years from the date of its issue, the share is deemed to be a short-term preferred share of the corporation unless the share is a grandfathered share and the arrangement is a written arrangement entered into before 16 December 1987;

(e) where a share of the capital stock of a corporation is acquired at any time after 15 December 1987 by the corporation or a specified person in relation to it and the share is at any particular time after that time acquired from the corporation or a specified person in relation to it by a person with whom the corporation or a specified person in relation to it was dealing at arm's length if this Part were read without reference to paragraph *b* of section 20, the share is deemed after that particular time to have been issued at that particular time;

(f) where at any particular time after 15 December 1987, otherwise than pursuant to a written arrangement entered into before 16 December 1987, as a result of the terms or conditions of a share of the capital stock of a corporation or any agreement entered into by the corporation or a specified person in relation to it, any person, other than the corporation or an individual other than a trust, was obligated, either absolutely or contingently and either immediately or in the future, to effect any undertaking within 5 years after the date on which the share was issued, including any guarantee, covenant or agreement to purchase or repurchase the share, and including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the shareholder or a specified person in relation to the shareholder, the share is deemed after that particular time to have been issued at the particular time and to be at and immediately after the particular time a short-term preferred share, if the undertaking is given

i. to ensure that any loss that the shareholder or a specified person in relation to the shareholder may sustain by reason of the ownership, holding or disposition of the share or any other property is limited in any respect, and

ii. as part of a transaction or event or series of transactions or events that included the issuance of the share;

(g) for the purposes of paragraph *f*, where the undertaking referred to therein in respect of a share is given after 15 December 1987, otherwise than pursuant to a written arrangement entered into before 16 December 1987, the share is deemed to have been issued at that time and the undertaking is deemed to have been given as part of a series of transactions that included the issuance of the share;

(h) a share that is, at the time a dividend is paid thereon, a share described in section 21.6.1 during the applicable time period referred to in that section or a prescribed share is, notwithstanding any other provision of this chapter, deemed not to be a short-term preferred share at that time;

(i) the expression “specified person” has the meaning assigned by paragraph *f* of section 21.11.16.

Particular
rules

“21.11.13 For the purposes of paragraph *a* of section 21.11.11 and paragraph *c* of section 21.11.12,

(a) an agreement in respect of a share of the capital stock of a corporation shall be read without reference to that part of the agreement under which a person agrees to acquire the share for an amount

i. in the case of a share, other than a share that would, but for that part of the agreement, be a taxable preferred share, the agreement in respect of which provides that the share is to be acquired within 60 days after the date on which the agreement was entered into, that does not exceed the greater of the fair market value of the share at the time the agreement was entered into, determined without reference to the agreement, and the fair market value of the share at the time of the acquisition, determined without reference to the agreement;

ii. in any other case, that does not exceed the fair market value of the share at the time of the acquisition, determined without reference to the agreement, or for an amount determined by reference to the assets or earnings of the corporation where such determination may reasonably be considered to be used to determine an amount that does not exceed the fair market value of the share at the time of the acquisition, determined without reference to the agreement;

(b) the expression “shareholder” includes a shareholder of a shareholder.

“CHAPTER VI.2

“TAXABLE PREFERRED SHARES

Taxable
preferred
share

“21.11.14 A taxable preferred share at any particular time is

(a) a share issued after 15 December 1987 that is a short-term preferred share at that particular time, or

(b) a share, other than a grandfathered share, of the capital stock of a corporation issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 where, at that particular time, by reason of the terms or conditions of the share or any agreement in respect of the share or its issue to which the corporation, or a specified person in relation to it, is a party,

i. it may reasonably be considered, having regard to all the circumstances, that the amount of the dividends that may be declared or paid on the share, in this chapter referred to as the “dividend entitlement”, is, by way of a formula or otherwise, fixed, limited to a maximum, or, if with respect to the dividend that may be declared or paid on the share there is a preference over any other dividend that may be declared or paid on any other share of the capital stock of the corporation, established to be not less than a minimum, including any amount determined on a cumulative basis,

ii. it may reasonably be considered, having regard to all the circumstances, that the amount that the shareholder, which includes a shareholder of the shareholder for the purposes of this subparagraph, is entitled to receive in respect of the share on the dissolution, liquidation or winding-up of the corporation or on the acquisition, cancellation or redemption of the share, unless the requirement to acquire, cancel or redeem the share arises only in the event of the death of the shareholder or by reason only of a right to convert or exchange the share, or on the reduction of the paid-up capital of the share by the corporation or by a specified person in relation to it, in this chapter referred to as the “liquidation entitlement”, is, by way of a formula or otherwise, fixed, limited to a maximum, or established to be not less than a minimum,

iii. the share is convertible or exchangeable at any time, unless

(1) it is convertible into or exchangeable for another share of the corporation or a corporation related to it that, if issued, would not be a taxable preferred share, referred to in this subparagraph and in subparagraph 2 as the “particular share”, for a right or warrant that, if exercised, would allow the person exercising it to acquire only a share of the corporation or a corporation related to it that, if issued, would not be a taxable preferred share, or for both a particular share and such right or warrant, and

(2) all the consideration receivable for the share on the conversion or exchange is the particular share or the right or warrant described in subparagraph 1 or both such share and such right or warrant, and for the purposes of this subparagraph, where a taxpayer may become entitled upon the conversion or exchange of a share to receive any particular consideration, other than consideration described in subparagraph 1, in lieu of a fraction of a share, the particular consideration is deemed not to be consideration unless it may reasonably be considered that the particular consideration was receivable as part of a series of transactions or events one of the main purposes of which was to avoid or limit the application of Part IV.1 or VI.1 of the Income Tax Act (Statutes of Canada), or

iv. any person, other than the corporation, was, at or immediately before that particular time, obligated, either absolutely or contingently and either immediately or in the future, to effect any undertaking, in this chapter referred to as a “guarantee agreement”, including any guarantee, covenant or agreement to purchase or repurchase the share, and including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the shareholder or any specified person in relation to the shareholder, given

(1) as part of a transaction or event or series of transactions or events that included the issuance of the share, and

(2) to ensure that any loss that the shareholder or a specified person in relation to the shareholder may sustain by reason of the ownership, holding or disposition of the share or any other property is limited, or allow the shareholder or a specified person in relation to the shareholder to derive earnings by reason of the ownership, holding or disposition of the share or any other property.

Presumption For the purposes of subparagraph *b* of the first paragraph, where the guarantee agreement in respect of a share of the capital stock of a corporation is given after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, otherwise than pursuant to a written arrangement entered into before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, the share is deemed to have been issued at that time and the guarantee agreement is deemed to have been given as part of a series of transactions that included the issuance of the share.

Restriction **“21.11.15** For the purposes of section 21.11.14, a taxable preferred share does not include a share that is, at the particular time prescribed in that section, a share described in section 21.6.1 during the applicable time period referred to in that section or a prescribed share.

Various rules **“21.11.16** For the purposes of this chapter,

(a) the dividend entitlement of a share of the capital stock of a corporation is deemed not to be fixed, limited to a maximum or established to be not less than a minimum where all dividends on the share are determined solely by reference to the dividend entitlement of another share of the capital stock of the corporation or of a corporation that controls the corporation that would not be a taxable preferred share if this chapter were read without reference to paragraph *d*, and if the other share were issued after 18 June 1987 and were not a grandfathered share, a prescribed share or a share described in section 21.6.1;

(b) the liquidation entitlement of a share of the capital stock of a corporation is deemed not to be fixed, limited to a maximum or established to be not less than a minimum where all the liquidation entitlement is determinable solely by reference to the liquidation entitlement of another share of the capital stock of the corporation or of a corporation that controls the corporation that would not be a taxable preferred share if this section were read without reference to paragraph *d*, and if the other share were issued after 18 June 1987 and were not a grandfathered share, a prescribed share or a share described in section 21.6.1;

(c) where at any particular time after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, otherwise than pursuant to a written arrangement entered into before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, the terms or conditions of a share of the capital stock of a corporation that are relevant to any matter referred to in any of subparagraphs i to iv of subparagraph *b* of the first paragraph of section 21.11.14 or the second paragraph of that section are established or modified, or any agreement in respect of any such matter to which the corporation or a specified person in relation to it is a party, is entered into or changed, the share is, for the purposes of determining whether it is a taxable preferred share after the particular time, deemed to have been issued at that particular time, unless the share is a share described in paragraph *b* of section 21.11.20 and the particular time is before 16 December 1987 and before the time at which the share is first issued;

(d) an agreement in respect of a share of the capital stock of a corporation shall be read without reference to that part of the agreement under which a person agrees to acquire the share for an amount

i. in the case of a share the agreement in respect of which provides that the share is to be acquired within 60 days after the date on which the agreement was entered into, that does not exceed the greater of the fair market value of the share at the time the agreement was entered into, determined without reference to the agreement, and the fair market value of the share at the time of the acquisition, determined without reference to the agreement;

ii. in any other case, that does not exceed the fair market value of the share at the time of the acquisition, determined without reference to the agreement, or for an amount determined by reference to the assets or earnings of the corporation where such determination may reasonably be considered to be used to determine an amount that does not exceed the fair market value of the share at the time of the acquisition, determined without reference to the agreement;

(e) where it may reasonably be considered that the dividends that may be declared or paid to a shareholder at any time on a share, other than a prescribed share or a share described in section 21.6.1 during the applicable time period referred to in that section, of the capital stock of a corporation issued after 15 December 1987 or acquired after 15 June 1988 are derived primarily from dividends received on taxable preferred shares of the capital stock of another corporation, and that the share was issued or acquired as part of a transaction or event or series of transactions or events one of the main purposes of which was to avoid or limit the application of Part IV.1 or VI.1 of the Income Tax Act (Statutes of Canada), the share is deemed, at that time, to be a taxable preferred share;

(f) a specified person in relation to any particular person is a person with whom the particular person does not deal at arm's length or any partnership or trust of which the particular person or the person is a member or beneficiary.

“CHAPTER VI.3

“TAXABLE RFI SHARES

“21.11.17 A taxable RFI share at any particular time is a share of the capital stock of a corporation issued before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 or a grandfathered share of the capital stock of a corporation where, at the particular time under the terms or conditions of the share or any agreement in respect of the share, it may reasonably be considered, having regard to all the circumstances,

(a) that the amount of the dividends that may be declared or paid on the share, in this chapter referred to as the “dividend entitlement”, is, by way of a formula or otherwise, fixed, limited to a maximum or established to be not less than a minimum, or

(b) that the amount that the shareholder is entitled to receive in respect of the share on the dissolution or winding-up of the corporation, in this chapter referred to as the “liquidation entitlement”, is, by way of a formula or otherwise, fixed, limited to a maximum or established to be not less than a minimum.

Restriction

“21.11.18 For the purposes of section 21.11.17, a taxable RFI share does not include a share that is, at the particular time contemplated in that section, a prescribed share, a term preferred share, a share described in section 21.6.1 during the applicable time period referred to in that section or a taxable preferred share.

Various
rules

“21.11.19 For the purposes of this chapter,

(a) the dividend entitlement of a share of the capital stock of a corporation is deemed not to be fixed, limited to a maximum or established to be not less than a minimum where all dividends on the share are determined solely by reference to the dividend entitlement of another share of the capital stock of the corporation or of a corporation that controls the corporation that would not be a taxable preferred share if Chapter VI.2 of this Title were read without reference to paragraph *d* of section 21.11.16, and if the other share were issued after 18 June 1987 and were not a grandfathered share, a prescribed share or a share described in section 21.6.1;

(b) the liquidation entitlement of a share of the capital stock of a corporation is deemed not to be fixed, limited to a maximum or established to be not less than a minimum where all the liquidation entitlement is determinable solely by reference to the liquidation entitlement of another share of the capital stock of the corporation or of a corporation that controls the corporation that would not be a taxable preferred share if Chapter VI.2 of this Title were read without reference to paragraph *d* of section 21.11.16, and if the other share were issued after 18 June 1987 and were not a grandfathered share, a prescribed share or a share described in section 21.6.1;

(c) where it may reasonably be considered that the dividends that may be declared or paid to a shareholder at any time on a share, other than a prescribed share or a share described in section 21.6.1 during the applicable time period referred to in that section, of the capital stock of a corporation issued after 15 December 1987 or acquired after 15 June 1988 are derived primarily from dividends received on taxable RFI shares of the capital stock of another corporation, and that the share was issued or acquired as part of a transaction or event or series of transactions or events one of the main purposes of which was to avoid or limit the application of Part IV.1 of the Income Tax Act (Statutes of Canada), the share is deemed, at that time, to be a taxable RFI share.

“CHAPTER VI.4

“GRANDFATHERED SHARES

“21.11.20 A grandfathered share is

Grand-
fathered
share

(a) a share of the capital stock of a corporation issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 pursuant to an agreement in writing entered into before that time,

(b) a share of the capital stock of a corporation issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 and before 1

January 1988 as part of a distribution to the public made in accordance with the terms of a final prospectus, preliminary prospectus, registration statement, offering memorandum or notice filed before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 with a public body in accordance with the securities legislation of the jurisdiction in which the shares are distributed,

(c) a share of the capital stock of a corporation the right of exchange and all or substantially all the terms and conditions of which were established before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 and that is issued after that time in exchange for

i. a share of a corporation that was issued before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 or is a grandfathered share, or

ii. a debt obligation of a corporation which was issued before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, or issued after that time pursuant to an agreement in writing entered into before that time, or

(d) a share of a class of the capital stock of a Canadian corporation listed on a prescribed stock exchange, where all or substantially all the terms and conditions of which were established in writing before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, that is issued after that time upon the exercise of a right that was issued before that time and listed on a prescribed stock exchange in Canada, and the terms of which at that time included the right to acquire the share.

Share
deemed
not be a
grand-
fathered
share

“21.11.21 For the purposes of section 21.11.20, a share that is deemed under Chapter VI, VI.1 or VI.2 or section 740.3.1 to have been issued at any time is, for the purposes of that chapter or section, deemed not to be a grandfathered share after that time.”

(2) This section, where it enacts sections 21.11.11 to 21.11.13 of the Taxation Act, applies in respect of shares issued after 15 December 1987 and in respect of shares deemed under the Taxation Act, as amended by this Act, to have been issued after that date.

(3) This section, where it enacts Chapters VI.2 and VI.4 of Title II of Book I of Part I of the Taxation Act, applies in respect of shares issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 and in respect of shares deemed under the said Act, as amended by this Act, to have been issued after that time.

(4) This section, where it enacts Chapter VI.3 of Title II of Book I of Part I of the Taxation Act, has effect from 19 June 1987.

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

24. (1) Section 21.12 of the said Act is amended by replacing subparagraph iii of paragraph c by the following subparagraph:

“iii. wholly or in substantial part, directly or indirectly, in exchange or substitution for a debt obligation, or a part thereof, of the particular corporation or another corporation resident in Canada with which it does not deal at arm’s length held by a person with whom the particular corporation or the other corporation was dealing at arm’s length at a time when, by reason of financial difficulty, the particular corporation or the other corporation was in default or could reasonably be expected to default on that debt.”

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

c. I-3,
s. 21.15, am.

25. (1) Section 21.15 of the said Act is amended by replacing paragraphs c and d by the following paragraphs:

“(c) where, at a particular time after 23 October 1979, a specified financial institution or a partnership or trust of which a specified financial institution or a person related thereto is a member or, as the case may be, a beneficiary acquired, otherwise than pursuant to an agreement in writing made before 24 October 1979, from a person other than a corporation described in any of paragraphs a to f of the definition of “specified financial institution” set forth in section 1, a bond or debenture issued before 17 November 1978 or issued pursuant to an agreement in writing referred to in paragraph b of section 21.12, other than a bond or debenture issued to a corporation described in any of paragraphs a to f of the said definition; or

“(d) where, at a particular time after 12 November 1981, a specified financial institution or a trust or partnership, a beneficiary or member of which is a specified financial institution or a person related to such an institution, acquires a bond or debenture that is not described in paragraph c from a corporation described in any of paragraphs a to f of the definition of “specified financial institution” set forth in section 1 and that acquisition is subject to a guarantee agreement, as it would be described in section 740.2 if that section applied to an income bond or income debenture, entered into after 12 November 1981.”

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

c. I-3,
s. 21.19,
replaced

26. (1) Section 21.19 of the said Act is replaced by the following section:

“Canadian-
controlled
private
corporation”

“21.19 The expression “Canadian-controlled private corporation” means a private corporation that is a Canadian

corporation other than a corporation controlled, directly or indirectly in any manner whatever, by one or more persons not resident in Canada, by one or more public corporations other than a prescribed corporation or by any combination of such persons and corporations.”

(2) This section applies to taxation years commencing after 31 December 1988.

c. 1-3,
s. 21.20, am. **27.** (1) Section 21.20 of the said Act, enacted by section 28 of chapter 5 of the statutes of 1989, is amended by replacing paragraphs *a* to *e* by the following paragraphs:

“(a) one of the corporations controlled, directly or indirectly in any manner whatever, the other;

“(b) both of the corporations were controlled, directly or indirectly in any manner whatever, by the same person or group of persons;

“(c) each of the corporations was controlled, directly or indirectly in any manner whatever, by a person and the person who so controlled one of the corporations was related to the person who so controlled the other, and either of those persons owned, in respect of each corporation, not less than 25 % of the issued shares of any class, other than a specified class, of the capital stock thereof;

“(d) one of the corporations was controlled, directly or indirectly in any manner whatever, by a person and that person was related to each member of a group of persons that so controlled the other corporation, and that person owned, in respect of the other corporation, not less than 25 % of the issued shares of any class, other than a specified class, of the capital stock thereof; or

“(e) each of the corporations was controlled, directly or indirectly in any manner whatever, by a related group and each of the members of one of the related groups was related to all of the members of the other related group, and one person who was a member of both related groups owned alone, or several persons who were members of both related groups owned together, in respect of each corporation, not less than 25 % of the issued shares of any class, other than a specified class, of the capital stock thereof.”

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

(a) from the taxation year 1989, if any of the following conditions is met:

i. the taxation years of all such corporations commenced after 31 December 1988;

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

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

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

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

c. I-3,
ss. 21.20.1-
21.20.6,
added
"specified
class"

28. (1) The said Act is amended by inserting, after section 21.20, the following sections:

"21.20.1 For the purposes of section 21.20, the expression "specified class" means a class of shares of the capital stock of a corporation where, under the terms or conditions of the shares or any agreement in respect thereof,

(a) the shares are not convertible or exchangeable;

(b) the shares are non-voting;

(c) the amount of each dividend payable on the shares is a fixed amount or is determined by reference to a fixed percentage of the fair market value of the consideration for which the shares were issued;

(d) the annual rate of the dividend on the shares, expressed as a percentage of the fair market value of the consideration for which the shares were issued, cannot in any event exceed the prescribed rate of interest at the time the shares were issued; and

(e) the amount that any holder of the shares is entitled to receive on the redemption, cancellation or acquisition of the shares by the corporation or by any person with whom the corporation does not deal at arm's length cannot exceed the aggregate of the fair market value of the consideration for which the shares were issued and the amount of any unpaid dividends thereon.

Rules appli-
cable to
control

"21.20.2 For the purposes of sections 21.20 to 21.24,

(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) for greater certainty,

i. 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;

ii. 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;

(c) a corporation is deemed to be controlled by another corporation, a person or a group of persons at any time where the other corporation, the person or the group of persons, as the case may be, owns at that time

i. shares of the capital stock of the corporation having a fair market value of more than 50 % of the fair market value of all the issued and outstanding shares of the capital stock of the corporation; or

ii. common shares of the capital stock of the corporation having a fair market value of more than 50 % of the fair market value of all the issued and outstanding common shares of the capital stock of the corporation;

(d) shares of the capital stock of a corporation that are owned or deemed under this section to be owned at any time by another corporation are deemed to be owned at that time by each shareholder of that other corporation in a proportion equal to the proportion of all such shares that

i. the fair market value of the shares of the capital stock of the other corporation owned at that time by the shareholder is of

ii. the fair market value of all the issued and outstanding shares of the capital stock of the other corporation at that time;

(e) shares of the capital stock of a corporation that are owned or deemed under this section to be owned at any time by a partnership are deemed to be owned at that time by each member of the partnership in a proportion equal to the proportion of all such shares that

i. the member's share of the income or loss of the partnership for its fiscal period that includes that time, on the assumption that, where the income and loss of the partnership for that fiscal period are nil, the income of the partnership for that fiscal period is equal to \$1 000 000, is of

ii. the income or loss of the partnership for its fiscal period that includes that time, on the assumption that, where the income and loss of the partnership for that fiscal period are nil, the income of the partnership for that fiscal period is equal to \$1 000 000;

(f) where shares of the capital stock of a corporation are owned or deemed under this section to be owned at any time by a trust,

i. in the case of a testamentary trust under which one or more beneficiaries are entitled to receive all of the income of the trust arising before the date of death of one or the last surviving of such beneficiaries, in this paragraph referred to as the "distribution date", and under which no other person can, before the distribution date, receive or otherwise obtain the enjoyment of any of the income or capital of the trust,

(1) where any such beneficiary's share of the income or capital of the trust depends upon the exercise by any person of, or the failure by any person to exercise, a faculty to elect, such shares are deemed to be owned at any time before the distribution date by the beneficiary;

(2) where subparagraph 1 does not apply, such shares are deemed to be owned at any time before the distribution date by any such beneficiary in a proportion that is equal to the proportion of all such shares that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of the beneficial interests in the trust of all such beneficiaries;

ii. where any such beneficiary's share of the accumulating income or capital of the trust depends upon the exercise by any person of, or the failure by any person to exercise, a faculty to elect, such shares are deemed to be owned at that time by the beneficiary, except where subparagraph i applies and that time is before the distribution date;

iii. in any case where subparagraph ii does not apply, a beneficiary is deemed at that time to own the proportion of such shares that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of all beneficial interests in the trust, except where subparagraph i applies and that time is before the distribution date;

iv. in the case of a trust referred to in section 467, the person referred to therein from whom property of the trust or property for which it was substituted was directly or indirectly received is deemed to own such shares at that time;

(g) in determining the fair market value of a share of the capital stock of a corporation, all issued and outstanding shares of the capital stock of the corporation are deemed to be non-voting.

Shares of a
child under
18 years of
age

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

Right to
acquire
shares and
other rights

“21.20.4 For the purposes of determining if a corporation is associated at any time with any other corporation that is controlled, directly or indirectly in any manner whatever, by a person, or by a group of persons of which the person is a member, where the person, or any partnership in which the person has an interest, has a right at any time under contract, either immediately or in the future and either absolutely or contingently,

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

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

Person
deemed
related to
himself

“21.20.5 For the purposes of sections 21.20 to 21.24, a person who owns shares in two or more corporations is deemed, as shareholder of one of the corporations, to be related to himself as shareholder of each of the other corporations.

Exception

“21.20.6 For the purposes of section 21.20.2 and notwithstanding section 21.20.4,

(a) any share that is described in section 21.6.1 during one of the periods referred to therein or that is a share of a specified class within the meaning of section 21.20.1 is deemed not to be issued and outstanding and not to be owned by any shareholder;

(b) an amount equal to the greater of the paid-up capital of the share referred to in paragraph a and the amount that any holder of the share is entitled to receive on the redemption, cancellation or acquisition of the share by the corporation is deemed to be a liability of the corporation.”

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

(a) from the taxation year 1989, if any of the following conditions is met:

i. the taxation years of all such corporations commenced after 31 December 1988;

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

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

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

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

c. 1-3,
s. 21.21,
replaced

29. (1) Section 21.21 of the said Act, enacted by section 28 of chapter 5 of the statutes of 1989, is replaced by the following section:

Association
with a third
corporation

“21.21 Where two corporations would, but for this section, not be associated with each other at any time, and are associated or

deemed by this section to be associated at that time with the same corporation, in this section referred to as the “third corporation”, they are deemed, for the purposes of this Part, to be associated with each other at that time, except that, for the purposes of section 771.0.2, where the third corporation is not a Canadian-controlled private corporation at that time or elects, in prescribed form, for its taxation year that includes that time not to be associated with either of the other two corporations, the third corporation is deemed not to be associated with either of the other two corporations in that taxation year and its business limit for that taxation year is deemed to be nil.”

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

(a) from the taxation year 1989, if any of the following conditions is met:

i. the taxation years of all such corporations commenced after 31 December 1988;

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

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

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

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

c. 1-3,
s. 21.21.1,
added

30. (1) The said Act is amended by inserting, after section 21.21, the following section:

Anti-
avoidance

“21.21.1 For the purposes of this Part, where it may reasonably be considered that one of the main reasons for the separate existence of two or more corporations in a taxation year is to reduce the amount of tax that would otherwise be payable under this Part, those corporations are deemed to be associated with each other in the year.”

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

(a) from the taxation year 1989, if any of the following conditions is met:

i. the taxation years of all such corporations commenced after 31 December 1988;

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

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

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

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

c. I-3,
s. 21.24,
replaced

31. (1) Section 21.24 of the said Act, enacted by section 28 of chapter 5 of the statutes of 1989, is replaced by the following section:

Corporation
deemed not
associated

"21.24 Where a particular corporation would, but for this section, be associated with another corporation in a taxation year by reason of being controlled, directly or indirectly in any manner whatever, by the other corporation or by reason of both of the corporations being controlled, directly or indirectly in any manner whatever, by the same person at a particular time in the year and it is established to the satisfaction of the Minister that the conditions set out in the second paragraph are fulfilled, the two corporations are deemed, for the purposes of this Part, not to be associated with each other in the year.

Conditions

The conditions referred to in the first paragraph are as follows:

(a) there was in effect at the particular time an enforceable agreement or arrangement under which, upon the happening of an event or the satisfaction of a condition that it is reasonable to expect will happen or be satisfied, the particular corporation will cease to be controlled, directly or indirectly in any manner whatever, by the other corporation or the person so controlling the particular corporation and will be or become controlled, directly or indirectly in any manner whatever, by a person or group of persons with whom or with each of the members of which, as the case may be, the other corporation or the person so controlling the particular corporation was at the particular time dealing at arm's length;

(b) the purpose for which the particular corporation was at the particular time so controlled was the safeguarding of rights or interests of the other corporation or the person so controlling the particular corporation in respect of any indebtedness owing to the other corporation or the person so controlling the particular corporation the whole or any part of the principal amount of which was outstanding at the particular time, or in respect of any shares of the capital stock of the particular corporation that were owned by the other corporation or the person so controlling the particular corporation at the particular time and that were, under the enforceable agreement or arrangement referred to in subparagraph *a*, to be redeemed by the particular corporation or purchased by the person or group of persons referred to in subparagraph *a* who are to acquire control of the particular corporation.”

(2) This section applies to taxation years commencing after 31 December 1988.

c. I-3,
ss. 21.25-
21.27,
added

32. (1) The said Act is amended by inserting, after section 21.24, the following:

Control in
fact

“21.25 For the purposes of this Part, where the expression “controlled, directly or indirectly in any manner whatever,” is used, a corporation is deemed to be so controlled by another corporation, a person or a group of persons at any time where, at that time, the other corporation, the person or the group of persons has any direct or indirect influence that, if exercised, would result in control in fact of the corporation.

Influence
derived
from an
arrangement

Notwithstanding the foregoing, where the corporation and the other corporation, the person or the group of persons are dealing with each other at arm’s length and the influence referred to in the first paragraph is derived from a franchise, licence, lease, distribution, supply or management agreement or other similar agreement or arrangement, the main purpose of which is to govern the relationship between the corporation and the other corporation, the person or the group of persons regarding the manner in which the business carried on by the corporation is to be conducted, the corporation shall not be considered to be controlled, directly or indirectly in any manner whatever, by the other corporation, the person or the group of persons by reason only of such agreement or arrangement.

"CHAPTER X

"AMORTIZED COST OF A LOAN OR LENDING ASSET

Amortized
cost of a
loan or
lending
asset

"21.26 Subject to section 838, "amortized cost", to a taxpayer, of a loan or lending asset at a particular time means the amount by which the aggregate of the following amounts exceeds the amount computed at that time in respect of the loan or lending asset under section 21.27:

(a) in the case of a loan made by the taxpayer, the aggregate of all amounts advanced in respect of the loan at or before the particular time;

(b) in the case of a loan or lending asset acquired by the taxpayer, the cost to him of the loan or lending asset;

(c) in the case of a loan or lending asset acquired by the taxpayer, the part of the amount by which the principal amount of the loan or lending asset at the time of the acquisition exceeds the cost to him of the loan or lending asset that was included in computing his income for any taxation year ending at or before the particular time;

(d) where the taxpayer is an insurer, any amount in respect of the loan or lending asset that was deemed, by reason of paragraph a of section 830 as it read for the taxation year 1977, to be a gain for any taxation year ending at or before the particular time;

(e) the aggregate of all amounts each of which is an amount in respect of the loan or lending asset that was included under paragraph i of section 87 in computing the taxpayer's income for any taxation year ending at or before the particular time.

Amount to
deduct in
computing
the amor-
tized cost

"21.27 The amount that must be deducted in computing the amortized cost, to a taxpayer, of a loan or lending asset at the particular time contemplated in section 21.26 is the aggregate of the following amounts:

(a) in the case of a loan or lending asset acquired by the taxpayer, the part of the amount by which the cost to him of the loan or lending asset exceeds the principal amount of the loan or lending asset at the time of the acquisition that was deducted in computing his income for any taxation year ending at or before the particular time;

(b) all amounts that the taxpayer received at or before the particular time as or in lieu of full or partial payment of the principal amount of the loan or lending asset;

(c) where the taxpayer is an insurer, any amount in respect of the loan or lending asset that was deemed, by reason of paragraph *b* of section 830 as it read for the taxation year 1977, to be a loss for any taxation year ending at or before the particular time;

(d) the aggregate of all amounts each of which is an amount in respect of the loan or lending asset that was deducted under section 141 in computing the taxpayer's income for any taxation year ending at or before the particular time."

(2) This section applies to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987. However, where it enacts section 21.25 of the Taxation Act, it applies to taxation years commencing after 31 December 1988.

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

33. (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 must, 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 paragraph *a*, *b* or *c* of subsection 1 of section 336 and in paragraph *b* of section 339, must be applied separately to the income from each of such places."

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

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

34. (1) Section 38 of the said Act, amended by section 10 of chapter 77 of the statutes of 1989, is again amended by replacing the third paragraph by the following paragraph:

Benefits not
included

"Nor is he required to include therein the value of benefits under a retirement compensation arrangement, an employee benefit plan or an employee trust or the value of benefits related to the use of an automobile unless they are related to its operation."

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

c. I-3,
s. 40, am.

35. (1) Section 40 of the said Act is amended

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

"(b) allowances not in excess of reasonable amounts for travelling expenses, other than allowances for the use of a motor vehicle, he

receives from his employer as an employee, other than an employee referred to in paragraph *a*, for travelling away from the municipality or the metropolitan area, as the case may be, where the employer's establishment at which the employee ordinarily works or with which he is ordinarily connected is located, in the performance of his duties;";

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

"(c) allowances not in excess of reasonable amounts for the use of a motor vehicle he receives from his employer as an employee, other than an employee referred to in the paragraph *a*, for travelling in the performance of his duties."

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

c. I-3,
s. 40.1,
added

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

Unreason-
able
amount

"40.1 For the purposes of paragraph *e* of section 39 and paragraphs *a* and *c* of section 40, an allowance received in the year by the individual referred to therein for the use of a motor vehicle in connection with or in the course of his office or employment is deemed to be in excess of a reasonable amount

(a) where the measurement of the use of the vehicle for the purpose of the allowance is not based solely on the number of kilometres for which the motor vehicle is used in connection with or in the course of his office or employment, or

(b) where the individual both receives an allowance in respect of the use of the motor vehicle in connection with or in the course of his office or employment and is reimbursed in whole or in part for expenses in respect of the same use."

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

c. I-3,
s. 41,
replaced

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

Inclusion
of the value
of the right
of use

"41. Where an employer or a person to whom he is related makes an automobile available to his employee, or to a person related to the employee, in the year, the employee shall include in computing his income the amount by which a reasonable amount corresponding to the value of such right of use for the aggregate number of days in the year during which the automobile was so available exceeds the aggregate of all amounts each of which is an amount, other than an expense related to the operation of the automobile, paid in the year

by him or by the person to whom he is related to the employer or a person related to the employer for the use of the automobile.”

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

c. I-3,
ss. 41.0.1,
41.0.2,
added

38. (1) The said Act is amended by inserting, after section 41, the following sections:

Computation
of the value
of the right
of use

“41.0.1 For the purposes of section 41, a reasonable amount corresponding to the value of the right of use of an automobile for the aggregate number of days, in this section referred to as the “total available days”, in a year during which an employer or a person to whom he is related, both of whom are in this section referred to as “the employer”, makes the automobile available to an individual, or a person related to him, is deemed to be equal to the amount determined by the formula

$$\frac{A}{B} [2\% (C \times D) + \frac{2}{3} (E - F)].$$

Interpreta-
tion

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

(a) A is the lesser of

i. the aggregate number of kilometres that the automobile is driven, otherwise than in connection with or in the course of the individual's office or employment, during the total available days, such aggregate number of kilometres however being deemed to be equal to the product referred to in subparagraph ii unless the individual is required by the employer to use the automobile in connection with or in the course of his office or employment and all or substantially all of the distance travelled by the automobile during the total available days is in connection with or in the course of the office or employment, and

ii. the product determined for the year under paragraph b;

(b) B is the product obtained when 1 000 is multiplied by the quotient obtained by dividing the total available days by 30 and, if the quotient so obtained is not a whole number and exceeds one, by rounding it to the nearest whole number or, where that quotient is equidistant from two consecutive whole numbers, by rounding it to the lower thereof;

(c) C is the cost of the automobile to the employer where the employer owns the vehicle at any time in the year;

(d) D is the quotient obtained by dividing such of the total available days as are days when the employer owns the automobile by 30 and, if the quotient so obtained is not a whole number and exceeds one, by rounding it to the nearest whole number or, where that quotient is equidistant from two consecutive whole numbers, by rounding it to the lower thereof;

(e) E is the aggregate of all amounts that may reasonably be regarded as having been payable by the employer to a lessor for the purpose of leasing the automobile during such of the total available days as are days when the automobile is leased to the employer;

(f) F is the part of the amount determined under paragraph e that may reasonably be regarded as having been payable to the lessor in respect of all or part of the cost to him of insuring against loss of, or damage to, the automobile or liability resulting from the use or operation of the automobile.

Computation
of the value
of the right
of use for
automobile
salesmen or
lessors

“41.0.2 Where, in a year, an individual is principally engaged in selling or leasing automobiles, an automobile owned by his employer is made available by his employer to him or to a person to whom he is related, and the employer has acquired one or more automobiles, the reasonable amount corresponding to the value of the right of use determined under section 41.0.1 shall, at the option of the employer, be computed as if

(a) the reference in the formula therein to 2 % were read as a reference to 1½ %, and

(b) the cost of the automobile to the employer were the greater of

i. the quotient obtained by dividing the cost to him of all new automobiles acquired by him in the year for sale or lease in the course of his business by the number of automobiles so acquired; and

ii. the quotient obtained by dividing the cost to him of all automobiles acquired by him in the year for sale or lease in the course of his business by the number of automobiles so acquired.”

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

c. 1-3,
s. 41.1,
replaced

39. (1) Section 41.1 of the said Act is replaced by the following section:

Value of the
benefit
related to
the opera-
tion of an
automobile

“41.1 Where, in computing the income of an individual for a taxation year, a reasonable amount corresponding to the value of the

right of use of an automobile is determined under sections 41 to 41.0.2, the automobile is used primarily in the performance of the individual's duties and the individual notifies his employer in writing before the end of the year that the amount of the benefit related to the operation of the automobile for the period in the year during which it was made available to him or to the person to whom he is related is to be determined under this section, the amount of such benefit is, for the purposes of section 37, deemed to be the amount by which one-half of the reasonable amount corresponding to the value of the right of use determined for the automobile under sections 41 to 41.0.2 in respect of the individual for the year exceeds the aggregate of all amounts related to the operation of the automobile paid in the year to the employer or to the person related to the employer who made the automobile available to the individual or to the person to whom the individual is related, by the individual or the person to whom the individual is related."

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

c. I-3,
s. 64, am.

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

Interest on
loan for the
purchase of
an auto-
mobile

"64. An individual entitled to a deduction under section 62 or 63 may also deduct any interest paid by him in the year on a loan made to purchase an automobile used by him in the performance of his duties as well as such part of the capital cost of the automobile as regulations allow."

(2) This section applies from the taxation year 1988 in respect of automobiles acquired after 17 June 1987.

c. I-3,
s. 64.1,
repealed

41. (1) Section 64.1 of the said Act is repealed.

(2) This section, where it repeals the first and third paragraphs of section 64.1 of the Taxation Act, applies from the taxation year 1988 and, where it repeals the second paragraph of the said section, it applies from the taxation year 1988 in respect of automobiles leased under a lease entered into, extended or renewed after 17 June 1987. However, in respect of automobiles leased under a lease entered into, extended or renewed before 18 June 1987, the said section 64.1, repealed by this section, shall from the taxation year 1988 read as follows:

Expenses
not
deductible
in some
cases

"64.1 An individual who, in a taxation year, uses an automobile partly to gain income from an office or employment and partly for his personal use, and who does not hold a permit for the transportation of passengers for remuneration shall not, in computing his income

from that office or employment for the year, deduct that part of the amounts disbursed by him in the year for the lease of such an automobile which exceeds an amount equal to the product obtained by multiplying \$6 400 by that proportion that the number of kilometres for which the automobile is used in the year to gain income from an office or employment is of the aggregate number of kilometres for which the automobile is used in the year."

c. I-3,
s. 64.3,
added

42. (1) The said Act is amended by inserting, after section 64.2, the following section:

Filing in
prescribed
form

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

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

c. I-3,
s. 69,
replaced

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

Dues not
deductible

"69. Notwithstanding paragraphs *a*, *b* and *d* to *g* of section 68, the dues contemplated therein are not allowable to the extent that they are in fact collected under a retirement plan, a plan for annuities, insurance, other than professional or malpractice liability insurance that is necessary to maintain a professional status recognized by statute, or similar benefits, or for any other purpose not directly connected with the ordinary operation expenses of the committee or similar body, association or body to which they are paid."

(2) This section applies from the taxation year 1984.

44. (1) Section 78 of the said Act is amended by adding the following paragraph:

Filing in
prescribed
form

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

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

c. I-3,
s. 78.4,
added

45. (1) The said Act is amended by inserting, after section 78.3, the following section:

Musical
instrument

“78.4 An individual who is employed in the year as a musician and, as a term of the employment, is required to provide a musical instrument for a period in the year may deduct an amount not exceeding his income for the year from the employment, computed without reference to this section, equal to the aggregate of

(a) amounts disbursed by him before the end of the year for the maintenance, rental and insurance of the instrument for that period, except where the amounts are otherwise deducted in computing his income for any taxation year, and

(b) such part of the capital cost of the musical instrument as is allowed by regulation.”

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

c. I-3,
s. 83.1,
added

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

Cost of land
described in
the inven-
tory of a
business

“83.1 For the purposes of section 83, the cost to a taxpayer of land that is described in the inventory of a business carried on by him shall include all amounts of expenses described in the first paragraph of section 164 in respect of that land for which no deduction is permitted to him or, by reason of section 165, to another taxpayer in respect of whom the taxpayer was a person, corporation or partnership described in subparagraph ii of paragraph c of section 165 where the amounts were not included in the cost to that other taxpayer of property.”

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

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

47. (1) Section 87 of the said Act, amended by section 34 of chapter 5 of the statutes of 1989 and section 14 of chapter 77 of the statutes of 1989, is again amended

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

Reserve for
doubtful
debts

“(d) any amount deducted under section 140 as a reserve in computing his income for the preceding taxation year;”;

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

Reserve for
guarantees

“(d.1) any amount deducted under section 140.2 as a reserve in computing his income for the preceding taxation year;”;

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

Recovered
bad debts

“(i) any amount, other than an amount referred to in paragraph *i.1*, received in the year on account of a debt or a loan or lending asset in respect of which a deduction for bad debts or uncollectable loans or lending assets had been made in computing his income for a preceding taxation year;”;

(4) by inserting, after paragraph *i*, the following paragraph:

Recovered
bad debts

“(i.1) that proportion of $\frac{3}{4}$ of the amount received in the year on account of a debt in respect of which a deduction for bad debts under paragraph *a* of section 142.1 had been made in computing the taxpayer’s income for a preceding taxation year that the amount deducted under the said paragraph *a* in respect of that debt is of the aggregate of the amount deducted under the said paragraph *a* and the amount deemed under paragraph *b* of section 142.1 to be an allowable capital loss in respect of that debt;”;

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

Investment
tax credit

“(u) the prescribed amount deducted in respect of a property acquired or an expenditure made in a preceding taxation year in computing the taxpayer’s tax payable for a preceding taxation year under a prescribed law, to the extent that such amount was not included in computing his income for a preceding taxation year under this paragraph or is not included in an amount determined under subparagraph vi.1 of paragraph *e* of section 93, section 101 or 225, subparagraph vi of paragraph *l* of section 257, subparagraph ii of paragraph *n* of section 257 or paragraph *g* of section 399;”;

(6) by replacing the period at the end of paragraph *w* by a semicolon;

(7) by adding, after paragraph *w*, the following paragraph:

Automobile
provided to
a part-
nership
member

“(x) an amount that, where the taxpayer is an individual who is a member of a partnership or an employee of a member of the partnership and the partnership makes an automobile available in the year to the taxpayer or to a person related to him, would be included under section 41 in computing the taxpayer’s income for the year if the taxpayer were employed by the partnership.”

(2) Paragraphs 1 and 2 of subsection 1 apply to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987.

(3) Paragraphs 3 and 4 of subsection 1 have effect from 18 June 1987. However, where paragraph *i.1* of section 87 of the Taxation Act,

enacted by the said paragraph 4, applies in respect of an amount received on account of a debt which arose as a result of a disposition of property occurring, in the case of a corporation, in a taxation year commencing before 1 July 1988 and, in any other case, in a fiscal period commencing before 1 January 1988, the reference therein to "3/4" shall read as a reference to "one-half".

(4) Paragraphs 5 to 7 of subsection 1 apply from the taxation year 1988.

c. 1-3,
s. 90,
replaced

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

Royalties
receivable
by Her
Majesty or
one of her
agents

"90. Section 89 applies where the amount mentioned therein becomes receivable by Her Majesty in right of Canada or a province, an agent of Her Majesty, or a corporation, commission or association controlled by Her Majesty or an agent of Her Majesty."

(2) This section applies to taxation years commencing after 31 December 1988.

c. 1-3,
ss. 92.21,
92.22,
added

49. (1) The said Act is amended by inserting, after section 92.20, the following sections:

Inclusion in
income of
the amount
deducted
under
s. 157.12

"92.21 Where a taxpayer has deducted an amount under section 157.12 in computing his income for his first taxation year that commences after 17 June 1987 and ends after 31 December 1987, he shall include in computing his income for each of his taxation years ending after 31 December 1988 and commencing before 1 January 1993, the amount of the taxpayer's net reserve inclusion, within the meaning of the regulations, for that year.

Bad debt
inclusion

"92.22 Where, in a taxation year, a taxpayer disposes of a property described in his inventory and an amount has been deducted under section 141 in respect of the property in computing his income for the year or a preceding taxation year, he shall include in computing his income for the year from the business in which the property was used or held, the amount by which

(a) the aggregate of all amounts each of which is an amount deducted by him under section 141 in respect of the property in computing his income for the year or a preceding taxation year, exceeds

(b) the aggregate of all amounts each of which is an amount included by him under paragraph *i* of section 87 in respect of the property in computing his income for the year or a preceding taxation year."

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

c. I-3,
s. 93, am.

50. (1) Section 93 of the said Act is amended

(1) by striking out the word “and” at the end of subparagraph vi of paragraph *e*;

(2) by inserting, after subparagraph vi of paragraph *e*, the following subparagraph:

“vi.1 all amounts each of which is an amount deducted under subsection 5 or 6 of section 127 of the Income Tax Act (Statutes of Canada), in respect of a depreciable property of that class, in computing the tax payable under the said Act by the taxpayer for a taxation year ending before that time and subsequent to the disposition of such property;”.

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

c. I-3,
s. 93.3,
replaced

51. (1) Section 93.3 of the said Act is replaced by the following section:

Proceeds of
disposition

“93.3 Where section 93.2 does not apply with respect to the disposition referred to in section 93.1 and where before the disposition the taxpayer or a person with whom he was not dealing at arm’s length owned the land subjacent to, or immediately contiguous to and necessary for the use of, the building, the proceeds of disposition of the building are deemed to be an amount equal to the aggregate of the proceeds of disposition of the building determined without reference to sections 93.1 to 93.3, and 1/4 of the amount by which the greater of the cost amount to the taxpayer of the building immediately before its disposition, and the fair market value of the building immediately before its disposition exceeds the proceeds of disposition of the building, determined without reference to sections 93.1 to 93.3.”

(2) This section applies to taxation years or fiscal periods ending after 31 December 1987. However, where section 93.3 of the Taxation Act, enacted by this section, applies to a taxpayer who is

(a) an individual or a partnership, for taxation years or fiscal periods ending after 31 December 1987 and before 1 January 1990, the reference to “1/4” in the said section 93.3 shall read as a reference to “1/3”;

(b) a Canadian-controlled private corporation throughout its taxation year, for such taxation years ending after 31 December 1987

and commencing before 1 January 1990, the reference to "1/4" in the said section 93.3 shall, in respect of the corporation for the year, read, adapted as required, as a reference to the fraction determined as the aggregate of

i. that proportion of 1/2 that the number of days in the year that are before 1 January 1988 is of the number of days in the year,

ii. that proportion of 1/3 that the number of days in the year that are after 31 December 1987 but before 1 January 1990 is of the number of days in the year, and

iii. that proportion of 1/4 that the number of days in the year that are after 31 December 1989 is of the number of days in the year;

(c) a corporation that is not a Canadian-controlled private corporation throughout its taxation year, for such taxation years ending after 31 December 1987 and commencing before 1 January 1990, the reference to "1/4" in the said section 93.3 shall, in respect of the corporation for the year, read, adapted as required, as a reference to the fraction determined as the aggregate of

i. that proportion of 1/2 that the number of days in the year that are before 1 July 1988 is of the number of days in the year,

ii. that proportion of 1/3 that the number of days in the year that are after 30 June 1988 but before 1 January 1990 is of the number of days in the year, and

iii. that proportion of 1/4 that the number of days in the year that are after 31 December 1989 is of the number of days in the year.

c. 1-3,
s. 94,
replaced

52. (1) Section 94 of the said Act is replaced by the following section:

Recaptured
depreciation
to be
included in
computing
the tax-
payer's
income

"94. Where, at the end of a taxation year, the aggregate of all amounts determined under subparagraphs iii to vii of paragraph *e* of section 93 in respect of depreciable property of a prescribed class of a taxpayer exceeds the aggregate of all amounts determined under subparagraphs i to ii.2 of the said paragraph in respect of such depreciable property, the excess shall be included in computing the taxpayer's income for the year."

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

c. 1-3,
s. 94.1,
added

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

Recaptured depreciation not to be included in computing the taxpayer's income

"94.1 Notwithstanding section 94, the excess determined at the end of a taxation year under that section shall not be included in computing the taxpayer's income for the year where it is in respect of a passenger vehicle in respect of which paragraph *d.3* or *d.4* of section 99 or section 525.1 applied to the taxpayer.

Amount deemed included as recaptured depreciation

However, the excess referred to in the first paragraph is deemed, for the purposes of subparagraph ii of paragraph *e* of section 93, to be an amount included in computing the taxpayer's income for the year under sections 93 to 104."

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

c. I-3,
s. 97,
replaced

54. (1) Section 97 of the said Act is replaced by the following section:

Property transferred to another class

"97. Where depreciable property of a taxpayer that was included in a prescribed class, in this section referred to as the "former class", has been transferred to another prescribed class, in this section referred to as the "other class", the following rules apply for purposes of determining the undepreciated capital cost to the taxpayer of depreciable property of the former class and of the other class at any time after the transfer:

(a) the transferred property is deemed to be depreciable property of the other class acquired before that time and not depreciable property of the former class acquired before that time;

(b) the taxpayer shall include in computing the total depreciation allowed to him before that time in respect of property of the other class and not include in computing the total depreciation allowed to him before that time in respect of property of the former class an amount equal to the greater of the following amounts:

i. the amount by which the capital cost to the taxpayer of the transferred property exceeds the undepreciated capital cost to him of depreciable property of the former class immediately before the transfer, and

ii. the aggregate of all amounts that would have been deducted by the taxpayer in respect of the transferred property under paragraph *a* of section 130 in computing his income for taxation years ending before the transfer, had that property been the only property included in a separate prescribed class and had the rate prescribed by the regulations made under the said paragraph *a* in respect of that separate class been the effective rate used by the taxpayer for the purposes of determining the amounts deducted by him under the said

paragraph *a* in respect of property of the former class for taxation years at the end of which the transferred property was included in the former class.”

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

c. I-3,
s. 99, am. **55.** (1) Section 99 of the said Act, amended by section 17 of chapter 77 of the statutes of 1989, is again amended

(1) by replacing what precedes subparagraph *i* of paragraph *b* by the following:

Rules
applicable

“99. For the purposes of this division, sections 64, 78.4, 130.1, 142 and 149 and any regulations made under paragraph *a* of section 130, the following rules apply:

Property
used for
another
purpose

(*a*) where a taxpayer, having acquired property to gain income, begins at a later time to use it for some other purpose, he is deemed to dispose of it at that time at its fair market value;

Property
acquired for
another
purpose

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

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

“*ii.* the aggregate of its cost to him at that time determined without reference to this paragraph, paragraph *a* and subparagraph *ii* of paragraph *d*, and $\frac{3}{4}$ of the amount by which the fair market value of the property at that time exceeds the aggregate of the cost to him of the property immediately before that time and $\frac{4}{3}$ of the amount deducted by him under Title VI.5 of Book IV in respect of the amount by which the fair market value of the property at that time exceeds the cost to him of the property immediately before that time;”;

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

Property
used partly
to gain
income and
partly for
another
purpose

“(c) where property has, since it was acquired by a taxpayer, been regularly used in part to gain income and in part for some other purpose, the proportion of the property acquired by the taxpayer to gain such income, the proportion of its capital cost and the proportion of the proceeds of disposition of such property, as the case may be, are deemed to be the same as the proportion that its use to gain income is of its whole use;”;

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

Property
used partly
to gain
income and
partly for
another
purpose

“(d) where there has been a change in the relation between the proportion of the use made of the property to gain income and the proportion of the use made of it for some other purpose, the following rules apply:

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

(5) by inserting, after subparagraph i of paragraph *d*, the following subparagraph:

“i.1 for greater certainty, where the property is a passenger vehicle in respect of which paragraph *d.3* or *d.4* applies, the capital cost established under subparagraph i shall in no case be greater than the proportion referred to in the said subparagraph of the capital cost of the property established under paragraph *d.3* or *d.4*, as the case may be;”;

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

Depreciable
property of
a prescribed
class

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

i. where the transferor was an individual resident in Canada or a partnership any member of which was either an individual resident in Canada or another partnership and the cost of the property to the particular person or partnership at that time determined without reference to this paragraph exceeds the cost or, where the property was depreciable property, the capital cost of the property to the transferor immediately before he disposed of it, the capital cost of the property to the particular person or partnership at that time is deemed to be an amount that is equal to the aggregate of the cost or capital cost, as the case may be, of the property to the transferor immediately before that time and $\frac{3}{4}$ of the amount by which the transferor's proceeds of disposition of the property exceed the aggregate of the cost or capital cost, as the case may be, of the property to the transferor immediately before that time and $\frac{4}{3}$ of the amount deducted by any person under Title VI.5 of Book IV in respect of the amount by which the transferor's proceeds of disposition of the property exceeds the cost or capital cost, as the case may be, of the property to the transferor immediately before that time and, for the purposes of paragraph *b* and subparagraph *i* of paragraph *d*, the cost of the property to the particular person or partnership is deemed to be the same amount;

ii. where the transferor was not a transferor described in subparagraph *i*, the rules provided in that subparagraph apply in the same manner, but without reference to the words "and $\frac{4}{3}$ of the amount deducted by any person under Title VI.5 of Book IV in respect of the amount by which the transferor's proceeds of disposition of the property exceeds the cost or capital cost, as the case may be, of the property to the transferor immediately before that time" and references therein to "the aggregate of the cost or capital cost" shall read as references to "the cost or capital cost";

(7) by replacing subparagraph *ii* of paragraph *d.2* by the following subparagraph:

"ii. $\frac{3}{4}$ of the amount by which the corporation's proceeds of disposition of the property exceed the capital cost to the corporation of the property at the time of the disposition;"

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

Maximum
capital cost
of a
passenger
vehicle

"(d.3) where the cost to a taxpayer of a passenger vehicle exceeds \$20 000 or such other amount as may be prescribed, the capital cost to the taxpayer of the passenger vehicle is deemed to be equal to \$20 000 or to that other amount, as the case may be;

Maximum
capital cost
of a
passenger
vehicle
acquired
from a
related
person

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

- i. the fair market value of the passenger vehicle at that time,
- ii. the amount that immediately before that time was the cost amount to that person of the passenger vehicle minus, as the case may be, the amount deducted by him under paragraph a of section 130 in respect of the passenger vehicle in computing his income for his taxation year in which he disposed of the passenger vehicle, and
- iii. \$20 000 or such other amount as may be prescribed for the purposes of paragraph d.3;”.

(2) Paragraphs 1 and 3 of subsection 1 and paragraph 4 of the said subsection, where it enacts that part of paragraph d of section 99 of the Taxation Act preceding subparagraph i, apply in respect of changes in use of property occurring after 30 April 1988.

(3) Paragraph 2 of subsection 1, paragraph 4 of the said subsection, where it enacts subparagraph i of paragraph d of section 99 of the Taxation Act, and paragraph 6 of subsection 1, where it enacts subparagraphs i and ii of paragraph d.1 of the said section 99, apply in respect of property acquired after 22 May 1985, other than property acquired before 1 January 1986 pursuant to an agreement entered into in writing before 23 May 1985. However, where subparagraph i of both paragraphs d and d.1 and subparagraph ii of both paragraphs b and d.1 of the said section 99, enacted by paragraphs 2, 4 and 6, apply in respect of acquisitions of property by

(a) a person or partnership in taxation years or fiscal periods ending before 1 January 1988, the references in the said subparagraphs i and ii to “3/4” and “4/3” shall read as references to “1/2” and “2 times”, respectively;

(b) an individual or a partnership in taxation years or fiscal periods ending after 31 December 1987 and before 1 January 1990, the references in the said subparagraphs i and ii to “3/4” and “4/3” shall read as references to “2/3” and “3/2”, respectively;

(c) a corporation in taxation years ending after 31 December 1987 and commencing before 1 January 1990 and throughout which the corporation is a Canadian-controlled private corporation, the references in the said subparagraphs i and ii to “3/4” shall, in respect

of the corporation for the year, read as references to the fraction determined as the aggregate of the following fractions:

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

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

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

(d) a corporation in taxation years ending after 31 December 1987 and commencing before 1 January 1990, where the corporation is not a Canadian-controlled private corporation throughout its taxation year, the references in the said subparagraphs i and ii to " $\frac{3}{4}$ " shall, in respect of the corporation for the year, read as references to the fraction determined as the aggregate of the following fractions:

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

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

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

(4) Paragraph 5 of subsection 1, paragraph 6 of the said subsection, where it enacts that part of paragraph *d.1* of section 99 of the Taxation Act preceding subparagraph i, and paragraph 8 of subsection 1 apply to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987.

(5) Paragraph 7 of subsection 1 applies where control of a corporation is acquired by a person or group of persons after 15 January 1987 and where, after 5 June 1987, a corporation becomes or ceases to be exempt from tax under Part I of the Taxation Act on its taxable income. However, where control of a corporation is acquired or a corporation becomes or ceases to be exempt from tax under Part I of the said Act on its taxable income in a taxation year ending after 31 December 1987 and commencing before 1 January 1990, the reference to " $\frac{3}{4}$ " in subparagraph ii of paragraph *d.2* of section 99 of the said Act, enacted by paragraph 7, shall, in respect of the corporation for the year, read,

(a) where the corporation is a Canadian-controlled private corporation throughout its taxation year, as a reference to the fraction determined as the aggregate of the following fractions:

i. that proportion of $1/2$ that the number of days in the year that are before 1 January 1988 is of the number of days in the year;

ii. that proportion of $2/3$ that the number of days in the year that are after 31 December 1987 but before 1 January 1990 is of the number of days in the year;

iii. that proportion of $3/4$ that the number of days in the year that are after 31 December 1989 is of the number of days in the year;

(b) where the corporation is not a Canadian-controlled private corporation throughout its taxation year, as a reference to the fraction determined as the aggregate of the following fractions:

i. that proportion of $1/2$ that the number of days in the year that are before 1 July 1988 is of the number of days in the year;

ii. that proportion of $2/3$ that the number of days in the year that are after 30 June 1988 but before 1 January 1990 is of the number of days in the year;

iii. that proportion of $3/4$ that the number of days in the year that are after 31 December 1989 is of the number of days in the year.

c. I-3,
s. 100,
replaced

56. (1) Section 100 of the said Act is replaced by the following section:

Meaning of
"to gain
income"

"100. For the purposes of paragraphs *a* to *d* of section 99, where a taxpayer is not resident in Canada, the expression "to gain income", in relation to a business, shall be construed as meaning to gain income from a business wholly carried on in Canada or from such part of a business as is so carried on."

(2) This section applies in respect of changes in use of property occurring after 30 April 1988.

c. I-3,
s. 101,
replaced

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

Capital cost
of property
acquired
through an
assistance

"101. For the purposes of this Part, where a taxpayer has deducted an amount under subsection 5 or 6 of section 127 of the Income Tax Act (Statutes of Canada) in respect of a depreciable property in computing his tax payable under the said Act or has

received or is entitled to receive assistance, other than prescribed assistance, from a government, municipality or other public body in respect of, or for the acquisition of, depreciable property, whether as a subsidy, grant, forgivable loan, deduction from tax, investment allowance or in any other form, the capital cost of the property to the taxpayer at any particular time is deemed to be the amount by which the aggregate of the capital cost of the property, determined without reference to this section and sections 101.6 and 101.7, and the amount of the assistance, in respect of that property, repaid by the taxpayer, pursuant to an obligation to repay, before the disposition of the property and before the particular time, exceeds the aggregate of, where the property was acquired in a taxation year ending before the particular time, all amounts deducted under the said subsection 5 or 6 by the taxpayer, in respect of that property, for a taxation year ending before the particular time and before the disposition of that property and the amount of assistance the taxpayer has received or is entitled, before the particular time, to receive in respect of that property before the disposition thereof."

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

c. I-3,
s. 102,
replaced

58. (1) Section 102 of the said Act is replaced by the following section:

Amortization
in respect
of property
used in the
performance
of duties

"102. For the purposes of this division, every deduction as amortization made under section 64 or 78.4, section 12 of the Corporation Tax Act (Revised Statutes, 1964, chapter 67) or section 13 of the Provincial Income Tax Act (Revised Statutes, 1964, chapter 69) is deemed to have been made in accordance with the regulations made under paragraph *a* of section 130."

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

c. I-3,
s. 105,
replaced

59. (1) Section 105 of the said Act is replaced by the following section:

Amounts
included in
income in
respect of
intangible
capital
property

"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 determined under paragraph *a* of the said section in respect of that business, the following rules apply:

(*a*) in the case of a taxpayer who was resident in Canada throughout the year, other than a corporation, a particular partnership all the members of which were corporations, partnerships all the members of which were corporations or such particular

partnerships, or a partnership that was not a Canadian partnership throughout the year,

i. the amount that is the lesser of the excess and the amount determined under subparagraph i of paragraph b of section 107 at the end of the year in respect of the business shall be included in computing the taxpayer's income from that business for the year;

ii. the amount by which the excess exceeds the amount determined under subparagraph i is deemed to be a taxable capital gain of the taxpayer from a disposition of capital property by him in the year and, for the purposes of Title VI.5 of Book IV, that property is deemed to have been disposed of by him in the year;

(b) in any other case, the excess shall be included in computing the taxpayer's income from that business for the year."

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

c. 1-3,
s. 106.1,
added

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

Acquisition
of intangi-
ble capital
property

"106.1 Notwithstanding any other provision of this Part, where at any time a particular person or partnership has, directly or indirectly, in any manner whatever, acquired an intangible capital property in respect of a business from a transferor being a person or partnership that disposed of the property to the particular person or partnership and with whom the particular person or partnership did not deal at arm's length, and the property that was disposed of was an intangible capital property of the transferor, the intangible capital amount, in respect of the business, payable or disbursed by the particular person or partnership relating to the acquisition is deemed to be $\frac{4}{3}$ of the amount by which

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

(b) the amount determined under subparagraph ii of paragraph a of section 105 by the transferor in respect of the disposition to the extent that the amount may reasonably be considered to have been claimed by any person as a deduction under Title VI.5 of Book IV."

(2) This section applies in respect of acquisitions of intangible capital property after 31 December 1987. However, where section 106.1 of the Taxation Act, enacted by this section, applies in respect of an acquisition of intangible capital property by a taxpayer after 31

December 1987 but before the taxpayer's adjustment time, within the meaning of the said Act, in respect of the business in which the intangible capital property is used, the reference therein to "4/3 of" shall read as a reference to "twice".

c. 1-3,
s. 107,
replaced

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

Eligible
intangible
capital
amount

"107. The eligible intangible capital amount of a taxpayer at a particular time in respect of a business of the taxpayer is the amount by which

(a) the aggregate of

i. 3/4 of the aggregate of all intangible capital amounts in respect of the business payable or disbursed by the taxpayer before the particular time but after his adjustment time,

ii. the aggregate of all amounts deemed under subparagraph ii of paragraph *a* of section 105 to be a taxable capital gain of the taxpayer from a disposition of capital property and all amounts included under paragraph *b* of the said section in computing the taxpayer's income from the business for taxation years ending before the particular time but after the taxpayer's adjustment time,

iii. 3/2 of the taxpayer's eligible intangible capital amount in respect of the business at his adjustment time, and

iv. the amount by which the aggregate of all amounts deducted under paragraph *b* of section 130 exceeds the aggregate of all amounts included under section 105 in computing the taxpayer's income from the business for taxation years ending before his adjustment time, exceeds

(b) the aggregate of

i. the amount by which the aggregate of the following amounts exceeds the aggregate of all amounts included by virtue of subparagraph i of paragraph *a* of section 105 in computing the taxpayer's income from the business for taxation years ending before the particular time but after his adjustment time:

(1) the aggregate of all amounts deducted under paragraph *b* of section 130 in computing the taxpayer's income from the business for taxation years ending before the particular time but after his adjustment time;

(2) the amount by which the aggregate of all amounts deducted under paragraph *b* of section 130 in computing the taxpayer's income from the business for the taxation years ending before his adjustment time exceeds the aggregate of all amounts included under section 105 in computing his income from the business for the same taxation years; and

ii. the aggregate of all amounts each of which is $\frac{3}{4}$ of the amount by which an amount which, as a result of a disposition occurring before the particular time but after the taxpayer's adjustment time, he has or may become entitled to receive, in respect of a business carried on or formerly carried on by him where the consideration given by him therefor is such that, if any payment had been made by him after 31 December 1971 for that consideration, the payment would have been an intangible capital amount of the taxpayer in respect of the business, exceeds all expenses made or incurred by him for the purpose of giving that consideration, to the extent that they are not otherwise deductible in computing his income."

(2) This section 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. However, where subparagraph ii of paragraph *b* of section 107 of the Taxation Act, enacted by subsection 1 of this section, applies in respect of dispositions of property occurring on or before 17 June 1987 or after that date pursuant to the terms of an obligation entered into in writing before 18 June 1987, it shall read as follows:

"ii. the aggregate of all amounts each of which is $\frac{3}{4}$ of the amount by which an amount which, as a result of a disposition occurring after 31 December 1971, becomes receivable by the taxpayer before the particular time in respect of the business carried on or formerly carried on by him where the consideration given by him therefor is such that, if any payment had been made by him after 31 December 1971 for that consideration, the payment would have been an intangible capital amount of the taxpayer in respect of the business, exceeds all expenses made or incurred by him for the purpose of giving that consideration, to the extent that they are not otherwise deductible in computing his income."

(3) Where, before the coming into force of section 107 of the Taxation Act, enacted by this section, subparagraph ii of paragraph *b* of the said section 107, as the said subparagraph ii read at that time, applies in respect of dispositions of property occurring after 17 June 1987, otherwise than pursuant to the terms of an obligation entered into in writing before 18 June 1987, it shall read as follows:

“ii. the aggregate of all amounts each of which is equal to one-half of the amount by which an amount that, as a result of a disposition occurring after 31 December 1971 and before that time, the taxpayer is or may become entitled to receive, in respect of a business carried on or formerly carried on by him, where the consideration would constitute for him an intangible capital amount in respect of the business if that amount was payable by him, exceeds all expenses made or incurred by him for the purpose of receiving that amount.”

c. I-3,
s. 107.1,
added

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

Adjustment
time

“**107.1** The adjustment time of a taxpayer in respect of a business is,

(a) where the taxpayer is a corporation formed as a result of an amalgamation occurring after 30 June 1988, the time immediately before the amalgamation;

(b) where the taxpayer is a corporation other than a corporation contemplated in paragraph a, the time immediately after the commencement of its first taxation year commencing after 30 June 1988;

(c) where the taxpayer is not a corporation, the time immediately after the commencement of the taxpayer's first fiscal period commencing after 31 December 1987 in respect of the business.”

(2) This section has effect from 18 June 1987.

c. I-3,
s. 110.1, am.

63. (1) Section 110.1 of the said Act is amended by replacing subsection 1 by the following subsection:

Election in
respect of
an amount
payable with
regard to a
disposition
of an
intangible
capital
property

“**110.1** (1) Where, in a taxation year, a taxpayer has disposed of an intangible capital property, in this section referred to as “former property”, and the taxpayer so elects, under this section, in his fiscal return filed under this Part for the taxation year in which he acquires, as a replacement property for his former property, a capital replacement property, that part of the amount that would otherwise be included in the aggregate determined under subparagraph ii of paragraph b of section 107 in respect of a business, if that subparagraph were read without reference to “3/4 of”, as has been used by the taxpayer before the end of the first taxation year following the end of the taxation year in which the former property was disposed of by him to acquire the capital replacement property shall, to the extent of 3/4 thereof, be included in that aggregate for the purposes of computing the eligible intangible capital amount of the taxpayer in

respect of the business, only from the later of the time the replacement property was acquired by the taxpayer and the time the former property was disposed of by the taxpayer.”

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

(3) Where subsection 1 of section 110.1 of the Taxation Act, replaced by this section applies in respect of dispositions of intangible capital property occurring, in the case of a corporation, in the last taxation year of the corporation commencing before 1 July 1988 and, in any other case, in the last fiscal period of the taxpayer commencing before 1 January 1988, the reference therein to “one-half” shall read as a reference to “3/4”.

c. I-3,
heading,
replaced

64. (1) The heading of Division IV of Chapter II of Title III of Book III of Part I of the said Act is replaced by the following heading:

“BENEFITS CONFERRED ON A SHAREHOLDER”.

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

c. I-3,
s. 111,
replaced

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

Benefit
conferred on
a share-
holder or
contemplated
shareholder

“**111.** Where, 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 for the year.”

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

c. I-3,
s. 112,
replaced

66. (1) Section 112 of the said Act is 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 the reduction of the paid-up capital of a corporation, the acquisition, cancellation or redemption by it of shares of its capital stock or the winding-up, discontinuance or reorganization of its business, a transaction to which sections 556 to 569 apply, the payment of a dividend, the conferring on all owners of common shares of the capital stock of the corporation of a right to buy additional

common shares thereof, or a transaction described in any of paragraphs *d* to *f* of subsection 2 of section 504.”

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

(a) in respect of a transaction made after 31 December 1987 and before 1 July 1988, section 112 of the Taxation Act, replaced by this section, shall read as follows:

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 the reduction of capital of a corporation, the acquisition, the cancellation or the redemption by it of shares of its capital stock or the winding-up, discontinuance or reorganization of its business, a transaction to which sections 556 to 569 apply, the payment of a dividend or a stock dividend, the conferring on all holders of common shares of the capital stock of the corporation of a right to buy additional common shares from that corporation or a transaction described in any of paragraphs *d* to *f* of subsection 2 of section 504.”;

(b) in respect of a transaction made after 31 December 1971 and before 1 January 1988, the reference, in section 112 of the Taxation Act, replaced by this section, to section 568 of the said Act shall read as a reference to section 569 of that Act.

c. 1-3,
s. 114, am.

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

Provision
not to apply

“Nor does section 113 apply if such arrangements are made and the indebtedness is incurred by 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 employee to acquire an automobile to be used by him in the performance of the duties of his office or employment, or, where the lender or creditor is a corporation, to acquire for himself from the corporation fully paid shares of the capital stock of the corporation, to acquire from a corporation related thereto fully paid shares of the capital stock of the related corporation, or to acquire from a Québec business investment company fully paid common shares with full voting rights of the capital stock of the company within the scope of a stock ownership plan contemplated in section 15.1 of the said Act, to be held by him for his own benefit, or by a person who is an employee of the lender or creditor or the spouse of such an employee to enable or assist that person to acquire a dwelling for his habitation.”

(2) This section has effect from 17 May 1989.

c. I-3,
heading,
replaced

68. (1) The heading of Division V of Chapter II of Title III of Book III of Part I of the said Act is replaced by the following heading:

“AMOUNTS INCLUDING CAPITAL AND INTEREST”.

(2) This section applies in respects of amounts paid or payable after 30 June 1988.

c. I-3,
s. 120,
replaced

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

Capital and
interest
combined

“**120.** Except in the cases in which section 123 applies, where, under a contract or other arrangement, an amount can reasonably be regarded as being in part an amount of capital and in part interest or other amount of an income nature, the following rules apply:

(a) the part of the amount that can reasonably be regarded as interest is, irrespective of when the contract or arrangement was made or the form or legal effect thereof, deemed to be interest on a debt obligation held by the person to whom the amount is paid or payable;

(b) the part of the amount that can reasonably be regarded as an amount of an income nature, other than interest, shall, irrespective of when the contract or arrangement was made or the form or legal effect thereof, be included in computing the income of the taxpayer to whom the amount is paid or payable for the taxation year in which the amount is received or has become due, to the extent that it has not otherwise been included in computing the taxpayer's income.”

(2) This section applies in respect of amounts paid or payable after 30 June 1988.

c. I-3,
s. 130, am.

70. (1) Section 130 of the said Act, amended by section 42 of chapter 5 of the statutes of 1989, is again amended by replacing paragraph *b* by the following paragraph:

“(b) the amount he may claim in respect of a business, not exceeding 7 % of the eligible intangible capital amount in respect of the business at the end of the year.”

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

c. I-3,
s. 130.1, am. **71.** (1) Section 130.1 of the said Act, amended by section 44 of chapter 5 of the statutes of 1989, is again amended

(1) by replacing the first, second and third 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, except as otherwise provided, 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, fourth and fifth paragraphs, the taxpayer must deduct that excess amount in computing his income for the year.

Exception
where a
prescribed
class
comprises an
automobile

“Where the excess amount referred to in the first paragraph concerns a prescribed class that includes an automobile acquired by the taxpayer before 18 June 1987 or after 17 June 1987 pursuant to an obligation in writing entered into before 18 June 1987, no amount shall be deducted by the taxpayer in computing his income for the year other than an amount equal to what the excess amount would be if the capital cost of the automobile did not exceed the prescribed amount and, subject to the fifth paragraph, where the excess amount referred to in the first paragraph concerns a prescribed class that includes either an automobile, other than an automobile used under a permit for the transportation of passengers for remuneration, acquired by the taxpayer before 18 June 1987 pursuant to an obligation in writing entered into before 18 June 1987, or an automobile that would have been such an automobile had it been acquired by the taxpayer before 18 June 1987 and that is a passenger vehicle acquired by him in his taxation year 1987, and the taxpayer is an individual who used the automobile partly to gain income from a business or property and partly for his personal use, no amount shall be deducted by the taxpayer in computing his income for the year other than an amount equal to the prescribed part of the excess amount.”;

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

Exception in
the case of
a passenger
vehicle

“The excess amount referred to in the first paragraph shall not be deducted by the taxpayer in computing his income for a taxation

year where it concerns a prescribed class that includes a passenger vehicle in respect of which paragraph *d.3* or *d.4* of section 99 or section 525.1 applied to the taxpayer.

Deemed
depreciation

“Where the second, third or fifth paragraph applies, the excess amount referred to in the first paragraph is deemed to have been deducted by the taxpayer under paragraph *a* of section 130 in computing his income for the year from a business or property.”

(2) Paragraph 1 of subsection 1, where it enacts the first paragraph of section 130.1 of the Taxation Act, applies from the taxation year 1985. However, where the said first paragraph applies to taxation years or fiscal periods commencing before 18 June 1987 or ending before 1 January 1988, it shall read without reference to the words “, except as otherwise provided,”.

(3) Paragraph 1 of subsection 1, where it enacts the second paragraph of section 130.1 of the Taxation Act, and paragraph 2 of subsection 1 apply to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987.

(4) Paragraph 1 of subsection 1, where it enacts the third paragraph of section 130.1 of the Taxation Act, applies to taxation years or fiscal periods ending after 31 December 1987. However, where the said third paragraph applies to any such taxation years or fiscal periods that commenced before 18 June 1987, it shall read as follows:

Exception
where a
prescribed
class com-
prises an
automobile

“Where the excess amount referred to in the first paragraph concerns a prescribed class that includes an automobile acquired by the taxpayer before 18 June 1987 or after 17 June 1987 pursuant to an obligation in writing entered into before 18 June 1987 or acquired by the taxpayer after 17 June 1987 in his taxation year commencing before 18 June 1987 and ending after 31 December 1987, otherwise than pursuant to such an obligation, no amount shall be deducted by the taxpayer in computing his income for the year other than an amount equal to what the excess amount would be if the capital cost of the automobile did not exceed the prescribed amount and, where the excess amount referred to in the first paragraph concerns a prescribed class that includes an automobile that is not an automobile used under a permit for the transportation of passengers for remuneration but is an automobile acquired by the taxpayer before 18 June 1987 or after 17 June 1987 pursuant to an obligation in writing entered into before 18 June 1987 or acquired by the taxpayer after 17 June 1987 otherwise than pursuant to such an obligation, and the taxpayer is an individual who used the automobile partly to gain

income from a business or property and partly for his personal use, no amount shall be deducted by the taxpayer in computing his income for the year other than an amount equal to the prescribed part of the excess amount; in such cases, the excess amount referred to in the first paragraph is deemed to have been deducted under paragraph *a* of section 130 in computing the taxpayer's income for the year from a business or property."

72. (1) Section 132 of the said Act is amended by replacing the second paragraph by the following paragraph:

Reserves "The same applies to any amount as, or in full or partial payment of, a reserve, a contingent liability or amount or a sinking fund, except as expressly permitted by this Part."

(2) This section applies to taxation years commencing after 30 June 1988.

73. (1) The said Act is amended by inserting, after section 132, the following sections:

Claims received by an insurer "**132.1** A taxpayer who is an insurer shall not deduct, in computing his income from a business or property for a taxation year, an amount in respect of claims that were received by him before the end of the year under insurance policies and that are unpaid at the end of the year, except as expressly permitted by this Part."

Loss, depreciation or reduction in the value or amortized cost of a loan or lending asset "**132.2** A taxpayer who is an insurer or whose ordinary business includes the lending of money shall not deduct, in computing his income from a business or property for a taxation year, an amount in respect of any loss, depreciation or reduction in the value or amortized cost of a loan or lending asset described in section 140 acquired by him in the ordinary course of his business of insurance or lending money and not disposed of by him in the taxation year, except as expressly permitted by this Part."

(2) This section, where it enacts section 132.1 of the Taxation Act, applies to taxation years commencing after 17 June 1987 and ending after 31 December 1987.

(3) This section, where it enacts section 132.2 of the Taxation Act, applies to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987.

74. (1) Section 133 of the said Act is replaced by the following section:

**c. I-3,
s. 133,
replaced**

Personal or
living
expenses

“133. A taxpayer shall not deduct, in computing his income from a business or property for a taxation year, his personal or living expenses, save travelling expenses incurred by him while away from home in the course of carrying on his business.”

(2) This section applies in respect of expenses incurred and amounts paid or payable after 31 December 1987.

c. 1-3,
ss. 133.1,
133.2,
repealed

75. (1) Sections 133.1 and 133.2 of the said Act are repealed.

(2) This section, where it repeals the first and third paragraphs of section 133.1 of the Taxation Act, applies to fiscal periods ending after 31 December 1987 and, where it repeals the second paragraph of the said section and section 133.2 of the Taxation Act, it applies to fiscal periods commencing after 17 June 1987 and ending after 31 December 1987 in respect of automobiles leased under a lease entered into, extended or renewed after 17 June 1987. However, sections 133.1 and 133.2 of the Taxation Act, repealed by this section, shall, in respect of automobiles leased under a lease entered into, extended or renewed before 18 June 1987 in respect of fiscal periods ending after 31 December 1987, and in respect of automobiles leased under a lease entered into, extended or renewed after 17 June 1987 in respect of fiscal periods commencing before 18 June 1987 and ending after 31 December 1987, read as follows:

Disallowed
expenses in
respect of
an auto-
mobile

“133.1 An individual who, in a taxation year, uses an automobile partly to gain income from a business or property and partly for his personal use, and who does not hold a permit for the transportation of passengers for remuneration shall not, in computing his income from that business or property for the year, deduct that part of the amounts disbursed or paid by him in the year for the lease of such an automobile which exceeds an amount equal to the product obtained by multiplying \$6 400 by that proportion that the number of kilometres for which the automobile is used in the year to gain income from a business or property is of the aggregate number of kilometres for which the automobile is used in the year.

Taxpayer
not
contemplated
in section
133.1

“133.2 A taxpayer, other than an individual referred to in section 133.1, who, in a taxation year, uses an automobile to gain income from a business or property shall not, in computing his income from that business or property for the year, deduct that part of the amounts disbursed or paid by him in the year for the lease of such an automobile which exceeds an amount equal to the product obtained by multiplying that proportion that the number of kilometres for which the automobile is used in the year to gain income from a business or property is of the aggregate number of kilometres for which the automobile is used in the year by either of the following amounts:

(a) \$6 400, where the expenses relate to an automobile that is not an automobile used under a permit for the transportation of passengers for remuneration;

(b) the lease charges in all other cases.”

c. I-3,
s. 133.2.1,
added

76. (1) The said Act is amended by inserting, before section 133.3, the following section:

Allowance
for the use
of an
automobile

“133.2.1 A taxpayer shall not deduct, in computing his income from a business or property for a taxation year, any portion in excess of the prescribed amount of an amount paid or payable by him as an allowance for the use by an individual of an automobile, except where the amount so paid or payable is required to be included in computing the individual’s income.”

(2) This section applies in respect of allowances paid for the use of an automobile after 31 December 1987.

c. I-3,
s. 135.3.1,
added

77. (1) The said Act is amended by inserting, after section 135.3, the following section:

Disallowed
deduction

“135.3.1 A taxpayer shall not deduct any amount paid or payable under Part III.1 or VI of the Income Tax Act (Statutes of Canada).”

(2) This section applies from the taxation year 1988. However, where it applies to the taxation year 1988, section 135.3.1 of the Taxation Act, enacted thereby, shall read as follows:

Disallowed
deduction

“135.3.1 A taxpayer shall not deduct any amount paid or payable under Part VI of the Income Tax Act (Statutes of Canada).”

c. I-3,
ss. 135.4
and 135.5,
replaced

78. (1) Sections 135.4 and 135.5 of the said Act are replaced by the following sections:

Construction
or renovation
deduc-
tion

“135.4 Notwithstanding any other provision of this Part, in computing a taxpayer’s income for a taxation year, no deduction shall be made in respect of any outlay or expense made or incurred by the taxpayer, other than an amount deductible by reason of paragraph *a* of section 130 and paragraph *h* of section 157, that may reasonably be regarded as a cost attributable to the period of construction, renovation or alteration of a building and relating to the construction, renovation or alteration or a cost attributable to that period and relating to the ownership during that period, of land that is subjacent to the building or contiguous to that land and that is necessary for the use or intended use of the building, and used or intended to be used for a parking area, driveway, yard or garden or any similar use.

Amount
included in
capital cost

“135.5 The amount contemplated in section 135.4 shall be included in the cost or the capital cost, as the case may be, of the building to the taxpayer, to a person with whom the taxpayer does not deal at arm’s length, to a corporation of which the taxpayer is a specified shareholder or to a partnership of which the taxpayer’s share of any income or loss is 10 % or more, as the case may be.”

(2) This section, where it enacts section 135.4 of the Taxation Act, applies in respect of buildings acquired after 31 December 1989, and where it enacts section 135.5 of the Taxation Act, it applies from the taxation year 1988.

c. I-3,
s. 135.6, am.

79. (1) Section 135.6 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) interest paid or payable by a taxpayer in respect of borrowed money that can reasonably be considered, having regard to all the circumstances, to have been used to assist, directly or indirectly, a person with whom the taxpayer does not deal at arm’s length, a corporation of which the taxpayer is a specified shareholder, or a partnership of which the taxpayer’s share of any income or loss is 10 % or more, to construct, renovate or alter a building or to purchase land, except where the assistance is in the form of a loan to that person, corporation or partnership and a reasonable rate of interest thereon is charged by the taxpayer.”

(2) This section applies to taxation years commencing after 30 April 1988.

c. I-3,
s. 135.8,
replaced

80. (1) Section 135.8 of the said Act is replaced by the following section:

Restrictions
not appli-
cable to
certain cor-
porations or
partnerships

“135.8 Sections 135.4 and 135.5 do not apply to prohibit a deduction in a taxation year of an amount corresponding to the product obtained by multiplying by the percentage specified in the second paragraph any outlay or expense made or incurred before 1 January 1992 by

(a) a corporation whose principal business is throughout the year the leasing, rental or sale, or the development for lease, rental or sale, or any combination thereof, of immovable property owned by it, to or for a person with whom it is dealing at arm’s length, or

(b) a partnership each member of which is a corporation described in subparagraph *a* if the principal business of the partnership is throughout the year the leasing, rental or sale, or the development for lease, rental or sale, or any combination thereof, of

immovable property held by it, to or for a person with whom each member of the partnership is dealing at arm's length.

- Proportion The percentage to which the first paragraph refers is equal to
- (a) 80 %, in respect of an outlay or expense made or incurred after 31 December 1987 and before 1 January 1989;
 - (b) 60 %, in respect of an outlay or expense made or incurred after 31 December 1988 and before 1 January 1990;
 - (c) 40 %, in respect of an outlay or expense made or incurred after 31 December 1989 and before 1 January 1991;
 - (d) 20 %, in respect of an outlay or expense made or incurred after 31 December 1990 and before 1 January 1992."
- (2) This section applies in respect of outlays or expenses made or incurred after 31 December 1987.

c. I-3,
heading,
replaced

81. (1) The said Act is amended by replacing the heading of Division III of Chapter III of Title III of Book III of Part I by the following heading:

"DOUBTFUL OR BAD DEBTS AND CREDIT RISKS".

(2) This section has effect from 18 June 1987.

c. I-3,
s. 140,
replaced

82. (1) Section 140 of the said Act is replaced by the following section:

Reserve for
doubtful
debts

"140. A taxpayer may deduct in computing his income for a taxation year, as a reserve, the aggregate of

(a) a reasonable amount in respect of doubtful debts that have been included in computing his income for that year or a preceding taxation year, and

(b) in the case of a taxpayer who is an insurer or whose ordinary business includes the lending of money, an amount not exceeding the particular amount determined for the year under section 140.1 in respect of doubtful loans or lending assets of the taxpayer made or acquired by him in the ordinary course of his business of insurance or the lending of money, provided however that, where the amount claimed under this paragraph is lesser than the particular amount, such lesser amount is equal to the aggregate of a percentage of the

amount determined under paragraph *a* of section 140.1 and the same percentage of the amount determined under paragraph *b* of the said section.”

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

c. I-3,
ss. 140.1,
140.2,
added

Determina-
tion of the
particular
amount in
respect of
doubtful
loans

83. (1) The said Act is amended by inserting, after section 140, the following sections:

“140.1 The particular amount, referred to in paragraph *b* of section 140, for a taxation year in respect of doubtful loans or lending assets of a taxpayer is equal to the aggregate of

(a) the prescribed reserve amount for the taxpayer for the year, and

(b) an amount in respect of doubtful loans or lending assets for which no amount was deducted for the year under paragraph *a*, in this paragraph referred to as the “debts”, equal to the lesser of

i. a reasonable amount as a reserve for the debts in respect of the amortized cost of the debts to the taxpayer at the end of the year, and

ii. a percentage, equal to 100 % minus the prescribed recovery rate, of the aggregate of

(1) that part of the reserve for the debts reported in the financial statements of the taxpayer for the year that is in respect of the amortized cost of the debts to the taxpayer at the end of the year, and

(2) the aggregate of all amounts included under section 92 in computing the taxpayer’s income for the year or a preceding taxation year, to the extent that such amounts reduced the part of the reserve referred to in subparagraph 1.

Reserve in
respect of
credit risks

“140.2 A taxpayer who is an insurer or whose ordinary business includes the lending of money may deduct in computing his income for a taxation year, as a reserve in respect of credit risks under guarantees, indemnities, letters of credit or other credit facilities, bankers’ acceptances, interest rate or currency swaps, foreign exchange or other future or option contracts, interest rate protection agreements, risk participations and other similar instruments or commitments issued, made or assumed by the taxpayer in the ordinary course of his business of insurance or the lending of money in favour of persons with whom he deals at arm’s length, an amount not exceeding the lesser of

(a) a reasonable amount as a reserve for credit risk losses of the taxpayer expected to arise after the end of the year in respect of such instruments or commitments, and

(b) a percentage, equal to 100 % minus the prescribed recovery rate, of the reserve for the losses referred to in paragraph a reported in the financial statements of the taxpayer for the year."

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

c. I-3,
s. 141,
replaced

84. (1) Section 141 of the said Act is replaced by the following section:

Bad debts

"141. A taxpayer may deduct in computing his income for a taxation year the aggregate of

(a) the debts owing to him that have been included by him in computing his income for the year or a preceding taxation year and that are established by him to have become bad debts in the year, and

(b) in the case of a taxpayer who is an insurer or whose ordinary business includes the lending of money, all amounts each of which is equal to that part, established by him to have become uncollectable in the year, of the amortized cost to him at the end of the year of a loan or lending asset made or acquired by him in the ordinary course of his business."

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

c. I-3,
s. 141.1,
added

85. (1) The said Act is amended by inserting, after section 141, the following section:

Deemed
acquisition
in the
ordinary
course of
business

"141.1 For the purposes of computing a deduction under sections 140 to 141 from the income of a taxpayer for a taxation year who is an insurer or whose ordinary business includes the lending of money, an instrument or commitment described in section 140.2 or a loan or lending asset acquired by the taxpayer from a person with whom he is not dealing at arm's length for an amount equal to its fair market value is deemed to have been acquired by the taxpayer in the ordinary course of his business of insurance or the lending of money where

(a) the person from whom the instrument or commitment or loan or lending asset is acquired carries on the business of insurance or the lending of money; and

(b) the instrument or commitment has been issued, made or assumed, or the loan or lending asset has been made or acquired, by the person in the ordinary course of his business of insurance or the lending of money.”

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

c. I-3,
s. 142.1,
added

86. (1) The said Act is amended by inserting, after section 142, the following section:

Bad debt
related to
the disposi-
tion of
intangible
capital
property

“142.1 Where a taxpayer establishes that an amount that was included in computing his eligible intangible capital amount by reason of subparagraph ii of paragraph *b* of section 107 in respect of a disposition by him of an intangible capital property has become a bad debt in a taxation year, the following rules apply:

(a) he shall deduct, in computing his income for the year, the amount by which

i. 3/4 of the aggregate of

(1) the aggregate of all amounts each of which is such an amount that is so established by him to have become a bad debt in the year, and

(2) the aggregate of all amounts each of which is such an amount that is so established by him to have become a bad debt in a preceding taxation year, exceeds

ii. the aggregate of

(1) all amounts each of which is an amount determined under subparagraph ii of paragraph *a* of section 105 in respect of the taxpayer for the year or a preceding taxation year, and in respect of which a deduction may reasonably be considered to have been claimed under Title VI.5 of Book IV, and

(2) all amounts deducted by the taxpayer under this section in preceding taxation years;

(b) the amount by which 3/4 of the aggregate determined for the year under subparagraph 1 of subparagraph i of paragraph *a* exceeds the excess determined for the year under paragraph *a* is deemed to be an allowable capital loss from a disposition of capital property by the taxpayer in the year.”

(2) This section applies in respect of dispositions of property occurring after 17 June 1987, other than dispositions occurring pursuant to the terms of an obligation entered into in writing before 18 June 1987. However, where section 142.1 of the Taxation Act, enacted by this section, applies in respect of dispositions occurring, in the case of a corporation, in a taxation year commencing before 1 July 1988 and, in any other case, in a fiscal period commencing before 1 January 1988, the references therein to "3/4" shall read as references to "one-half".

c. 1-3,
s. 147,
replaced

37. (1) Section 147 of the said Act is replaced by the following section:

Deduction
of certain
expenses on
issue or
sale

"147. Subject to section 147.1, a taxpayer may deduct such part of an amount that is not otherwise deductible in computing his income and that is an expense incurred in the year or a preceding taxation year in the course of an issuance or sale of a unit of a trust or, as the case may be, a share of the capital stock of a corporation, where the taxpayer is a unit trust or a corporation, as the case may be, or in the course of an issuance or sale, in the case of a partnership, of an interest in the partnership or, in the case of a syndicate, of a share in the syndicate."

(2) This section applies to expenses incurred after 31 December 1987 in respect of issuances or sales occurring after that date.

c. 1-8,
ss. 147.1,
147.2,
added

38. (1) The said Act is amended by inserting, after section 147, the following sections:

Restriction

"147.1 The amount deductible under section 147 shall not exceed the lesser of

(a) that proportion of 20 % of the expense that the number of days in the year is of 365, and

(b) the amount by which the amount of the expense exceeds the aggregate of all amounts each of which is an amount deductible, in respect of the expense, in computing the taxpayer's income for a preceding taxation year.

Dissolved
partnership

"147.2 For the purposes of sections 147 and 147.1, where a partnership has ceased to exist at any particular time in a fiscal period of the partnership,

(a) no amount may be deducted by the partnership under section 147 in computing its income for the fiscal period, and

(b) any person or partnership that was a member of the partnership immediately before that time may deduct, for a taxation year ending at or after that time, that proportion of the amount that would, but for this section, have been deductible under section 147 by the partnership in the fiscal period in the year had it continued to exist and had the partnership interest not been redeemed, acquired or cancelled, that the fair market value of such member's interest in the partnership immediately before that time is of the fair market value of all the interests in the partnership immediately before that time."

(2) This section applies to expenses incurred after 31 December 1987 in respect of issuances or sales occurring after that date.

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

89. (1) Section 157 of the said Act, amended by section 47 of chapter 5 of the statutes of 1989, is again amended by replacing paragraph *g.1* by the following paragraph:

Payment for
cancellation
of lease

"(g.1) an amount not otherwise deductible that was paid or that became payable by the taxpayer before the end of the year to a person for the cancellation of a lease of property of the taxpayer leased by him to that person, to the extent of the amount thereof or, in the case of capital property, $\frac{3}{4}$ of the amount thereof that was not deductible by him under paragraph *g* in computing his income for any preceding taxation year in any case where the property was not owned at the end of the year by the taxpayer or by a person with whom the taxpayer was not dealing at arm's length, and no part of the amount was deductible by the taxpayer under this paragraph in computing his income for any preceding taxation year;"

(2) This section applies to taxation years or fiscal periods ending after 31 December 1987. However, where paragraph *g.1* of section 157 of the Taxation Act, enacted by this section, applies to a taxpayer where the taxpayer is

(a) an individual or a partnership, for taxation years or fiscal periods ending after 31 December 1987 and before 1 January 1990, the reference in the said paragraph to " $\frac{3}{4}$ " shall read as a reference to " $\frac{2}{3}$ ";

(b) a corporation that is a Canadian-controlled private corporation throughout its taxation year, for such taxation years ending after 31 December 1987 and commencing before 1 January 1990, the reference in the said paragraph to " $\frac{3}{4}$ " shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of

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

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

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

(c) a corporation that is not a Canadian-controlled private corporation throughout its taxation year, for such taxation years ending after 31 December 1987 and commencing before 1 January 1990, the reference in the said paragraph to " $\frac{3}{4}$ " shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of

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

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

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

c. I-3,
s. 157.12,
added

90. The said Act is amended by inserting, after section 157.11, the following section:

Additional
deduction
respecting
the amount
of net
reserve
adjustment

"157.12 A taxpayer who is an insurer or whose ordinary business includes the lending of money may deduct in computing his income from a business for his first taxation year that commences after 17 June 1987 and ends after 31 December 1987 an amount not exceeding the amount of net reserve adjustment, within the meaning of the regulations, of the taxpayer."

c. I-3,
s. 163.2,
repealed

91. (1) Section 163.2 of the said Act is repealed.

(2) This section applies in respect of automobiles acquired after 17 June 1987, except automobiles acquired after that date in a fiscal period ending before 1 January 1988 or commencing before 18 June 1987 and ending after 31 December 1987.

c. I-3,
s. 164,
replaced

92. (1) Section 164 of the said Act is replaced by the following section:

Restriction
respecting
interest and
property
taxes
regarding
certain land

“164. Notwithstanding section 160, no amount shall be deducted by a taxpayer in computing his income for a particular taxation year in respect of an expense incurred by him in the year as, or in lieu of, full or partial payment of interest on debt relating to the acquisition of land or as, or in lieu of, full or partial payment of property taxes paid or payable by him in respect of land to a province or to a Canadian municipality, except to the extent of the amount determined in the second paragraph, unless, having regard to all the circumstances, including the cost to the taxpayer of the land in relation to his gross revenue therefrom for the particular year or any preceding taxation year, the land can reasonably be considered to have been, in the year,

(a) used in the course of a business carried on in the particular year by the taxpayer, other than a business in the ordinary course of which land is held primarily for the purposes of resale or development, or

(b) held primarily by the taxpayer for the purposes of gaining or producing income therefrom for the particular year.

Interpreta-
tion

The amount referred to in the first paragraph is equal to the aggregate of

(a) the amount by which the taxpayer's gross revenue from the land for the particular year exceeds the aggregate of all other amounts deducted in computing his income from the land for the year;

(b) where the taxpayer is a corporation whose principal business is the leasing, rental or sale, or the development for lease, rental or sale, or any combination thereof, of immovable property owned by it, to or for a person with whom it is dealing at arm's length, the corporation's base level deduction for the particular year.”

(2) This section applies from the taxation year 1988. However, where section 164 of the Taxation Act, enacted thereby, applies in respect of expenses incurred in respect of land that can reasonably be considered to have been held, but not used, in the course of a business carried on in the year by the taxpayer or land used in the course of a business in the ordinary course of which land is held primarily for the purposes of resale or development, the second paragraph of section 164 of the Taxation Act, enacted by this section, is, for taxation years ending before 1 January 1992, amended

(1) by replacing the period at the end of subparagraph *b* by a semicolon;

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

“(c) the product obtained by multiplying the amount by which the aggregate of the expenses described in the first paragraph and incurred by the taxpayer in the particular year exceeds the aggregate of the amounts determined under subparagraphs *a* and *b* by the percentage determined in the third paragraph.

Proportion

The percentage to which subparagraph *c* of the second paragraph refers is equal to the aggregate of

(a) that proportion of 100 % that the number of days in the particular year that are before 1 January 1988 is of the number of days in the particular year;

(b) that proportion of 80 % that the number of days in the particular year that are after 31 December 1987 but before 1 January 1989 is of the number of days in the particular year;

(c) that proportion of 60 % that the number of days in the particular year that are after 31 December 1988 but before 1 January 1990 is of the number of days in the particular year;

(d) that proportion of 40 % that the number of days in the particular year that are after 31 December 1989 but before 1 January 1991 is of the number of days in the particular year;

(e) that proportion of 20 % that the number of days in the particular year that are after 31 December 1990 but before 1 January 1992 is of the number of days in the particular year.”

c. I-3,
s. 165, am.

93. (1) Section 165 of the said Act is amended

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

“property
taxes”

“(b) the expression “property taxes” does not include an income or profits tax or a tax relating to the transfer of property; and”;

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

“interest
on debt
relating to
the acquisition of
land”

“(c) the expression “interest on debt relating to the acquisition of land” includes interest paid or payable in the year in respect of borrowed money that may reasonably be considered, having regard to all the circumstances.”;

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

“ii. to have been used to assist, directly or indirectly, any person with whom the taxpayer does not deal at arm’s length, a corporation

of which the taxpayer is a specified shareholder or a partnership of which the taxpayer's share of any income or loss is 10 % or more, to acquire land to be used or held by that person, corporation or partnership otherwise than as provided for in subparagraph *a* or *b* of the first paragraph of section 164, except where the assistance is in the form of a loan to that person, corporation or partnership and a reasonable rate of interest thereon is charged by the taxpayer."

(2) Paragraphs 1 and 2 of subsection 1 apply from the taxation year 1988.

(3) Paragraph 3 of subsection 1 applies to taxation years commencing after 30 April 1988.

c. I-3,
ss. 165.2-
165.5,
added

94. (1) The said Act is amended by inserting, after section 165.1, the following sections:

Base level
deduction of
a corporation

"165.2 For the purposes of this division, a corporation's base level deduction for a taxation year is equal to the amount that would be the amount of interest for the year, computed at the prescribed rate, in respect of a loan of \$1 000 000 outstanding throughout the year, unless the corporation is associated in the year with one or more other corporations in which case, subject to sections 165.3 to 165.5, its base level deduction for the year is nil.

Allocation
by agree-
ment
of the base
level deduc-
tion

"165.3 Notwithstanding section 165.2, where all of the corporations that are associated with each other in a taxation year have filed with the Minister, in prescribed form, an agreement whereby, for the purposes of this division, they allocate an amount to one or more of them for the taxation year and the amount or the aggregate of the amounts so allocated, as the case may be, does not exceed \$1 000 000, the base level deduction for each of the corporations for the year is equal to the base level deduction that would be computed under section 165.2 in respect of the corporation if the reference therein to an amount of \$1 000 000 were read as a reference to the amount so allocated to it.

Allocation
by the
Minister of
the base
level
deduction

"165.4 Where any of the corporations that are associated with each other in a taxation year has failed to file with the Minister an agreement as contemplated in section 165.3 within 30 days after notice in writing by the Minister has been forwarded to any of them that such an agreement is required for the purposes of any assessment of tax under this Part, the Minister shall, for the purposes of this division, allocate an amount to one or more of them for the taxation year, which amount or the aggregate of which amounts, as the case may be, shall

be equal to \$1 000 000 and, in any such case, the amount so allocated to any such corporation is deemed to be an amount allocated to the corporation pursuant to section 165.3.

Determina-
tion of the
base level
deduction
in certain
cases

“165.5 Notwithstanding any other provision of this division,

(a) where a corporation, in this section referred to as “the first corporation”, has more than one taxation year ending in the same calendar year and is associated in two or more of those taxation years with another corporation that has a taxation year ending in that calendar year, the base level deduction of the first corporation for each taxation year in which it is associated with the other corporation ending in that calendar year is, subject to paragraph *b*, an amount equal to its base level deduction for the first such taxation year determined without reference to paragraph *b*; and

(b) where a corporation has a taxation year that is less than 51 weeks, its base level deduction for the year is equal to that proportion of its base level deduction for the year, determined without reference to this paragraph, that the number of days in the year is of 365.”

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

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

95. (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, where the corporation is controlled by an insurance corporation not resident in Canada, 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 that insurance corporation when the amount outstanding at the particular time has, 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 in Canada, within the meaning of section 818.”

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

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

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

Limitation
on outlay or
expense

“175.1 (1) Notwithstanding any other provision of this Act, a taxpayer shall not, in computing his income for a taxation year from a business or property other than income from a business computed in accordance with the method authorized by section 194, make any

deduction in respect of an outlay or expense to the extent that it can reasonably be regarded as having been made or incurred as consideration for services to be rendered after the end of the year or for insurance in respect of a period after the end of the year other than an amount paid in respect of reinsurance by an insurer, or as interest, tax or taxes other than taxes imposed on insurance premiums, rent or royalty in respect of such a period."

(2) This section applies to taxation years commencing after 31 December 1988.

c. I-3,
s. 175.2, am. **97.** (1) Section 175.2 of the said Act is amended by replacing what precedes paragraph *a* by the following:

Limitation
on amount of
contribution
to annuity
contract or
pension plan **"175.2** Notwithstanding any other provision of this Part, a taxpayer shall not, in computing his income for a taxation year, deduct any amount under section 147, 160, 163 or 176 in respect of indebtedness incurred for the purpose of".

(2) This section applies in respect of amounts paid or payable after 30 June 1988.

c. I-3,
ss. 175.4-
175.7,
added **98.** (1) The said Act is amended by inserting, after Division XII of Chapter III of Title III of Book III of Part I, the following:

"DIVISION XII.1

"WORKSPACE IN HOME

Deduction
relating to
a workspace
in home **"175.4** Notwithstanding any other provision of this Act, an individual shall not, in computing his income from a business for a taxation year, deduct an amount in respect of an otherwise deductible amount for any part of a self-contained domestic establishment in which he resides except to the extent that the part is either

(a) his principal place of business, or

(b) used

i. exclusively for the purposes of earning income from a business, and

ii. on a regular and continuous basis for meeting clients, customers or patients of the individual in respect of the business.

Limitation
on deduction **"175.5** Where the conditions set out in paragraph *a* or *b* of section 175.4 are met in respect of any part of an establishment

referred to in the said section, the amount that may be deducted by the individual contemplated therein in respect of that part in computing his income from the business referred to therein for a taxation year shall not exceed his income from the business for the year, computed without reference to the amount.

Carry-over
of amount
not
deducted

“175.6 Any amount not deductible by an individual by reason only of section 175.5 in computing his income from a business for the preceding taxation year is deemed to be an amount otherwise deductible that, subject to sections 175.4 and 175.5, may be deducted by the individual in computing his income from the business for a taxation year.

“DIVISION XII.2

“SUPERFICIAL LOSSES

Loss not
deductible

“175.7 Subject to section 843.1 and notwithstanding any other provision of this Act, where a taxpayer who was resident in Canada at any time in a taxation year and whose ordinary business during that year included the lending of money, or who at any time in the year carried on a business of lending money in Canada has sustained a loss on a disposition of property used or held in that business that is a share, loan, bond, debenture, mortgage, note, hypothec, agreement of sale or any other indebtedness, other than a property that is a capital property of the taxpayer, no amount shall be deducted by him, in computing his income from that business for the year, in respect of the loss where

(a) during the period commencing 30 days before and ending 30 days after the disposition, the taxpayer or a person or partnership that does not deal at arm's length with the taxpayer acquired or agreed to acquire the same or identical substituted property, in this section referred to as the “substituted property”, and

(b) at the end of the period described in subparagraph *a*, the taxpayer, person or partnership, as the case may be, owned or had a right to acquire the substituted property.

Addition to
the cost of
the property

The amount of the loss referred to in the first paragraph shall be added in computing the cost of the substituted property to the taxpayer, person or partnership, as the case may be.”

(2) This section, where it enacts Division XII.1 of Chapter III of Title III of Book III of Part I of the Taxation Act, applies to fiscal periods commencing after 31 December 1987.

(3) This section, where it enacts Division XII.2 of Chapter III of Title III of Book III of Part I of the Taxation Act, applies to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987.

c. I-3,
s. 176, am.

99. (1) Section 176 of the said Act is amended by replacing the first paragraph by the following paragraph:

Deduction
of certain
borrowing
expenses

“176. Subject to section 176.1, a taxpayer may deduct such part of an amount that is not otherwise deductible in computing his income and that is an expense incurred by him in the year or a preceding taxation year in the course of borrowing money used by him to earn income from a business or property, other than money borrowed and used by the taxpayer to acquire property the income from which is exempt.”

(2) This section applies to expenses incurred after 31 December 1987 in respect of borrowings occurring after that date.

c. I-3,
ss. 176.1-
176.5,
added

100. (1) The said Act is amended by inserting, after section 176, the following sections:

Restriction

“176.1 The amount deductible under section 176 shall not exceed the lesser of

(a) that proportion of 20 % of the expense that the number of days in the year is of 365, and

(b) the amount by which the expense exceeds the aggregate of all amounts each of which is an amount deductible in respect of the expense in computing the taxpayer's income for a preceding taxation year.

Where debt
obligations
are settled

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

Interpreta-
tion

The property referred to in the first paragraph is a unit of a unit investment trust, an interest in a partnership, a share in a syndicate, a share in the capital stock of a corporation or a debt obligation.

Dissolved
partnership

"176.3 For the purposes of sections 176 to 176.2, where a partnership has ceased to exist at any particular time in a fiscal period of the partnership,

(a) no amount may be deducted by the partnership under section 176 in computing its income for that fiscal period, and

(b) any person or partnership that was a member of the partnership immediately before that time may deduct, for a taxation year ending at or after that time, that proportion of the amount that would, but for this section, have been deductible under section 176 by the partnership in the fiscal period ending in the year had it continued to exist and had the partnership interest not been redeemed, acquired or cancelled, that the fair market value of such member's interest in the partnership immediately before that time is of the fair market value of all the interests in the partnership immediately before that time.

Annual fees
related to
borrowings

"176.4 A taxpayer may deduct an amount payable by him, other than an amount referred to in section 176.5, as a registrar fee, transfer agent fee, standby charge, guarantee fee, filing fee, service fee or any similar fee, that may reasonably be considered to relate solely to the year and that relates to money borrowed by the taxpayer and used by him for the purpose of earning income from a business or property, other than money used by the taxpayer to acquire a property the income from which is exempt.

Restriction

"176.5 The amount to which section 176.4 refers is

(a) a payment that is contingent or dependent upon the use of or production from property,

(b) a payment that is computed by reference to revenue, profit, cash flow, commodity price or any other similar criterion, or

(c) a payment that is computed by reference to dividends paid or payable to shareholders of any class of shares of the capital stock of a corporation."

(2) This section applies to expenses incurred after 31 December 1987 in respect of borrowings occurring after that date.

c. 1-3,
s. 178,
repealed

101. (1) Section 178 of the said Act is repealed.

(2) This section applies in respect of amounts paid or payable after 30 June 1988.

c. I-3,
s. 179, am.

102. (1) Section 179 of the said Act is amended by replacing paragraph *b* of subsection 1 by the following paragraph:

“(b) in all other cases, the lesser of $\frac{3}{4}$ of the amount so paid and $\frac{3}{4}$ of the amount by which the lesser of the principal amount of the security and the aggregate of the amounts paid in the year or in any preceding taxation year in satisfaction of the principal amount thereof exceeds the amount for which it has been issued.”

(2) This section applies to taxation years or fiscal periods ending after 31 December 1987. However, where paragraph *b* of subsection 1 of section 179 of the Taxation Act, enacted by this section, applies to a taxpayer who is

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

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

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

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

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

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

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

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

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

c. I-3,
s. 183,
replaced

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

Loan to
repay
previous
loan

“183. For the purposes of this division and section 160, a loan used by a taxpayer to repay a previous loan or to pay an amount due for property contemplated in paragraph *b* of section 160 and in paragraph *b* of section 161 and previously acquired is deemed to be used for the purposes for which the previous loan was used or was deemed, under this section, to have been used, or to acquire property in respect of which such amount was so due, as the case may be.”

(2) This section applies in respect of amounts paid or payable after 30 June 1988.

c. I-3,
s. 189, am.

104. (1) Section 189 of the said Act is amended by replacing the first paragraph by the following paragraph:

Business
subsequen-
tly operated
by spouse or
controlled
corporation

“189. Where an individual has ceased to carry on a business which is thereafter carried on by his spouse or by a corporation controlled, directly or indirectly in any manner whatever, by the individual, section 188 shall read, in computing the income of such individual for the taxation year in which he so ceased to carry on the business, without reference to paragraph *a* and as if the expression “the time he so ceased to carry on the business” in paragraph *c* meant “the end of the taxation year in which he so ceased to carry on the business”.”

(2) This section applies to taxation years commencing after 31 December 1988.

c. I-3,
s. 191,
replaced

105. (1) Section 191 of the said Act, amended by section 21 of chapter 77 of the statutes of 1989, is replaced by the following section:

Applicability

“191. This division applies to a bank to which the Bank Act (Statutes of Canada) or the Quebec Savings Banks Act (Statutes of Canada) applies.”

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

c. I-3,
ss. 191.1-
191.4,
added

106. (1) The said Act is amended by inserting, after section 191, the following sections:

Amounts to
be included
by a bank

“191.1 A bank shall include in computing its income for its first taxation year that commences after 17 June 1987 and ends after 31

December 1987, referred to in sections 191.2 and 191.3 as the “first year”, the aggregate of

(a) all the specific provisions of the bank at the end of its preceding taxation year, as determined, or as would have been determined if such a determination had been required, under the Minister’s rules,

(b) all general provisions of the bank at the end of its preceding taxation year, as determined, or as would have been determined if such a determination had been required, under the Minister’s rules,

(c) the amount by which

i. the amount of the special provision for losses on transborder claims of the bank, as determined, or as would have been determined if such a determination had been required, under the Minister’s rules, that was deductible under section 191 in computing its income for its preceding taxation year, exceeds

ii. that part of the amount determined under subparagraph i that was a realized loss of the bank for its preceding taxation year, and

(d) the amount of the tax allowable appropriations account of the bank at the end of its preceding taxation year, as determined, or as would have been determined if such a determination had been required, under the Minister’s rules.

Deduction
of certain
amounts by
a bank

“191.2 A bank may deduct in computing its income for a taxation year an amount not exceeding the aggregate of

(a) that part, that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year, of the aggregate of the amounts of the five-year average loan loss experiences of the bank, as determined, or as would have been determined if such a determination had been required, under the Minister’s rules, for all taxation years before its first year,

(b) that part, that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year, of the aggregate of the amounts transferred by the bank to its tax allowable appropriations account, as permitted under the Minister’s rules, for all taxation years before its first year,

(c) that part, that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year, of the amount by which

i. the amount of the special provision for losses on transborder claims, as determined, or as would have been determined if such a determination had been required, under the Minister's rules, that was deductible by the bank under section 191 in computing its income for its last taxation year before its first year, exceeds

ii. that part of the amount determined under subparagraph i that was a realized loss of the bank for its last taxation year before its first year,

(d) where the tax allowable appropriations account of the bank at the end of its last taxation year before its first year, as determined, or as would have been determined if such a determination had been required, under the Minister's rules, is a negative amount, that part of such amount expressed as a positive number that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year, and

(e) that part, that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year, of the aggregate of the prescribed amounts calculated in respect of the bank for the purposes of the Minister's rules, or that would have been calculated if such a calculation had been required, for all taxation years before its first year.

Particular
rules

"191.3 For the purposes of computing the income of a bank, the following rules apply:

(a) for the purposes of paragraph *i* of section 87 and section 92.22, any amount that was recorded by the bank as a realized loss or a write-off of an asset and that was included by the bank in the calculation of an amount deductible under the Minister's rules, or would have been included therein if such a calculation had been required, for any taxation year before its first year is deemed to have been deducted under section 141 in computing its income for the year for which it was so recorded;

(b) for the purposes of section 92.22, any amount that was recorded by the bank as a recovery of a realized loss or a write-off of an asset and that was included by the bank in the calculation of an amount deductible under the Minister's rules, or would have been included if such a calculation had been required, for any taxation year before its first year is deemed to have been included under paragraph *i* of section 87 in computing its income for the year for which it was so recorded.

"Minister's
rules"

"191.4 In this division, "Minister's rules" means the "Rules for the Determination of the Appropriations for Contingencies of a Bank"

issued under the authority of the Minister of Finance of Canada pursuant to section 308 of the Bank Act (Statutes of Canada) for the purposes of subsections 1 and 2 of section 26 of the Income Tax Act (Statutes of Canada).”

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

c. 1-3,
s. 194,
replaced **107.** (1) Section 194 of the said Act is replaced by the following section:

Computation
of income of
a farming or
fishing
business **“194.** A taxpayer may elect to compute his income from a farming business or fishing business for a taxation year in accordance with the cash method, by which the income from the business is deemed equal to the aggregate determined in the second paragraph minus the aggregate determined in the third paragraph.

Computation The first aggregate referred to in the first paragraph in respect of a farming business or fishing business for a taxation year is equal to the total of the following amounts:

(a) all amounts received in the year or deemed by this Part to have been received in the year, in the course of carrying on the business described in the first paragraph, in payment of or on account of an amount that would be included in computing income from the business for that or any other taxation year if that income were not computed in accordance with this cash method;

(b) in respect of a farming business, the amount specified by the taxpayer in respect of the business in his fiscal return filed under this Part for the year, not exceeding the amount by which the fair market value, at the end of the year, of inventory owned by him at that time in connection with the business exceeds the amount determined under subparagraph c for the year;

(c) in respect of a farming business, the amount equal to the lesser of

i. the taxpayer’s loss from the business for the year, computed without reference to this subparagraph and to subparagraph b, and

ii. the value of inventory purchased by the taxpayer and owned by him in connection with the business at the end of the year;

(d) the aggregate of all amounts each of which is an amount included, by reason of sections 94 and 105, in computing the taxpayer’s income from the business for the year.

Computation

The second aggregate referred to in the first paragraph in respect of a farming business or fishing business for a taxation year is equal to the total of the following amounts:

(a) all amounts paid in the year or deemed by this Part to have been paid in the year, in the course of carrying on the business described in the first paragraph, in payment of or on account of an amount that would be deductible in computing the income from the business for that or any other taxation year if that income were not computed in accordance with this cash method;

(b) the aggregate of all amounts each of which is an amount included under subparagraph *b* or *c* of the second paragraph in computing the taxpayer's income from the business for the preceding taxation year;

(c) the aggregate of all amounts each of which is an amount deducted for the year under paragraph *a* or *b* of section 130 or section 130.1 or 188 in respect of the business.

Business
carried on
by several
persons

Where a farming business or fishing business is carried on by several persons, the election mentioned in the first paragraph shall not apply for any of these persons, in respect of the business, unless each of them makes the same election, in respect of the business."

(2) This section applies, subject to subsections 3 to 7, to taxation years commencing after 31 December 1988.

(3) For a taxation year of a taxpayer commencing after 31 December 1988 and before 1 January 1995, in respect of a farming business carried on by him before 1 January 1989, where the taxpayer so elects for the taxation year in his fiscal return filed under Part I of the Taxation Act for the year, subparagraph *c* of the second paragraph of section 194 of the said Act, enacted by subsection 1, shall read as follows:

"(c) the lesser of the taxpayer's loss from the business for the year, computed without reference to this subparagraph and to subparagraph *b*, and the aggregate of the value, at the end of the year, of inventory purchased by the taxpayer in taxation years commencing after 31 December 1988 and owned by him in connection with the business at the end of the year and the amount determined by dividing by 7 the product obtained by multiplying the following amounts:

i. the number of taxation years of the business, not exceeding 6, commencing after 31 December 1988;

ii. the value at the end of the year, determined in accordance with section 194.2, of inventory purchased by the taxpayer and owned by him in connection with the business at that time and at the beginning of the first taxation year of the business commencing after 31 December 1988, in this subparagraph referred to as the “particular year”, which value, in the case of inventory that is a specified animal within the meaning of section 194.2, shall be determined in accordance with this section as if the animal had been acquired in the particular year for a cash cost equal to

(1) in the case of an animal acquired in the taxation year preceding the particular year, its cash cost otherwise determined;

(2) in the case of an animal acquired in one of the two taxation years preceding the year referred to in subparagraph 1, 1/2 of its cash cost otherwise determined;

(3) in all other cases, 1/4 of its cash cost otherwise determined;”.

(4) For the purposes of determining the cash cost referred to in subparagraph ii of subparagraph c of the second paragraph of section 194 of the Taxation Act, enacted by subsection 3, where a taxpayer acquired a specified animal, within the meaning of section 194.2 of the said Act, from a person with whom he was not dealing at arm’s length, he is deemed to have acquired the animal at the time it was acquired by that person.

(5) For a taxation year of a taxpayer commencing after 31 December 1988 and before 1 January 1995, in respect of a farming business carried on by him before 1 January 1989, where the taxpayer does not make the election referred to in subsection 3, subparagraph c of the second paragraph of section 194 of the Taxation Act, enacted by subsection 1, shall read as follows:

“(c) the amount by which

i. the lesser of the taxpayer’s loss from the business for the year, computed without reference to this subparagraph and to subparagraph b, and the value, at the end of the year, determined in accordance with section 194.2, of inventory purchased by the taxpayer and owned by him at that time in connection with the business, which value, in the case of inventory that is a specified animal, within the meaning of section 194.2, acquired in any taxation year of the business commencing before 1 January 1989, shall be determined in accordance with section 194.2 as if the animal had been acquired in the first taxation year of the business commencing after 31 December 1988, in this subparagraph referred to as the “particular year”, for a cash cost equal to

(1) in the case of an animal acquired in the taxation year preceding the particular year, its cash cost otherwise determined;

(2) in the case of an animal acquired in one of the two taxation years preceding the year referred to in subparagraph 1, 1/2 of its cash cost otherwise determined;

(3) in all other cases, 1/4 of its cash cost otherwise determined; exceeds

ii. for taxation years commencing after 31 December 1988 and before 1 January 1990, \$15 000;

iii. for taxation years commencing after 31 December 1989 and before 1 January 1991, \$12 500;

iv. for taxation years commencing after 31 December 1990 and before 1 January 1992, \$10 000;

v. for taxation years commencing after 31 December 1991 and before 1 January 1993, \$7 500;

vi. for taxation years commencing after 31 December 1992 and before 1 January 1994, \$5 000; or

vii. for taxation years commencing after 31 December 1993 and before 1 January 1995, \$2 500;”.

(6) For the purposes of subparagraph i of subparagraph c of the second paragraph of section 194 of the Taxation Act, enacted by subsection 5, where a taxpayer acquired a specified animal, within the meaning of section 194.2 of the said Act, from a person with whom he was not dealing at arm's length, he is deemed to have acquired the animal at the time it was acquired by that person.

(7) For the purposes of subparagraphs ii to vii of subparagraph c of the second paragraph of section 194 of the Taxation Act, enacted by subsection 5, where a taxation year described in any of those subparagraphs is less than 51 weeks, the amount referred to therein in respect of that taxation year shall read as that proportion of the amount determined thereunder that the number of days in the year is of 365.

c. 1-3,
ss. 194.1-
194.3,
added

Inventory

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

“194.1 For the purposes of section 194, inventory owned by a taxpayer in connection with a farming business is property that would

be included as inventory of the business if the income from the farming business were not computed in accordance with the cash method described in the said section 194, and includes livestock, other than animals included in a taxpayer's basic herd within the meaning of paragraph *a* of section 202.

Value of
inventory

"194.2 For the purposes of subparagraph *c* of the second paragraph of section 194 and notwithstanding sections 83 to 85.6, inventory of a taxpayer in connection with a farming business shall be valued at any time at the lesser of the amount paid by the taxpayer at or before that time to acquire it, in this section and in section 194 referred to as the "cash cost", and its fair market value.

Exception

Notwithstanding the first paragraph, an animal, in this section and in section 194 referred to as a "specified animal", that is a horse or, where the taxpayer so elects in respect thereof, a bovine animal registered under the Livestock Pedigree Act (Statutes of Canada) shall be valued

(*a*) at any time in the taxation year in which the specified animal is acquired, at such amount as is designated by the taxpayer not exceeding its cash cost and not less than 70 % of that cost;

(*b*) at any time in any subsequent taxation year, at such amount as is designated by the taxpayer not exceeding its cash cost and not less than 70 % of its value determined under this section at the end of the preceding taxation year.

Taxation
year of
less than
51 weeks

"194.3 For each taxation year that is less than 51 weeks, the references to "70" in subparagraphs *a* and *b* of the second paragraph of section 194.2 shall read as references to the number determined by the formula

$$100 - \left(30 \times \frac{A}{365} \right).$$

Interpreta-
tion

For the purposes of the formula set forth in the first paragraph, *A* is the number of days in the taxation year referred to therein."

(2) This section applies to taxation years commencing after 31 December 1988.

c. 1-3,
s. 198,
replaced

109. (1) Section 198 of the said Act is replaced by the following section:

Cost of
clearing,
levelling

"198. A taxpayer may deduct in computing his income from a farming business for a taxation year any amount paid by him before

the end of the year for clearing land, levelling land or installing a land drainage system for the purposes of the business, to the extent that such amount has not been deducted in computing his income for a preceding taxation year."

(2) This section applies in respect of amounts paid after 31 December 1987. However, where the taxpayer claims a deduction under section 198 of the Taxation Act, enacted by this section, in respect of such an amount, in computing his income from a farming business for a fiscal period or taxation year that commences before 1 January 1989, in this subsection referred to as the "particular deduction", and the taxpayer computes his income from a farming business for that fiscal period or taxation year, as the case may be, under sections 194 to 197 of the said Act, notwithstanding such sections 194 to 197 and for the purposes of computing the taxpayer's income for that fiscal period or taxation year, the amount of the particular deduction shall be deducted under such sections in lieu of any other amount deductible under such latter sections in respect of amounts paid after 31 December 1987 to which section 198 of the said Act applies.

c. I-3,
s. 205, am.

110. (1) Section 205 of the said Act is amended by replacing subparagraph ii of paragraph a by the following subparagraph:

"ii. \$2 500 plus the lesser of \$6 250 and one-half of the amount by which the amount determined under subparagraph i exceeds \$2 500; and".

(2) This section applies to taxation years commencing after 31 December 1988.

c. I-3,
division,
repealed

111. (1) Division VII of Chapter V of Title III of Book III of Part I of the said Act is repealed.

(2) This section applies to taxation years or fiscal periods after the first taxation year or fiscal period that commences after 17 June 1987 and ends after 31 December 1987. However, where this section repeals sections 210 to 213 of the Taxation Act, it applies to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987.

c. I-3,
s. 231, am.

112. (1) Section 231 of the said Act is amended by replacing the first paragraph by the following paragraph:

"taxable
capital gain",
"allowable
capital loss",
"allowable
business
investment
loss"

"231. A taxable capital gain, an allowable capital loss or an allowable business investment loss is equal to 3/4 of the capital gain,

3/4 of the capital loss or 3/4 of the business investment loss, as the case may be, from the disposition of any property.”

(2) This section applies to taxation years or fiscal periods ending after 31 December 1987. However, where the first paragraph of section 231 of the Taxation Act, enacted by this section, applies to a taxpayer where the taxpayer is

(a) an individual or a partnership, for taxation years or fiscal periods ending after 31 December 1987 and before 1 January 1990, the reference therein to “3/4” shall read as a reference to “2/3”;

(b) a corporation that is a Canadian-controlled private corporation throughout its taxation year, for such taxation years ending after 31 December 1987 and commencing before 1 January 1990, the reference to “3/4” in that first paragraph shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of

i. that proportion of 1/2 that the number of days in the year that are before 1 January 1988 is of the number of days in the year;

ii. that proportion of 2/3 that the number of days in the year that are after 31 December 1987 but before 1 January 1990 is of the number of days in the year;

iii. that proportion of 3/4 that the number of days in the year that are after 31 December 1989 is of the number of days in the year;

(c) a corporation that is not a Canadian-controlled private corporation throughout its taxation year, for such taxation years ending after 31 December 1987 and commencing before 1 January 1990, the reference to “3/4” in that first paragraph shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of

i. that proportion of 1/2 that the number of days in the year that are before 1 July 1988 is of the number of days in the year;

ii. that proportion of 2/3 that the number of days in the year that are after 30 June 1988 but before 1 January 1990 is of the number of days in the year;

iii. that proportion of 3/4 that the number of days in the year that are after 31 December 1989 is of the number of days in the year.

c. 1-3,
s. 235,
replaced

113. (1) Section 235 of the said Act is replaced by the following section:

Restriction

“235. A taxpayer shall not claim the reserve contemplated in section 234 for a taxation year if, at the end of the year or at any time in the following taxation year, he is not resident in Canada or is exempt from tax under this Part, or if the purchaser of the property sold is a corporation that, immediately after the sale, was controlled, directly or indirectly in any manner whatever, by the taxpayer or by a person or group of persons by whom the taxpayer was so controlled, or that, if the taxpayer is a corporation, so controlled the latter.”

(2) This section applies in respect of dispositions made after 31 December 1988.

c. 1-3,
ss. 236.2,
236.3,
replaced

114. (1) Sections 236.2 and 236.3 of the said Act are replaced by the following sections:

Losses of a
corporation
in respect
of certain
shares

“236.2 Where the taxpayer is a corporation, its loss from the disposition at a particular time in a taxation year of shares of the capital stock of a corporation, in this section referred to as the “controlled corporation”, that was controlled, directly or indirectly in any manner whatever, by the taxpayer at any time in the year, is its loss otherwise determined from that disposition less the amount by which the aggregate of the amounts added under paragraph c.1 of section 255 to the cost to another corporation of property disposed of to that corporation by the controlled corporation that were added to the cost of such property during the period that the controlled corporation was controlled by the taxpayer and that may reasonably be considered to be attributable to losses on the property that accrued during that period, exceeds the aggregate of the amounts by which the taxpayer’s losses have been reduced by virtue of this section in respect of dispositions before that particular time of shares of the capital stock of the controlled corporation.

Acquisition
of control
of the
controlled
corporation

“236.3 For the purposes of section 236.2, where, in the case of an amalgamation within the meaning of section 544 of several corporations, a particular corporation was controlled, directly or indirectly in any manner whatever, by a predecessor corporation immediately before the amalgamation, and has become so controlled by the new corporation by virtue of the amalgamation, the new corporation is deemed to have acquired control of the particular corporation at the time control thereof was acquired by the predecessor corporation.”

(2) This section, where it enacts section 236.2 of the Taxation Act, applies in respect of dispositions made after 31 December 1988 and, where it enacts section 236.3 of the said Act, applies to taxation years commencing after 31 December 1988.

c. I-3,
s. 237,
replaced

115. (1) Section 237 of the said Act is replaced by the following section:

Capital
loss not
deductible

“237. The loss of a taxpayer from the disposition of property is not allowed as a deduction to the extent that such property or replacement property identical to it

(a) was acquired, within a period beginning 30 days before the time of disposition and ending 30 days after it, by the taxpayer, his spouse or a corporation controlled, directly or indirectly in any manner whatever, by the taxpayer; and

(b) was, at the end of the 30 days following the time of disposition, owned, in any manner whatever, by a person mentioned in paragraph a.”

(2) This section applies in respect of dispositions made after 31 December 1988.

c. I-3,
s. 239,
replaced

116. (1) Section 239 of the said Act is replaced by the following section:

Restrictions
respecting
deductible
capital
losses

“239. A loss incurred by a corporation shall not be allowed if it arises from the disposition of property to a person by whom it is controlled, directly or indirectly in any manner whatever, or to a corporation so controlled by such person.”

(2) This section applies in respect of dispositions made after 31 December 1988.

c. I-3,
s. 250,
replaced

117. (1) Section 250 of the said Act is replaced by the following section:

Intangible
capital
property of
a taxpayer

“250. For the purposes of this title, an intangible capital property of a taxpayer means any property a part of the proceeds of disposition of which would, if the taxpayer disposed of the property, be an amount determined under subparagraph ii of paragraph b of section 107 in respect of a business of the taxpayer.”

(2) This section has effect from 18 June 1987.

c. I-3,
s. 250.4,
added

118. (1) The said Act is amended by inserting, after section 250.3, the following section:

Shares
deemed
capital
property

“250.4 Where a person disposes of all or substantially all of the assets used in a qualified business carried on by him to a corporation for consideration that includes shares of the corporation, the shares are deemed to be capital property of that person.”

(2) This section applies in respect of dispositions occurring after 31 December 1987.

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

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

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

“(e) where the property is a share of the capital stock of a corporation and the taxpayer, after 31 December 1971, makes a contribution of capital to the corporation otherwise than by way of a loan, by way of a disposition of shares of a foreign affiliate of the taxpayer to which section 540 applies or, subject to section 256, by way of a disposition of property in respect of which the taxpayer and the corporation have made an election under section 518 or 529, that proportion of such contribution as cannot reasonably be regarded as a benefit conferred by the taxpayer on a person, other than the corporation, who was related to the taxpayer, that”;

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

“(e.1) where the property is a share of the capital stock of a corporation of which the taxpayer was, at any time, a specified shareholder, any expense incurred by the taxpayer in respect of land or a building of the corporation that was not deductible in computing the taxpayer's income for any taxation year commencing before that time by reason of section 135.4 or 164;”;

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

“i. an amount in respect of each fiscal period of the partnership ending after 31 December 1971 and before the particular time, equal to the taxpayer's share, other than a share under an agreement referred to in section 608, of the income of the partnership from any source for that fiscal period computed as if this Part were construed without reference to the words “one-half of” in section 105 as it applied to a fiscal period of the partnership ending before 1 April 1977 and the fractions set out in sections 107, 231 and 265, and as if paragraph *l*, sections 89 to 91, 144, 144.1, 145, 308 to 308.6 and 425, paragraph *j* of section 157, paragraph *b* of each of sections 200 and 201, paragraphs *g* and *h* of section 489, subsection 2 of section 497 and the provisions of the Act respecting the application of the Taxation Act (1972, chapter 24), in respect of income from the operation of new mines, did not exist;”;

(4) by replacing subparagraph *iv* of paragraph *i* by the following subparagraph:

“iv. where the taxpayer, after 31 December 1971, made a contribution of capital to the partnership otherwise than by way of a loan, that portion of such contribution as cannot reasonably be regarded as a benefit conferred on any other member of the partnership who was related to the taxpayer;”;

(5) by adding, after subparagraph x of paragraph i, the following subparagraph:

“xi. where the taxpayer’s share of any income or loss of the partnership was, at any time, 10 % or more, any expense incurred by the taxpayer in respect of land or a building of the partnership that was not deductible in computing the taxpayer’s income for any taxation year commencing before that time by reason of section 135.4 or 164;”;

(6) by inserting, after paragraph j.1, the following paragraph:

“(j.2) where the property is a unit in a mutual fund trust, any amount required by section 1121.3 to be added;”;

(7) by replacing paragraph k by the following paragraph:

“(k) where the property is land of the taxpayer, every amount paid after 31 December 1971 and before the particular time by the taxpayer or by another taxpayer in respect of whom the taxpayer was a person, corporation or partnership described in subparagraph ii of paragraph c of section 165, pursuant to a legal obligation to pay interest on debt relating to the acquisition of land or on an amount which he must pay for such land, or property taxes, except an income or profits tax or a tax relating to the transfer of property, paid by the taxpayer, with respect to such property, to a province or a Canadian municipality, to the extent that that amount was not deductible by reason of section 164 in computing his income from the land or from a business for any taxation year commencing before that time or, by reason of section 165, in computing the income of another taxpayer in respect of whom the taxpayer was a person, corporation or partnership described in subparagraph ii of paragraph c of section 165, where that amount was not included in the cost to that other taxpayer of any property other than by reason of paragraph e.1 or subparagraph xi of paragraph i;”.

(2) Paragraphs 1 and 4 of subsection 1 apply in respect of contributions of capital occurring after 30 June 1988 for the purposes of computing the adjusted base cost of property after that date.

(3) Paragraphs 2, 3, 5 and 6 of subsection 1 apply from the taxation year 1988.

(4) Paragraph 7 of subsection 1 applies from the taxation year 1988. However, where paragraph *k* of section 255 of the Taxation Act, enacted thereby, applies in respect of an expense incurred from the taxation year 1988, the reference to “or by another taxpayer in respect of whom the taxpayer was a person, corporation or partnership described in subparagraph ii of paragraph *c* of section 165, pursuant to a legal obligation to pay interest on debt relating to the acquisition of land” shall read as “pursuant to a legal obligation to pay interest on the borrowed money used to acquire the land”.

c. I-3,
s. 257, am.

120. (1) Section 257 of the said Act, amended by section 24 of chapter 77 of the statutes of 1989, is again amended

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

“(d) where the property is acquired after 31 December 1971, the aggregate of all amounts 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 income payable under the said Act and, unless otherwise prescribed, the amount by which any assistance that would be described in section 101 if such section applied to any capital property and that the taxpayer has received or is entitled to receive before the particular time for or in respect of that acquisition, exceeds the amount he has repaid before that time pursuant to an obligation to do so;”;

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

“i. an amount in respect of each fiscal period of the partnership ending after 31 December 1971 and before the particular time, equal to the taxpayer’s share, other than a share under an agreement referred to in section 608, of any loss of the partnership from any source for that fiscal period, computed as if this Part were construed without reference to the words “one-half of” in section 105, as it applied to each fiscal period of the partnership ending before 1 April 1977, and without reference to the fractions set out in sections 107 and 231 and as if sections 89 to 91, 144, 144.1, 145, 205 to 207, 235, 236.2 to 241, 264, 271, 273, 288, 293, 308 to 308.6, 425 and 744.1 and paragraph *j* of section 157, paragraphs *g* and *h* of section 489 and the second paragraph of section 741 did not exist, except to the extent that all or a portion of such a loss may reasonably be considered to have been included in the taxpayer’s limited partnership loss in respect of the partnership for his taxation year in which that fiscal period ended;”;

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

“x. any amount deductible by the taxpayer under section 147.2 or 176.3 in respect of the partnership for a taxation year of the taxpayer ending at or after that time;”;

(4) by replacing that part of paragraph *n* preceding subparagraph ii by the following:

“(n) where the property is a capital interest of the taxpayer in a trust, other than an interest in a personal trust acquired by him for no consideration or an interest in a trust described in subparagraph *a* or *b* of the third paragraph of section 647,

i. any amount, to the extent that it has become payable before 1 January 1988, paid to the taxpayer by the trust after 31 December 1971 and before the particular time as payment or distribution of capital, otherwise than as proceeds of disposition of the interest or part thereof;

i.1 any amount that has become payable by the trust to the taxpayer after 31 December 1987 and before the particular time in respect of the interest, otherwise than as proceeds of disposition of the interest or part thereof, except that portion of the amount

(1) that was included in computing the taxpayer's income under section 663,

(2) from which tax was deducted under Part XIII of the Income Tax Act (Statutes of Canada) by reason of paragraph *c* of subsection 1 of section 212 of the said Act, or

(3) where the trust was resident in Canada throughout its taxation year in which the amount became payable, that was designated by the trust to be payable to the beneficiary under section 667 or is equal to 1/3 of the amount designated by the trust to be payable to the beneficiary under section 668;”.

(2) Paragraphs 1 and 2 of subsection 1 apply from the taxation year 1988.

(3) Paragraph 3 of subsection 1 has effect from 1 January 1988.

(4) Paragraph 4 of subsection 1 applies to amounts that have become payable by a trust after 31 December 1987. However,

(a) where subparagraph 3 of subparagraph i.1 of paragraph *n* of section 257 of the Taxation Act, enacted by this section, applies in

respect of amounts payable by the trust before 1 January 1990, the reference therein to "1/3" shall read as a reference to "1/2";

(b) the said subparagraph i.1, enacted by this section, does not apply to that portion of an amount that has become payable in a taxation year of the trust ending before 1 January 1990 to a taxpayer by a trust, other than a unit trust, created before 2 October 1987 that may reasonably be considered to be out of an amount that has been deducted in computing the income or taxable income, as the case may be, of the trust for the year under section 130.1, 726.4.1 or 726.4.4 of the Taxation Act or the regulations made under paragraph *a* of section 130 or the first paragraph of section 360 of the said Act, if all of the following conditions are met:

i. that portion is designated by the trust to be payable to the taxpayer exclusively and does not exceed the proportion of the aggregate of amounts that the trust so designates to be payable to all beneficiaries for the year that the taxpayer's share of the income of the trust for the year computed without reference to this Act is of the income of the trust for the year computed in that manner;

ii. no beneficial interest in the trust is created before the end of the year and after 1 October 1987 otherwise than pursuant to the terms of a final prospectus, preliminary prospectus, registration statement, offering memorandum or notice filed before 2 October 1987 with a public authority in Canada, where such document was required to be so filed, in accordance with the applicable legislation, before trading in the securities can commence;

iii. there has not been a substantial increase in the indebtedness of the trust before the end of the year and after 1 October 1987, other than as a consequence of an agreement entered into in writing before 2 October 1987.

c. 1-3,
s. 259, am.

121. (1) Section 259 of the said Act is amended by replacing subparagraph ii of paragraph *b* by the following subparagraph:

"ii. in the case of identical properties that are bonds, debentures, bills or notes, or other similar obligations issued by a debtor, by the quotient obtained by dividing the aggregate of the principal amounts of all such properties immediately after the particular time by the principal amount of the identical property."

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

c. 1-3,
s. 260,
repealed

122. (1) Section 260 of the said Act is repealed.

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

c. 1-3,
s. 261,
replaced

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

Where
amounts de-
ductible
from adju-
sted cost
base exceed
those to
be added

“261. Where the aggregate of all amounts required by section 257, except paragraph *l* of that section, to be deducted in computing the adjusted cost base to a taxpayer of any property at any time in a taxation year exceeds the aggregate of the cost to him of the property determined for the purposes of computing the adjusted cost base to him of that property at that time, and of all amounts required by section 255 to be added to the cost to him of the property in computing the adjusted cost base to him of that property at that time, the amount of the excess is deemed to be a gain of the taxpayer for the year from the disposition of that property 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.”

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

c. 1-3,
s. 264.4,
am.

124. (1) Section 264.4 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) the amount by which the aggregate of the following amounts exceeds the aggregate of all amounts each of which is an amount deducted by the individual by reason of the fourth paragraph of section 236.1 in computing his business investment loss from the disposition of property in taxation years preceding the year, or from the disposition of property other than the particular property in the year:

i. the aggregate of all amounts each of which is twice the amount deducted by him under Title VI.5 of Book IV in computing his taxable income for a preceding taxation year ending before 1 January 1988;

ii. the aggregate of all amounts each of which is $\frac{3}{2}$ of the amount deducted by him under Title VI.5 of Book IV in computing his taxable income for a preceding taxation year ending after 31 December 1987 and before 1 January 1990;

iii. the aggregate of all amounts each of which is $\frac{4}{3}$ of the amount deducted by him under Title VI.5 of Book IV in computing his taxable income for a preceding taxation year ending after 31 December 1989.”

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

c. 1-3,
s. 264.5,
am.

125. (1) Section 264.5 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) the amount by which the aggregate of the following amounts exceeds the aggregate of all amounts each of which is an amount deducted by the trust by reason of the fourth paragraph of section 236.1 in computing its business investment loss from the disposition of property in taxation years preceding the year, or from the disposition of property other than the particular property in the year:

i. the aggregate of all amounts each of which is twice the amount designated by it under section 668.1 in respect of a beneficiary in its fiscal return for a preceding taxation year ending before 1 January 1988;

ii. the aggregate of all amounts each of which is $\frac{3}{2}$ of the amount designated by it under section 668.1 in respect of a beneficiary in its fiscal return for a preceding taxation year ending after 31 December 1987 and before 1 January 1990;

iii. the aggregate of all amounts each of which is $\frac{4}{3}$ of the amount designated by it under section 668.1 in respect of a beneficiary in its fiscal return for a preceding taxation year ending after 31 December 1989.”

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

c. 1-3,
s. 264.6,
added

126. (1) The said Act is amended by inserting, after section 264.5, the following:

“DIVISION III.3

“RECOVERY OF BAD DEBTS

Amount
deemed to
be
a taxable
capital gain

“**264.6** Where an amount is received in a taxation year on account of a debt in respect of which a deduction for bad debts under section 142.1 had been made in computing the taxpayer’s income for a preceding taxation year, the amount by which $\frac{3}{4}$ of the amount so received exceeds the amount determined under paragraph i.1 of section 87 in respect of the amount so received is deemed to be a taxable capital gain of the taxpayer from a disposition of capital property by him in the year and, for the purposes of Title VI.5 of Book IV, that property is deemed to have been disposed of by him in the year.”

(2) This section has effect from 18 June 1987.

c. 1-3,
s. 265,
replaced

127. (1) Section 265 of the said Act is replaced by the following section:

Taxable net
gain res-
pecting
precious
property

"265. The taxable net gain from the disposition of precious property for a taxpayer is equal to $\frac{3}{4}$ of his net gain for the year from the disposition of precious property that is personal-use property and is all or part of any print, etching, drawing, painting, sculpture or other similar work of art, jewellery, rare folio, rare manuscript or rare book, stamp, or coin."

(2) This section applies to taxation years or fiscal periods ending after 31 December 1987. However, where section 265 of the Taxation Act, enacted by this section, applies to a taxpayer who is

(a) an individual or a partnership, for taxation years or fiscal periods ending after 31 December 1987 and before 1 January 1990, the reference therein to " $\frac{3}{4}$ " shall read as a reference to " $\frac{2}{3}$ ";

(b) a corporation that is a Canadian-controlled private corporation throughout its taxation year, for such taxation years ending after 31 December 1987 and commencing before 1 January 1990, the reference to " $\frac{3}{4}$ " in the said section 265 shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of

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

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

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

(c) a corporation that is not a Canadian-controlled private corporation throughout its taxation year, for such taxation years ending after 31 December 1987 and commencing before 1 January 1990, the reference to " $\frac{3}{4}$ " in that section 265 shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of

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

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

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

c. I-3,
s. 270,
replaced

128. (1) Section 270 of the said Act is replaced by the following section:

Dispositions
subject to
warranties

"270. (1) For the purposes of this title, a taxpayer shall include, in computing the proceeds of disposition of any property, all amounts received or receivable by him as consideration for warranties given by him or conditional or contingent obligations contracted by him upon disposing of the property.

Amounts
spent
pursuant to
warranties

(2) If the taxpayer is thereafter bound to spend an amount in execution of any obligation contemplated in subsection 1 in the year of disposition or in a subsequent taxation year, he must consider such amount to be a loss from a disposition of capital property in computing his income for the year in which such amount is payable and, for the purposes of Title VI.5 of Book IV, the capital property is deemed to have been disposed of by the taxpayer in such year."

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

c. I-3,
s. 281,
replaced

129. (1) Section 281 of the said Act is replaced by the following section:

Change of
use of
property

"281. Where a taxpayer who acquired property for a purpose other than that of gaining or producing income, commences at a later time to use it for that purpose, or *vice versa*, he is deemed to have disposed of such property at such later time for proceeds equal to its fair market value at that time and to have immediately thereafter acquired it at a cost equal to its fair market value."

(2) This section applies in respect of changes in use of property occurring after 30 April 1988.

c. I-3,
s. 282,
replaced

130. (1) Section 282 of the said Act is replaced by the following section:

Property
used partly
to gain
income and
partly for
another
purpose

"282. Where property has, since its acquisition by a taxpayer, been regularly used in part for gaining or producing income and in part for some other purpose, the proportion of the property that the use made of it for such other purpose is of its whole use applies in computing the cost of the property or the proceeds of its disposition, as the case may be, to determine the part of such cost or proceeds assignable to that part of the property used for such other purpose."

(2) This section applies in respect of changes in use of property occurring after 30 April 1988.

c. I-3,
s. 285,
replaced

131. Section 285 of the said Act is replaced by the following section:

Restriction
in case of
principal
residence

"285. For the purposes of section 274 and subject to section 286, in no case may a property be deemed to be the principal residence of a taxpayer for a taxation year by virtue of an election made in accordance with section 284 if, by virtue of that section, the property would, but for this section, have been his principal residence for four or more previous taxation years."

c. I-3,
s. 286.1,
replaced

132. (1) Section 286.1 of the said Act is replaced by the following section:

Election to
use income
property as
principal
residence

"286.1 Where at any time a property that was acquired by a taxpayer for the purpose of gaining or producing income ceases to be used for that purpose and becomes the principal residence of the taxpayer, sections 281 to 283 shall not apply to deem the taxpayer to have disposed of the property at that time and to have reacquired it immediately thereafter if he so elects by notifying the Minister in writing on or before the earlier of the day that is 90 days after a demand by the Minister for an election is sent to him and 30 April following the year in which the property is actually disposed of by him."

(2) This section applies in respect of changes in use of property occurring after 30 April 1988.

c. I-3,
s. 286.2,
replaced

133. (1) Section 286.2 of the said Act is replaced by the following section:

Restriction
respecting
an election
to use
income
property as
principal
residence

"286.2 Notwithstanding section 286.1, an election described therein is deemed not to have been made in respect of a change in use of property if any deduction in respect of the property has been allowed for any taxation year ending after 31 December 1984 and on or before the change in use under regulations made under paragraph *a* of section 130 to the taxpayer, his spouse or a trust under which he or his spouse is a beneficiary."

(2) This section applies in respect of a deduction allowed under regulations made under paragraph *a* of section 130 of the Taxation Act for a taxation year commencing after 31 December 1987.

c. I-3,
s. 296, am.

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

Rules appli-
cable where
option
exercised

"296. Where an option to purchase or sell is exercised, for the purposes of computing the income of the vendor and the purchaser the granting of the option and the exercise thereof are deemed not to be dispositions of property, and the following rules apply:"

(2) This section applies in respect of dispositions of property under options exercised after 31 December 1987.

c. I-3,
s. 297, am. **135.** (1) Section 297 of the said Act is amended by replacing what precedes paragraph *a* by the following:

Option
exercised in
subsequent
taxation
year **“297.** Where an option granted by a taxpayer in a taxation year is exercised in a subsequent taxation year, the taxpayer may file an amended fiscal return to exclude from his income for the taxation year the amount received as consideration for the option:”

(2) This section applies in respect of dispositions of property under options exercised after 31 December 1987.

c. I-3,
s. 299, am. **136.** (1) Section 299 of the said Act is amended

(1) by striking out the word “or” preceding subparagraph *b* of the second paragraph and by replacing the period at the end of subparagraph *b* by the following: “; or”;

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

“(c) a corporation that ceased to carry on all of its businesses and that was insolvent during the year, if the following conditions are met:

i. at the end of the year, the fair market value of the share is nil and it is reasonable to expect that the corporation will be dissolved or wound up and will not recommence to carry on any business;

ii. the corporation did not commence to carry on any business in the year or within 24 months following the end of the year.”

(2) This section applies from the taxation year 1988 and, where the taxpayer so notifies the Minister in writing, to the taxation year 1985, 1986 or 1987.

c. I-3,
s. 306,
replaced **137.** (1) Section 306 of the said Act is replaced by the following section:

Cost of
right to
enforce
payment by
a trust **“306.** Notwithstanding section 302, where the beneficiary under a trust acquires a right to enforce payment by the trust of an amount out of a capital gain or the income of the trust, determined without reference to this Act, for the taxation year of the trust in which the right was acquired, he is deemed, for the purposes of this title, to acquire the right at a cost equal to that amount.”

(2) This section applies in respect of rights acquired in a trust from the taxation year 1988 of the trust.

c. I-3,
s. 308,
repealed

138. (1) Section 308 of the said Act is repealed.

(2) This section applies in respect of transactions entered into after 12 September 1988. However, it does not apply to transactions that are part of a series of transactions, determined without reference to section 1.5 of the Taxation Act, commencing before 13 September 1988 and completed before 1 January 1989.

c. I-3,
s. 308.6, am.

139. (1) Section 308.6 of the said Act is amended

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

“ii. the amount by which

(1) the amount by which the aggregate of the capital gains of the corporation for the period exceeds the aggregate of its taxable capital gains for the period, exceeds

(2) the amount by which the aggregate of the capital losses of the corporation for the period exceeds the aggregate of its allowable capital losses for the period; and

“iii. the aggregate of all amounts each of which is an amount in respect of a business carried on by the corporation at any time in the period, equal to the amount by which the aggregate of

(1) where the period commenced before the corporation's adjustment time, within the meaning of section 107.1, the amount by which the aggregate of the amounts determined in the second paragraph in respect of the business carried on by the corporation exceeds the aggregate of the amounts determined under the third paragraph in respect of the business carried on by the corporation;

(2) one-third of the aggregate of the amounts in respect of the business required to be included in the computation of the corporation's eligible intangible capital amount by reason of subparagraph ii of paragraph *b* of section 107, with respect to that portion of the period following its adjustment time; and

(3) one-third of all amounts received in the period that are required to be included in the computation of the corporation's income by reason of paragraph *i.1* of section 87; exceeds the aggregate of

(4) where the period commenced after the corporation's adjustment time, one-third of the eligible intangible capital amount of the corporation in respect of the business at the commencement of the period;

(5) one-quarter of the aggregate of the intangible capital amounts in respect of the business payable or disbursed by the corporation with respect to that portion of the period following its adjustment time and a portion of which was not included in subparagraph *c* of the third paragraph;

(6) where the period commenced before the corporation's adjustment time, one-half of the amount by which the aggregate of the amounts determined in respect of the corporation under subparagraphs *a* and *b* of the third paragraph exceeds the amount determined in respect of the corporation under the second paragraph; and

(7) one-third of all amounts deducted by the corporation under section 142.1 in respect of debts established by it to have become bad debts during the period;";

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

Computation "The first aggregate of the amounts in respect of a business referred to in subparagraph 1 of subparagraph iii of subparagraph *b* of the first paragraph, with regard to a corporation, is the aggregate of the amounts in respect of the business that are required to be included in the computation of the corporation's eligible intangible capital amount by reason of subparagraph ii of paragraph *b* of section 107, with respect to that portion of the period, contemplated in that subparagraph 1, preceding the corporation's adjustment time.

Computation The second aggregate of the amounts in respect of a business referred to in subparagraph 1 of subparagraph iii of subparagraph *b* of the first paragraph, with regard to a corporation, is the aggregate of

(a) the corporation's eligible intangible capital amount in respect of the business at the commencement of the period contemplated in such subparagraph 1;

(b) one-half of the aggregate of all intangible capital amounts in respect of the business payable or disbursed by the corporation during that portion of the period preceding the corporation's adjustment time;

(c) one-half of the aggregate of the intangible capital amounts in respect of the business payable or disbursed by the corporation during that portion of the period following the corporation's adjustment time, to the extent that the aggregate determined under the second paragraph exceeds the aggregate of the amounts determined under subparagraphs *b* and *c*."

(2) Paragraph 1 of subsection 1, where it replaces subparagraph ii of paragraph *b* of section 308.6 of the Taxation Act, applies from the taxation year 1988.

(3) Paragraph 1 of subsection 1, where it replaces subparagraph iii of paragraph *b* of section 308.6 of the Taxation Act, and paragraph 2 of subsection 1 have effect from 18 June 1987. However, with respect to amounts included in the computation of the corporation's income by reason of paragraph *i.1* of section 87 of the said Act or of section 142.1 of the said Act, as enacted by sections 47 and 86, respectively, of this Act, relating to an amount owing in respect of a disposition of property occurring in a taxation year of the corporation commencing before 1 July 1988, subparagraphs 3 and 7 of subparagraph iii of paragraph *b* of section 308.6 of the Taxation Act, as enacted by this section, shall read without reference to the words "one-third of".

c. I-3,
s. 311.1,
replaced

140. (1) Section 311.1 of the said Act is replaced by the following section:

Social
assistance
payment

"311.1 A taxpayer shall also include any amount received by him in the year as a social assistance payment based on a means, needs or income test, if such payment is made in respect of the taxpayer or of a person who, at the time of the payment, is related to the taxpayer or is a person in respect of whom any individual is entitled to receive a family allowance payment under the Family Allowances Act, 1973 (Statutes of Canada), or any amount received as such a payment by his spouse who resides with him at the time of the payment and whose income for the year, determined without taking account of this section or section 313.1, is less than his income so determined for the year, except where the taxpayer resides with his spouse at the time of the payment and the income of the taxpayer for the year, determined without taking account of this section or section 313.1, is less than his spouse's income so determined for the year."

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

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

141. (1) Section 312 of the said Act, amended by section 26 of chapter 77 of the statutes of 1989, is again amended by replacing paragraph *b.1* by the following paragraph:

Maintenance
allowance

“(b.1) an amount received pursuant to an order of a competent court, in accordance with a law of a province, as an allowance payable on a periodic basis for the maintenance of the taxpayer, his children or both the taxpayer and his children, if the following conditions are met:

i. the order was made after 10 February 1988 or before 11 February 1988 if, in the latter case, the taxpayer and the individual required to pay the amount jointly elected in writing before the end of the year to have this paragraph and paragraph a.1 of subsection 1 of section 336 apply in respect of the amount;

ii. at the time the amount was received and throughout the remainder of the year, the taxpayer was living apart from the individual required to pay the amount;

iii. the individual required to pay the amount is an individual of the opposite sex who cohabited with the taxpayer in a conjugal relationship before the date of the order, or is the father or mother of a child of the taxpayer;”.

(2) This section applies, in respect of orders made under the laws of Ontario, from the taxation year 1986 and, in any other case, from the taxation year 1988. However, where subparagraph i of paragraph b.1 of section 312 of the Taxation Act, enacted by this section, applies in respect of amounts received pursuant to orders made after 11 December 1979 under the laws of Ontario, the references therein to “10 February 1988” and “11 February 1988” shall read as references to “11 December 1979” and “12 December 1979”, respectively.

c. 1-3,
s. 312.1,
added

142. (1) The said Act is amended by inserting, after section 312, the following section:

“allowance”

“312.1 Subject to sections 313.0.1 to 313.0.3 and 336.1 to 336.3, for the purposes of paragraphs a to b.1 of section 312, the word “allowance” does not include any amount that is received by a taxpayer referred to in those paragraphs pursuant to a decree, order, judgment or written agreement made or entered into before 28 March 1986 or after 31 December 1987, unless the taxpayer has discretion as to the use of the amount.”

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

c. 1-3,
ss. 313-
313.0.2,
replaced

143. (1) Sections 313 to 313.0.2 of the said Act are replaced by the following sections:

Maintenance
payment

“313. Where, after 6 May 1974, a decree, order, judgment or written agreement described in any of paragraphs a to b.1 of section

312, or any variation thereof, has been made providing for the periodic payment of an amount to a taxpayer by a person who is his spouse or former spouse or, where the amount is paid pursuant to an order made by a competent tribunal after 10 February 1988 in accordance with the laws of a province, an individual of the opposite sex who cohabited with the taxpayer in a conjugal relationship before the date of the order, or is the father or mother of a child of the taxpayer, or for the benefit of the taxpayer, a child in his custody 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
payment

“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 pursuant to a decree, order or judgment of a competent tribunal or pursuant to a written agreement, in respect of an expense incurred in the year or the preceding taxation year for maintenance of a taxpayer who is that person’s spouse or former spouse or, where the amount is paid pursuant to an order made by a competent tribunal after 10 February 1988 in accordance with the laws of a province, an individual of the opposite sex who cohabited with the person in a conjugal relationship before the date of the order, or 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 that 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 pursuant thereto, 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 pursuant to an order made by a competent tribunal after 10 February 1988 in accordance with the laws of a province, an individual of the opposite sex who cohabited with the person in a conjugal relationship before

the date of the order, or is the father or mother of a child of the person, resides.”

(2) This section applies, in respect of orders made under the laws of Ontario, from the taxation year 1986 and, in any other case, from the taxation year 1988. However, where section 313 of the Taxation Act, enacted by this section, applies in respect of amounts received pursuant to orders made after 6 May 1974 under the laws of Ontario, the reference therein to “10 February 1988” shall read as a reference to “6 May 1974”.

c. I-3,
s. 313.0.3,
am.

144. (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 all amounts paid 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 pursuant to an order made by a competent tribunal after 10 February 1988 in accordance with the laws of a province, an individual of the opposite sex who cohabited with the person in a conjugal relationship before the date of the order, or 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) This section has effect from 13 September 1988.

c. I-3,
s. 313.0.4,
repealed

145. (1) Section 313.0.4 of the said Act is repealed.

(2) This section has effect from 13 September 1988.

c. I-3,
s. 315,
repealed

146. (1) Section 315 of the said Act is repealed.

(2) This section applies in respect of transactions entered into after 12 September 1988. However, it does not apply to transactions that are part of a series of transactions, determined without reference to section 1.5 of the Taxation Act, commencing before 13 September 1988 and completed before 1 January 1989.

c. I-3,
ss. 316.1-
316.3,
added

147. (1) The said Act is amended by inserting, after section 316, the following sections:

Property
loaned to
reduce or
avoid tax

“316.1 Where an individual loans property, directly or indirectly by means of a trust or by any other means, to another

individual with whom he is not dealing at arm's length and it may reasonably be considered that one of the main reasons for the loan is to reduce or avoid tax by causing income from the property or property substituted therefor to be included in the income of the other individual, any income for a taxation year from the property or from property substituted therefor that relates to the period or periods of the year throughout which the individual is resident in Canada and is not dealing at arm's length with the other individual is deemed to be income of the individual and not of the other individual, except to the extent that sections 462.1 to 462.4 otherwise apply.

Loans for
value

“316.2 Notwithstanding any other provision of this Act, section 316.1 does not apply to any income derived in a particular taxation year from loaned property or from property substituted therefor where the following conditions are met:

(a) interest is charged on the loan at a rate equal to or greater than the lesser of the following rates:

i. the prescribed rate that was in effect at the time the loan was made;

ii. the rate that would, having regard to all circumstances, have been agreed on, at the time the loan was made, between parties dealing with each other at arm's length;

(b) the amount of interest that is payable in respect of the particular year in respect of the loan is paid not later than 30 days after the end of that year;

(c) the amount of interest that was payable in respect of each taxation year preceding the particular year in respect of the loan was paid not later than 30 days after the end of each such year.

Loaned
property
used to
repay a
loan or to
reduce an
amount
payable

“316.3 For the purposes of section 316.1, where at any time an individual has loaned property, directly or indirectly by means of a trust or by any other means, to a person and the loaned property or property substituted therefor is used to repay, in whole or in part, a loan with which other property was acquired, or to reduce an amount payable for other property, there shall be included in computing the income from the loaned property, or from property substituted therefor, that is so used, that proportion of the income or loss, as the case may be, derived after that time from the other property or from property substituted therefor that the fair market value at that time of the loaned property, or property substituted therefor, that is so used is of the cost to that person of the other property at the time of its acquisition.

Restriction Notwithstanding the foregoing, nothing in this section shall affect the application of section 316.1 to any income or loss derived from the other property or from property substituted therefor."

(2) This section applies in respect of loans that are outstanding after 31 December 1988. However, in the case of loans that are outstanding on 1 January 1989, section 316.1 of the Taxation Act, enacted by this section, does not apply to income relating to any period ending before 1 January 1989.

c. 1-3,
s. 332.1, am.

148. (1) Section 332.1 of the said Act, amended by section 31 of chapter 77 of the statutes of 1989, is again amended by replacing paragraphs *a* to *g* by the following paragraphs:

"(a) the amount obtained by applying the stated percentage to 33 1/3 % of each amount that is described in section 332.1.1 and in respect of which the consideration given by him was a property, other than a share, depreciable property of a prescribed class or a Canadian resource property, or services the cost of which may reasonably be regarded as having been an expenditure that was added in computing the earned depletion base of the taxpayer or of a predecessor corporation where the taxpayer is a successor corporation to the predecessor;

"(b) the amount obtained by applying the stated percentage to 33 1/3 % of each amount determined under section 332.2 in respect of a disposition of depreciable property of a prescribed class, other than a disposition of such property that had been used by the taxpayer to any person with whom the taxpayer was not dealing at arm's length, of the taxpayer after 11 December 1979 and in the year, the capital cost of which was added in computing the earned depletion base of the taxpayer or of a person with whom he was not dealing at arm's length or in computing the earned depletion base of a predecessor corporation where the taxpayer is a successor corporation to the predecessor;

"(c) 33 1/3 % of each amount determined under section 332.2 in respect of a disposition of depreciable property of a prescribed class that is bituminous sands equipment, other than a disposition of such property that had been used by the taxpayer to any person with whom the taxpayer was not dealing at arm's length, of the taxpayer in the year but after 11 December 1979 and before 1 January 1990, the capital cost of which was added in computing the supplementary depletion base of the taxpayer or of a person with whom he was not dealing at arm's length or in computing the supplementary depletion base of a predecessor corporation where the taxpayer is a successor corporation to the predecessor;

“(d) 50 % of each amount determined under section 332.2 in respect of a disposition of depreciable property of a prescribed class that is enhanced recovery equipment, other than a disposition of such property that had been used by the taxpayer to any person with whom the taxpayer was not dealing at arm’s length, of the taxpayer in the year but after 11 December 1979 and before 1 January 1990, the capital cost of which was added in computing the supplementary depletion base of the taxpayer or of a person with whom he was not dealing at arm’s length or in computing the supplementary depletion base of a predecessor corporation where the taxpayer is a successor corporation to the predecessor;

“(e) 66 2/3 % of each amount that became receivable by him in the year but after 11 December 1979 and before 1 January 1990 and in respect of which the consideration given by the taxpayer was a property, other than a share or a Canadian resource property, or services the cost of which may reasonably be regarded as having been an expenditure in connection with an oil or gas well in respect of which an amount was included in computing the taxpayer’s exploration base or in computing the exploration base of a predecessor corporation where the taxpayer is a successor corporation to the predecessor;

“(f) the amount obtained by applying the stated percentage to 33 1/3 % of each amount that became receivable by him in the year but after 19 April 1983 and in respect of which the consideration given by him was a property, other than a share, depreciable property of a prescribed class or a Canadian resource property, or services the cost of which may reasonably be regarded as having been an expenditure that was added in computing the resource exploration base of the taxpayer or of a specified predecessor of the taxpayer;

“(g) the amount obtained by applying the stated percentage to 33 1/3 % of each amount that became receivable by him in the year but after 31 December 1986 and in respect of which the consideration given by him was a property, other than a share, depreciable property of a prescribed class or a Canadian resource property, or services the cost of which may reasonably be regarded as having been an expenditure that was added in computing the resource exploration base of the taxpayer or of a specified predecessor of the taxpayer.”

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

c. I-3,
s. 332.3, am. **149.** (1) Section 332.3 of the said Act, amended by section 32 of chapter 77 of the statutes of 1989, is again amended by inserting, before paragraph c, the following paragraph:

“stated
percentage”

“(b.1) “stated percentage” means

i. in respect of an amount described in paragraph *a*, *f* or *g* of section 332.1 that became receivable by a taxpayer,

(1) 100 % where the amount became receivable before 1 July 1988,

(2) 50 % where the amount became receivable after 30 June 1988 but before 1 January 1990, and

(3) 0 % where the amount became receivable after 31 December 1989; and

ii. in respect of the disposition described in paragraph *b* of section 332.1 of a depreciable property of a taxpayer,

(1) 100 % where the property was disposed of before 1 July 1988,

(2) 50 % where the property was disposed of after 30 June 1988 but before 1 January 1990, and

(3) 0 % where the property was disposed of after 31 December 1989;”.

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

c. 1-3,
s. 332.4,
added

150. (1) The said Act is amended by inserting, after section 332.3, the following section:

Variation
of stated
percentage

“332.4 Notwithstanding paragraph *b.1* of section 332.3, the stated percentage in respect of a particular amount that became receivable by a taxpayer within 60 days after 31 December 1989 and in respect of which the consideration given by him was a property or services shall be 50 % where the person to whom the consideration was given is a corporation that, on or before 31 December 1989, had issued, or had undertaken to issue, a flow-through share and that renounces under section 359.8, effective on 31 December 1989, an amount in respect of Canadian exploration expenses that includes an expenditure in respect of that particular amount.”

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

c. 1-3,
s. 336, am.

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

(1) by replacing paragraph *a.1* of subsection 1 by the following paragraph:

Maintenance
allowance

“(a.1) an amount paid by an individual in the year, pursuant to an order made by a competent tribunal in accordance with the laws

of a province, as an allowance payable on a periodic basis for the maintenance of the recipient thereof or a child of the recipient, or both at the same time, if the following conditions are met:

i. the order was made after 10 February 1988, or before 11 February 1988 if, in the latter case, the individual and the recipient jointly elected in writing before the end of the year to have this paragraph and paragraph *b.1* of section 312 apply in respect of the amount;

ii. at the time the amount was paid and throughout the remainder of the year, the individual was living apart from the recipient;

iii. the individual is an individual of the opposite sex who cohabited with the recipient in a conjugal relationship before the date of the order, or is the father or mother of a child of the recipient;”;

(2) by replacing subparagraph ii of paragraph *e* of subsection 1 by the following subparagraph:

“i. an assessment of any income tax deductible by him under section 772 or 772.1 or any interest or penalty with respect thereto;”;

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

Maintenance
payment

“(2) Where, after 6 May 1974, a decree, order, judgment or written agreement described in any of paragraphs *a* to *b* of subsection 1, or any variation thereof, has been made providing for the periodic payment of an amount by a taxpayer to a person who is his spouse or former spouse or, where the amount is paid pursuant to an order made by a competent tribunal after 10 February 1988 in accordance with the laws of a province, an individual of the opposite sex who cohabited with the taxpayer in a conjugal relationship before the date of the order, or is the father or mother of a child of the taxpayer, or for the benefit of the person or a child in his custody, 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 and 3 of subsection 1 apply, in respect of orders made under the laws of Ontario, from the taxation year 1986 and, in any other case, from the taxation year 1988. However, where subparagraph i of paragraph *a.1* of subsection 1 of section 336 of the Taxation Act, enacted by paragraph 1 of subsection 1, applies in respect of amounts paid pursuant to orders made after 11 December 1979 under the laws of Ontario, and subsection 2 of the said section 336, enacted by paragraph 2 of subsection 1, applies in respect of

amounts paid pursuant to orders made after 6 May 1974 under the laws of Ontario, the references in the said subparagraph i to "10 February 1988" and "11 February 1988" shall read as references to "11 December 1979" and "12 December 1979", respectively, and the reference in the said subsection 2 to "10 February 1988" shall read as a reference to "6 May 1974".

(3) Paragraph 2 of subsection 1 applies from the taxation year 1985.

c. 1-3,
s. 336.0.1,
added

152. (1) The said Act is amended by inserting, after section 336, the following section:

"allowance"

"336.0.1 Subject to sections 313.0.1 to 313.0.3 and 336.1 to 336.3, for the purposes of paragraphs *a* to *b* of subsection 1 of section 336, the word "allowance" does not include any amount that is paid by an individual referred to in those paragraphs pursuant to a decree, order, judgment or written agreement made or entered into before 28 March 1986 or after 31 December 1987, unless the recipient has discretion as to the use of the amount."

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

c. 1-3,
ss. 336.1,
336.2,
replaced

153. (1) Sections 336.1 and 336.2 of the said Act are replaced by the following sections:

Maintenance
payment

"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 pursuant to a decree, order or judgment of a competent tribunal or pursuant to 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 pursuant to an order made by a competent tribunal after 10 February 1988 in accordance with the laws of a province, an individual of the opposite sex who cohabited with the taxpayer in a conjugal relationship before the date of the order, or 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 pursuant thereto, 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 pursuant to an order made by a competent tribunal after 10 February 1988 in accordance with the laws of a province, an individual of the opposite sex who cohabited with the taxpayer in a conjugal relationship before the date of the order, or is the father or mother of a child of the taxpayer, resides.”

(2) This section applies, in respect of orders made under the laws of Ontario, from the taxation year 1986 and, in any other case, from the taxation year 1988.

c. I-3,
s. 336.3, am.

154. (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 pursuant to an order made by a competent tribunal after 10 February 1988 in accordance with the laws of a province, an individual of the opposite sex who cohabited with the taxpayer in a conjugal relationship before the date of the order, or 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) This section has effect from 13 September 1988.

c. I-3,
s. 337, am.

155. (1) Section 337 of the said Act is amended

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

Tuition fees
deductible

“337. An individual may deduct, in computing his income for a taxation year, the amount of any fees for his tuition paid in respect

of the year, where the individual was during the year an enrolled student and such fees have been paid”;

(2) by striking out subparagraphs ii and iii of paragraph *a*.

(2) This section applies from the taxation year 1988. However, for the purposes of section 337 of the Taxation Act, as amended by this section, the following rules apply:

(a) any part of an amount paid in the year 1987 that relates to a course taken by an individual in the year 1988 is, if the individual so elects, deemed to have been paid in the year 1988 and not to have been paid in the year 1987;

(b) any part of an amount paid or deemed to have been paid in the year 1988 shall not be deductible in computing an individual's income for the year 1988 to the extent that it was deducted in computing his income for the taxation year 1987.

c. I-3,
s. 338, am.

156. (1) Section 338 of the said Act is amended by replacing the first paragraph by the following paragraph:

Minimum
tuition fees
allowable

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

(2) This section applies from the taxation year 1988. However, for the purposes of section 338 of the Taxation Act, as amended by this section, the following rules apply:

(a) any part of an amount paid in the year 1987 that relates to a course taken by an individual in the year 1988 is, if the individual so elects, deemed to have been paid in the year 1988 and not to have been paid in the year 1987;

(b) any part of an amount paid or deemed to have been paid in the year 1988 shall not be deductible in computing an individual's income for the year 1988 to the extent that it was deducted in computing his income for the taxation year 1987.

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

157. (1) Section 359.8 of the said Act is amended by replacing paragraph *a* by the following paragraph:

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

(2) This section applies in respect of expenses made after 31 December 1987. However, a corporation that renounced an amount under section 359.8 of the Taxation Act on or before 13 October 1988 in respect of oil or gas expenses is deemed to have renounced the amount within 90 days after 31 December 1987.

c. 1-3,
ss. 359.12.1,
359.12.2,
added

158. (1) The said Act is amended by inserting, after section 359.12, the following sections:

Late filing

“359.12.1 A corporation or partnership may file with the Minister a document referred to in section 359.10, 359.11 or 359.12 after the day on or before which the document is required to be filed under the applicable section, if it is filed within 90 days after that day and if the corporation or partnership, as the case may be, pays to the Minister at the time of filing the penalty prescribed in section 359.12.2 in respect of the late filing.

Presumption

The document filed in accordance with the first paragraph is deemed to have been filed with the Minister on the day on or before which it was required to be filed under section 359.10, 359.11 or 359.12, as the case may be.

Penalty

“359.12.2 For the purposes of section 359.12.1, the penalty in respect of the late filing of a document referred to in section 359.10, 359.11 or 359.12 is equal to the lesser of \$15 000 and 0,25 % of the maximum amount in respect of the Canadian exploration expenses, Canadian development expenses and Canadian oil and gas property expenses renounced, to be renounced, attributed or to be attributed as set out in the document.”

(2) This section has effect from 20 March 1987. However, where the document referred to in section 359.10, 359.11 or 359.12 of the Taxation Act is filed before 14 April 1991, section 359.12.1 of the said Act, enacted by this section, shall read without reference to the words “, if it is filed within 90 days after that day and if the corporation or partnership, as the case may be, pays to the Minister at the time of filing the penalty prescribed in section 359.12.2 in respect of the late filing” in the first paragraph. In addition, where a similar document that is required to be filed by a corporation or partnership, as the case may be, under subsection 12.68, 12.69 or 12.7 of section 66 of the Income Tax Act (Statutes of Canada) has been filed by it with the Minister of National Revenue pursuant to subsection 12.74 of section 66 of the said Act before 14 April 1991, the document required under section 359.10, 359.11 or 359.12, as the case may be, of the Taxation

Act is deemed to have been filed by it with the Minister of Revenue on the day on or before which it was required to be filed under the applicable section.

c. I-3,
s. 372, am. **159.** (1) Section 372 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) if, in the said paragraph *d*,

i. the words “subject to section 418.37,” were added immediately before the words “the share”;

ii. the words “association,” “or syndicate” and “or partner” were disregarded;

iii. the words “one of their fiscal periods” were read as “a fiscal period thereof”; and”.

(2) This section has effect from 18 June 1987.

c. I-3,
s. 384, am. **160.** (1) Section 384 of the said Act is amended by replacing what precedes paragraph *a* by the following:

Where
control of
a corpora-
tion is
acquired
after
31 March
1977

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

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

c. I-3,
s. 395, am. **161.** (1) Section 395 of the said Act is amended

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

“iv. the certificate referred to in clause D of subparagraph ii.1 of paragraph *a* of subsection 6 of section 66.1 of the Income Tax Act (Statutes of Canada) in respect of a well has been filed with the Minister, in respect of the well, on or before the day that is 6 months after the end of the taxation year of the taxpayer in which the drilling of the well has commenced;”;

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

“(d) subject to section 438.37, his share of the expenses described in paragraphs *a* to *b.1*, *c* and *c.1* incurred by a partnership in a fiscal

period thereof, if he was a member thereof at the end of that period; or”.

(2) Paragraph 1 of subsection 1 has effect from 1 April 1987. However, a certificate referred to in subparagraph iv of paragraph b.1 of section 395 of the Taxation Act, as enacted by the said paragraph 1, in respect of a well, that is filed with the Minister of Revenue on or before 11 January 1989 is deemed to have been filed on or before the day that is 6 months after the end of the taxation year of the taxpayer in which the drilling of the well to which the certificate relates was commenced.

(3) Paragraph 2 of subsection 1 has effect from 18 June 1987.

c. I-3,
s. 395.1,
added

162. (1) The said Act is amended by inserting, after section 395, the following section:

Certificate
ceasing to
be valid

“395.1 For the purposes of subparagraph iv of paragraph b.1 of section 395, a certificate in respect of an oil or gas well issued by the Minister of Energy, Mines and Resources of Canada is deemed never to have been issued and never to have been filed with the Minister if it is deemed, under subsection 10 of section 66.1 of the Income Tax Act (Statutes of Canada), never to have been so issued and never to have been filed with the Minister of National Revenue.”

(2) This section has effect from 1 April 1987.

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

163. (1) Section 399 of the said Act, amended by section 41 of chapter 77 of the statutes of 1989, is again amended by replacing paragraph *g* by the following paragraph:

“(g) that portion of the aggregate of all amounts deducted by the taxpayer under subsection 5 or 6 of section 127 of the Income Tax Act (Statutes of Canada) for a taxation year ending before that time that may reasonably be attributed to a qualified Canadian exploration expenditure, within the meaning assigned by subsection 9 of section 127 of the said Act, made in a preceding taxation year;”.

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

c. I-3,
s. 408, am.

164. (1) Section 408 of the said Act is amended

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

“(b.1) any expense incurred by him after 31 December 1987, other than an amount included in the capital cost of a depreciable property,

i. in sinking or excavating a mine shaft, main haulage way or similar underground work designed for continuing use, for a mine in a mineral resource in Canada built or excavated after the mine came into production, or

ii. in extending any such shaft, haulage way or work;”;

(2) 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; or”.

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

(3) Paragraph 2 of subsection 1 has effect from 18 June 1987.

c. I-3,
s. 418.2,
am.

165. (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 in a fiscal period thereof by a partnership of which he was a member at the end of that fiscal period; or”.

(2) This section has effect from 18 June 1987.

c. I-3,
ss. 418.37-
418.39,
added

166. (1) The said Act is amended by inserting, after section 418.36, the following:

“DIVISION IV.3

“AT-RISK AMOUNT

At-risk
amount

“418.37 Where a taxpayer is a limited partner of a partnership at the end of a fiscal period of the partnership, the excess amount described in the second paragraph shall reduce, first, the taxpayer’s share of the Canadian oil and gas property expenses, then, his share of Canadian development expenses, then, his share of Canadian exploration expenses, and then, his share of foreign exploration and development expenses, incurred by the partnership in the fiscal period.

Computation
of the
excess
amount

The excess amount referred to in the first paragraph is the amount by which

(a) the aggregate of all amounts each of which is the taxpayer's share of each class of expenses described in the first paragraph incurred by the partnership in the fiscal period referred to therein, computed without reference to this section, exceeds

(b) the amount by which the at-risk amount of the taxpayer in respect of his partnership interest at the end of the fiscal period exceeds the aggregate of the following amounts:

i. that portion of the amount determined in respect of the partnership that is required by subsection 8 of section 127 of the Income Tax Act (Statutes of Canada) to be added in computing the investment tax credit of the taxpayer in respect of the fiscal period, within the meaning assigned to that expression by the said Act for the purposes of the said subsection;

ii. the taxpayer's share of any losses of the partnership for the fiscal period from a farming business.

Determina-
tion of the
taxpayer's
share

For the purposes of this chapter, subparagraph ii of paragraph 1 of section 257, sections 600.1, 600.2 and 613.1 and Title VII of Book IV, but not for the purposes of this section, the taxpayer's share of each class of expenses described in the first paragraph incurred by the partnership in the fiscal period referred to therein is deemed to be equal to the amount by which the taxpayer's share of that class of expenses exceeds that portion of the excess amount determined in the second paragraph that, under the first paragraph, reduced that class of expenses.

Expenses
incurred in
the follow-
ing fiscal
period

"418.38 For the purposes of the second paragraph of section 418.37, the amount by which the taxpayer's share of a class of expenses incurred by a partnership is reduced under the first paragraph of the said section in respect of a fiscal period of the partnership shall be added to the taxpayer's share, otherwise determined, of that class of expenses incurred by the partnership in the following fiscal period of the partnership.

Interpreta-
tion

"418.39 In this division,

(a) the expressions "at-risk amount" of a taxpayer in respect of his partnership interest and "limited partner" of a partnership have the meaning assigned by sections 613.2 and 613.6, respectively;

(b) a reference to a taxpayer who is a member of a particular partnership shall include a reference to another partnership that is a member of the particular partnership.

Exception

For the purposes of the definition of the expression "limited partner" of a partnership in subparagraph *a* of the first paragraph, the definition of "exempt interest" in sections 613.7 and 613.8 shall read as if the references therein to "25 February 1986", "26 February 1986", "1 January 1987", "12 June 1986" and "final prospectus, preliminary prospectus, registration statement" were references to "17 June 1987", "18 June 1987", "1 January 1988", "18 June 1987" and "final prospectus, preliminary prospectus, registration statement, offering memorandum or notice that is required to be filed before any distribution of securities may commence", respectively."

(2) This section applies to taxation years ending after 17 June 1987.

c. 1-3,
s. 421,
replaced

167. (1) Section 421 of the said Act is replaced by the following section:

Amount
regarded as
partial con-
sideration
for the
disposition
of property
or the
provision of
services

"421. Where an amount received or receivable from a person can reasonably be regarded as being in part the consideration for the disposition of a particular property of a taxpayer or as being in part consideration for the provision of particular services by a taxpayer, the following rules apply:

(a) the part of the amount that can reasonably be regarded as being the consideration for the disposition is deemed to be proceeds of disposition of the particular property, irrespective of the form or legal effect of the contract or agreement, and the person to whom the property was disposed of is deemed to have acquired it at a cost equal to that part;

(b) the part of the amount that can reasonably be regarded as being consideration for the provision of particular services is deemed to be an amount received or receivable by the taxpayer in respect of those services, irrespective of the form or legal effect of the contract or agreement, and that part is deemed to be an amount paid or payable to the taxpayer by the person to whom the services were rendered in respect of those services."

(2) This section applies in respect of amounts received or receivable from 30 June 1988 otherwise than pursuant to agreements entered into in writing before 1 May 1988.

c. 1-3,
ss. 421.1-
421.7,
added

168. (1) The said Act is amended by inserting, after section 421, the following:

“CHAPTER I.1

“DEDUCTION OF CERTAIN EXPENSES

“DIVISION I

“EXPENSES FOR FOOD, BEVERAGES AND ENTERTAINMENT

Deemed
amount in
respect of
expenses
for food,
beverages
and enter-
tainment

“421.1 For the purposes of this Part, except sections 347 to 356.0.1 and 752.0.11 to 752.0.13.3, an amount paid or payable in respect of food, beverages or entertainment consumed or enjoyed by a person is deemed to be equal to 80% of the lesser of

- (a) the amount paid or payable in respect thereof, and
- (b) an amount in respect thereof that would be reasonable in the circumstances.

Exceptions

“421.2 Section 421.1 does not apply to an amount paid or payable by a person in respect of the consumption of food or beverages or the enjoyment of entertainment, where the amount

(a) is paid or payable for food, beverages or entertainment provided for, or in the expectation of, compensation in the ordinary course of a business carried on by that person of providing the food, beverages or entertainment for compensation;

(b) relates to a fund-raising event the primary purpose of which is to benefit a registered charity;

(c) is an amount for which the person is compensated and the amount of the compensation is reasonable and specifically identified in writing to the person paying the compensation;

(d) is an amount required to be included in computing the income of an employee of the person or would be so required but for paragraph b of subsection 1 of section 42; or

(e) is incurred by the person for food, beverages or entertainment generally available to all employees of the person at a particular location.

Fees for
conventions

“421.3 For the purposes of sections 421.1 and 421.2, where a fee paid or payable for a conference, convention, seminar or similar event entitles the participant to food, beverages or entertainment, other than incidental beverages and refreshments made available during the course of meetings or receptions at the event, and a reasonable part of the fee, determined on the basis of the cost of

providing the food, beverages or entertainment, is not identified in the account for the fee as compensation for the food, beverages or entertainment, an amount of \$50 or such other amount as may be prescribed is deemed to be the amount paid or payable in respect of food, beverages or entertainment for each day of the event on which food, beverages or entertainment is provided.

Presumption For the purposes of this Part, the fee for the event is deemed to be equal to the expenses incurred minus the amount deemed under the first paragraph to be the amount paid or payable for the food, beverages or entertainment.

Interpretation “**421.4** For the purposes of this division,

(a) no amount paid or payable for travel on an airplane, a train or a bus shall be considered to be an amount paid or payable in respect of food, beverages or entertainment consumed or enjoyed by a person while travelling thereon;

(b) the expression “entertainment” includes amusement and recreation.

“DIVISION II

“EXPENSES RELATED TO PASSENGER VEHICLES

Interest on a loan to purchase a passenger vehicle “**421.5** For the purposes of this Part, any interest paid or payable by a person on a loan used to purchase a passenger vehicle or on an amount paid or payable for such purchase is deemed, in computing the income of the person for a taxation year, to be the lesser of the amount paid or payable and the amount equal to that determined by the formula

$$\frac{A}{30} \times B.$$

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

(a) A is \$250 or such other amount as may be prescribed;

(b) B is the number of days in the year in respect of which the interest is paid or payable.

Limitation on the cost of leasing a passenger vehicle “**421.6** Notwithstanding any other provision of this Part, where a taxpayer leases a passenger vehicle from a lessor in a taxation year and an amount may be deducted in respect of the vehicle in computing the taxpayer’s income for the year, for the purposes of determining

the amount that may be so deducted, the cost to the taxpayer of leasing the vehicle shall not exceed the lesser of the amounts determined by the following formulas:

$$a) \left(\frac{A \times B}{30} \right) - C - D - E;$$

$$b) \left(\frac{F \times G}{.85 H} \right) - I - J.$$

Interpreta-
tion

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

(a) A is \$600 or such other amount as may be prescribed;

(b) B is the number of days before the end of the year during which the vehicle was leased by the taxpayer from the lessor;

(c) C is the aggregate of all amounts deducted in computing the taxpayer's income for preceding taxation years in respect of the lease of the vehicle;

(d) D is the amount of interest that would be earned on that part of the total of all refundable amounts paid by or on behalf of the taxpayer in respect of the lease that exceeds \$1 000 if interest were

i. payable on the refundable amounts at the prescribed rate that would be applicable if the amounts were amounts payable under this Part;

ii. computed for the period preceding the end of the year during which the refundable amounts were outstanding;

(e) E is the aggregate of all reimbursements receivable by the taxpayer in respect of the lease of the vehicle before the end of the year;

(f) F is the aggregate of the lease charges payable to the lessor by the taxpayer for the lease of the vehicle during the year;

(g) G is \$20 000 or such other amount as may be prescribed;

(h) H is the greater of

i. \$23 529 or such other amount as may be prescribed;

ii. the aggregate of the manufacturer's suggested retail price for the vehicle and the provincial sales tax, if any, that would have been payable by a purchaser of the vehicle if it had been purchased at the time the first contract of lease of the vehicle was entered into at the

manufacturer's suggested retail price for the vehicle and in the province under the laws of which the vehicle was registered for the greatest part of the year;

(i) I is the amount of interest that would be earned on that part of the total of all refundable amounts paid by or on behalf of the taxpayer in respect of the lease that exceeds \$1 000 if interest were

i. payable on the refundable amounts at the prescribed rate that would be applicable if the amounts were amounts payable under this Part;

ii. computed for the period in the year during which the refundable amounts are outstanding;

(j) J is the aggregate of all reimbursements receivable by the taxpayer in respect of the lease of the vehicle during the year.

More than
one owner
or lessor of
a motor
vehicle

"421.7 Where a person owns or leases a motor vehicle jointly with one or more other persons, the reference in paragraphs *d.3* and *d.4* of section 99 to the amount of \$20 000, in section 421.5 to the amount of \$250 and in section 421.6 to the amounts of \$600, \$20 000 and \$23 529 shall read as a reference to that proportion of each of those amounts or such other amounts as may be prescribed for the purposes thereof that the fair market value of his interest in the vehicle is of the fair market value of the interests in the vehicle of all such persons."

(2) This section, where it enacts Division I of Chapter I.1 of Title VII of Book III of Part I of the Taxation Act, except section 421.3 of the said Act, applies in respect of amounts incurred after 17 June 1987 in respect of food or beverages consumed and entertainment enjoyed by a person after 31 December 1987.

(3) This section, where it enacts section 421.3 of the Taxation Act, applies in respect of amounts incurred after 30 June 1988.

(4) This section, where it enacts Division II of Chapter I.1 of Title VII of Book III of Part I of the Taxation Act, applies to taxation years or fiscal periods commencing after 17 June 1987 and ending after 31 December 1987. However, subparagraphs *b* to *e* of the second paragraph of section 421.6 of the said Act, enacted by this section, shall, in respect of a vehicle leased pursuant to a lease entered into, extended or renewed after 17 June 1987 and in respect of which an amount is claimed as a deduction under section 64.1, 133.1 or 133.2 of the said Act for a fiscal period or a taxation year ending between 17 June 1987 and 1 January 1988, read as follows:

“(b) B is the number of days after the end of the last fiscal period or taxation year ending before 1 January 1988, and before the end of the year during which the vehicle was leased by the taxpayer from the lessor;

“(c) C is the aggregate of all amounts deducted in computing the taxpayer’s income for preceding taxation years in respect of the lease of the vehicle, other than amounts so deducted for fiscal periods or taxation years ending before 1 January 1988;

“(d) D is the amount of interest that would be earned on that part of the total of all refundable amounts paid by or on behalf of the taxpayer in respect of the lease that exceeds \$1 000 if interest were

i. payable on the refundable amounts at the prescribed rate that would be applicable if the amounts were amounts payable under this Part;

ii. computed for the period that commences after the end of the last fiscal period or taxation year ending before 1 January 1988 and that precedes the end of the year during which the refundable amounts were outstanding;

“(e) E is the aggregate of all reimbursements receivable by the taxpayer in respect of the lease of the vehicle before the end of the year and after the end of the last fiscal period or taxation year ending before 1 January 1988;”.

c. I-3,
s. 427.5, am. **169.** (1) Section 427.5 of the said Act, enacted by section 51 of chapter 77 of the statutes of 1989, is amended by replacing paragraph *b* by the following paragraph:

“(b) in the case of any intangible capital property, an amount equal to $\frac{4}{3}$ of the cost amount to the corporation of such property immediately before the amalgamation or merger; and”.

(2) This section 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. 428, am. **170.** (1) Section 428 of the said Act is amended by adding, at the end, the following paragraph:

Interpreta-
tion “Furthermore, for the purposes of the same computation, the reference in paragraph *u* of section 87 to “in respect of a property acquired or an expenditure made in a preceding taxation year in computing the taxpayer’s tax payable for” shall read as a reference to “in computing the tax payable for the year or.”

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

c. I-3,
s. 437,
replaced

171. (1) Section 437 of the said Act is replaced by the following section:

Acquisition
by death of
intangible
capital
property

“437. Notwithstanding section 188, where an individual dies and any person, other than the spouse or a corporation to whom section 189 applies, acquires by reason of that death an intangible capital property from the individual, the following rules apply:

(a) the individual is deemed to have disposed of that capital property immediately before his death and to have received therefor, in respect of a business carried on by him, proceeds of disposition equal to $\frac{4}{3}$ of the eligible intangible capital amount in respect of the business at that time;

(b) that person is deemed, in respect of that intangible capital property, to have acquired a capital property, immediately after the death of the individual, at a cost equal to the proceeds of disposition determined in paragraph *a*, except where he continues to carry on the business of the individual, in which case he is deemed to have acquired an intangible capital property and to have disbursed therefor an intangible capital amount equal to the aggregate of

i. the proceeds of disposition determined in paragraph *a*, and

ii. $\frac{4}{3}$ of the excess determined under subparagraph i of paragraph *b* of section 107 in respect of the business of the individual at that time;

(c) for the purposes of determining, at any time, the person's eligible intangible capital amount contemplated in paragraph *b* 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 paragraph *b* shall be added to the aggregate otherwise determined under subparagraph 1 of subparagraph i of paragraph *b* of section 107.”

(2) This section applies in respect of acquisitions occurring by reason 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. 453, am.

172. (1) Section 453 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) the amounts provided for in paragraph *a* are deemed to have been included in computing the income or earnings of the beneficiary for a previous year, from a similar source;”.

(2) This section applies from the taxation year 1988 in respect of properties disposed of after 31 December 1984.

c. I-3,
s. 460, am.

173. (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 the individual’s eligible intangible capital amount in respect of that business immediately before the transfer; in the case of depreciable property of a prescribed class, the proportion of the undepreciated capital cost to the individual immediately before the transfer of all his depreciable property of that class, represented by the proportion between the fair market value of the property transferred at the time of its transfer, and that of all his depreciable property of that class at the same time.”

(2) This section applies in respect of transfers occurring after the commencement of the first fiscal period of an individual’s business commencing after 31 December 1987.

c. I-3,
s. 462, am.

174. (1) Section 462 of the said Act is amended

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

“(c) where the property is intangible capital property, the child is deemed to acquire, immediately after the transfer, capital property at a cost equal to the proceeds of disposition of the property as computed under sections 459 to 461; however, if the child continues to carry on the business, he is deemed to acquire intangible capital property and to disburse therefor an intangible capital amount equal to the aggregate of

i. the proceeds of disposition of that property as computed under sections 459 to 461;

ii. 4/3 of the amount by which the excess determined under subparagraph i of paragraph *b* of section 107 in respect of the individual’s business immediately before the transfer exceeds the amount included in computing the income of the individual by reason of subparagraph i of paragraph *a* of section 105 as a result of the transfer.”;

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

Amount to
be added

“For the purposes of determining, at any time, the eligible intangible capital amount of the child contemplated 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.”

(2) This section applies in respect of transfers occurring after the commencement of the first fiscal period of an individual's business commencing after 31 December 1987.

c. I-3,
s. 462.6,
replaced

175. (1) Section 462.6 of the said Act is replaced by the following section:

Gain or loss
deemed to
relate to
the dispo-
sition of
property

“462.6 Where an individual is deemed under section 457, 458, 462.5 or 463 to have a taxable capital gain or allowable capital loss for a taxation year, such portion of the gain or loss as may reasonably be considered to relate to the disposition of a property by another person in the year is deemed, for the purposes of sections 28 and 727 to 737 as they apply for the purposes of Title VI.5 of Book IV, to arise from the disposition of that property by the individual in the year, and that property is deemed, for the purposes of this title, to have been disposed of by the individual in the year.”

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

c. I-3,
s. 462.14,
am.

176. (1) Section 462.14 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) $\frac{5}{4}$ of all taxable dividends received, other than dividends deemed under Chapter III of Title IX to have been received, by the taxpayer in the year on shares that were received from the corporation as consideration for the transfer or as repayment for the loan that were excluded consideration at the time the dividends were received, or on shares substituted therefor that were excluded consideration at that time.”

(2) This section applies in respect of taxable dividends received from the taxation year 1988.

c. I-3,
s. 462.25,
added

177. (1) The said Act is amended by inserting, after section 462.24, the following section:

Transfer or
loan of
property

“462.25 For the purposes of sections 316.1, 462.1 to 462.4 and 462.8 to 462.10, where an individual has transferred or loaned

property, directly or indirectly, by means of a trust or by any other means, to a person and the property or property substituted therefor is an interest in a partnership, the person's share of the amount of any income or loss of the partnership for a fiscal period in which the person was a specified member of the partnership is deemed to be income or loss, as the case may be, from the property or substituted property."

(2) This section applies from the taxation year 1989, otherwise than in respect of income of a partnership that may reasonably be considered to relate to a period before 1 January 1989.

c. I-3,
s. 491, am.

178. (1) Section 491 of the said Act is amended by replacing paragraph *e* by the following paragraph:

Compensation
for war
services

"(e) compensation received under the regulations made under section 9 of the Aeronautics Act (Statutes of Canada) or a pension payment, an allowance or compensation that is received under the following laws of Canada: the Pension Act, the Civilian War Pensions and Allowances Act or the War Veterans Allowance Act; or".

(2) This section applies to taxation years commencing after 31 January 1988.

c. I-3,
s. 497, am.

179. (1) Section 497 of the said Act is amended by replacing subsection 2 by the following subsection:

Increase

"(2) He shall also include therein, if he is an individual other than a trust that is a registered charity, 1/4 of the aggregate of the amounts contemplated in subsection 1 which he receives from a taxable Canadian corporation."

(2) This section applies in respect of taxable dividends received in a taxation year ending after 31 December 1987.

c. I-3,
s. 498,
replaced

180. (1) Section 498 of the said Act is replaced by the following section:

Dividends
deemed
received by
taxpayer

"498. A taxpayer who must, by reason of sections 316, 316.1, 456 to 458, 462.1 to 462.24 and 466 to 467.1, include in computing his income for a taxation year a dividend received by another person is deemed, for the purposes of this Part, to have received such dividend."

(2) This section applies in respect of dividends received after 18 June 1987.

c. I-3,
ss. 502.0.1-
502.0.4,
added

181. (1) This Act is amended by inserting, after section 502, the following sections:

Dividend
deemed
received as
taxable
dividend

“502.0.1 Notwithstanding section 502, where a dividend that, but for this section, would be a capital dividend is paid on a share of the capital stock of a corporation and the share, or another share for which the share was substituted, was acquired by the holder thereof in a transaction or as part of a series of transactions one of the main purposes of which was to receive the dividend, the following rules apply:

(a) for the purposes of this Act, except sections 503.0.1 to 503.2, the dividend is deemed to be received by the shareholder and paid by the corporation as a taxable dividend and not as a capital dividend;

(b) paragraph *b* of section 502 does not apply in respect of the dividend.

Exception

“502.0.2 Section 502.0.1 does not apply in respect of a particular dividend, in respect of which an election is made under section 502, paid on a share of the capital stock of a particular corporation to an individual where it is reasonable to consider that all or substantially all of the capital dividend account of the particular corporation, as determined under section 89 of the Income Tax Act (Statutes of Canada) and without reference to paragraph *b* of section 570, immediately before the particular dividend became payable consisted of amounts other than

(a) any amount added to the account by reason of subparagraph ii of paragraph *b* of subsection 1 of section 89 of the said Act in respect of a dividend received on a share of the capital stock of another corporation which share, or another share for which the share was substituted, was acquired by the particular corporation in a transaction or as part of a series of transactions one of the main purposes of which was that the particular corporation receive the dividend, but not in respect of a dividend where it is reasonable to consider that the purpose of paying the dividend was to distribute an amount that was received by the other corporation and included in computing the other corporation's capital dividend account, as determined under section 89 of the said Act and without reference to paragraph *b* of section 570, by reason of subparagraph iv of paragraph *b* of subsection 1 of section 89 of the said Act;

(b) any amount added to the account by reason of paragraph 2.1 of subsection 2 of section 87 of the said Act as a result of an amalgamation or winding-up or a series of transactions including the amalgamation or winding-up that would not have been so added had the amalgamation or winding-up occurred or the series of transactions including the amalgamation or winding-up been commenced after 4:00 p.m. Eastern Daylight Saving Time, 25 September 1987;

(c) any amount added to the account at the time when the particular corporation was controlled, directly or indirectly in any manner whatever, by one or more persons not resident in Canada; or

(d) any amount in respect of a capital gain from a disposition of a property by the particular corporation or another corporation that may reasonably be considered as having accrued while the property, or another property for which it was substituted, was a property of a corporation that was controlled, directly or indirectly in any manner whatever, by one or more persons not resident in Canada.

Exception

“502.0.3 Section 502.0.1 does not apply in respect of a dividend, in respect of which an election is made under section 502, paid on a share of the capital stock of a corporation where it is reasonable to consider that the purpose of paying the dividend was to distribute an amount that was received by the corporation and included in computing its capital dividend account, as determined under section 89 of the Income Tax Act (Statutes of Canada) and without reference to paragraph *b* of section 570, by reason of subparagraph iv of paragraph *b* of subsection 1 of section 89 of the said Act.

Exception

“502.0.4 Section 502.0.1 does not apply in respect of a particular dividend, in respect of which an election is made under section 502, paid on a share of the capital stock of a particular corporation to a corporation related, otherwise than by reason of a right referred to in paragraph *b* of section 20, to the particular corporation, and in this section referred to as the “related corporation”, where it is reasonable to consider that all or substantially all of the capital dividend account of the particular corporation, as determined under section 89 of the Income Tax Act (Statutes of Canada) and without reference to paragraph *b* of section 570, immediately before the particular dividend became payable consisted of amounts other than

(a) any amount added to the account by reason of subparagraph ii of paragraph *b* of subsection 1 of section 89 of the said Act in respect of a dividend received on a share of the capital stock of another corporation if it is reasonable to consider that any portion of the capital dividend account of that other corporation, as determined under the said section 89 and without reference to paragraph *b* of section 570, immediately before that dividend became payable consisted of an amount added thereto by reason of paragraph 2.1 of subsection 2 of section 87 of the said Act or of subparagraph ii of paragraph *b* of subsection 1 of the said section 89 as a result of a transaction or a series

of transactions that would not have been so added had the transaction occurred or the series of transactions been commenced after 4:00 p.m. Eastern Daylight Saving Time, 25 September 1987;

(b) any amount that represented the capital dividend account of a corporation, as determined under the said section 89 and without reference to paragraph *b* of section 570, before it became related to the related corporation;

(c) any amount added to the account at the time when the particular corporation was controlled, directly or indirectly in any manner whatever, by one or more persons not resident in Canada;

(d) any amount in respect of a capital gain from a disposition of a property by the particular corporation or another corporation that may reasonably be considered as having accrued while the property, or another property for which it was substituted, was a property of a corporation that was controlled, directly or indirectly in any manner whatever, by one or more persons not resident in Canada; or

(e) any amount in respect of a capital gain from a disposition of a property, or another property for which it was substituted, that may reasonably be considered as having accrued while the property or the other property was a property of a person that was not related to the related corporation.”

(2) This section applies in respect of dividends paid after 4:00 p.m. Eastern Daylight Saving Time, 25 September 1987.

c. I-3,
s. 504, am. 2,

182. (1) Section 504 of the said Act is amended, in subsection

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

(2) by replacing the period at the end of paragraph *e* by a semicolon and the word “or”;

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

“(f) a transaction by which a corporation, other than an insurance corporation or a bank contemplated in section 191, converts contributed surplus resulting from the issuance, after 31 March 1977, of shares of a class of its capital stock, other than an issuance to which any of sections 236.3, 301, 301.1, 419 and 419.0.1 or Chapters III.1 to VI of Title IX of Book III apply, into paid-up capital in respect of shares of that class of its capital stock.”

(2) This section applies to transactions occurring after 31 December 1987.

c. I-3,
s. 508, am. **183.** (1) Section 508 of the said Act is amended by replacing what precedes paragraph *a* by the following:

Dividend
deemed
received

“508. Where, at any time after 16 November 1978, the paid-up capital of a term preferred share owned by a shareholder that is a specified financial institution or a partnership or trust of which such institution or a person related thereto is a member or a beneficiary and acquired in the ordinary course of the business carried on by the shareholder, is reduced otherwise than as described in sections 505 to 506.1, or where, under sections 504 to 507, a dividend is deemed to have been paid at a particular time on a particular class of shares, for a determined value, the owner of the term preferred share at that time or each person holding shares of that class at that time or immediately after that time in the case contemplated in section 504, is deemed to receive as a dividend, in the case of such a reduction of the paid-up capital of the term preferred share, or in the case contemplated in section 506.1, an amount equal to the amount he in fact receives in respect of the reduction of the paid-up capital or, in other cases, an amount equal to the proportion of the value of the dividend so deemed to have been paid that”.

(2) This section applies in respect of reductions of paid-up capital occurring after 31 December 1987.

c. I-3,
s. 508.1,
added **184.** (1) The said Act is amended by inserting, after section 508, the following section:

Guaranteed
shares

“508.1 Where, at any time after 31 December 1987, the paid-up capital in respect of a share of the capital stock of a particular corporation is reduced otherwise than as described in sections 505 to 506.1 and the share is owned by a shareholder that is another corporation that would be denied, by reason of sections 740.2 to 740.3.1 or section 740.5, the deduction under section 738, 740 or 845 in respect of a dividend received on the share, if the particular corporation were a taxable Canadian corporation, or by a partnership or trust of which such other corporation is a member or a beneficiary, the amount received by the shareholder on the reduction of the paid-up capital in respect of the share is deemed to be a dividend received by the shareholder at that time.”

(2) This section applies in respect of reductions of paid-up capital occurring after 31 December 1987.

c. I-3,
s. 510,
replaced

185. (1) Section 510 of the said Act is replaced by the following section:

Application
of ss. 505
and 506

“510. Sections 505 and 506 do not apply in respect of any transaction or event to the extent that section 504 applies in respect of that transaction or event, or in respect of any purchase, by a corporation, of one or more of its shares in the open market in the manner in which shares would normally be purchased by any member of the public.”

(2) This section applies in respect of transactions or events occurring after 30 April 1988.

c. I-3,
ss. 517.4,
517.4.1,
replaced

186. (1) Sections 517.4 and 517.4.1 of the said Act are replaced by the following sections:

Shares
acquired
before
1 January
1972

“517.4 For the purposes of this chapter, where a share disposed of by a taxpayer was acquired by him before 1 January 1972, the adjusted cost base to the taxpayer of the share at any time is deemed to be equal to the aggregate of

(a) the amount that would be its adjusted cost base to him if the Act respecting the application of the Taxation Act (R.S.Q., chapter I-4) were read without reference to the first two paragraphs of section 68 or to section 72;

(b) all amounts each of which is an amount received by the taxpayer after 31 December 1971 and before that time as a dividend on the share and in respect of which the corporation that paid the dividend has made an election under section 501 as it read in its application to a dividend that became payable before 1 January 1979.

Shares
acquired
after
31 December
1971

“517.4.1 For the purposes of this chapter, where a share disposed of by a taxpayer was acquired by him after 31 December 1971 from a person with whom he was not dealing at arm's length, was a share substituted for such a share or was a share substituted for a share owned by the taxpayer at the end of 1971, the adjusted cost base to the taxpayer of the share at any time is deemed to be the amount by which its adjusted cost base to him, otherwise determined, exceeds the amount determined under section 517.4.2.”

(2) This section applies in respect of dispositions made after 22 May 1985.

c. I-3,
s. 517.4.2,
am.

187. (1) Section 517.4.2 of the said Act is amended by replacing what precedes paragraph b by the following:

Computation

“517.4.2 The amount referred to in section 517.4.1 is equal to the aggregate of

(a) where the share or a share for which the share was substituted was owned at the end of 1971 by the taxpayer or a person with whom the taxpayer did not deal at arm's length, the amount by which the fair market value of the share or the share for which it was substituted, on valuation day, within the meaning of section 49 of the Act respecting the application of the Taxation Act (R.S.Q., chapter I-4), exceeds the aggregate of

i. the actual cost, within the meaning of section 54 of the said Act, of the share or the share for which it was substituted, on 1 January 1972, to the taxpayer or the person with whom he did not deal at arm's length, and

ii. all amounts each of which is an amount received by the taxpayer or the person with whom he did not deal at arm's length after 31 December 1971 and before that time as a dividend on the share or the share for which it was substituted and in respect of which the corporation that paid the dividend has made an election under section 501, as it read in its application to a dividend that became payable before 1 January 1979;”.

(2) This section applies in respect of dispositions made after 22 May 1985.

c. I-3,
s. 518, am.

188. (1) Section 518 of the said Act is amended

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

Election
upon
transfer
of property
to a corpora-
tion

“518. A taxpayer who, in a taxation year, disposes of property owned by him which is eligible property to a taxable Canadian corporation for consideration which includes a share of the capital stock of the corporation may elect jointly with the latter, in prescribed form and on or before the earliest day on which one of the two must file his fiscal return in accordance with section 1000 for the taxation year in which the disposition occurs, that the rules provided in this chapter apply.”;

(2) by striking out the second paragraph.

(2) This section applies in respect of dispositions occurring after 31 December 1986.

c. I-3,
s. 518.1,
added

189. (1) The said Act is amended by inserting, after section 518, the following section:

“eligible
property”

“518.1 For the purposes of section 518, the expression “eligible property” means

(a) a capital property, other than immovable property, an interest therein or an option in respect thereof, owned by a person not resident in Canada;

(b) a capital property that is immovable property, an interest therein or an option in respect thereof, owned by an insurer not resident in Canada, where such capital property and the property received as consideration for such property are property used or held by the insurer in the year in the course of carrying on an insurance business in Canada within the meaning of section 818;

(c) a Canadian resource property;

(d) a foreign resource property;

(e) an intangible capital property;

(f) a property included in an inventory, other than immovable property;

(g) a property, other than a capital property or a property included in an inventory, that is a security or debt obligation used or held by the taxpayer in the year in the course of carrying on the business of insurance or lending money.”

(2) This section applies in respect of dispositions occurring after 31 December 1986.

c. I-3,
s. 524, am.

190. (1) Section 524 of the said Act is amended

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

“i. 4/3 of the eligible intangible capital amount of the taxpayer in respect of the business immediately before the disposition;”;

(2) 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 or a property, other than a 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 it is less than the lesser of”.

(2) Paragraph 1 of subsection 1 applies, in the case of a corporation, in respect of dispositions by it of intangible capital property occurring after the commencement of its first taxation year commencing after 30 June 1988 and, in any other case, in respect of dispositions of intangible capital property in respect of a business occurring after the commencement of the first fiscal period of the business commencing after 31 December 1987 of the business.

(3) Paragraph 2 of subsection 1 applies in respect of dispositions occurring after 31 December 1986.

c. I-3,
s. 525.1,
added

191. (1) The said Act is amended by inserting, after section 525, the following section:

Passenger
vehicle of
a cost
exceeding
\$20 000 or
any other
amount
prescribed

"525.1 Where property of a taxpayer in respect of the disposition of which section 518 applies is depreciable property of a prescribed class that is a passenger vehicle the cost to the taxpayer of which exceeds \$20 000 or such other amount as prescribed for the purposes of paragraph *d.3* of section 99, as the case may be, and the taxpayer and the corporation to which the property is disposed of do not deal at arm's length, the amount agreed upon in respect of the property is deemed to be an amount equal to the undepreciated capital cost, to the taxpayer, of the class immediately before the disposition minus, as the case may be, the amount deducted by the taxpayer under paragraph *a* of section 130 in respect of the passenger vehicle in computing his income for the taxation year in which he disposed of that passenger vehicle.

Exception

However, for the purposes of section 41.0.1, the cost to the corporation of the passenger vehicle is deemed to be an amount equal to its fair market value immediately before the disposition."

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

c. I-3,
s. 526,
replaced

192. (1) Section 526 of the said Act is replaced by the following section:

Fair market
value of
property
exceeding
that of the
consideration

"526. Where the fair market value of a property of a taxpayer, immediately before the time of the disposition thereof to which section 518 applies, exceeds the greater of the fair market value, immediately after that time, of the consideration received by the taxpayer and the amount otherwise agreed upon in the election made under the terms of the said section in respect of the property, and it is reasonable to regard any part of such excess as a benefit that the taxpayer desired to have conferred on a person related to him, the amount agreed upon

is deemed, except for the purposes of paragraphs *b* and *c* of section 528, to be the amount otherwise agreed upon plus that part of such excess.”

(2) This section applies in respect of dispositions occurring after 30 June 1988.

c. I-3,
s. 527.2,
am.

193. (1) Section 527.2 of the said Act is amended by replacing subparagraphs *i* and *ii* of paragraph *a* by the following subparagraphs:

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

“*ii.* a person, spouse of a person, member of a group of persons or partnership by whom the transferor is controlled, directly or indirectly in any manner whatever, immediately after the disposition; or”.

(2) This section applies to taxation years commencing after 31 December 1988.

c. I-3,
s. 534,
replaced

194. (1) Section 534 of the said Act is replaced by the following section:

Capital loss
upon dispo-
sition of
property to
a controlled
corporation

“534. This division applies where a taxpayer or a partnership, included in the term “taxpayer” for the purposes of this section and section 535, disposes after 6 May 1974 of capital property or intangible capital property owned by the taxpayer to a corporation that, immediately after the disposition, is controlled, directly or indirectly in any manner whatever, by the taxpayer, by his spouse or by a person or group of persons by whom the taxpayer is so controlled and where, but for this division and sections 189, 237 to 240 and 288, the taxpayer would have had a capital loss in respect of such disposition or would have been entitled to a deduction in computing his income for the taxation year in which he ceased to carry on a business under the terms of paragraph *a* of section 188.”

(2) This section applies to taxation years commencing after 31 December 1988.

c. I-3,
s. 535, am.

195. (1) Section 535 of the said Act is amended by replacing subparagraph *ii* of paragraph *b* by the following subparagraph:

“*ii.* in the case of an intangible capital property, $\frac{4}{3}$ of the cost amount to him immediately before the disposition of the property

disposed of, exceeds the excess determined under subparagraph ii of paragraph *b* of section 107 in respect of the taxpayer as a result of the disposition of that property.”

(2) This section applies, in the case of a corporation, in respect of dispositions by it of intangible capital property occurring after the commencement of its first taxation year commencing after 30 June 1988 and, in any other case, in respect of dispositions of intangible capital property in respect of a business occurring after the commencement of the first fiscal period commencing after 31 December 1987 of the business.

196. (1) Section 536 of the said Act, amended by section 56 of chapter 77 of the statutes of 1989, is again amended by replacing subparagraph *b* of the second paragraph by the following subparagraph:

c. I-3,
s. 536, am.

“(b) immediately after the exchange, the taxpayer or persons with whom he is not dealing at arm’s length, separately or together, controlled the said corporation or owned shares of the capital stock thereof having a fair market value of more than 50 % of that of all of the outstanding shares of its capital stock;”.

(2) This section applies in respect of exchanges occurring after 31 December 1988.

197. (1) The said Act is amended by inserting, after section 547, the following section:

c. I-3,
s. 547.0.1,
added

Amount to
be
added in
computing
the eligible
intangible
capital
amount

“**547.0.1** Notwithstanding section 546, for the purposes of computing the eligible intangible capital amount of the new corporation at any time in respect of a business, where the last taxation year of a predecessor corporation commenced before 1 July 1988 and the new corporation continues a business carried on by the predecessor corporation, an amount equal to $\frac{3}{2}$ of the eligible intangible capital amount of the predecessor corporation immediately before the amalgamation in respect of that business shall be added to the amount determined under subparagraph i of paragraph *a* of section 107 in respect of that business.”

(2) This section applies in respect of amalgamations occurring after 30 June 1988.

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

c. I-3,
s. 550,
replaced

Computing
surplus

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

(2) This section has effect from 24 May 1985.

c. I-3,
ss. 550.5,
550.6,
added

199. (1) The said Act is amended by inserting, after section 550.4, the following sections:

Share issued
in consid-
eration for
disposition

“550.5 Where, following an amalgamation or merger of two or more corporations after 27 November 1986, a particular share of any class of the capital stock of the new corporation is issued to a shareholder in consideration for the disposition of a share by that shareholder of any class of the capital stock of a predecessor corporation and the attributes of the particular share are similar to the attributes of the share so disposed of, the following rules apply for the purposes of applying this section and sections 21.10 to 21.11.21, 21.16, 740.2 to 740.3.1 and 740.5 to the particular share:

(a) the particular share is deemed to have been issued at the same time as the share disposed of;

(b) where the share disposed of was a share described in any of paragraphs *a* to *d* of section 21.11.20, the particular share is deemed, for the purposes of sections 21.11.20 and 21.11.21, to be the same share as the share disposed of;

(c) the particular share is deemed to have been acquired by the shareholder at the same time as the share disposed of;

(d) the new corporation is deemed to be the same corporation as the predecessor corporation.

Right to
acquire a
grand-
fathered
share

“550.6 For the purposes of paragraph *d* of section 21.11.20, where, following an amalgamation or merger of two or more corporations after 18 June 1987, a particular right listed on a prescribed stock exchange to acquire a share of any class of the capital stock of the new corporation is acquired by a shareholder in consideration for the disposition by him of a right described in the said paragraph *d* to acquire a share of any class of the capital stock of a predecessor corporation, the terms and conditions of the particular right are similar to the terms and conditions of the right disposed of and the attributes of the share that may be acquired upon an exercise of the particular right are similar to the attributes of the share that could have been acquired upon an exercise of the right disposed of, the particular right is deemed to be the same right as the right disposed of.”

(2) This section, where it enacts section 550.5 of the Taxation Act, applies in respect of amalgamations or mergers occurring after 27 November 1986. However, where the said section 550.5 applies between 27 November 1986 and 18 June 1987, it shall read as if the references therein to “to 21.11.21” and to “to 740.3.1” were references to “to 21.11.10” and “, 740.3”, respectively.

(3) This section, where it enacts section 550.6 of the Taxation Act, applies in respect of amalgamations or mergers occurring after 18 June 1987.

c. I-3,
s. 559, am.

200. (1) Section 559 of the said Act, amended by section 63 of chapter 77 of the statutes of 1989, is again amended

(1) by replacing the first paragraph of the English text by the following paragraph:

Cost of
property
distributed
to parent

“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 deemed by section 557 to be the proceeds of disposition of the property, 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.”;

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

“(b) of the aggregate of all amounts each of which is in respect of any share of the capital stock of the subsidiary disposed of by the parent on the winding-up or in contemplation of the winding-up and equal to the aggregate of all amounts each of which is received by the parent or by a corporation with which the parent was not dealing at arm’s length in respect of that share or any share, in this subparagraph referred to as a “replaced share”, that has replaced that share or a replaced share or that has been exchanged for that share or a replaced share, as a taxable dividend to the extent that the amount was deductible under sections 738 to 745 or 845 in computing the taxable income of the recipient corporation for a taxation year and was not an amount on which it was required to pay prescribed tax, or as a capital dividend or life insurance capital dividend.”

(2) Paragraph 1 of subsection 1 applies in respect of windings-up commencing after 15 January 1987.

(3) Paragraph 2 of subsection 1 applies in respect of windings-up commencing after 30 June 1988.

c. I-3,
s. 560,
replaced

201. (1) Section 560 of the said Act is replaced by the following section:

Rules appli-
cable to
s. 559

"560. For the purposes of the second paragraph of section 559, the parent shall itself determine in its fiscal return for the taxation year in which the subsidiary is wound up the part of the excess to be added to each property.

Rules appli-
cable to
s. 559

However, the part of that excess that is added must not exceed, in respect of a capital property contemplated in the second paragraph of section 559, that part of the fair market value of the capital property at the time the parent last acquired, otherwise than by an amalgamation, control of the subsidiary, that exceeds the cost amount of the capital property to the subsidiary immediately before the winding-up.

Determina-
tion of the
amount

Furthermore, the aggregate of all the parts so determined in respect of all the capital properties contemplated in the second paragraph of section 559 must not exceed the amount by which the aggregate contemplated in paragraph *b* of section 558 exceeds the aggregate of the amount determined under subparagraph ii of paragraph *a* of section 558 and the amount determined under subparagraph *b* of the second paragraph of section 559."

(2) This section applies in respect of windings-up commencing after 15 January 1987.

c. I-3,
s. 562, am.

202. (1) Section 562 of the said Act is amended by replacing the first paragraph by the following paragraph:

Subsidiary
entitled to
claim an
allowance

"562. The subsidiary may, in computing its income for the taxation year during which its property was distributed to, and its obligations were assumed by, the parent on its winding-up, claim any allowance that would have been allowed to it for the year under this Part if its property had not been transferred to, or its obligations had not been assumed by, the parent on the winding-up."

(2) This section applies in respect of windings-up commencing after 15 December 1987.

c. I-3,
s. 563,
replaced

203. (1) Section 563 of the said Act is replaced by the following section:

Gifts made
by a
subsidiary

“563. For the purposes of computing an amount deductible under section 710 in computing the taxable income of the parent for one of its taxation years ending after the winding-up of the subsidiary, gifts made by the subsidiary in one of its particular taxation years are deemed, to the extent that they were not deducted under section 710 in computing the taxable income of the subsidiary for any taxation year, to have been made by the parent in its taxation year in which the particular taxation year of the subsidiary ended.”

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

c. I-3,
s. 564.0.1,
added

204. (1) The said Act is amended by inserting, after section 564, the following section:

Winding-up
of an
insurance
corporation

“564.0.1 Where a subsidiary is an insurance corporation, the following rules apply for the purposes of determining the portion of the gross investment income required to be included under section 825 in computing the income of the subsidiary and the parent and the amount of gains and losses of the subsidiary and the parent from property used or held by them in a taxation year in the course of carrying on an insurance business in Canada:

(a) the subsidiary and the parent, in addition to their normal taxation years, are deemed to have had a taxation year ending immediately before the time when the property of the subsidiary was transferred to, and the obligations of the subsidiary were assumed by, the parent on the winding-up;

(b) for the taxation years of the subsidiary and the parent following the time referred to in paragraph a, the property transferred to, and the obligations assumed by, the parent on the winding-up are deemed to have been transferred or assumed, as the case may be, on the last day of the taxation year ending immediately before that time.”

(2) This section applies in respect of windings-up commencing after 15 December 1987.

c. I-3,
s. 564.4.1,
replaced

205. (1) Section 564.4.1 of the said Act, replaced by section 65 of chapter 77 of the statutes of 1989, is again replaced by the following section:

Non-capital
or farm
loss not
deductible

“564.4.1 Where section 564.2 applies and where, at any time, control of the parent or subsidiary has been acquired by a person or group of persons, no amount in respect of the subsidiary’s non-capital loss or farm loss for a taxation year ending before that time is

deductible in computing the taxable income of the parent for a particular taxation year ending after that time, except that portion of the subsidiary's non-capital loss or farm loss that may reasonably be regarded as its loss from carrying on a business and, where a business was carried on by the subsidiary in that year, that portion of the non-capital loss that may reasonably be regarded as being in respect of an amount deductible under section 725.1.1 in computing its taxable income for the year, such portions being then deductible only if the parent or the subsidiary carried on that business for profit or with a reasonable expectation of profit throughout the particular year, and only up to the amount computed under section 564.4.2."

(2) This section applies in respect of non-capital losses and farm losses for taxation years subsequent to the taxation year 1987.

c. I-3,
s. 566.1,
added

206. (1) The said Act is amended by inserting, after section 566, the following section:

Rules appli-
cable in
computing
income

"566.1 For the purposes of computing the income of the corporation for its taxation year that includes the particular time referred to in section 566, paragraph *u* of section 87 shall read as if the reference therein to "in respect of a property acquired or an expenditure made in a preceding taxation year in computing the taxpayer's tax payable for" were a reference to "in computing the taxpayer's tax payable for the year or"."

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

c. I-3,
s. 570, am.

207. (1) Section 570 of the said Act is amended by replacing paragraph *e* by the following paragraph:

"private
corporation"

"(e) "private corporation" at any particular time means a corporation that is resident in Canada at that time, is not a public corporation and is not controlled by a public corporation;"

(2) This section applies to taxation years commencing after 31 December 1988.

c. I-3,
s. 572,
replaced

208. (1) Section 572 of the said Act is replaced by the following section:

Controlled
foreign
affiliate

"572. For the purposes of this title, a controlled foreign affiliate, at any time, of a taxpayer resident in Canada is a foreign affiliate of such taxpayer that is controlled by the taxpayer, by the taxpayer and not more than four other persons resident in Canada, or by a related group of which he is a member."

(2) This section applies to taxation years commencing after 31 December 1988.

c. I-3,
s. 587,
replaced

209. (1) Section 587 of the said Act is replaced by the following section:

Adjusted
cost base of
a share of
the capital
stock of a
foreign
affiliate

“587. A taxpayer resident in Canada, in computing at any time in a taxation year the adjusted cost base of a share owned by him of the capital stock of a foreign affiliate of the taxpayer, shall add any amount required to be included in respect of that share by virtue of sections 580 and 582 in computing his income for the year or any preceding year, or that would have been so required but for sections 316.1, 456 to 458, 462.1 to 462.24 and 466 to 467.1, and deduct any amount deducted by him in respect of that share, in computing his income for that year, by reason of sections 581 and 583, or that would have been deductible by him but for sections 316.1, 456 to 458, 462.1 to 462.24 and 466 to 467.1, and any dividend received by him before that time in respect of that share, to the extent of the amount deducted by him in respect thereof in computing his income for that year by reason of section 584 or that would have been deductible by him but for the said sections 316.1, 456 to 458, 462.1 to 462.24 and 466 to 467.1.”

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

c. I-3,
s. 597,
replaced

210. (1) Section 597 of the said Act is replaced by the following section:

Adjusted
cost base
of capital
interest in
a trust

“597. A taxpayer resident in Canada, in computing at any time in a taxation year the adjusted cost base of his capital interest in a trust to which section 596 applies shall add any amount required by sections 580 and 582 to be included in computing his income for the year or a preceding year in respect of that interest, or that would have been so required to be included but for sections 316.1, 456 to 458, 462.1 to 462.24 and 466 to 467.1, and deduct any amount deducted by him in that respect in computing his income for such year by reason of sections 581 and 583 or that would have been so deductible by him but for sections 316.1, 456 to 458, 462.1 to 462.24 and 466 to 467.1.”

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

c. I-3,
s. 598, am.

211. (1) Section 598 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) where any foreign affiliate of a taxpayer or any corporation not resident in Canada that is controlled, directly or indirectly in any manner whatever, by the taxpayer or a related group of which he is a member has issued shares of any class of its capital stock and one

of the main reasons for the existence or issuance of those shares may reasonably be considered to be the reduction or postponement of the amount of taxes that would otherwise be payable under this Part, those shares are deemed not to have been issued.”

(2) This section applies to taxation years commencing after 31 December 1988.

c. I-3,
s. 600.0.3,
added

212. (1) The said Act is amended by inserting, after section 600.0.2, the following section:

Capital
gains and
losses

“600.0.3 Notwithstanding sections 231 and 600, where in a particular taxation year of a taxpayer, other than an individual who is not a testamentary trust, commencing before 1 January 1990, the taxpayer is a member of a partnership with a fiscal period ending in the particular year, the taxable capital gain, other than that part of the gain that can be attributed to an amount deemed under section 105 to be a taxable capital gain of the partnership, allowable capital loss or allowable business investment loss of the taxpayer for the particular year in respect of the partnership shall be determined by the formula

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

Interpreta-
tion

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

(a) A is the taxpayer’s taxable capital gain, other than that part of the gain that can be attributed to an amount deemed under section 105 to be a taxable capital gain of the partnership, allowable capital loss or allowable business investment loss, as the case may be, for the particular year, in respect of the partnership that would, but for this section, be determined under section 600;

(b) B is the fraction that would be used under section 231 for the particular year in respect of the taxpayer if he had a capital gain for the particular year;

(c) C is the fraction that is used under section 231 for the fiscal period of the partnership.”

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

c. I-3,
s. 613.2,
am.

213. (1) Section 613.2 of the said Act is amended by replacing paragraph *b* by the following paragraph:

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

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

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

(2) This section has effect from 18 June 1987.

c. I-3,
s. 616, am.

214. (1) Section 616 of the said Act, replaced by section 68 of chapter 77 of the statutes of 1989, is amended by replacing paragraph a by the following paragraph:

“(a) the aggregate of his share, the share of his spouse and the share of a person or group of persons by whom the taxpayer is controlled, directly or indirectly in any manner whatever, or that is so controlled by the taxpayer, of the income of the partnership from any source for the fiscal period of the partnership that includes that time exceeds one-half of the income; or”.

(2) This section applies to taxation years commencing after 31 December 1988.

c. I-3,
s. 634,
replaced

215. (1) Section 634 of the said Act is replaced by the following section:

Disposition
of farming
land of
partnership

“634. Any taxpayer who was a member of a partnership at the end of a taxation year of the partnership in which it disposed of land used in a farming business may deduct, in computing his income for his taxation year in which the taxation year of the partnership ended, $\frac{3}{4}$ of the aggregate of amounts each of which is an amount equal to the taxpayer's loss from the farming business for such taxation year or any preceding taxation year ending after 31 December 1971.”

(2) This section applies to taxation years or fiscal periods ending after 31 December 1987. However, where section 634 of the Taxation Act, enacted by this section, applies to a taxpayer who is

(a) an individual or a partnership, for taxation years or fiscal periods ending after 31 December 1987 and before 1 January 1990, the reference in such section 634 to “ $\frac{3}{4}$ ” shall read as a reference to “ $\frac{2}{3}$ ”;

(b) a Canadian-controlled private corporation throughout its taxation year, for such taxation years ending after 31 December 1987

and commencing before 1 January 1990, the reference in such section 634 to “3/4” shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of

i. that proportion of 1/2 that the number of days in the year that are before 1 January 1988 is of the number of days in the year;

ii. that proportion of 2/3 that the number of days in the year that are after 31 December 1987 but before 1 January 1990 is of the number of days in the year;

iii. that proportion of 3/4 that the number of days in the year that are after 31 December 1989 is of the number of days in the year;

(c) a corporation that is not a Canadian-controlled private corporation throughout its taxation year, for such taxation years ending after 31 December 1987 and commencing before 1 January 1990, the reference in such section 634 to “3/4” shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of

i. that proportion of 1/2 that the number of days in the year that are before 1 July 1988 is of the number of days in the year;

ii. that proportion of 2/3 that the number of days in the year that are after 30 June 1988 but before 1 January 1990 is of the number of days in the year;

iii. that proportion of 3/4 that the number of days in the year that are after 31 December 1989 is of the number of days in the year.

c. I-3,
s. 635, am. **216.** (1) Section 635 of the said Act is amended by replacing paragraph *d* by the following paragraph:

“(d) does not exceed the amount obtained by subtracting from 4/3 of his taxable capital gain from the disposition of the land contemplated in section 634 the aggregate of his losses from the farming business for taxation years preceding the year which must be included in computing the amount deductible under this division in respect of the taxpayer.”

(2) This section applies to taxation years or fiscal periods ending after 31 December 1987. However, where paragraph *d* of section 635 of the Taxation Act, enacted by this section, applies to a taxpayer who is

(a) an individual or a partnership, for taxation years or fiscal periods ending after 31 December 1987 and before 1 January 1990,

the reference in the said paragraph *d* to “ $\frac{4}{3}$ ” shall read as a reference to “ $\frac{3}{2}$ ”;

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

i. that proportion of $\frac{2}{3}$ that the number of days in the year that are before 1 January 1988 is of the number of days in the year;

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

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

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

i. that proportion of $\frac{2}{3}$ that the number of days in the year that are before 1 July 1988 is of the number of days in the year;

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

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

c. I-3,
s. 637, am.

217. (1) Section 637 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) $\frac{3}{4}$ of such portion of his capital gain for the year therefrom as may reasonably be regarded as attributable to increases in the value of any capital property of the partnership other than depreciable property; and”.

(2) This section applies to taxation years or fiscal periods ending after 31 December 1987. However, where paragraph *a* of section 637 of the Taxation Act, enacted by this section, applies to a taxpayer who is

(a) an individual or a partnership, for taxation years or fiscal periods ending after 31 December 1987 and before 1 January 1990, the reference in paragraph *a* to “3/4” shall read as a reference to “2/3”;

(b) a Canadian-controlled private corporation throughout its taxation year, for such taxation years ending after 31 December 1987 and commencing before 1 January 1990, the reference in paragraph *a* to “3/4” shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of

i. that proportion of 1/2 that the number of days in the year that are before 1 January 1988 is of the number of days in the year;

ii. that proportion of 2/3 that the number of days in the year that are after 31 December 1987 but before 1 January 1990 is of the number of days in the year;

iii. that proportion of 3/4 that the number of days in the year that are after 31 December 1989 is of the number of days in the year;

(c) a corporation that is not a Canadian-controlled private corporation throughout its taxation year, for such taxation years ending after 31 December 1987 and commencing before 1 January 1990, the reference in paragraph *a* to “3/4” shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of

i. that proportion of 1/2 that the number of days in the year that are before 1 July 1988 is of the number of days in the year;

ii. that proportion of 2/3 that the number of days in the year that are after 30 June 1988 but before 1 January 1990 is of the number of days in the year;

iii. that proportion of 3/4 that the number of days in the year that are after 31 December 1989 is of the number of days in the year.

c. 1-3,
s. 647, am.

218. (1) Section 647 of the said Act, amended by section 70 of chapter 77 of the statutes of 1989, is again amended by replacing the third paragraph by the following paragraph:

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 and, for the purposes of sections 653 to 656.2, 659 to 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 employee trust, a trust referred to in paragraph *c.4* of section 998 or a trust governed by a registered retirement 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;

(b) a segregated fund trust referred to in section 851.2, a trust referred to in section 851.25 or an RCA trust within the meaning of subparagraph *c* of the first paragraph of section 890.1.”

(2) This section applies from the taxation year 1980. However, where the third paragraph of section 647 of the Taxation Act, as enacted by subsection 1, applies

(a) before 13 November 1981, it shall read as follows:

Trusts
excluded

“For the purposes of sections 653 to 656.1, 659 to 662, 665, 684 to 689, 691 and 692 and paragraph *b* of section 657, a trust does not include a unit trust, an employee trust, a segregated fund trust referred to in section 851.2, a trust referred to in section 851.25 or a trust governed by a registered retirement 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.”;

(b) after 12 November 1981 and before 9 October 1986, it shall read as follows:

Trusts
excluded

“For the purposes of sections 653 to 656.1, 659 to 662, 665, 665.1, 684 to 689, 691 and 692 and paragraph *b* of section 657, a trust does not include a unit trust, an employee trust, a segregated fund trust referred to in section 851.2, a trust referred to in section 851.25 or a trust governed by a registered retirement 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.”;

(c) after 8 October 1986, in respect of a taxation year prior to the taxation year 1987, it shall read as follows:

Trusts
excluded

“For the purposes of sections 653 to 656.1, 659 to 662, 665, 665.1, 684 to 689, 691 and 692 and paragraph *b* of section 657, a trust does

not include a unit trust, an employee trust, a segregated fund trust referred to in section 851.2, a trust referred to in section 851.25, an RCA trust within the meaning of subparagraph *c* of the first paragraph of section 890.1 or a trust governed by a registered retirement 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.”;

(*d*) after 31 December 1986 and before 16 January 1987, in respect of the taxation year 1987 of a trust, it shall read as follows:

Trusts
excluded

“For the purposes of sections 653 to 656.1, 659 to 662, 665, 665.1, 684 to 689, 691 and 692 and paragraph *b* of section 657, a trust does not include a unit trust, an employee trust, a segregated fund trust referred to in section 851.2, a trust referred to in section 851.25, an RCA trust within the meaning of subparagraph *c* of the first paragraph of section 890.1, a trust referred to in paragraph *c.4* of section 998 or a trust governed by a registered retirement 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.”;

(*e*) after 15 January 1987, in respect of taxation years of a trust subsequent to the taxation year 1986 but commencing before 1 January 1988, it shall read as follows:

Trusts
excluded

“For the purposes of sections 653 to 656.1, 659 to 662, 665, 665.1, 684 to 689, 690.0.1, 691 and 692 and paragraph *b* of section 657, a trust does not include a unit trust, an employee trust, a segregated fund trust referred to in section 851.2, a trust referred to in section 851.25, an RCA trust within the meaning of subparagraph *c* of the first paragraph of section 890.1, a trust referred to in paragraph *c.4* of section 998 or a trust governed by a registered retirement 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.”;

(*f*) before 1 January 1989, in respect of a taxation year of a trust commencing after 31 December 1987, it shall read as follows:

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 and, for the purposes of sections 653 to 656.2, 659 to 662, 663.1, 663.2, 665, 665.1, 684 to 689, 690.0.1, 691 and 692 and paragraph *b* of section 657, a trust does not include any of the following trusts:

(a) an employee trust, a trust referred to in paragraph *c.4* of section 998 or a trust governed by a registered retirement 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;

(b) a segregated fund trust referred to in section 851.2, a trust referred to in section 851.25 or an RCA trust within the meaning of subparagraph *c* of the first paragraph of section 890.1.”

c. I-3,
s. 649.1,
added

219. (1) The said Act is amended by inserting, after section 649, the following section:

Personal
trust

“**649.1** Personal trust means a testamentary trust, or an *inter vivos* trust no beneficial interest in which was acquired for consideration payable directly or indirectly to the trust or to any person who has made a contribution to the trust by way of transfer, assignment or other disposition of property.

Beneficial
interest
deemed
acquired
for no
consideration

For the purposes of the first paragraph and paragraph *n* of section 257, where an *inter vivos* trust is created by way of the transfer, assignment or other disposition of property by an individual, or by two or more individuals related to each other at the time the trust was created, any beneficial interest in the trust acquired at that time by such individual or individuals, as the case may be, is deemed to have been acquired for no consideration.”

(2) This section has effect from 1 January 1985.

c. I-3,
ss. 650-
652,
replaced

220. (1) Sections 650 to 652 of the said Act are replaced by the following sections:

Computing
income in
trust
created for
exclusive
benefit of
spouse

“**650.** For the purposes of the first paragraph of section 443, subparagraph *b* of the second paragraph of section 454, 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
disquali-
fied by
reason only
of payment
of certain
duties and
taxes

“651. For the purposes of the first paragraph of section 443, subparagraph *b* of the second paragraph of section 454 and subparagraph *a* of the first paragraph of section 653, where a trust has been created by an individual, a person other than his spouse is deemed not to have received or otherwise obtained, nor to be entitled to receive or otherwise obtain, the use of the capital or income 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 its income.

Amount
deemed
income from
interest in
a trust

“651.1 Except as otherwise provided in this Part and without restricting the application of sections 316.1, 456 to 458, 462.1 to 462.24 and 466 to 467.1, an amount included in computing the income for a taxation year of a beneficiary of a trust by virtue of sections 659 and 661 to 663 is deemed to be income of the beneficiary for the year from property that is an interest in the trust and not from any other source, and an amount deductible in computing the amount that would, but for paragraphs *a* and *b* of section 657, be the income of a trust for a taxation year shall not be deducted by a beneficiary of the trust in computing his income for a taxation year.

Time when
amount is
considered
payable

“652. For the purposes of subparagraph i.1 of paragraph *n* of section 257, paragraph *a* of section 657 and sections 663 and 667, an amount is deemed not to have become payable to a beneficiary in a taxation year unless it was paid to him in the year or the beneficiary was entitled to demand payment of it in that year.”

(2) This section, where it enacts section 650 of the Taxation Act, has effect from 1 February 1985. However, where the said section 650, as enacted by subsection 1, applies

(*a*) in respect of dividends paid before 24 May 1985, it shall read as follows:

Computing
income in
trust
created for
exclusive
benefit of
spouse

“650. For the purposes of section 443, the second paragraph of section 454, paragraph *a* of section 653 and paragraph *a* of section 683, the income of a trust is computed without reference to the provisions of this Part minus, except in the case of paragraph *a* of section 683, any dividend which is otherwise included therein and which is referred to in sections 501 to 502.1, 1106 or 1116.”;

(b) in respect of dividends paid after 23 May 1985 but no later than 4:00 p.m. Eastern Daylight Saving Time on 25 September 1987, it shall read as follows:

Computing
income in
trust
created for
exclusive
benefit of
spouse

“650. For the purposes of section 443, the second paragraph of section 454, paragraph *a* of section 653 and paragraph *a* of section 683, the income of a trust is computed without reference to the provisions of this Part minus, except in the case of paragraph *a* of section 683, any dividend which is otherwise included therein and which is referred to in sections 501 to 502, 1106 or 1116.”

(3) This section, where it enacts section 651 of the Taxation Act, applies from the taxation year 1979.

(4) This section, where it enacts section 651.1 of the Taxation Act, applies from the taxation year 1989.

(5) This section, where it enacts section 652 of the Taxation Act, applies to taxation years of trusts commencing after 31 December 1987.

c. I-3,
s. 657, am.

221. (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 that part of the amount that would, but for this paragraph, paragraph *b* and, where the trust is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653, sections 653 to 656.2 and 691, be its income for the year, to the extent that such part became payable in the year to a beneficiary, other than a beneficiary who, where the trust was not resident in Canada throughout the year, was at any time in the year a designated beneficiary within the meaning of section 210.3 of the Income Tax Act (Statutes of Canada), or to the extent that it was included in computing the income of a beneficiary by reason of section 662;”.

(2) This section applies to taxation years of trusts commencing after 31 December 1987.

c. I-3,
s. 657.2,
replaced

222. (1) Section 657.2 of the said Act is replaced by the following section:

Restriction

“657.2 Where it is reasonable to consider that one of the main purposes for the existence of any term, condition, right or other attribute of an interest in a trust, other than a personal trust, is to give a beneficiary a percentage interest in the property of the trust

that is greater than his percentage interest in the income of the trust, no amount may be deducted by the trust in computing its income under paragraph *a* of section 657, except by reason of section 657.1.”

(2) This section applies from the taxation year 1986 of a trust, other than a trust created before 27 November 1985, in which no beneficial interest was issued after 5:00 p.m. Eastern Standard Time on 26 November 1985, unless the beneficial interest was issued as part of a distribution of the income of the trust in accordance with the terms of the trust arrangement that were in effect on 26 November 1985.

c. I-3,
s. 657.4,
added

223. (1) The said Act is amended by inserting, after section 657.3, the following section:

Deduction
in computing
income of
a trust

“657.4 A trust shall, in computing its income for a taxation year, deduct tax paid by it for the year under Part XII.2 of the Income Tax Act (Statutes of Canada).”

(2) This section applies to taxation years of trusts commencing after 31 December 1987.

c. I-3,
s. 658, am.

224. (1) Section 658 of the said Act is amended by replacing subsection 3 by the following subsection:

Accumu-
lating
income

“(3) The accumulating income of a trust for a taxation year is, for the purposes of this chapter, the amount that would, but for paragraph *b* of section 657 and, where the trust is a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653, sections 653 to 656.2 and 691, be its income for the year.”

(2) This section applies to taxation years of trusts commencing after 31 December 1987.

c. I-3,
s. 661,
replaced

225. (1) Section 661 of the said Act is replaced by the following section:

Amounts to
include in
computing
income of
beneficiary

“661. A taxpayer shall include, in computing his income for a taxation year, the value of all benefits received by him in the year under a trust, irrespective of when it was created, except to the extent that the value of such benefits is otherwise required to be included in computing his income for a taxation year, or has been deducted under paragraph *n* of section 257 in computing the adjusted cost base of his interest in the trust or would be so deducted if that paragraph applied in respect of such interest and were read without reference to subparagraph 3 of subparagraph *i.1* of the said paragraph.”

(2) This section applies in respect of benefits received under a trust in taxation years of the trust commencing after 31 December 1987.

c. I-3,
s. 663,
replaced

226. (1) Section 663 of the said Act is replaced by the following section:

Income of
trust to be
included in
computing
income of
beneficiary

“663. A beneficiary of a trust shall include, in computing his income for a particular taxation year,

(a) in the case of a trust other than a trust referred to in subparagraph *a* of the third paragraph of section 647 that was resident in Canada throughout its taxation year that ended in the particular year, such part of the amount that, but for paragraphs *a* and *b* of section 657, would be the trust's income for that taxation year as became payable to the beneficiary in the said last taxation year of the trust;

(b) in the case of a trust governed by an employee benefit plan to which the beneficiary has contributed as an employer, such part of the amount that, but for paragraphs *a* and *b* of section 657, would be the trust's income for its taxation year that ended in the particular year as was paid to the beneficiary in that taxation year of the trust;

(c) in the case of a trust other than a trust referred to in paragraph *a* of this section or in subparagraph *a* of the third paragraph of section 647, the aggregate of all amounts that became payable in the particular year by the trust to the beneficiary in respect of his interest in the trust, otherwise than as proceeds of disposition of the beneficiary's interest or part thereof, or an amount paid as a distribution of capital by a personal trust.”

(2) This section applies in respect of amounts that have become payable in taxation years of trusts commencing after 31 December 1987.

c. I-3,
ss. 663.1-
663.3,
added

227. (1) The said Act is amended by inserting, after section 663, the following sections:

Amount
deemed not
paid nor
payable

“663.1 Where a trust, in its fiscal return under this Part for a taxation year throughout which it was resident in Canada and not exempt from tax under this Part by reason of Book VIII, designates an amount in respect of a beneficiary under the trust, not exceeding the amount determined under the second paragraph in respect of the beneficiary for the year, the amount so designated is deemed, for the

purposes of sections 662 and 663, not to have been paid nor to have become payable in the year to or for the benefit of the beneficiary or out of income of the trust.

Determina-
tion of
amount

The amount referred to in the first paragraph is, in respect of a beneficiary under a trust for a taxation year of the trust, determined by the following formula:

$$\frac{A}{B} \times (C - D - E).$$

Interpreta-
tion

For the purposes of the formula contemplated in the second paragraph,

(a) A is the beneficiary's share of the income of the trust for the year, computed without reference to this Act;

(b) B is the aggregate of all amounts each of which is a beneficiary's share of the income of the trust for the year, computed without reference to this Act;

(c) C is the aggregate of all amounts each of which is an amount that, but for this section and section 663.2, would be included in computing the income of a beneficiary under the trust for the year by reason of section 662 or 663;

(d) D is the amount deducted under paragraph *a* of section 657 in computing the income of the trust for the year;

(e) E is the amount determined by the trust for the year and used as the value of C for the purposes of the formula contemplated in the second paragraph of section 663.2 or, if no amount is so determined, nil.

Taxable
capital gain
deemed not
paid nor
payable

“663.2 Where a trust, in its fiscal return under this Part for a taxation year throughout which it was resident in Canada and not exempt from tax under this Part by reason of Book VIII, designates an amount in respect of a beneficiary under the trust, not exceeding the amount determined under the second paragraph in respect of the beneficiary for the year, the amount so designated is deemed, for the purposes of sections 662 and 663, except in the application of section 663 for the purposes of section 668, not to have been paid nor to have become payable in the year to or for the benefit of the beneficiary or out of income of the trust, and, except in the application of section 668 for the purposes of sections 668.0.1 to 668.2, shall reduce the amount of the taxable capital gain of the beneficiary otherwise included in computing his income for the year by reason of section 668.

Determina-
tion of
amount

The amount referred to in the first paragraph is, in respect of a beneficiary under a trust for a taxation year of the trust, determined by the following formula:

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

Interpreta-
tion

In the formula contemplated in the second paragraph,

(a) A is the amount designated by the trust for the year in respect of the beneficiary under section 668;

(b) B is the aggregate of all amounts each of which has been designated for the year under section 668 in respect of a beneficiary under the trust;

(c) C is the amount determined by the trust and used in computing each of the amounts designated by the trust for the year under this section, not exceeding the amount by which the aggregate of all amounts each of which is an amount that, but for this section and section 663.1, would be included in computing the income of a beneficiary under the trust by reason of section 662 or 663 for the year exceeds the amount deducted under paragraph *a* of section 657 in computing the income of the trust for the year.

Amount
deemed
payable

“663.3 For the purposes of section 663, an amount referred to in subsection 31 of section 104 of the Income Tax Act (Statutes of Canada) regarding a beneficiary under a trust in respect of a taxation year of the trust is deemed to be income of the trust for the year that has become payable by the trust to the beneficiary at the end of that year.”

(2) This section applies to taxation years of trusts commencing after 31 December 1987.

c. 1-3,
s. 664, am.

228. (1) Section 664 of the said Act is amended

(1) by striking out paragraph *a*;

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

Income
of trust

“(b) the income of a trust that has not become payable in a taxation year of the trust merely because it is held in trust for a minor who has a vested right therein is nevertheless deemed to have become payable to the minor in the year.”

(2) This section applies to taxation years of trusts commencing after 31 December 1987.

c. I-3,
s. 666,
replaced

229. (1) Section 666 of the said Act is replaced by the following section:

Part of
dividends
deemed
received by
beneficiary

“666. (1) For the purposes of this Part, the portion of a taxable dividend received by a trust in a taxation year throughout which it was resident in Canada on a share of the capital stock of a taxable Canadian corporation that may reasonably be considered, having regard to the circumstances and the terms and conditions of the trust arrangement, to be part of the amount included, under any of sections 659 and 661 to 663, in computing the income of a beneficiary under the trust for a particular taxation year, is deemed to be a taxable dividend on the share received by the beneficiary in the particular year from the corporation and not to have been received by the trust.

Restriction

(2) The presumption contemplated in subsection 1 shall be valid only if the portion referred to therein has been exclusively designated by the trust, in its fiscal return for the year under this Part, in respect of the beneficiary.”

(2) This section applies from the taxation year 1988. However, where subsection 1 of section 666 of the Taxation Act, enacted by this section, applies to a taxation year of a trust commencing before 1 January 1988, it shall read without reference to the words “throughout which it was resident in Canada”.

c. I-3,
s. 667,
replaced

230. (1) Section 667 of the said Act is replaced by the following section:

Amount
payable to
beneficiary
from non-
taxable
dividends

“667. For the purposes of subparagraph 3 of subparagraph i.1 of paragraph *n* of section 257, subsection 3 of section 686 and sections 742 and 744.2, the portion of the aggregate of all amounts each of which is the amount of a dividend, other than a taxable dividend, paid to a trust in a taxation year throughout which it was resident in Canada, in respect of a share of the capital stock of a corporation resident in Canada, that may reasonably be considered, having regard to the circumstances and the terms and conditions of the trust arrangement, to be part of an amount that became payable in the year to a beneficiary under the trust shall be designated by the trust, in its fiscal return for the year, in respect of the beneficiary.”

(2) This section applies to taxation years of trusts commencing after 31 December 1987.

c. I-3,
s. 668, am.

231. (1) Section 668 of the said Act is amended by replacing subsection 1 by the following subsection:

Deemed
taxable
capital
gain of
beneficiary

“668. (1) The portion of the net taxable capital gains of a trust for a taxation year throughout which it was resident in Canada that may reasonably be considered, having regard to the circumstances and the terms and conditions of the trust arrangement, to be part of the amount included under any of sections 659 and 661 to 663 in computing the income for the taxation year of a particular beneficiary under the trust if the trust is a mutual fund trust, or of a particular beneficiary under the trust who is resident in Canada if the trust is not a mutual fund trust, is deemed, for the purposes of sections 28 and 727 to 737 except as they apply for the purposes of Title VI.5 of Book IV, to be a taxable capital gain for the year of the particular beneficiary resulting from the disposition by him of capital property.”

(2) This section applies to taxation years of trusts commencing after 31 December 1987.

c. I-3,
s. 668.0.1,
added

232. (1) The said Act is amended by inserting, after section 668, the following section:

Taxable
capital
gain of a
beneficiary
under a
trust

“668.0.1 Notwithstanding sections 231 and 668, where in a particular taxation year, commencing before 1 January 1990, of a taxpayer, other than an individual who is not a testamentary trust, the taxpayer is a beneficiary under a trust with a taxation year ending in the particular year, the amount deemed under section 668 to be a taxable capital gain of the taxpayer for the particular year in respect of the trust, other than that part of the amount that can be attributed to an amount deemed to be a taxable capital gain of the trust under section 105, shall be the amount determined by the formula

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

Interpreta-
tion

For the purposes of the formula contemplated in the first paragraph,

(a) A is the amount by which the amount deemed under section 668 to be a taxable capital gain of the taxpayer for the particular year in respect of the trust, other than that part of the amount that can be attributed to an amount deemed to be a taxable capital gain of the trust under section 105, exceeds the amount designated by the trust for the particular year in respect of the taxpayer under section 663.2, other than that part of the amount that can be attributed to an amount deemed to be a taxable capital gain of the trust under section 105;

(b) B is the fraction that would be used under section 231 for the particular year in respect of the taxpayer if he had a capital gain for the particular year;

(c) C is the fraction that is used under section 231 for the taxation year of the trust.”

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

c. 1-3,
ss. 668.1,
668.2,
replaced

Deemed
taxable
capital
gain of
beneficiary

233. (1) Sections 668.1 and 668.2 of the said Act are replaced by the following sections:

“668.1 Where a trust has, for the purposes of section 668, designated an amount, in this section and paragraph *b* of section 668.2 referred to as the “designated amount”, in respect of a beneficiary of the trust in respect of its net taxable capital gains for a taxation year, in this section and section 668.2 referred to as the “designation year”, and by virtue thereof the designated amount is deemed, for the purposes described in section 668, to be a taxable capital gain for the year of the beneficiary from the disposition by him of capital property, the following rules apply:

(a) the trust shall in its fiscal return for the designation year designate an amount in respect of its eligible taxable capital gains for the designation year in respect of the beneficiary equal to the amount determined in respect of the beneficiary under each of subparagraphs i to iii of paragraph *b*;

(b) the beneficiary is deemed, for the purposes of sections 28, 462.8 to 462.10 and 727 to 737 as they apply for the purposes of Title VI.5 of Book IV, to have a taxable capital gain for the year from the disposition of capital property

i. that is qualified farm property of the beneficiary, equal to the amount determined for the year in respect of the beneficiary by the formula

$$A \times \frac{B}{C} \times \frac{D}{G};$$

ii. that is a qualified small business corporation share of the beneficiary, equal to the amount determined for the year in respect of the beneficiary by the formula

$$A \times \frac{B}{C} \times \frac{E}{G};$$

iii. other than a property referred to in subparagraph i or ii, equal to the amount determined for the year in respect of the beneficiary by the formula

$$A \times \frac{B}{C} \times \frac{F}{G};$$

(c) the capital property referred to in paragraph *b* is deemed, for the purposes of Title VI.5 of Book IV, to have been disposed of by the beneficiary in the year.

Interpreta-
tion

“668.2 For the purposes of the formulas contemplated in subparagraphs i to iii of paragraph *b* of section 668.1,

(a) A is the eligible taxable capital gains of the trust for the designation year;

(b) B is the amount by which the designated amount in respect of the beneficiary exceeds the amount designated by the trust in respect of the beneficiary for the designation year under section 663.2;

(c) C is the net taxable capital gains of the trust for the designation year;

(d) D is 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 the only properties referred to in that paragraph were qualified farm properties of the trust disposed of by it after 31 December 1984;

(e) E is 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 the only properties referred to in that paragraph were qualified small business corporation shares of the trust, other than qualified farm property, disposed of by it after 17 June 1987;

(f) F is 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 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;

(g) G is the aggregate of the amounts used for D, E and F under this section in respect of the beneficiary for the year.”

(2) This section, except where it enacts paragraph *b* of section 668.1 of the Taxation Act, applies from the taxation year 1988.

(3) This section, where it enacts paragraph *b* of section 668.1 of the Taxation Act, applies to taxation years ending after 31 December

1984. However, where the said paragraph *b* applies to taxation years ending before 1 January 1988, it shall read as follows:

“(b) the beneficiary is, for the purposes of sections 28, 462.8 to 462.10 and 727 to 737 as they apply for the purposes of sections 726.6 to 726.20, deemed to have a taxable capital gain for the year from the disposition by him in the year of capital property equal to the amount determined under section 668.2, and such capital property is deemed, for the purposes of sections 726.6 to 726.20, to have been disposed of by the beneficiary in the year.”

c. I-3,
s. 668.3,
replaced

234. (1) Section 668.3 of the said Act, replaced by section 78 of chapter 5 of the statutes of 1989, is again replaced by the following section:

Net taxable
capital
gains of
a trust

“668.3 For the purposes of sections 668 to 668.2, the net taxable capital gains of a trust for a taxation year is the amount, if any, by which the aggregate of the taxable capital gains of the trust for the year exceeds the aggregate of its allowable capital losses for the year and its net capital losses deducted under section 729 in computing its taxable income for the year.”

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

c. I-3,
s. 668.4, am.

235. (1) Section 668.4 of the said Act is amended

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

Interpreta-
tion

“668.4 For the purposes of sections 668.1 and 668.2,

“qualified
small
business
corporation
share”

“qualified small business corporation share” of an individual has the meaning assigned to it by section 726.6.1;

“qualified
farm
property”

“qualified farm property” of an individual has the meaning assigned to it by subparagraph *a* of the first paragraph of section 726.6;

“eligible
taxable
capital
gains”

“eligible taxable capital gains” of a trust for a taxation year means the lesser of”;

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

“(b) the amount by which its cumulative gains limit, within the meaning of subparagraph *c* of the first paragraph of section 726.6, if that subparagraph were read without reference to the words “, the amounts deducted by the individual under this title in computing his taxable income for preceding taxation years”, at the end of the year exceeds the aggregate of all amounts designated by the trust under

sections 668.1 and 668.2 in respect of a beneficiary in a taxation year preceding that year.”

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

c. I-3,
s. 669.3, am.

236. (1) Section 669.3 of the said Act, amended by section 81 of chapter 5 of the statutes of 1989, is again amended by replacing the first paragraph by the following paragraph:

Amount
deemed
payable by
the trust

“669.3 For the purposes of sections 657 and 663, the amount designated by a trust in its fiscal return filed under this Part for a taxation year throughout which it was resident in Canada which does not exceed the amount determined in accordance with section 669.4 is deemed to have become payable by the trust to particular beneficiaries of the trust in the year in such proportion as the trust may designate in the fiscal return for each of the particular beneficiaries.”

(2) This section applies to taxation years of trusts commencing after 31 December 1987.

c. I-3,
ss. 670-
670.2,
repealed

237. (1) Sections 670 to 670.2 of the said Act are repealed.

(2) This section applies to taxation years of trusts commencing after 31 December 1987.

c. I-3,
s. 671, am.

238. (1) Section 671 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) the portion of the income of a trust, for a taxation year throughout which it was resident in Canada and before any deduction under paragraph *a* or *b* of section 657, from sources in a foreign country or a political subdivision of a foreign country that may reasonably be considered, having regard to the circumstances and the terms and conditions of the trust arrangement, to be part of the amount included under section 659 or 663 in computing the income for a taxation year of a beneficiary under the trust is deemed to be income of such beneficiary for that year from such sources; this presumption is valid only if such portion has been exclusively designated by the trust in respect of the beneficiary in its fiscal return for the year under this Part;”.

(2) This section applies to taxation years of trusts commencing after 31 December 1987.

c. I-3,
chapter,
repealed

239. (1) Chapter VI of Title XII of Book III of Part I of the said Act is repealed.

(2) This section applies to taxation years of trusts commencing after 31 December 1987. However, where it repeals sections 672 to 674 of the Taxation Act, it applies from the taxation year 1988 and where it repeals section 675 of that Act, it has effect from 1 January 1988.

c. I-3,
s. 683, am.

240. (1) Section 683 of the said Act, amended by section 71 of chapter 77 of the statutes of 1989, is again amended

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

“(a) an income interest of a taxpayer in a trust means a right, whether immediate or future and whether contingent or not, of the taxpayer as a beneficiary under a personal trust to, or to receive, all or any part of the income of the trust;”;

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

“i. in the case of a personal trust or a prescribed trust, a right, whether immediate or future and whether contingent or not, of the taxpayer as a beneficiary under the trust to, or to receive, all or any part of the capital of the trust;”.

(2) This section applies in respect of interests created or materially altered after 31 January 1987 and acquired after 10:00 p.m. Eastern Standard Time on 6 February 1987.

c. I-3,
s. 686, am.

241. (1) Section 686 of the said Act is amended by replacing subsection 1 by the following subsection:

Capital
gain from
sale of
capital
interest

“**686.** (1) In computing taxable capital gain from the disposition, by a taxpayer, of his capital interest or part of his capital interest in a personal trust, the adjusted cost base of such interest immediately before its disposition is deemed to be an amount equal to the greater of the adjusted cost base to the taxpayer of his interest otherwise determined and the cost amount to him thereof at the same time; in computing an allowable capital loss, such cost base shall be that which is otherwise determined.”

(2) This section applies in respect of dispositions of an interest in a trust after 31 December 1987, other than a disposition of an interest in a trust, the units of which are listed on 1 October 1987 on a prescribed stock exchange for the purposes of section 934 of the Taxation Act, before the earlier of 1 January 1991 and any date after 1 October 1987 on which a beneficial interest in the trust is issued.

c. I-3,
s. 688, am.

242. (1) Section 688 of the said Act is amended

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

Transfer of
property by
a personal
or prescribed trust as
consideration for the
disposition of capital
interest

“688. Where a personal trust or a prescribed trust transfers, at a particular time, property owned by it to a taxpayer who is a beneficiary under the trust in satisfaction of all or any part of his capital interest in the trust, the following rules apply:

(a) the trust is deemed to dispose of the property for proceeds of disposition equal to its cost amount to the trust immediately before that time;”;

(2) by replacing paragraphs *c* and *d* by the following paragraphs:

“(c) the taxpayer is deemed to dispose of all or part, as the case may be, of his capital interest in the trust for proceeds of disposition equal to the cost at which he is deemed under paragraph *b* to acquire the property, which applies in all cases irrespective of section 689, minus the amount of any debt that he undertook to assume as consideration for the disposition of that property by the trust;

“(d) for the purposes of sections 93 to 104, 130 and 130.1 and of the regulations made under paragraph *a* of section 130, where the property transferred was depreciable property of a prescribed class of the trust and what was the capital cost to the trust of such property exceeds the cost at which, in accordance with sections 688, 689, 691 and 692, the taxpayer is deemed to acquire the property, the following rules apply:

i. the capital cost of the property to the taxpayer is deemed to be the capital cost of the property to the trust;

ii. the excess is deemed to have been allowed to the taxpayer as depreciation in respect of the property for the taxation years preceding the acquisition by him of the property.”

(2) This section applies in respect of transfers of property after 31 December 1987 other than a transfer of property by a trust, the units of which were listed on 1 October 1987 on a prescribed stock exchange for the purposes of section 934 of the Taxation Act, before the earlier of 1 January 1991 and any date after 1 October 1987 on which a beneficial interest in the trust is issued.

c. 1-3,
s. 688.1,
added

243. (1) The said Act is amended by inserting, after section 688, the following section:

Transfer of
property by
a commercial
trust as
consideration for the
disposition of capital
interest

“688.1 Notwithstanding any other provision of this Part, where a trust transfers, at a particular time, a property owned by it

to a taxpayer who is a beneficiary under the trust in satisfaction of all or any part of his capital interest in the trust or of a right described in section 306 and section 688 is not applicable in respect of the transfer, the following rules apply:

(a) the trust is deemed to dispose of the property for proceeds of disposition equal to its fair market value at that time;

(b) the taxpayer is deemed to acquire the property at a cost equal to that fair market value;

(c) the taxpayer is deemed to dispose of all or part, as the case may be, of his capital interest in the trust or the right, as the case may be, for proceeds of disposition equal to the cost at which he is deemed by paragraph *b* to acquire the property."

(2) This section applies in respect of transfers of properties by trusts after 31 December 1987.

c. I-3,
s. 690, am.

244. (1) Section 690 of the said Act is amended by replacing what precedes paragraph *a* by the following:

Cost amount
of capital
interest

"690. In this title, notwithstanding the definition of "cost amount" set forth in section 1, the cost amount to a taxpayer of a capital interest or part of a capital interest in a trust other than a trust that is a foreign affiliate of the taxpayer is, at a particular time".

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

c. I-3,
ss. 690.1,
690.2,
replaced

245. (1) Sections 690.1 and 690.2 of the said Act are replaced by the following sections:

Rules appli-
cable in
case of
trust gover-
ned by an
employee
benefit plan

"690.1 Where a trust governed by an employee benefit plan has transferred, at a particular time, property owned by it to a taxpayer who was a beneficiary under the trust in satisfaction of all or any part of his interest in the trust, the following rules apply:

(a) the trust is deemed to have disposed of the property for proceeds of disposition equal to its cost amount to the trust immediately before that time;

(b) the taxpayer is deemed to have acquired the property at a cost equal to the greater of its fair market value at that time and the adjusted cost base of his interest in the trust or part thereof, as the case may be, immediately before that time;

(c) the taxpayer is deemed to have disposed of his interest in the trust or any part thereof, as the case may be, for proceeds of

disposition equal to the adjusted cost base to him of that interest or part thereof, as the case may be, immediately before the particular time;

(d) for the purposes of sections 93 to 104, 130 and 130.1 and the regulations made under paragraph *a* of section 130, where the property transferred was depreciable property of a prescribed class of the trust and what was the capital cost to the trust of that property exceeds the cost at which, in accordance with paragraph *b*, the taxpayer is deemed to acquire the property, the following rules apply:

i. the capital cost of the property to the taxpayer is deemed to be the capital cost of the property to the trust;

ii. the excess is deemed to have been allowed to the taxpayer as depreciation in respect of the property for taxation years preceding the acquisition by him of the property.

Rules appli-
cable in
case of
employee
trust

“690.2 Where an employee trust transfers, at a particular time, property owned by it to a taxpayer who is a beneficiary under the trust in satisfaction of all or any part of his interest in the trust, the following rules apply:

(a) the trust is deemed to have disposed of the property for proceeds of disposition equal to its fair market value at the particular time;

(b) the taxpayer is deemed to have acquired the property at a cost equal to the proceeds determined in paragraph *a* in respect thereof;

(c) the taxpayer is deemed to have disposed of his interest in the trust or part thereof, as the case may be, for proceeds of disposition equal to the adjusted cost base to him of the interest or part thereof, as the case may be, immediately before the particular time;

(d) for the purposes of sections 93 to 104, 130 and 130.1 and the regulations made under paragraph *a* of section 130, where the property transferred was depreciable property of a prescribed class of the trust and what was the capital cost of that property to the trust exceeds the cost at which, in accordance with paragraph *b*, the taxpayer is deemed to acquire the property, the following rules apply:

i. the capital cost of the property to the taxpayer is deemed to be the capital cost of the property to the trust;

ii. the excess is deemed to have been allowed to the taxpayer as depreciation in respect of the property for taxation years preceding the acquisition by him of the property.”

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

c. 1-3,
s. 690.3, am. **246.** (1) Section 690.3 of the said Act, enacted by section 73 of chapter 77 of the statutes of 1989, is amended

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

Rules appli-
cable in
case of
trust gover-
ned by
retirement
compensa-
tion
arrangement

“690.3 Where a trust governed by a retirement compensation arrangement has transferred, at a particular time, property owned by it to a taxpayer who was a beneficiary under the trust in satisfaction of all or any part of his interest in the trust, the following rules apply:

(a) the trust is deemed to have disposed of the property for proceeds of disposition equal to its fair market value at the particular time;”;

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

“(d) the taxpayer is deemed to have disposed of his interest in the trust or part thereof, as the case may be, for proceeds of disposition equal to the adjusted cost base to him of that interest or part thereof, as the case may be, immediately before the particular time;

“(e) for the purposes of sections 93 to 104, 130 and 130.1 and the regulations made under paragraph *a* of section 130, where the property transferred was depreciable property of a prescribed class of the trust and what was the capital cost of that property to the trust exceeds the cost at which, in accordance with paragraph *c*, the taxpayer is deemed to have acquired the property, the following rules apply:

i. the capital cost of the property to the taxpayer is deemed to be the capital cost of the property to the trust;

ii. the excess is deemed to have been allowed to the taxpayer as depreciation in respect of the property for taxation years preceding the acquisition by him of the property.”

(2) This section has effect from 9 October 1986.

c. 1-3,
s. 691.1,
added

247. (1) The said Act is amended by inserting, after section 691, the following section:

Where s. 467
applicable
to trust

“691.1 Notwithstanding paragraphs *a* to *c* of section 688, the rules provided in paragraphs *a* to *c* of section 691 apply where a personal trust or a prescribed trust transfers a particular property owned by it to a taxpayer who is a beneficiary under the trust in satisfaction of all or any part of his capital interest in the trust and

(*a*) section 467 applies at any time in respect of any property of the trust;

(*b*) the taxpayer is a person other than

i. the person who directly or indirectly transferred the particular property, or property for which the particular property was substituted, to the trust;

ii. an individual in respect of whom section 454 would apply on the transfer of capital property by the person described in subparagraph i; and

(*c*) the person described in subparagraph i of paragraph *b* is alive at the time the particular property is transferred.”

(2) This section applies in respect of transfers of properties by trusts after 31 December 1988.

c. I-3,
s. 692, am.

248. (1) Section 692 of the said Act is amended by replacing what precedes paragraph *a* by the following:

Property
distributed
to non-
resident
beneficiary

“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, taxable Canadian 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) This section applies in respect of transfers of properties by trusts after 31 December 1987.

c. I-3,
s. 725, am.

249. (1) Section 725 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(c) a social assistance payment made on the basis of a means, needs or income test by a registered charity or under a program, other than a prescribed program, provided for by an Act of Canada or a law of a province where the payment is received by the individual in

respect of whom the assistance was provided or by a person who resided with the individual at the time the payment was made.”

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

c. I-3,
s. 725.1.1,
added

250. (1) The said Act is amended by inserting, after section 725.1, the following:

“TITLE V.0.1

“DEDUCTION IN RESPECT OF TAX

Allowable
deduction

“725.1.1 A taxpayer may deduct, in computing his taxable income for a taxation year, $\frac{5}{2}$ of his tax payable for the year under subsection 1 of section 191.1 of the Income Tax Act (Statutes of Canada).”

(2) This section applies from the taxation year 1988. However, where section 725.1.1 of the Taxation Act, enacted by this section, applies to a taxation year ending before 1 July 1988, the reference therein to “ $\frac{5}{2}$ of” shall read as a reference to “two times”.

c. I-3,
s. 725.2, am.

251. (1) Section 725.2 of the said Act is amended by replacing what precedes paragraph *a* by the following:

Deduction
in respect
of a share
acquired
under a
stock option

“725.2 Where a corporation has agreed to sell or issue a share of its capital stock, or of the capital stock of a corporation with which it does not deal at arm’s length, to an individual, that individual may deduct an amount equal to $\frac{1}{4}$ of the amount of the benefit he is deemed to have received in the year under section 49, by virtue of section 49.1 or 49.2, or under section 50, 51 or 52, in respect of the share or the transfer or other disposition of the rights under the agreement contemplated in section 48, if”.

(2) This section applies in respect of shares acquired or rights in respect of shares transferred or otherwise disposed of after 31 December 1987. However, where section 725.2 of the Taxation Act, enacted by this section, applies in respect of shares acquired or rights in respect of shares transferred or otherwise disposed of after 31 December 1987 and before 1 January 1990, the reference therein to “ $\frac{1}{4}$ ” shall read as a reference to “ $\frac{1}{3}$ ”.

c. I-3,
s. 725.3, am.

252. (1) Section 725.3 of the said Act is amended by replacing what precedes paragraph *a* by the following:

Deduction
in respect
of a share
acquired
under a
stock option

“725.3 An individual may deduct an amount equal to $\frac{1}{4}$ of the amount of the benefit he is deemed to have received in the year under section 49, by virtue of section 49.2, in respect of a share acquired by him after 22 May 1985, if”.

(2) This section applies in respect of shares disposed of or exchanged after 31 December 1987. However, where section 725.3 of the Taxation Act, enacted by this section, applies in respect of shares disposed of or exchanged after 31 December 1987 and before 1 January 1990, the reference therein to “ $\frac{1}{4}$ ” shall read as a reference to “ $\frac{1}{3}$ ”.

c. I-3,
s. 725.4,
replaced

253. (1) Section 725.4 of the said Act is replaced by the following section:

Deduction
in respect
of a
prospector's
share

“725.4 A taxpayer may deduct an amount equal to $\frac{1}{4}$ of the amount he has included under paragraph *b* of section 218 in computing his income for the year in respect of a share received after 22 May 1985, unless the amount is exempt from income tax in Québec by reason of a provision contained in a tax convention or agreement between Québec and a particular country in respect of income tax that has the force of law in Québec or, in the absence of such a convention or agreement, the amount is exempt from income tax in Canada by reason of a provision contained in a tax convention or agreement between Canada and a particular country that has the force of law in Canada.”

(2) This section applies in respect of shares disposed of or exchanged after 31 December 1987. However, where section 725.4 of the Taxation Act, enacted by this section, applies in respect of shares disposed of or exchanged after 31 December 1987 and before 1 January 1990, the reference therein to “ $\frac{1}{4}$ ” shall read as a reference to “ $\frac{1}{3}$ ”.

c. I-3,
s. 725.5,
replaced

254. (1) Section 725.5 of the said Act is replaced by the following section:

Deduction
in respect
of a share

“725.5 An individual may deduct an amount equal to $\frac{1}{4}$ of the amount he has included under section 888.1 in computing his income for the year.”

(2) This section applies in respect of shares disposed of or exchanged after 31 December 1987, other than shares acquired on terminations of interests in deferred profit sharing plans occurring before 24 May 1985. However, where section 725.5 of the Taxation Act, enacted by this section, applies in respect of shares disposed of or exchanged after 31 December 1987 and before 1 January 1990, the reference therein to “ $\frac{1}{4}$ ” shall read as a reference to “ $\frac{1}{3}$ ”.

c. 1-3,
s. 726.4.10,
am.

255. (1) Section 726.4.10 of the said Act, enacted by section 86 of chapter 5 of the statutes of 1989 and amended by section 22 of chapter 7 of the statutes of 1990, is again amended by replacing subparagraph *i* of paragraph *a* by the following subparagraph:

"i. the aggregate of the expenses, except those described in section 726.4.12, incurred in Québec by the individual after 30 June 1988 and before that time but not after 31 December 1990, and which are Canadian exploration expenses that would be described in paragraph *a* or *c* of section 395 if the reference in those paragraphs to "Canada", wherever it appears, were a reference to "Québec", described in paragraph *d* of the said section 395 if the reference therein to "expenses described in paragraphs *a* to *b.1*, *c* and *c.1*" were replaced by a reference to "expenses that would be described in paragraph *a* or *c*, if the reference in those paragraphs to "Canada", wherever it appears, were a reference to "Québec"", or described in paragraph *e* of the said section 395 if the reference therein to "an expense described in paragraphs *a* to *c.1*" were replaced by a reference to "any expense that would be described in paragraph *a* or *c*, if the reference in those paragraphs to "Canada", wherever it appears, were a reference to "Québec"", exceeds".

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

c. 1-3,
s. 726.4.17.2,
am.

256. (1) Section 726.4.17.2 of the said Act, enacted by section 26 of chapter 7 of the statutes of 1990, is amended by replacing paragraph *a* by the following paragraph:

"(a) the aggregate of the expenses, except those described in section 726.4.17.4, incurred in Québec by the individual after 31 December 1988 and before that time but not after 31 December 1990, and which are Canadian exploration expenses that would be described in paragraph *c* of section 395 if the reference therein to "Canada", wherever it appears, were a reference to "Québec", described in paragraph *d* of the said section 395 if the reference therein to "expenses described in paragraphs *a* to *b.1*, *c* and *c.1*" were replaced by a reference to "expenses that would be described in paragraph *c*, if the reference therein to "Canada", wherever it appears, were a reference to "Québec"", or described in paragraph *e* of the said section 395 if the reference therein to "an expense described in paragraphs *a* to *c.1*" were replaced by a reference to "any expense that would be described in paragraph *c*, if the reference therein to "Canada", wherever it appears, were a reference to "Québec"", except any of those expenses that are related to removing overburden and stripping, where such work is no longer needed to obtain indicators of mineralization or for the preliminary sampling thereof, or related

to drilling and trenching or digging test pits, where such work constitutes underground exploration work, exceeds”.

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

c. I-3,
s. 726.4.34,
am. **257.** (1) Section 726.4.34 of the said Act, enacted by section 86 of chapter 5 of the statutes of 1989 and amended by section 50 of chapter 7 of the statutes of 1990, is again amended by replacing the third paragraph by the following paragraph:

Prescribed
form

“Where the corporation referred to in the first paragraph is a qualified corporation referred to in subparagraph iv of subparagraph c of the first paragraph of section 726.4.18 or a corporation referred to in subparagraph i or ii of subparagraph d of the first paragraph of the said section, it shall also send the prescribed form referred to in the first paragraph, within the time prescribed therein, to the issuer of the share in respect of which it renounced an amount.”

(2) This section has effect from 17 May 1989.

c. I-3,
s. 726.6, am. **258.** (1) Section 726.6 of the said Act is amended

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

“qualified
farm
property”

“(a) “qualified farm property” of an individual, other than a trust that is not a personal trust, at any time means a property owned at that time by the individual or his spouse, or by a partnership, an interest in which is an interest in a family farm partnership of the individual or his spouse that is

i. an immovable used, in the course of carrying on a business of farming in Canada, by

(1) the individual;

(2) where the individual is a personal trust, a beneficiary referred to in paragraph b of section 668.1 of the trust;

(3) the spouse, a child, the father or the mother of a person referred to in subparagraph 1 or 2;

(4) a corporation, a share of the capital stock of which is a share of the capital stock of a family farm corporation of an individual referred to in any of subparagraphs 1 to 3; or

(5) a partnership, an interest in which is an interest in a family farm partnership of an individual referred to in any of subparagraphs 1 to 3;

ii. a share of the capital stock of a family farm corporation of the individual or his spouse;

iii. an interest in a family farm partnership of the individual or his spouse; or

iv. an intangible capital property used, in the course of carrying on the business of farming in Canada, by a person or partnership referred to in subparagraphs 1 to 5 of subparagraph i or by a personal trust from which the individual acquired capital property;”;

(2) by inserting, after subparagraph *a* of the first paragraph, the following subparagraphs:

“child” “(a.1) “child” means a child within the meaning of paragraph *d* of section 451;

“investment
expense” “(a.2) “investment expense” of an individual for a taxation year means the aggregate of the following amounts:

i. the aggregate of all amounts each of which is an amount, other than an amount deducted under the first paragraph of section 360 or section 371, 401, 413, 414 or 418.7, deducted in computing his income for the year from property, except to the extent that the amount was included in computing his investment expense for the year under subparagraph ii, iii or v;

ii. the aggregate of all amounts each of which is an amount deducted under section 147, paragraph *d* of section 157 or section 160, 163, 176, 178 or 179 in computing his income for the year from a partnership of which he was a specified member in the fiscal period thereof ending in the year;

iii. the aggregate of all amounts each of which is an amount deducted in computing his income for the year as his share of any loss of a partnership of which he was a specified member in the fiscal period thereof ending in the year, and of all amounts each of which is an amount deducted under section 733.0.0.1 in computing his taxable income for the year;

iv. 50 % of the aggregate of all amounts each of which is an amount deducted under section 371, 401, 413, 414 or 418.7 in computing his income for the year in respect of expenses incurred and renounced under section 359.2, 359.4 or 359.6 by a corporation or in

respect of expenses incurred by a partnership of which he was a specified member in the fiscal period thereof in which the expense was incurred, other than any such expense that would be referred to in subparagraph i of paragraph *a* of section 726.4.10 if the reference therein to "30 June 1988" were a reference to "31 December 1988";

v. the aggregate of all amounts each of which is the amount of his loss for the year from property or from renting or leasing a rental property within the meaning of section 130R46 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1) or a property described in Class 31 or 32 of Schedule B to the said Regulation, if the property was owned by the individual or by a partnership of which he was a member, except to the extent that the amount was included in computing his investment expense for the year under subparagraph iii;

"interest
in a family
farm
partner-
ship"

"(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 all or substantially all of the property of which was, at that time, property used by the partnership or any of the following persons throughout a period of at least 24 months before that time in the course of carrying on the business of farming in Canada in which any individual referred to in any of subparagraphs i to iii was actively engaged on a regular and continuous basis:

i. the individual;

ii. where the individual is a personal trust, a beneficiary of the trust;

iii. the spouse, a child, the father or the mother of a person referred to in subparagraph i or ii;

iv. a corporation, a share of the capital stock of which was a share of the capital stock of a family farm corporation of an individual referred to in any of subparagraphs i to iii;"

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

"i. 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";

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

“ii. the aggregate of the amounts determined under subparagraph ii of subparagraph *b* in respect of the individual for the year or a preceding taxation year ending after 31 December 1984, the amount deducted by the individual under subparagraph iii of paragraph *c* of the first paragraph of section 28 for his taxation year 1985, the amounts deducted by the individual under this title in computing his taxable income for preceding taxation years and his cumulative net investment loss at the end of the year;”;

(5) by adding, after subparagraph *c* of the first paragraph, the following subparagraphs:

“cumulative net investment loss” (d) “cumulative net investment loss” of an individual at the end of a taxation year means the amount by which

i. the aggregate of all amounts each of which is the investment expense of the individual for the year or a preceding taxation year ending after 31 December 1987, exceeds

ii. the aggregate of all amounts each of which is the investment income of the individual for the year or a preceding taxation year ending after 31 December 1987;

“investment income” (e) “investment income” of an individual for a taxation year means the aggregate of the following amounts:

i. the aggregate of all amounts each of which is an amount included in computing his income for the year from property, including any amount included under section 94 in respect of a property the income from which would be income from property, except to the extent that the amount was included in computing his investment income for the year under subparagraph ii or iv;

ii. the aggregate of all amounts each of which is an amount included in computing his income for the year as his share of the income of a partnership of which he was a specified member in the fiscal period thereof ending in the year, including his share of all amounts included in computing the income of the partnership under section 94;

iii. 50 % of all amounts included in computing his income for the year under paragraphs *c* to *e* of section 330;

iv. the aggregate of all amounts each of which is an amount included in computing his income for the year from property or from

renting or leasing a rental property within the meaning of section 130R46 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1) or a property described in Class 31 or 32 of Schedule B to the said regulation, if the property was owned by the individual or by a partnership of which he was a member, except to the extent that the amount was included in computing his investment income for the year under subparagraph ii, including any amount included in computing his income for the year under section 94 in respect of a rental property or a property the income from which would be income from property;”;

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

Restrictions
in respect
of a
qualified
farm
property

“For the purposes of subparagraph i of subparagraph *a* of the first paragraph, property of an individual will not be considered to be used in the course of carrying on the business of farming in Canada at the time specified in the said subparagraph *a* unless,

(*a*) where the property is not a property referred to in subparagraph *b*, the property or property for which the property was substituted was used by the individual, by a person or partnership referred to in any of subparagraphs 2 to 5 of the said subparagraph i or by a personal trust from which the individual acquired the property, in the course of carrying on the business of farming in Canada in the year the property was disposed of by the individual or in at least five years during which the property was owned by the individual, by another individual referred to in subparagraph 2 or 3 of the said subparagraph i, by a personal trust from which the individual acquired the property or by a partnership referred to in subparagraph 5 of the said subparagraph i;

(*b*) where the property was acquired by the individual or a partnership before 17 June 1987 otherwise than pursuant to an agreement entered into in writing on or before that date, the property or property for which the property was substituted was owned, throughout the period of at least 24 months immediately preceding the time specified in subparagraph *a* of the first paragraph, by the individual, by another individual referred to in subparagraph 2 or 3 of the said subparagraph i of subparagraph *a* of the first paragraph, by a personal trust from which the individual acquired the property or by a partnership referred to in subparagraph 5 of the said subparagraph i, and unless one of the following conditions is met:

i. in at least two years while the property was so owned by one of the individuals or the partnership, the gross revenue of the

individual, of another individual referred to in subparagraph 2 or 3 of the said subparagraph *i* of subparagraph *a* of the first paragraph or of a personal trust from which the individual acquired the property from the farming business carried on in Canada in which he used the property and in which he or, where the individual is a personal trust, a beneficiary of the trust was actively engaged on a regular and continuous basis exceeded his income from all other sources for the year;

ii. the property was used by a corporation referred to in subparagraph 4 of subparagraph *i* of subparagraph *a* of the first paragraph or by a partnership referred to in subparagraph 5 of the said subparagraph *i* in the course of carrying on the business of farming in Canada throughout a period of at least 24 months during which the individual or another individual referred to in subparagraph 2 or 3 of the said subparagraph *i* was actively engaged on a regular and continuous basis in the farming business in which the property was used.”;

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

Intangible
capital
property

“For the purposes of subparagraph *iv* of subparagraph *a* of the first paragraph, an intangible capital property will not be considered to have been used in the course of carrying on the business of farming in Canada unless the conditions set out in subparagraph *a* or *b* of the second paragraph, as the case may be, are met.”

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

(a) subparagraphs *i*, *iii* and *v* of subparagraph *a.2* of the first paragraph of section 726.6 of the Taxation Act, enacted by this section, do not apply before 1 January 1989 with respect to amounts deducted under paragraph *a* of section 130 of the said Act in respect of a certified production, within the meaning of paragraph *j* of subsection 1 of section 130R2 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1), of an individual or a partnership that is property included in paragraph *n* of Class 12 of Schedule B to that regulation;

(b) where subparagraph *iv* of the said subparagraph *a.2* applies to the taxation year 1988, it shall read without reference to the words “, other than any such expense that would be referred to in subparagraph *i* of paragraph *a* of section 726.4.10 if the reference therein to “30 June 1988” were a reference to “31 December 1988””.

c. I-3,
s. 726.6.1,
added

259. (1) The said Act is amended by inserting, after section 726.6, the following section:

Interpreta-
tion

“726.6.1 In this title,

“qualified
small
business
corporation
share”

“qualified small business corporation share” of an individual, other than a trust that is not a personal trust, at any time, in this definition and the second paragraph referred to as the “determination time”, means a share of the capital stock of a corporation that,

(a) at the determination time, is a share of the capital stock of a small business corporation owned by the individual, his spouse or a partnership related to the individual;

(b) throughout the 24 months immediately preceding the determination time, was not owned by anyone other than the individual or a person or partnership related to the individual; and

(c) throughout that part of the 24 months immediately preceding the determination time while it was owned by the individual or a person or partnership related to the individual, was a share of the capital stock of a Canadian-controlled private corporation more than 50 % of the fair market value of the assets of which was attributable to

i. assets used in a qualified business carried on primarily in Canada by the corporation or by a corporation related to it;

ii. shares of the capital stock of one or more corporations that are connected, within the meaning of the regulations, with the corporation, or bonds, debentures, bills, notes, hypothecs, mortgages or similar obligations issued by such a corporation, if the following conditions are met:

(1) throughout that part of the 24 months immediately preceding the determination time that ends at the time the corporation acquired such shares or obligations, such shares or obligations were not owned by anyone other than the corporation or a person or partnership related to the corporation;

(2) throughout that part of the 24 months immediately preceding the determination time while such shares or obligations were owned by the corporation or a person or partnership related to it, they were shares or obligations of Canadian-controlled private corporations more than 50 % of the fair market value of the assets of which was attributable to assets described in subparagraph iii;

iii. assets described in either of subparagraphs i and ii;

“share of
the capital
stock of a
family farm
corporation”

“share of the capital stock of a family farm corporation” of an individual, other than a trust that is not a personal trust, at any time means a share of the capital stock of a corporation owned by the individual at that time where, at that time, all or substantially all of the property owned by the corporation was

(a) property used, throughout a period of at least 24 months before that time, by a person or partnership referred to in any of subparagraphs i to iv, in the course of carrying on the business of farming in Canada in which an individual referred to in any of subparagraphs ii to iv was actively engaged on a regular and continuous basis, by

- i. the corporation;
- ii. the individual;
- iii. where the individual is a personal trust, a beneficiary of the trust;
- iv. the spouse, a child, the father or the mother of an individual referred to in subparagraph ii or iii;
- v. a partnership, an interest in which was an interest in a family farm partnership of an individual referred to in any of subparagraphs ii to iv;

(b) shares of the capital stock of one or more corporations all or substantially all of the property of which was property described in subparagraph a or bonds, debentures, bills, notes, hypothecs, mortgages or similar obligations issued by such a corporation; or

(c) property described in either of subparagraphs a and b.

Rules in
respect of
a qualified
small
business
corporation
share

For the purposes of the definition of “qualified small business corporation share” in the first paragraph,

(a) where, for any period of time in the 24 month period ending at the determination time, all or substantially all of the fair market value of the assets of a corporation cannot be attributed to assets described in subparagraph i of subparagraph c of the said definition or shares or obligations of corporations described in subparagraph 2 of subparagraph ii of subparagraph c of the said definition, the reference in the said subparagraph 2 to “more than 50 %” shall, for that period of time, read as a reference to “all or substantially all” in respect of other corporations connected, within the meaning of the regulations, with the corporation;

(b) where, at any time in the 24 month period ending at the determination time, the share was substituted for another share, the share shall be considered to have met the requirements of the said definition only where, throughout that part of that 24 month period ending at the determination time that ends at the time of substitution, the other share was not owned by any person or partnership other than a person or partnership described in paragraph *b* of the said definition and was a share of the capital stock of a corporation described in paragraph *c* of the said definition;

(c) where, at any time in the 24 month period ending at the determination time, a share referred to in subparagraph ii of paragraph *c* of the said definition was substituted for another share, that share shall be considered to have met the requirements of that subparagraph only where, throughout that part of that 24 month period ending at the determination time that ends at the time of substitution, the other share was not owned by any person or partnership other than a person or partnership described in subparagraph i of subparagraph ii of paragraph *c* of the said definition and was a share of the capital stock of a corporation described in that paragraph *c*;

(d) a taxpayer is deemed to have disposed of shares that are identical properties in the order in which he acquired them;

(e) in determining whether a corporation is a small business corporation or a Canadian-controlled private corporation at any time, a right referred to in paragraph *b* of section 20 shall not include a right under a purchase and sale agreement relating to a share of the capital stock of a corporation;

(f) a personal trust is deemed to be related to a person or a partnership for any period throughout which the person or partnership was a beneficiary of the trust;

(g) a partnership is deemed to be related to a person for any period throughout which the person was a member of the partnership;

(h) a corporation that acquires shares of a class of the capital stock of another corporation from any person is deemed in respect of those shares to be related to the person where all or substantially all of the consideration received by that person from the corporation in respect of those shares was common shares of the capital stock of the corporation;

(i) shares issued after 13 June 1988 by a corporation to a particular person or partnership are deemed to have been owned

immediately before their issue by a person who was not related to the particular person or partnership unless the shares were issued

- i. as consideration for other shares, or
- ii. as part of a transaction or series of transactions in which the particular person or partnership disposed of property to the corporation that consisted of

(1) all or substantially all of the assets used in a qualified business carried on by the particular person or the members of that partnership, or

(2) an interest in a partnership all or substantially all of the assets of which were used in a qualified business carried on by the members of the partnership.”

(2) This section applies from the taxation year 1988. However, the definition of “qualified small business corporation share” set forth in the first paragraph of section 726.6.1 of the Taxation Act and the second paragraph of the said section, enacted by this section, apply in respect of dispositions of shares occurring after 17 June 1987.

c. I-3,
s. 726.7,
am.

260. (1) Section 726.7 of the said Act is amended by replacing what precedes paragraph *b* by the following:

Capital
gains
deduction
in respect
of a
qualified
farm prop-
erty

“726.7 An individual other than a trust, in computing his taxable income for a taxation year, may deduct, if he was resident in Canada throughout the year and disposed of qualified farm property in the year or a preceding taxation year ending after 31 December 1984, such amount as he may claim not exceeding the least of

(a) the amount by which \$375 000 exceeds the aggregate of the following amounts:

- i. the aggregate of all amounts each of which is an amount deducted by the individual under this title in computing his taxable income for a preceding taxation year;

- ii. where the taxation year ends after 31 December 1987, one-third of 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 1988;

- iii. where the taxation year ends after 31 December 1989, one-eighth of the aggregate of the following amounts:

(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;

(2) the amount determined under subparagraph ii in respect of the individual for the year;"

(2) This section applies from the taxation year 1988. However, where it applies to the taxation years 1988 and 1989, the reference to "\$375 000" in paragraph *a* of section 726.7 of the Taxation Act, enacted by this section, shall read as a reference to "\$333 333".

c. I-3,
s. 726.7.1,
added

261. (1) The said Act is amended by inserting, after section 726.7, the following section:

Capital
gains
deduction
in respect
of a
qualified
small
business
corporation
share

"726.7.1 An individual other than a trust, in computing his taxable income for a taxation year, may deduct, if he was resident in Canada throughout the year and disposed in the year or a preceding taxation year and after 17 June 1987 of a share of a corporation that, at the time of disposition, was a qualified small business corporation share of the individual, such amount as he may claim not exceeding the least of

(a) the amount by which \$375 000 exceeds the aggregate of the following amounts:

i. the aggregate of all amounts each of which is an amount deducted by the individual under this title in computing his taxable income for a preceding taxation year;

ii. where the taxation year ends after 31 December 1987, the amount determined under subparagraph ii of paragraph *a* of section 726.7 in respect of the individual for the year;

iii. where the taxation year ends after 31 December 1989, the amount determined under subparagraph iii of paragraph *a* of section 726.7 in respect of the individual for the year;

(b) the amount by which his cumulative gains limit at the end of the year exceeds the amount deducted under section 726.7 in computing his taxable income for the year;

(c) the amount by which his annual gains limit for the year exceeds the amount deducted under section 726.7 in computing his taxable income for the year;

(d) the amount that would be determined in respect of the individual for the year under paragraph *b* of section 28, other than an

amount included in determining the amount in respect of the individual under paragraph *d* of section 726.7 in respect of capital gains and capital losses if the only properties referred to in paragraph *b* of section 28 were qualified small business corporation shares disposed of by him after 17 June 1987.”

(2) This section applies from the taxation year 1988. However, where it applies to the taxation years 1988 and 1989, the reference to “\$375 000” in paragraph *a* of section 726.7.1 of the Taxation Act, enacted by this section, shall read as a reference to “\$333 333”.

c. I-3,
s. 726.8,
replaced

262. (1) Section 726.8 of the said Act is replaced by the following section:

Capital
gains
deduction
in respect
of other
property

“726.8 An individual other than a trust, in computing his taxable income for a taxation year, may deduct, if he was resident in Canada throughout the year and disposed of property other than property in respect of which section 726.7 or 726.7.1 applies, such amount as he may claim not exceeding the least of

(a) the amount by which \$75 000 exceeds the aggregate of the following amounts:

i. the aggregate of all amounts each of which is an amount deducted by the individual under this section in computing his taxable income for a preceding taxation year;

ii. where the taxation year ends after 31 December 1987, one-third of 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 1988;

iii. where the taxation year ends after 31 December 1989, one-eighth of the aggregate of the following amounts:

(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;

(2) the amount determined under subparagraph ii in respect of the individual for the year;

(b) the amount by which his cumulative gains limit at the end of the year exceeds the aggregate of all amounts each of which is an amount deducted under section 726.7 or 726.7.1 in computing his taxable income for the year; and

(c) the amount by which his annual gains limit for the year exceeds the aggregate of all amounts each of which is an amount deducted under section 726.7 or 726.7.1 in computing his taxable income for the year."

(2) This section applies from the taxation year 1988. However, where it applies to the taxation years 1988 and 1989, the reference to "\$75 000" in paragraph *a* of section 726.8 of the Taxation Act, enacted by this section, shall read as a reference to "\$66 667".

c. I-3,
s. 726.9,
replaced

263. (1) Section 726.9 of the said Act is replaced by the following section:

Maximum
capital
gains
deduction

"726.9 Notwithstanding sections 726.7 to 726.8, the total amount that may be deducted under this title in computing the taxable income of an individual for a taxation year shall not exceed the amount by which \$375 000 exceeds the aggregate of the following amounts:

(a) the aggregate of all amounts each of which is an amount deducted by the individual under this title in computing his taxable income for a preceding taxation year;

(b) where the taxation year ends after 31 December 1987, the amount determined under subparagraph ii of paragraph *a* of section 726.7 in respect of the individual for the year;

(c) where the taxation year ends after 31 December 1989, the amount determined under subparagraph iii of paragraph *a* of section 726.7 in respect of the individual for the year."

(2) This section applies from the taxation year 1988. However, where it applies to the taxation years 1988 and 1989, the reference to "\$375 000" in section 726.9 of the Taxation Act, enacted by this section, shall read as a reference to "\$333 333".

c. I-3,
s. 726.10,
replaced

264. (1) Section 726.10 of the said Act is replaced by the following section:

Deemed
residence

"726.10 For the purposes of sections 726.7 to 726.8, an individual is deemed to have been resident in Canada throughout a particular taxation year where he was resident in Canada at any time in the particular year and throughout the immediately preceding taxation year or the immediately following taxation year."

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

c. I-3,
s. 726.11,
am.

265. (1) Section 726.11 of the said Act is amended by replacing what precedes paragraph *a* by the following:

Failure to
file a
return or
to report
a capital
gain

“726.11 Notwithstanding sections 726.7 to 726.8, where an individual has a capital gain for a taxation year from the disposition of a capital property, no amount may be deducted under this title in respect of the capital gain in computing his taxable income for the particular year or any subsequent taxation year where, knowingly or under circumstances amounting to gross negligence,”.

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

c. I-3,
s. 726.13,
am.

266. (1) Section 726.13 of the said Act is amended

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

Capital gain
from the
disposition
of property

“726.13 Notwithstanding sections 726.7 to 726.8, where an individual has a capital gain for a taxation year from the disposition of property, no amount in respect of the capital gain shall be deducted under this title in computing his taxable income for the year if the disposition of property is part of a series of transactions or events each of which is effected or to be effected after 21 November 1985”;

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

“(b) in which any property is acquired by a corporation or partnership for consideration that is significantly less than the fair market value of the property at the time of acquisition, other than an acquisition as the result of an amalgamation or merger of corporations or the winding-up of a corporation or partnership or a distribution of property of a trust in satisfaction of all or part of a corporation’s capital interest in the trust.”

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

(3) Paragraph 2 of subsection 1 applies from the taxation year 1985.

c. I-3,
s. 726.14,
replaced

267. (1) Section 726.14 of the said Act is replaced by the following section:

Capital gain
attributable
to unpaid or
insufficient
dividends

“726.14 Notwithstanding sections 726.7 to 726.8, where an individual has a capital gain for a taxation year from the disposition, after 21 November 1985, of a property, no amount in respect of that capital gain shall be deducted under this title in computing his taxable income for the year where it may reasonably be concluded, having regard to all the circumstances, that a significant portion of the capital gain is attributable to the fact that dividends were not paid on a share, other than a prescribed share, of a corporation or that dividends paid

on such a share in the year or in any preceding taxation year were less than 90 % of the average annual rate of return thereon for that year.”

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

c. I-3,
s. 726.16,
repealed

268. (1) Section 726.16 of the said Act is repealed.

(2) This section applies from the taxation year 1988. However, where it applies to a taxation year ending after 31 December 1984 and before 1 January 1988, section 726.16 of the Taxation Act, repealed by this section, shall read as follows:

Extension
or renewal
of option

“726.16 Notwithstanding sections 726.7 and 726.8, where an individual has a capital gain for a taxation year arising as a result of his granting, after 21 November 1985, an extension or renewal of an option to acquire property, other than qualified farm property, no amount in respect of that capital gain shall be deducted under this title in computing his taxable income for the year.”

c. I-3,
s. 726.17,
am.

269. (1) Section 726.17 of the said Act is amended by replacing what precedes paragraph *a* by the following:

Interest in
partnership
or trust

“726.17 Notwithstanding the other provisions of this Act, where it is reasonable to consider that one of the main reasons for an individual acquiring, holding or having an interest in a partnership or trust, other than an interest in a personal trust, or a share of an investment corporation, mortgage investment corporation or mutual fund corporation, or that one of the main reasons for the existence of any terms, conditions, rights or other attributes of the interest or share, as the case may be, is to enable the individual to receive or have allocated to him a percentage of any capital gain or taxable capital gain of the partnership, trust or corporation that is larger than his percentage of the income of the partnership, trust or corporation, the following rules apply:”.

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

c. I-3,
s. 726.18,
repealed

270. (1) Section 726.18 of the said Act is repealed.

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

c. I-3,
s. 726.19,
am.

271. (1) Section 726.19 of the said Act is amended

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

“(a) the amount, if any, by which the eligible taxable capital gains, within the meaning of section 668.4, of the trust for that year

exceed, at the end of the taxation year in which the spouse died, the amount, if any, by which the aggregate of all amounts each of which is the amount determined under subparagraph ii of subparagraph *b* of the first paragraph of section 726.6 in respect of the spouse for the year or for a preceding taxation year ending after 31 December 1984, the amount deducted by the spouse under subparagraph iii of paragraph *c* of the first paragraph of section 28 for his taxation year 1985 and the spouse's cumulative net investment loss at the end of the year exceeds the aggregate of the amounts determined in respect of the spouse for the year or a preceding taxation year ending after 31 December 1984 under subparagraph i of subparagraph *b* of the first paragraph of section 726.6; and”;

“(b) the aggregate of the following amounts:

i. the lesser of 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 amount by which \$75 000 exceeds the aggregate of the following amounts:

(1) the aggregate of all amounts each of which is an amount deducted by the spouse under section 726.8 for the taxation year in which the spouse died or a preceding taxation year;

(2) the aggregate of all amounts each of which is an amount determined under subparagraph ii or iii of paragraph *a* of section 726.8 in respect of the spouse for the taxation year in which the spouse died;

ii. the amount that would be determined in respect of the trust 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 qualified farm properties disposed of by it after 31 December 1984 and qualified small business corporation shares disposed of by it after 17 June 1987;”;

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

“(c) the amount by which \$375 000 exceeds the aggregate of the following amounts:

i. the aggregate of all amounts each of which is an amount deducted by the spouse under this title for the taxation year in which the spouse died or a preceding taxation year;

ii. the aggregate of all amounts each of which is an amount determined under subparagraph ii or iii of paragraph *a* of section 726.7 in respect of the spouse for the taxation year in which the spouse died.”

(2) This section applies from the taxation year 1988. However, where it applies to the taxation years 1988 and 1989,

(a) the reference to “\$75 000” in paragraph *b* of section 726.19 of the Taxation Act, enacted by this section, shall read as a reference to “\$66 667”;

(b) the reference to “\$375 000” in paragraph *c* of section 726.19 of the Taxation Act, enacted by this section, shall read as a reference to “\$333 333”.

c. I-3,
s. 728.0.1,
am.

272. (1) Section 728.0.1 of the said Act, amended by section 89 of chapter 5 of the statutes of 1989, 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 and 726.4.3 to 726.4.7 and Title VI.5 of Book IV, 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 section 725, 725.1.1, 725.2 to 725.6, 738 to 746 or 845 exceeds”.

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

c. I-3,
ss. 728.0.2-
728.0.4,
added

Transitional
rule

273. The said Act is amended by inserting, after section 728.0.1, the following sections:

“728.0.2 Notwithstanding section 728, the non-capital loss of a corporation for a particular taxation year ending after 30 June 1988, determined for the purposes of computing its taxable income for a taxation year ending before 1 July 1988, is deemed to be equal to the amount by which the amount that would, but for this section, be its non-capital loss for the particular taxation year, exceeds 1/5 of the lesser of

(a) the amount deductible under section 725.1.1 in computing the corporation’s taxable income for the particular taxation year, and

(b) the amount that would, but for this section, be its non-capital loss for the particular year.

Transitional
rule

“728.0.3 Notwithstanding section 728, the non-capital loss of a corporation for a particular taxation year ending before 1 July 1988, determined for the purposes of computing its taxable income for a taxation year ending after 30 June 1988, is deemed to be equal to the aggregate of

(a) the amount that would, but for this section, be its non-capital loss for the particular taxation year, and

(b) 1/4 of the lesser of

i. the amount deductible under section 725.1.1 in computing the corporation's taxable income for the particular taxation year, and

ii. the amount that would, but for this section, be its non-capital loss for the particular taxation year.

Presumption

“728.0.4 For the purposes of sections 734 and 735, any amount deducted in computing a corporation's taxable income for a taxation year ending before 1 July 1988 in respect of a non-capital loss for another taxation year ending after 30 June 1988, is deemed to be equal to the aggregate of the amount so deducted and 1/4 of the amount by which the amount so deducted exceeds the amount by which

(a) the amount deductible for the year in respect of the non-capital loss, exceeds

(b) 4/5 of the amount deductible under section 725.1.1 in computing its taxable income for the other taxation year.”

c. 1-3,
s. 729,
replaced

274. (1) Section 729 of the said Act is replaced by the following section:

Net capital
losses

“729. A taxpayer may deduct his net capital losses for the taxation years preceding and the three taxation years following the year.”

(2) This section applies from the taxation year 1985 in respect of computations of taxable income of a taxpayer.

c. 1-3,
s. 729.1,
added

275. (1) The said Act is amended by inserting, after section 729, the following section:

Limited net
capital
losses

“729.1 Notwithstanding section 729, where a taxpayer has claimed a deduction under that section for a particular taxation year in respect of his net capital losses, the amount that may be deducted under that section in respect of those losses for that particular taxation year is equal to the lesser of

(a) the aggregate of the excess contemplated in paragraph *b* of section 28 for the particular taxation year in respect of the taxpayer and, where the taxpayer is an individual, the lesser of \$1 000 and his pre-1986 capital loss balance for the particular year, and

(b) the aggregate of all amounts each of which is an amount determined by the formula

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

Interpreta-
tion

For the purposes of the formula set forth in subparagraph *b* of the first paragraph,

(a) *A* is the amount of a net capital loss for a taxation year, in this paragraph referred to as the “loss year”, claimed under section 729;

(b) *B* is the fraction that would have been used in respect of the taxpayer for the particular taxation year under section 231 if he had had a capital loss for that year;

(c) *C* is the fraction required to be used under section 231 in respect of the taxpayer for the loss year.”

(2) This section applies from the taxation year 1985 in respect of computations of taxable income of a taxpayer.

c. I-3,
s. 730.1,
replaced

276. (1) Section 730.1 of the said Act is replaced by the following section:

“pre-1986
capital loss
balance”

“730.1 For the purposes of this title, “pre-1986 capital loss balance” of an individual for a particular taxation year means the amount by which the amount determined under section 730.2 in respect of the individual for a particular taxation year exceeds the aggregate of

(a) the aggregate of amounts deducted under Title VI.5 of Book IV in computing his taxable income for taxation years preceding 1 January 1988,

(b) 3/4 of the aggregate of amounts deducted under Title VI.5 of Book IV in computing his taxable income for taxation years preceding the particular year and ending after 31 December 1987 and before 1 January 1990, and

(c) 2/3 of the aggregate of amounts deducted under Title VI.5 of Book IV in computing his taxable income for taxation years preceding the particular year and ending after 31 December 1989.”

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

c. 1-3,
s. 734,
replaced

277. (1) Section 734 of the said Act is replaced by the following section:

Restrictions
as to the
deductibility
of
certain
losses

“734. A non-capital loss, a farm loss, a net capital loss, a restricted farm loss or a limited partnership loss is deductible for a particular taxation year under section 727, 728.1, 729, 731, 733.0.0.1 or 737 only to the extent that it exceeds the aggregate of

(a) the amounts deducted under this title in respect of that non-capital loss, farm loss, restricted farm loss or limited partnership loss in computing taxable income for taxation years preceding the particular taxation year, and

(b) the deduction that was claimed under section 729 in respect of that net capital loss for taxation years preceding the particular taxation year.”

(2) This section applies from the taxation year 1985 in respect of computations of taxable income of a taxpayer.

c. 1-3,
s. 736.0.1,
am.

278. (1) Section 736.0.1 of the said Act, replaced by section 80 of chapter 77 of the statutes of 1989, is amended by replacing that part of the second paragraph preceding paragraph *a* by the following:

Loss from
carrying on
business

“However, the corporation may deduct, for a particular taxation year ending after that time, such portion of a non-capital loss or farm loss, as the case may be, for a taxation year ending before that time as may reasonably be regarded as its loss from carrying on a business and, where a business was carried on by the corporation in that taxation year, such portion of the non-capital loss as may reasonably be regarded as being attributable to an amount deductible under section 725.1.1 in computing its taxable income for that taxation year, if the following conditions are met:”

(2) This section applies in respect of non-capital losses or farm losses for taxation years subsequent to the taxation year 1987.

c. 1-3,
s. 736.0.1.1,
am.

279. (1) Section 736.0.1.1 of the said Act, replaced by section 80 of chapter 77 of the statutes of 1989, is amended by replacing that part of the second paragraph preceding paragraph *a* by the following:

Loss from
carrying on
business

"However, the corporation may deduct, for a particular taxation year ending before that time, such portion of a non-capital loss or farm loss, as the case may be, for a taxation year ending after that time as may reasonably be regarded as its loss from carrying on a business and, where a business was carried on by the corporation in that taxation year, such portion of the non-capital loss as may reasonably be regarded as being attributable to an amount deductible under section 725.1.1 in computing its taxable income for that taxation year, if the following conditions are met:".

(2) This section applies in respect of non-capital losses or farm losses for subsequent taxation years subsequent to the taxation year 1987.

c. I-3,
s. 736.0.2,
am.

280. (1) Section 736.0.2 of the said Act, replaced by section 80 of chapter 77 of the statutes of 1989, is amended by replacing paragraph *b* by the following paragraph:

"(b) where, immediately before that time, the eligible intangible capital amount of the corporation in respect of a business exceeded the aggregate of 75 % of the fair market value of the aggregate of the intangible capital property in respect of the business and the amount otherwise deducted under paragraph *b* of section 130 in computing the corporation's income from the business for the taxation year ending immediately before that time, the excess shall be deducted under paragraph *b* of section 130 in computing the corporation's income from the business for the taxation year ending immediately before that time."

(2) This section applies in respect of acquisitions of control of a corporation occurring after the commencement of the first taxation year of the corporation commencing after 30 June 1988.

c. I-3,
s. 737,
replaced

281. (1) Section 737 of the said Act is replaced by the following section:

Net capital
losses of a
deceased
taxpayer

"737. Where a taxpayer dies in a taxation year, for the purposes of computing his taxable income for that year and the preceding taxation year, section 729.1 shall read as follows:

"729.1 Notwithstanding section 729, where a taxpayer has claimed a deduction under that section for a particular taxation year in respect of his net capital losses, the amount that may be deducted for that year under that section in respect of those losses, to the extent that they were not deducted in computing his taxable income for any other taxation year, is equal to the aggregate of

(a) an amount not exceeding the excess contemplated in paragraph *b* of section 28 for the particular year in respect of the taxpayer, equal to the aggregate of all amounts each of which is an amount determined by the formula

$$A \times \frac{B}{C}, \text{ and}$$

(b) the amount by which his net capital losses claimed for the particular year under section 729 exceeds the aggregate of his net capital losses claimed under section 729 that were determined under subparagraph *a* for the particular year, and the aggregate of all amounts each of which is an amount deducted by the taxpayer under Title VI.5 of Book IV in computing his taxable income for a taxation year.

For the purposes of the formula set forth in subparagraph *a* of the first paragraph,

(a) *A* is the amount of a net capital loss for a taxation year, in this paragraph referred to as the “loss year”, claimed under section 729;

(b) *B* is the fraction that would have been used in respect of the taxpayer for the particular taxation year under section 231 if he had had a capital loss for that year;

(c) *C* is the fraction required to be used under section 231 in respect of the taxpayer for the loss year.”

(2) This section applies from the taxation year 1985 in respect of computations of taxable income of a taxpayer.

c. I-3,
s. 740.1,
replaced

282. (1) Section 740.1 of the said Act, amended by section 99 of chapter 5 of the statutes of 1989, is replaced by the following section:

Restriction

“740.1 Sections 738 and 740 do not apply in respect of a dividend received by a specified financial institution on a share acquired in the ordinary course of carrying on its business and that is, at the time the dividend is paid, a term preferred share.

Presumption

For the purposes of the first paragraph, where a restricted financial institution received a dividend on a share of the capital stock of a mutual fund corporation or an investment corporation at any time after that mutual fund corporation or investment corporation has elected, pursuant to section 1106.1 or section 1118.1, not to be a restricted financial institution, the share is deemed to be a term

preferred share acquired in the ordinary course of carrying on a business.”

(2) This section applies in respect of dividends received after 18 June 1987.

c. I-3,
s. 740.2,
replaced

283. (1) Section 740.2 of the said Act is replaced by the following section:

When no
deduction
permitted

“740.2 Subject to section 740.3, sections 738, 740 and 845 do not apply in respect of a dividend received by a particular corporation on a share of the capital stock of a corporation that was issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 where, at or immediately before the time the dividend was paid, a person or partnership, other than the issuer of the share or an individual other than a trust, that is a specified financial institution or a specified person in relation to any such institution was obligated, either absolutely or contingently and either immediately or in the future, to effect any undertaking, including any guarantee, covenant or agreement to purchase or repurchase the share and including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the particular corporation or any specified person in relation to it and the undertaking was given as part of a transaction or event or a series of transactions or events that included the issuance of the share

(a) to ensure that any loss that the particular corporation or a specified person in relation to it may sustain by reason of the ownership, holding or disposition of the share or any other property is limited, or

(b) to allow the particular corporation or a specified person in relation to it to derive earnings by reason of the ownership, holding or disposition of the share or any other property.”

(2) This section applies in respect of dividends received on shares issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 and on shares deemed under section 740.3.1 of the Taxation Act, as enacted by section 285 of this Act, to have been issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987. However, this section does not apply to dividends received on grandfathered shares, within the meaning of section 1 of the Taxation Act, as amended by section 3 of this Act.

c. I-3,
s. 740.3,
replaced

284. (1) Section 740.3 of the said Act, amended by section 100 of chapter 5 of the statutes of 1989, is replaced by the following section:

Other
restriction

"740.3 Section 740.2 does not apply in respect of a dividend received

(a) on a share that was, at the time the dividend was received, a share described in section 21.6.1 during the applicable time period referred to therein,

(b) on a taxable preferred share of a class of the capital stock of a corporation that is listed on a prescribed stock exchange, issued after 15 December 1987, where all the guarantees described in section 740.2 are given by the corporation that issued the share, by one or more persons that would be related to it if paragraph b of section 20 were not taken into account or by the latter corporation and such persons, unless at the time the dividend is received the shareholder or the shareholder and specified persons in relation to the shareholder, receive dividends in respect of more than 10 % of the issued and outstanding shares to which the guarantees described in section 740.2 apply,

(c) on a grandfathered share or a taxable preferred share issued before 16 December 1987, or

(d) on a prescribed share."

(2) This section applies in respect of dividends received on shares issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 and on shares deemed under section 740.3.1 of the Taxation Act, as enacted by section 285 of this Act, to have been issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987. However, this section does not apply to dividends received on grandfathered shares, within the meaning of section 1 of the Taxation Act, as amended by section 3 of this Act.

c. 1-3,
s. 740.3.1,
added

285. (1) The said Act is amended by inserting, after section 740.3, the following section:

Particular
rules

"740.3.1 For the purposes of section 740.2, where the undertaking referred to therein in respect of a share was given at any particular time after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, otherwise than pursuant to a written arrangement to do so entered into before 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, the share is deemed to have been issued at the particular time and the undertaking is deemed to have been given as part of a series of transactions that included the issuance of the share.

"specified
person"

For the purposes of sections 740.2 and 740.3, the expression "specified person" has the meaning assigned by paragraph f of section 21.11.16."

(2) This section applies in respect of dividends received on shares issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987 and on shares deemed under section 740.3.1 of the Taxation Act, enacted by this section, to have been issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987. However, this section does not apply to dividends received on grandfathered shares, within the meaning of section 1 of the Taxation Act, as amended by section 3 of this Act.

c. 1-3,
s. 740.4,
repealed

286. (1) Section 740.4 of the said Act is repealed.

(2) This section applies in respect of dividends received on short-term preferred shares issued after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987, other than grandfathered shares, within the meaning of section 1 of the Taxation Act, as amended by section 3 of this Act.

c. 1-3,
s. 749.1,
replaced

287. (1) Section 749.1 of the said Act, replaced by section 101 of chapter 5 of the statutes of 1989, is again replaced by the following section:

Computation

“749.1 In this Book, except for the purposes of sections 752.1 to 752.5, except subparagraph *b* of the first paragraph of section 752.2, and except for the purposes of sections 772 and 772.1, tax, whether referred to as tax payable under this Part or tax otherwise payable under this Part or by any other similar expression, shall be computed as if this Part were read without reference to Book V.1.”

(2) This section applies from the taxation year 1985. However, where section 749.1 of the Taxation Act, enacted thereby, applies to

(a) the taxation years 1985 and 1986, it shall read as follows:

Computation

“749.1 In this Book, except for the purposes of paragraph *d* of subsection 1 of section 759, sections 752.1 to 752.11, except subparagraph *b* of the first paragraph of section 752.2, and except for the purposes of sections 772 and 772.1, tax, whether referred to as tax payable under this Part or tax otherwise payable under this Part or by any other similar expression, shall be computed as if this Part were read without reference to Book V.1.”;

(b) the taxation year 1987, it shall read as follows:

Computation

“749.1 In this Book, except for the purposes of sections 752.1 to 752.11, except subparagraph *b* of the first paragraph of section 752.2, and except for the purposes of sections 772 and 772.1, tax, whether referred to as tax payable under this Part or tax otherwise

payable under this Part or by any other similar expression, shall be computed as if this Part were read without reference to Book V.1.”

c. I-3,
s. 752.0.11,
am.

288. (1) Section 752.0.11 of the said Act, enacted by section 104 of chapter 5 of the statutes of 1989, is amended by replacing that part of subparagraph *b* of the second paragraph preceding subparagraph *i* by the following:

“(b) the letter B represents the aggregate of the medical expenses described in section 752.0.11.1 that are proven by filing a receipt therefor with the Minister, that were not included in determining a deduction for medical expenses for a preceding taxation year and that were paid by either the individual or his legal representatives.”

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

c. I-3,
ss. 752.0.11.1-
752.0.11.3,
added

Medical
expenses

289. (1) The said Act is amended by inserting, after section 752.0.11, the following sections:

“752.0.11.1 The medical expenses to which subparagraph *b* of the second paragraph of section 752.0.11 refers are amounts paid

(a) to a dentist, nurse or practitioner or a public or licensed private hospital in respect of medical, paramedical or dental services provided to a person;

(b) to a person authorized under the laws of a province to practise the profession of a dental prosthetist, for the making, repairing and fitting of dental prostheses, for a person;

(c) for drugs, medicaments or other preparations or substances, other than those listed in paragraph *d*, for use in the diagnosis, treatment or prevention of a disease, disorder, abnormal physical state or the symptoms thereof, or in restoring, correcting or modifying an organic function, if used by a person as prescribed by a practitioner or dentist and as recorded by a pharmacist;

(d) for an oxygen tent or other equipment necessary to administer oxygen or for insulin, oxygen, liver extract injectible for pernicious anaemia or vitamin B¹² for pernicious anaemia, if used by a person as prescribed by a practitioner;

(e) for laboratory analyses, radiological examinations or other diagnostic procedures together with interpretations thereof, if such analyses, examinations and other procedures are effected for maintaining health, preventing disease or assisting in the diagnosis

or treatment of an injury, illness or disability, for a person as prescribed by a practitioner or dentist;

(f) for eye glasses or other devices for the treatment or correction of a defect of vision of a person as prescribed by a practitioner or optometrist;

(g) for transportation of a person by ambulance to or from a public or licensed private hospital;

(h) to a person engaged in the business of providing transportation services, for the transportation of a particular person or a particular person and one person who accompanied him, if, in the latter case, the particular person has been certified by a practitioner to be incapable of travelling without assistance from the locality where the particular person dwells to the place where medical or paramedical services are normally provided, if that place is not less than 40 kilometres from that locality, if equivalent or substantially equivalent services were not available in that locality, if the particular person travelled to that place to obtain such services for himself and if, having regard to the circumstances, it was reasonable to travel to that place to obtain those services and the route travelled was the most reasonably direct route;

(i) for reasonable travelling expenses, other than expenses described in paragraph *h*, incurred in respect of a particular person or a particular person and one person who accompanies him, if, in the latter case, the particular person has been certified by a practitioner to be incapable of travelling without assistance, to obtain medical or paramedical services in a place that is not less than 80 kilometres from the locality where the particular person dwells, if equivalent or substantially equivalent services were not available in that locality, if the particular person travelled to that place to obtain such services for himself and if, having regard to the circumstances, it was reasonable to travel to that place to obtain those services and the route travelled was the most reasonably direct route;

(j) for or in respect of an artificial limb, iron lung, rocking bed for poliomyelitis victims, wheelchair, crutches, spinal brace, brace for a limb, ileostomy or colostomy pad, cloth diapers or disposable briefs for use by persons who are incontinent by reason of illness, injury or affliction, truss for hernia, artificial eye, laryngeal speaking aid, aid to hearing or artificial kidney machine;

(k) for the care, or the care and training, at a school, institution or other place, of a particular person, if the particular person has been

certified by a qualified person to be a person who, by reason of a physical or mental handicap, requires the equipment, facilities or personnel specially provided by that school, institution or other place for the care, or the care and training, of persons suffering from such a handicap;

(l) for the full-time care in a nursing home of a person, if the person has been certified by a practitioner to be a person who, by reason of lack of normal mental capacity, is and in the foreseeable future will continue to be dependent on others for his personal needs and care;

(m) as remuneration for one full-time attendant upon, or for the full-time care in a nursing home of, a person who has a severe and prolonged mental or physical impairment that has been certified as such in prescribed form by a physician or, where the impairment is an impairment of sight, by a physician or an optometrist;

(n) as remuneration for one full-time attendant upon a person in a self-contained domestic establishment in which the person receiving the care lives, if that person is, and has been certified by a practitioner to be, a person who, by reason of mental or physical infirmity, is and is likely to be for a long-continued period of indefinite duration dependent on others for his personal needs and care and who, as a result thereof, requires a full-time attendant, the attendant is neither a person in respect of whom the individual referred to in section 752.0.11 or the individual's spouse has deducted an amount under sections 752.0.1 to 752.0.7 in computing his tax payable under this Part for the taxation year in which the remuneration is paid nor, at the time the remuneration is paid, a person under 18 years of age and connected with the individual or the individual's spouse by blood relationship, marriage or adoption, and the receipt filed with the Minister to prove payment of the remuneration contains the Social Insurance Number of the person who issued it;

(o) on behalf of a person who is totally blind or profoundly deaf,

i. for a dog trained to guide or assist a blind or deaf person and provided by a person or organization one of whose main purposes is the training of such dogs,

ii. for the care and maintenance of such a dog, including food and veterinarian care,

iii. for reasonable travelling expenses of the person incurred in travelling to and from a school, institution or other place that trains blind or deaf persons in the handling of such dogs, and

iv. for reasonable board and lodging expenses of the person incurred while he is required to live away from his ordinary place of residence in order to attend full-time courses at a place described in subparagraph iii;

(p) as a premium or other consideration to a private health insurance plan in respect of the individual referred to in section 752.0.11, the individual's spouse or any other person living with the individual and with whom he is connected by blood relationship, marriage or adoption, or in respect of several of those persons;

(q) on behalf of a person who requires a bone marrow or organ transplant,

i. for reasonable expenses, other than expenses described in subparagraph ii but including legal fees and insurance premiums, incurred to locate a compatible donor and to arrange for the transplant;

ii. for reasonable travelling, board and lodging expenses, other than expenses described in paragraphs *h* and *i*, of the person and one other person who accompanies the person, and of the donor and one other person who accompanies the donor, incurred in respect of the transplant;

(r) for reasonable expenses relating to modifications to a dwelling of a person who lacks normal physical development or is necessarily confined to a wheelchair for a long-continued period of indefinite duration, to enable him to be mobile and functional within the dwelling;

(s) for any device or equipment not described in any other paragraph of this section for use by a person as prescribed by a practitioner and prescribed by regulation.

Deemed
payment of
medical
expenses

"752.0.11.2 Where a person engaged in the business of providing transportation services is not readily available and an individual makes use of a vehicle for the purposes described in paragraph *h* of section 752.0.11.1, a reasonable amount in respect of the operation of the vehicle is deemed, for the purposes of the said paragraph and subparagraph *b* of the second paragraph of section 752.0.11, to have been paid to such person by the individual or his legal representatives.

Deemed
medical
expense

"752.0.11.3 Any amount included in computing an individual's income for a taxation year from an office or employment in respect of a medical expense described in section 752.0.11.1 and paid or provided by an employer at a particular time is deemed, for the

purposes of subparagraph *b* of the second paragraph of section 752.0.11, to be a medical expense paid at that time by the individual."

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

c. 1-3,
s. 752.0.17,
am.

290. (1) Section 752.0.17 of the said Act, enacted by section 104 of chapter 5 of the statutes of 1989, is amended by replacing the first paragraph by the following paragraph:

Severe and
prolonged
impairment

"752.0.17 For the purposes of sections 351 to 356.0.1 and 752.0.11 to 752.0.16, a person is considered to have a severe or prolonged impairment only if by reason thereof he is markedly restricted in his activities of daily living and the impairment has lasted or can reasonably be expected to last for a continuous period of at least 12 months."

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

c. 1-3,
s. 752.0.18,
am.

291. (1) Section 752.0.18 of the said Act, enacted by section 104 of chapter 5 of the statutes of 1989, is amended

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

Health
professionals

"752.0.18 For the purposes of sections 351 to 356.0.1 and 752.0.11 to 752.0.16, a reference to a dentist, nurse, physician, optometrist, pharmacist or practitioner is a reference to a person authorized to practice as such,";

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

"practitioner"

"For the purposes of this chapter, the expression "practitioner" means any person practising a profession recognized by the Minister."

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

c. 1-3,
s. 752.12,
am.

292. (1) Section 752.12 of the said Act, amended by section 108 of chapter 5 of the statutes of 1989, is again amended by replacing paragraph *b* by the following paragraph:

"(b) the amount, if any, by which the amount that, but for section 752.14 and this section, would be his tax otherwise payable under this Part for the particular year if such tax were computed pursuant to Book V without taking account of sections 752.1 to 752.5, 772, 772.1, 776, 776.1.1 to 776.1.5 and 776.6 to 776.20, exceeds the amount determined in respect of the individual for the year under sections

1029.7, 1029.7.1, 1029.8, 1029.8.0.1, 1029.8.0.2, 1029.8.6, 1029.8.6.1, 1029.8.7, 1029.8.7.1, 1029.8.7.2, 1029.8.10, and 1029.8.11, reduced by the amount of the minimum tax applicable to that individual for the particular year as determined under section 776.46.”

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

c. I-3,
s. 752.14,
replaced

293. (1) Section 752.14 of the said Act, replaced by section 110 of chapter 5 of the statutes of 1989, is again replaced by the following section:

Computation
of additional
tax

“752.14 For the purposes of section 752.12, additional tax of an individual for a taxation year is the amount, if any, by which his minimum tax applicable for the year as determined under section 776.46 exceeds the amount that would be the tax otherwise payable by him under this Part for the year if such amount were computed pursuant to Book V without taking account of sections 752.1 to 752.5, 772, 772.1, 776, 776.1.1 to 776.1.5, exceeds the amount determined in respect of the individual for the year under sections 1029.7, 1029.7.1, 1029.8, 1029.8.0.1, 1029.8.0.2, 1029.8.6, 1029.8.6.1, 1029.8.7, 1029.8.7.1, 1029.8.7.2, 1029.8.10 and 1029.8.11.”

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

c. I-3,
s. 771.0.2,
am.

294. (1) Section 771.0.2 of the said Act, enacted by section 117 of chapter 5 of the statutes of 1989, is amended by replacing paragraph *b* by the following paragraph:

“(b) the amount, if any, by which the corporation’s taxable income for the year exceeds 100/13 of the amount deducted for the year under the regulations made pursuant to section 772 in computing the tax for the year otherwise payable by it under this Part;”.

(2) This section applies to taxation years of corporations commencing after 30 June 1988 and ending after 31 December 1988.

c. I-3,
s. 771.8, am.

295. (1) Section 771.8 of the said Act, amended by section 122 of chapter 5 of the statutes of 1989, is again amended by replacing paragraph *b* by the following paragraph:

“(b) the amount by which its taxable income for the year exceeds 100/13 of the amount deducted for the year under the regulations made pursuant to section 772 in computing its tax otherwise payable for the year under this Part;”.

(2) This section applies to taxation years of corporations commencing after 30 June 1988 and ending after 31 December 1988.

c. I-3,
s. 772.1,
added

296. (1) The said Act is amended by inserting, after section 772, the following section:

Individual
employed by
an inter-
national
organization

"772.1 Where an individual is resident in Québec on the last day of a taxation year, is employed by an international organization referred to in section 3 of the Privileges and Immunities (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

(a) his 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, his income for any period in the year referred to in the said subparagraph *a* from employment with any such organization, is of

(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 section 737.21 or deducted under any of sections 726.7 to 726.9 or section 729 for the year or, as the case may be, for any period in the year referred to in the said subparagraph *a*.

Tax
otherwise
payable

For the purposes of this section, tax otherwise payable for the year under this Part means the tax payable, computed pursuant to this Part, before making any deduction or addition under this section, and sections 752.1 to 752.5, 767, 772, 776 to 776.1.5, 776.17, 776.29 to 776.40, 1183 and 1184.

Last day of
a taxation
year

For the purposes of this section, where an individual has died or has ceased to be resident in Canada in a taxation year, the last day of his taxation year is deemed to be the day of his death or the last day of his being resident in Canada, as the case may be."

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

(a) where subparagraph *b* of the first paragraph of section 772.1 of the Taxation Act, enacted by this section, applies to the taxation

years 1985 to 1987, it shall read as it read in its application to each of the years concerned, by adding to the deductible amounts referred to therein an amount deductible under section 702 of the said Act;

(b) where the said subparagraph *b* refers to an amount deductible under section 737.16 of the said Act, it applies from the taxation year 1986;

(c) where the said subparagraph *b* refers to an amount deductible under section 737.21 of the said Act, it applies from the taxation year 1987;

(d) where the second paragraph of the said section, enacted by this section, applies to the taxation years 1986 and 1987, it shall read as it read in its application to each of the years concerned, by adding to the deductions and additions referred to therein any deduction or addition made under sections 752.6 to 752.11 and 776.21 to 776.28 of the said Act;

(e) where the said second paragraph refers to deductions made under sections 776.29 to 776.40 of the said Act, it applies from the taxation year 1988.

c. I-3,
s. 776.6, am. **297.** (1) Section 776.6 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“unused
scientific
research and
experimental
development
tax credit”

“(b) “unused scientific research and experimental development tax credit” of an individual other than a trust for a taxation year means an amount equal to the amount by which his scientific research and experimental development tax credit for the year exceeds his tax otherwise payable for the year under this Part or, where Book V.1 of this Part applies to the individual for the year, the amount by which his tax otherwise payable for the year under this Part exceeds the amount of his minimum tax determined for the year under section 776.46, as the case may be.”

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

c. I-3,
s. 776.42,
am. **298.** (1) Section 776.42 of the said Act, amended by section 141 of chapter 5 of the statutes of 1989, is again amended

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

Computation
of tax
payable by
individual

“**776.42** Notwithstanding any other provision of this Act, where the amount by which the amount that would represent the tax otherwise payable by an individual for a taxation year if it were computed pursuant to Book V without reference to sections 752.1 to

752.5 exceeds the amount determined in respect of the individual for the year under sections 1029.7, 1029.7.1, 1029.8, 1029.8.0.1, 1029.8.0.2, 1029.8.6, 1029.8.6.1, 1029.8.7, 1029.8.7.1, 1029.8.7.2, 1029.8.10 and 1029.8.11, is less than the excess referred to in subparagraph i of paragraph *a*, in respect of the individual, the tax payable under this Part by the individual for the year, except in the case of a segregated fund trust within the meaning of paragraph *k* of section 835 or a mutual fund trust within the meaning of section 1120, is equal to the amount by which”;

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

“i. of the amount by which the minimum tax applicable to the individual for the year within the meaning of section 776.46 exceeds the aggregate of the amounts referred to in sections 772, 772.1, 1029.10 and 1029.11; and”.

(2) This section applies to taxation years commencing after 31 December 1985. However, in its application to any such taxation year preceding the taxation year 1988,

(*a*) that part of section 776.42 of the Taxation Act preceding paragraph *a*, enacted by paragraph 1 of subsection 1, shall read as follows:

Computation
of tax
payable by
individual

“**776.42** Notwithstanding any other provision of this Act, where the amount by which the amount that would represent the tax otherwise payable by an individual for a taxation year if it were computed pursuant to Book V without reference to sections 752.1 to 752.11 and if sections 776.2 to 776.5 did not apply, exceeds the amount determined in respect of the individual for the year under sections 1029.7 and 1029.8, is less than the product referred to in subparagraph i of paragraph *a*, in respect of the individual, the tax payable under this Part by the individual for the year, except in the case of a segregated fund trust within the meaning of paragraph *k* of section 835 or a mutual fund trust within the meaning of section 1120, is equal to the amount by which”;

(*b*) subparagraph i of paragraph *a* of the said section 776.42, enacted by paragraph 2 of subsection 1, shall read as follows:

“i. of the product of 97 % and the amount by which the minimum tax applicable to the individual for the year within the meaning of section 776.46 exceeds the aggregate of the amounts referred to in sections 772 and 772.1; and”.

c. I-3,
s. 776.45,
am.

299. (1) Section 776.45 of the said Act is amended

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

“(c) the taxation year in which the individual dies;”;

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

“(d) the taxation year 1986 of a taxpayer who died in 1987.”

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

c. I-3,
s. 776.59,
am.

300. (1) Section 776.59 of the said Act, amended by section 150 of chapter 5 of the statutes of 1989, is again amended by replacing what precedes subparagraph *i* of paragraph *b* by the following:

Amounts
deductible
in computing
the income
of a trust

“**776.59** For the purposes of section 776.51, the aggregate of all amounts deductible in computing the income of a trust for the year under sections 656.2, 657 and 657.4 shall be established as if it were equal to the sum of the aggregate of all amounts otherwise deductible under the said sections and the aggregate of all amounts each of which is one-third of

(a) an amount designated by the trust for the year under section 668, or

(b) that portion of a net taxable capital gain of the trust that may reasonably be considered”.

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

(a) where this section applies to a taxation year ending before 1 January 1990, the reference to “one-third” in that part of section 776.59 of the Taxation Act preceding paragraph *a*, enacted by this section, shall read as a reference to “one-half”;

(b) where that part refers to section 657.4 of the said Act, it applies to taxation years of trusts commencing after 31 December 1987.

c. I-3,
s. 799,
replaced

301. Section 799 of the said Act is replaced by the following section:

Inclusion
in computing
the income
of a credit
union

“**799.** A credit union shall include, in computing its income for its first taxation year that commences after 17 June 1987 and ends after 31 December 1987, the amount by which the aggregate of all amounts each of which is an amount deducted by it as a reserve under this section in computing its income for the preceding taxation year exceeds the amount of the credit union’s 1971 reserve adjustment, within the meaning of the regulations.”

c. I-3,
s. 805, am.

302. (1) Section 805 of the said Act, amended by section 90 of chapter 77 of the statutes of 1989, is again amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) any deposit, deposit certificate or guaranteed investment certificate with a bank to which the Bank Act (Statutes of Canada) or the Quebec Savings Bank Act (Statutes of Canada) applies, or with a corporation licensed or otherwise authorized by or under the laws of Canada or a province to carry on in Canada or in a province the business of offering to the public its services as trustee, or with a central or savings and credit union that is a member of the Canadian Payments Association or a savings and credit union that is a member or shareholder of a central that is itself a member of the Canadian Payments Association;”.

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

c. I-3,
s. 809, am.

303. (1) Section 809 of the said Act is amended

(1) by replacing the semicolon and the word “and” at the end of paragraph *b* by a period;

(2) by striking out paragraph *c*.

(2) This section applies to taxation years after the first taxation year of a deposit insurance corporation commencing after 17 June 1987 and ending after 31 December 1987.

c. I-3,
ss. 811,
812,
repealed

304. (1) Sections 811 and 812 of the said Act are repealed.

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

c. I-3,
s. 813, am.

305. (1) Section 813 of the said Act is amended by striking out paragraph *d*.

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

c. I-3,
s. 815,
replaced

306. (1) Section 815 of the said Act is replaced by the following section:

Amounts to
deduct

“815. A member institution in computing its income for a taxation year may deduct the following amounts:

(a) any premium or assessment referred to in the second paragraph of section 808 which is paid or payable by it in the year,

to the extent that it was not deducted by it in computing its income for a preceding taxation year;

(b) any amount repaid by the member institution in the year to a deposit insurance corporation on account of an amount described in subparagraph *a* or *b* of the first paragraph of section 814 that was received in a preceding taxation year, to the extent that it was not excluded from the member institution's income by reason of section 815.1 for the preceding year."

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

c. I-3,
s. 825, am.

307. (1) Section 825 of the said Act is amended by replacing the first paragraph by the following paragraph:

Gross
investment
income to
be included

"825. An insurer carrying on an insurance business in Canada and elsewhere in a taxation year must include in computing its income for the year from carrying on its insurance businesses in Canada the aggregate of

(a) that part of its gross investment income for the year that is gross investment income from property used or held by it in the course of carrying on those insurance businesses in Canada;

(b) such additional amount as is prescribed in respect of the insurer for the year."

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

c. I-3,
s. 825.1,
repealed

308. (1) Section 825.1 of the said Act is repealed.

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

c. I-3,
s. 832, am.

309. (1) Section 832 of the said Act is amended

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

Dividends,
refund of
premiums
deductible

"832. An insurer may deduct in computing its income derived for the taxation year from the carrying on of an insurance business, other than a life insurance business, any amount credited by it for the year or a preceding taxation year in respect of that business to one of its policyholders by way of a dividend, refund of premiums or refund of premium deposits.";

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

“(a) paid or unconditionally credited to the policyholder; or

“(b) applied in discharge, in whole or in part, of a liability of the policyholder to pay premiums to the insurer.”;

(3) by striking out subparagraph *c* of the second paragraph.

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

c. I-3,
s. 832.0.1,
added

310. The said Act is amended by inserting, after section 832, the following section:

Amount to
include

“832.0.1 An insurer shall include in computing its income derived from the carrying on of an insurance business for its first taxation year that commences after 17 June 1987 and ends after 31 December 1987, in this section referred to as its “taxation year 1988”, the amount by which

(a) the aggregate of all amounts each of which is an amount deducted by the corporation in computing its income for a taxation year ending before its taxation year 1988, pursuant to subparagraph *c* of the second paragraph of section 832 or pursuant to that paragraph by reason of paragraph *b* of section 841 as such paragraph *b* read in respect of that taxation year ending before its taxation year 1988, in respect of any amount credited to the account of the policyholder on terms that he is entitled to payment thereof on or before the expiry or termination of the policy, exceeds

(b) the aggregate of all amounts each of which is an amount paid or unconditionally credited to a policyholder or applied in discharge, in whole or in part, of a liability of the policyholder to pay premiums to the insurer before the insurer’s taxation year 1988 in respect of the amounts credited to the account of the policyholder referred to in paragraph *a*.”

c. I-3,
s. 832.1,
replaced

311. (1) Section 832.1 of the said Act is replaced by the following section:

Property
acquired
by insurer

“832.1 A life insurer resident in Canada or an insurer not resident in Canada that carries on an insurance business in Canada and in a country other than Canada and that, at any time, acquires any of the property described in the second paragraph is deemed to dispose of that property, at that later time contemplated therein in respect of that property for proceeds of disposition equal to its fair market value at that later time and to reacquire it immediately thereafter at a cost equal to that fair market value.

Interpreta-
tion

The property referred to in the first paragraph is property that the insurer referred to therein acquires

(a) for some other purpose than that of using or holding it in the course of carrying on an insurance business in Canada and at a later time commences to use or hold in the year in the course of carrying on an insurance business in Canada;

(b) for the purpose of using or holding it in the year in the course of carrying on an insurance business in Canada and at a later time commences to use for some other purpose;

(c) for the purpose of using or holding it in the year in the course of carrying on an insurance business in Canada, such property being a bond, debenture, mortgage, hypothec, agreement of sale or any other form of indebtedness, and at a later time commences to use or hold in the course of carrying on a business other than a life insurance business in Canada; or

(d) for the purpose of using or holding it in the course of carrying on a business other than a life insurance business in Canada, such property being a bond, debenture, mortgage, hypothec, agreement of sale or any other form of indebtedness, and at a later time commences to use or hold in the year in the course of carrying on a life insurance business in Canada.

Application

This section does not apply for the purposes of subparagraph i of paragraph *e* of section 93, subparagraph iv of the said paragraph where it refers to the capital cost of property, section 140 or 140.1, paragraph *e* of section 841, paragraph *c* of section 844 or the regulations under section 818."

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

c. 1-3,
s. 832.2.1,
added

312. (1) The said Act is amended by inserting, after section 832.2, the following section:

Inclusion
of gain

"332.2.1 Where, by reason of a change in use referred to in subparagraph *c* or *d* of the second paragraph of section 832.1 of a property that is a bond, debenture, mortgage, hypothec, agreement of sale or any other form of indebtedness, an insurer would, by reason of the said section, have realized an otherwise taxable gain at any time in respect of such property, that gain shall be included in computing the income of the insurer only in the taxation year in which the insurer disposes of or is deemed to have disposed of the property otherwise than by reason of a change in use referred to in those subparagraphs."

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

c. 1-3,
s. 832.3,
replaced

313. (1) Section 832.3 of the said Act is replaced by the following section:

Transferred
property

“832.3 The rules prescribed in the second paragraph apply where the following conditions are met:

(a) an insurer not resident in Canada, in this section referred to as the “transferor”, has, at any time in a taxation year, ceased to carry on all or substantially all of an insurance business carried on by it in Canada in that year;

(b) the transferor has, at the time referred to in subparagraph *a* or within 60 days thereafter, transferred all or substantially all of the property, in this section referred to as the “transferred property”, used or held by it in the year in the course of carrying on the insurance business in Canada referred to in subparagraph *a* to a corporation, in this section referred to as the “transferee”, that is a prescribed corporation which, immediately after that time, commenced to carry on that insurance business in Canada and the consideration for the transfer includes shares of the capital stock of the transferee;

(c) the transferee has, at the time referred to in subparagraph *a* or within 60 days thereafter, assumed or reinsured all or substantially all of the obligations of the transferor that arose in the course of carrying on the insurance business in Canada referred to in subparagraph *a*;

(d) the transferor and the transferee have jointly elected in prescribed form and on or before the day that is the earliest of the days on or before which any of the two is required to file his fiscal return with the Minister pursuant to section 1000 for the taxation year in which the transactions to which the election relates occurred.

Rules on
transfer

The rules referred to in the first paragraph are as follows:

(a) where the fair market value, at the time referred to in subparagraph *a* of the first paragraph, of the consideration, other than shares of the capital stock of the transferee or a right to receive any such shares, received or receivable by the transferor for the transferred property does not exceed the aggregate of the cost amounts to the transferor, at that time, of the transferred property, the proceeds of disposition of the transferor and the cost to the transferee of the transferred property are deemed to be equal to the

cost amount, at that time, to the transferor of the transferred property and, in any other case, sections 521 to 526 and 528 shall be applied in respect of the transfer;

(b) where sections 521 to 526 and 528 are not required to be applied in respect of the transfer, the cost to the transferor of any particular property, other than shares of the capital stock of the transferee or a right to receive any such shares, received or receivable by the transferor as consideration for the transferred property is deemed to be equal to the fair market value, at the time referred to in subparagraph *a* of the first paragraph, of the particular property;

(c) where sections 521 to 526 and 528 are not required to be applied in respect of the transfer, the cost to the transferor of any share of the capital stock of the transferee received or receivable by the transferor as consideration for the transferred property is deemed to be equal to,

i. where the share is a preferred share of any class of the capital stock of the transferee, the lesser of

(1) the fair market value of that share immediately after the transfer of the transferred property, and

(2) the amount determined by the formula

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

ii. where the share is a common share of any class of the capital stock of the transferee, the amount determined by the formula

$$D \times \frac{E}{F};$$

(d) for the purposes of this Part, both the transferor and the transferee are deemed to have had taxation years ending immediately before the time referred to in subparagraph *a* of the first paragraph and, for the purposes of determining the fiscal periods of the transferor and transferee after that time, they are deemed not to have established fiscal periods before that time;

(e) for the purposes of determining the amount of gross investment income required to be included in computing the transferor's income for the year under the first paragraph of section 825 and its gains or losses from property used or held by it in the year in the course of carrying on an insurance business in Canada for its taxation years following its year referred to in subparagraph *d*, the

transferor is deemed to have transferred the business referred to in subparagraph *a* of the first paragraph, the property referred to in subparagraph *b* of that paragraph and the obligations referred to in subparagraph *c* of that paragraph to the transferee on the last day of its taxation year referred to in subparagraph *d*;

(*f*) for the purposes of determining the income of the transferor and the transferee for their taxation years following their taxation years referred to in subparagraph *d*, amounts deducted by the transferor as reserves under sections 140, 140.1 and 140.2, the second paragraph of section 152, sections 210 to 214 and paragraphs *a*, *a.1*, *c* and *d* of section 840 in its taxation year referred to in subparagraph *d* in respect of the transferred property referred to in subparagraph *b* of the first paragraph or the obligations referred to in subparagraph *c* of that paragraph, are deemed to have been deducted by the transferee, and not the transferor, for its taxation year referred to in subparagraph *d*;

(*g*) for the purposes of sections 87 to 87.3, 89 to 92.8, 92.21, 92.22, 128, 130, 130.1 and 130.1.1, paragraph *b* of section 135, sections 137 to 143, 145 to 154, 155, 156, 157 to 157.3, 157.5 to 158, 160 to 163.1, 167, 167.1, 176 to 179, 183, 210 to 214 and 835 to 850, Chapters II and IV of Title V of Book VI and Chapters I to III of Title VII of Book VII, the transferee is deemed, for its taxation years following its taxation year referred to in subparagraph *d*, to be the same person as, and a continuation of, the transferor in respect of the business referred to in subparagraph *a* of the first paragraph, the transferred property referred to in subparagraph *b* of that paragraph and the obligations referred to in subparagraph *c* of that paragraph;

(*h*) for the purposes of this section and section 832.5, the fair market value of consideration received by the transferor from the transferee in respect of the assumption or reinsurance of a particular obligation referred to in subparagraph *c* of the first paragraph is deemed to be equal to the aggregate of the amounts deducted by the transferor as a reserve under the second paragraph of section 152 and paragraphs *a*, *a.1* and *d* of section 840 in its taxation year referred to in subparagraph *d* in respect of the particular obligation;

(*i*) for the purposes of computing the income of the transferor or the transferee for their taxation years following their taxation years referred to in subparagraph *d*, the following amounts shall be included or deducted, as the case may be, only to the extent that may be reasonably regarded as necessary to determine the appropriate amount of income of both the transferor and the transferee:

(1) an amount in respect of a reinsurance premium paid or payable by the transferor to the transferee in respect of the obligations referred to in subparagraph *c* of the first paragraph under a reinsurance arrangement undertaken to effect the transfer of the insurance business to which this section applied;

(2) an amount in respect of a reinsurance commission paid or payable by the transferee to the transferor in respect of the amount referred to in subparagraph 1 under the reinsurance arrangement referred to in that subparagraph.

Interpreta-
tion

For the purposes of the formulas set forth in subparagraph *c* of the second paragraph,

(a) A is the amount by which the proceeds of disposition of the transferor of the transferred property determined under subparagraph *a* of the second paragraph exceed the fair market value, at the time referred to in subparagraph *a* of the first paragraph, of the consideration, other than shares of the capital stock of the transferee or a right to receive any such shares, received or receivable by the transferor for the transferred property;

(b) B is the fair market value, immediately after the transfer of the transferred property, of the preferred share of the class referred to in subparagraph *i* of the said subparagraph *c*;

(c) C is the fair market value, immediately after the transfer of the transferred property, of all preferred shares of the capital stock of the transferee receivable by the transferor as consideration for the transferred property;

(d) D is the amount by which the proceeds of disposition of the transferor of the transferred property, determined under subparagraph *a* of the second paragraph, exceed the aggregate of the fair market value, at the time referred to in subparagraph *a* of the first paragraph, of the consideration, other than shares of the capital stock of the transferee or a right to receive any such shares, received or receivable by the transferor for the transferred property and the cost to the transferor of all preferred shares of the capital stock of the transferee receivable by the transferor as consideration for the transferred property;

(e) E is the fair market value, immediately after the transfer of the transferred property, of the common share of the class referred to in subparagraph *ii* of the said subparagraph *c* of the capital stock of the transferee;

(f) F is the fair market value, immediately after the transfer of the transferred property, of all common shares of the capital stock of the transferee receivable by the transferor as consideration for the transferred property.”

(2) This section applies in respect of transfers of an insurance business after 15 December 1987. However, where the transferor has, before 16 December 1987 and with the approval of the Minister of Finance of Canada, entered into an agreement to transfer, after 15 December 1987 and before 1 January 1988, an insurance business to the transferee and the transferor and the transferee subsequently amend the agreement or enter into another agreement between 31 December 1987 and 1 January 1989 in respect of the transfer of the insurance business and the transfer of the insurance business is made before 1 January 1989, the transfer is deemed to have occurred on 1 January 1988 if the amended or subsequent agreement so provides and the transferor and the transferee jointly so elect on or before the day referred to in subparagraph *d* of the first paragraph of section 832.3 of the Taxation Act, enacted by this section.

c. I-3,
ss. 832.4-
832.9
added

314. (1) The said Act is amended by inserting, after section 832.3, the following sections:

Capital
cost of
depreciable
property

“832.4 For the purposes of Division II of Chapter II of Title III of Book III, sections 130 and 130.1 and the regulations made under paragraph *a* of section 130, where section 832.3 applies in respect of a transfer of depreciable property by an insurer not resident in Canada to a prescribed corporation for the purposes of subparagraph *b* of the first paragraph of section 832.3, where the provisions of sections 521 to 526 and 528 are not required to be applied in respect of the transfer, and where the capital cost to the insurer of the depreciable property exceeds its proceeds of disposition therefor, the following rules apply:

(a) the capital cost of the depreciable property to the corporation is deemed to be the capital cost thereof to the insurer;

(b) the excess is deemed to have been allowed to the corporation as depreciation in respect of the property under regulations made under paragraph *a* of section 130 in computing its income for taxation years ending before the transfer.

Computation
of contri-
buted
surplus

“832.5 For the purposes of paragraph *d* of subsection 2 of section 504, where, after 15 December 1987, sections 521 to 526, 528 and 832.3 apply in respect of a transfer of property by a person or partnership to an insurance corporation resident in Canada, the contributed surplus of the corporation arising on the transfer is deemed to be equal to the amount by which the amount of such

contributed surplus otherwise determined exceeds the amount by which

(a) the aggregate of

i. the fair market value, immediately after the transfer, of any consideration, other than shares of the capital stock of the corporation, received or receivable by the person or partnership from the corporation for the transferred property,

ii. the increase in the paid-up capital of all the shares of the capital stock of the corporation, determined without reference to subsection 11.7 of section 138 of the Income Tax Act (Statutes of Canada) and subsection 2.1 of section 85 of the said Act as they apply in respect of the transfer, arising on the transfer, and

iii. the increase in the contributed surplus of the corporation, determined without reference to this section as it applies in respect of the transfer, exceeds

(b) the total of

i. the aggregate of all amounts each of which is an amount required to be deducted in computing the paid-up capital of a class of shares of the capital stock of the corporation under subsection 11.7 of section 138 of the Income Tax Act (Statutes of Canada) and subsection 2.1 of section 85 of the said Act, as the case may be, as they apply in respect of the transfer, and

ii. the cost to the corporation of the transferred property.

Computation
of income
of insurer
not resident
in Canada

“332.6 Where, at any time in a particular taxation year, an insurer not resident in Canada carries on an insurance business in Canada and, immediately before that time, the insurer was not carrying on an insurance business in Canada or ceased to be exempt from tax under this Part on any income from such business by reason of any Act of Québec or of the Government of Canada or of anything approved, made or declared to have the force of law thereunder, for the purposes of computing the income of the insurer for the particular taxation year, the following rules apply:

(a) the insurer is deemed to have had a taxation year ending immediately before the commencement of the particular taxation year;

(b) for the purposes of paragraphs *d* and *e* of section 87, section 825, paragraph *a* of section 844 and any regulation made under section

818, the insurer is deemed to have carried on the insurance business in Canada in the preceding taxation year referred to in paragraph *a* and to have claimed the maximum amounts to which it would have been entitled under sections 140, 140.1 and 140.2, the second paragraph of section 152, sections 210 to 214 and paragraphs *a*, *a.1*, *c* and *d* of section 840, for that year;

(*c*) the insurer is deemed, immediately before the commencement of the particular taxation year, to have disposed of each property that was owned by it at that time and used or held by it in the year in the course of carrying on the insurance business in Canada for proceeds of disposition equal to the fair market value of the property at that time and to have reacquired the property at that time at a cost equal to that fair market value;

(*d*) where paragraph *c* applies in respect of depreciable property of the insurer and the cost thereof to the insurer immediately before the commencement of the particular taxation year exceeds the fair market value thereof at that time, for the purposes of Division II of Chapter II of Title III of Book III, sections 130 and 130.1 and the regulations made under paragraph *a* of section 130,

i. the capital cost of the property to the insurer at that time is deemed to be the cost thereof to the insurer at that time, and

ii. the excess is deemed to have been deducted by the insurer in respect of the property under regulations made under paragraph *a* of section 130 in computing its income for taxation years ending before the commencement of the particular taxation year.

Computation
of income
where
insurance
business is
transferred

“832.7 Where, at any time in a taxation year, an insurer, in this section referred to as the “vendor”, has disposed of all or substantially all of an insurance business carried on by it in Canada, or of a line of business of such a business, to a person, in this section referred to as the “purchaser”, and obligations in respect of the business or line of business, as the case may be, in respect of which a reserve may be claimed under the second paragraph of section 152 or paragraph *a* or *a.1* of section 840 were assumed by the purchaser, the following rules apply:

(*a*) for the purposes of determining the amount of the gross investment income required to be included in the income of the vendor and the purchaser under section 825 and the amount of the gains and losses of the vendor and the purchaser from property used or held by them in the year in the course of carrying on an insurance business in Canada,

i. the vendor and the purchaser are deemed, in addition to their normal taxation years, to have had a taxation year ending immediately before that time;

ii. for the taxation years of the vendor and the purchaser following that time, the business or line of business, as the case may be, disposed of to the purchaser is deemed to have been disposed of on the last day of the taxation year referred to in subparagraph i, and the obligations assumed by the purchaser are deemed to have been assumed on the last day of that taxation year;

(b) for the purposes of computing the income of the vendor and the purchaser for taxation years ending after that time, the following amounts are deemed to have been paid or payable or received or receivable, as the case may be, by the vendor or the purchaser, as the case may be, in the course of carrying on the business or line of business, as the case may be:

i. an amount paid or payable by the vendor to the purchaser in respect of the obligations;

ii. an amount in respect of a commission paid or payable by the purchaser to the vendor in respect of an amount referred to in subparagraph i.

Property
acquired on
default in
payment

“832.8 Notwithstanding section 484, where, at any time in a taxation year, an insurer has acquired or reacquired the beneficial ownership of property in consequence of another person’s failure to pay all or any part of an amount, in this section referred to as the “insurer’s claim”, owing by him to the insurer in respect of a bond, debenture, mortgage, hypothec, agreement of sale or any other form of indebtedness owned by the insurer, the following rules apply:

(a) the amount of the insurer’s claim shall be included in computing the other person’s proceeds of disposition of the property;

(b) any amount paid by the other person after the acquisition or reacquisition, as the case may be, of the property on account of or in satisfaction of the insurer’s claim is deemed to be a loss of that person from the disposition of the property for his taxation year in which payment of that amount was made;

(c) the insurer is deemed to have acquired or reacquired, as the case may be, the property at an amount equal to its fair market value, immediately before that time, and to have disposed of the bond, debenture, mortgage, hypothec, agreement of sale or other form of indebtedness, as the case may be, for proceeds of disposition equal to that fair market value;

(d) the cost amount to the insurer of the insurer's claim is deemed to be nil and the insurer's claim is deemed to be a bond, debenture, mortgage, hypothec, agreement of sale or other form of indebtedness, as the case may be;

(e) no amount is deductible in respect of the insurer's claim by reason of sections 140 and 140.1 in computing the insurer's income for the taxation year or a subsequent taxation year.

Transfer of
insurance
business by
resident
insurer

"832.9 Subparagraphs *a* to *i* of the second paragraph of section 832.3 and sections 832.4 and 832.5 apply in respect of the transfer referred to in paragraph *b*, where the following conditions are met:

(a) an insurer resident in Canada, in this section referred to as the "transferor", has ceased, at any time in a taxation year, to carry on all or substantially all of an insurance business carried on by it in Canada in that year;

(b) the transferor has, at that time or within 60 days thereafter, transferred all or substantially all of the property used or held by it in the year in the course of carrying on the insurance business in Canada referred to in paragraph *a* to a corporation resident in Canada, in this section referred to as the "transferee", that is a subsidiary wholly-owned corporation of the transferor which, immediately after that time, commenced to carry on that insurance business in Canada and the consideration for the transfer includes shares of the capital stock of the transferee;

(c) the transferee has, at that time or within 60 days thereafter, assumed or reinsured all or substantially all of the obligations of the transferor that arose in the course of carrying on the insurance business in Canada referred to in paragraph *a*;

(d) the transferor and the transferee have jointly elected in prescribed form and on or before the day that is the earliest of the days on or before which any of the two is required to file his fiscal return with the Minister pursuant to section 1000 for the taxation year in which the transactions to which the election relates occurred."

(2) This section,

(a) where it enacts sections 832.4 and 832.5 of the Taxation Act, applies in respect of transfers of property made after 15 December 1987;

(b) where it enacts sections 832.6 and 832.8 of the said Act, applies to taxation years commencing after 17 June 1987 and ending after 31 December 1987;

(c) where it enacts section 832.7 of the said Act, applies to dispositions of an insurance business or a line of business of an insurance business after 15 December 1987; and

(d) where it enacts section 832.9 of the said Act, applies in respect of transfers of an insurance business made after 15 December 1987.

c. I-3,
s. 835, am.

315. (1) Section 835 of the said Act is amended

(1) by striking out paragraph *d*;

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

“policy
loan”

“(h) “policy loan” means an amount advanced at a particular time by an insurer to a policyholder in accordance with the terms and conditions of a life insurance policy in Canada;”.

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

c. I-3,
s. 838, am.

316. (1) Section 838 of the said Act is amended by replacing the first paragraph by the following paragraph:

“amortized
cost”
variation

“838. For the purposes of sections 21.26 and 21.27, where in a taxation year ending after 31 December 1968 but before the particular time referred to in the said sections, an insurer carries on a life insurance business in Canada and an insurance business elsewhere and has not made the election provided for in section 825, as it read for the taxation year 1977, in respect of that year, each of the amounts referred to in paragraph *c* or *d* of section 21.26 or in paragraph *a* or *c* of section 21.27 is deemed, in respect of that year, to be equal to the greater of that amount and such proportion of that amount as the value for the year of the insurer’s specified Canadian assets is of the insurer’s Canadian investment fund for the year.”

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

c. I-3,
s. 840, am.

317. (1) Section 840 of the said Act is amended

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

“(a.1) those authorized by regulation in respect of claims that were received by the insurer before the end of the year under life insurance policies and that are unpaid at the end of the year;”;

(2) by striking out paragraph *c*;

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

“(d) the reserves for policy dividends that will become payable by the insurer in the following taxation year equal to the least of

i. that portion of policy dividends that has accrued in the year or a preceding taxation year to or for the benefit of participating life insurance policyholders of the insurer, to the extent that an amount in respect thereof has not been included, either explicitly or implicitly, in the calculation of the amount deductible by the insurer for the year under paragraph *a*, and, for the purposes of this subparagraph, a policy dividend in respect of a life insurance policy is deemed to accrue in equal daily amounts between anniversary dates of the policy,

ii. 110 % of the amount paid or unconditionally credited in the taxation year following the year in respect of the portion referred to in subparagraph i of policy dividends that has accrued in the year or a preceding taxation year, and

iii. the excess, if any, of the amount contemplated in subparagraph ii of paragraph *a* of section 841 for the year over the amount contemplated in subparagraph i of the said paragraph for the year.”

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

c. I-3,
s. 841, am.

318. (1) Section 841 of the said Act is amended

(1) by striking out the word “et” at the end of paragraph *e* of the French text;

(2) by replacing the period at the end of paragraph *g* by a semicolon;

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

“(h) the amount of tax payable under Part XII.3 of the Income Tax Act (Statutes of Canada) by the insurer in respect of its taxable Canadian life investment income for the year.”

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

c. I-3,
s. 842, am.

319. (1) Section 842 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) an insurer shall not make any deduction under section 140 in computing its income for a taxation year from an insurance business in Canada in respect of a premium or other consideration for a life insurance policy in Canada or an interest in such a policy;”.

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

c. I-3,
s. 843.1,
added

320. (1) The said Act is amended by inserting, after section 843, the following section:

Deduction
not per-
missible

“**843.1** Notwithstanding section 832.2 and paragraph *d* of section 841, no amount shall be deducted, in computing an insurer's income for a taxation year from carrying on an insurance business, in respect of a loss sustained by the insurer on a disposition, other than a disposition occurring as a result of the application of section 832.1, of property that is a share, bond, debenture, mortgage, note, hypothec, agreement of sale or any other form of indebtedness that was not a capital property of the insurer and was used or held by it in the year in the course of carrying on an insurance business, where the following conditions are met:

(a) during the period commencing 30 days before and ending 30 days after the disposition, the insurer or a person or partnership that does not deal at arm's length with the insurer acquired or agreed to acquire the same property or a replacement property identical to it, in this section referred to as the “substituted property”;

(b) at the end of the period referred to in subparagraph *a*, the insurer or the person or partnership, as the case may be, owned or had a right to acquire the substituted property.

Amount of
the loss

The amount of the loss referred to in the first paragraph shall be added in computing the cost to the insurer, person or partnership, as the case may be, of the substituted property.”

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

c. I-3,
s. 844, am.

321. (1) Section 844 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) in the case of its first taxation year commencing after 17 June 1987 and ending after 31 December 1987, the amount by which the aggregate of all amounts each of which is an amount deducted by the insurer under paragraph *a*, *a.1*, *c* or *d* of section 840 in computing its income for the preceding taxation year exceeds the insurer's 1968 reserve adjustment, within the meaning of the regulations, or, in the

case of taxation years after that first taxation year, each amount that it has deducted as a reserve under the said paragraphs in computing its income for the preceding taxation year;”.

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

c. I-3,
ss. 844.3-
844.5,
added

Amounts to
include

322. (1) The said Act is amended by inserting, after section 844.2, the following sections:

“844.3 Where, for a period of time in a taxation year, a life insurer owned land described in any of subparagraphs *a*, *c* and *d* of the second paragraph or an interest in land described in any of those subparagraphs or had an interest in a building described in subparagraph *b* of the said paragraph, the life insurer shall, where such land or building was property used or held by it in the year in the course of carrying on an insurance business in Canada, include a prescribed amount in computing its income for the year in respect of the cost or capital cost to it, as the case may be, of the land, building or interest therein for the period, and the amount so included shall, at the end of the period, be included in computing

(*a*) the cost to the insurer of the land or interest therein, where such land or interest is property described in subparagraph *a* of the second paragraph, and

(*b*) the capital cost to the insurer of the interest in the building described in subparagraph *b* of the second paragraph, where the land, building or interest therein is property described in any of subparagraphs *b* to *d* of the said paragraph.

Interpreta-
tion

The land, interest in land or interest in a building to which the first paragraph refers is, as the case may be,

(*a*) land, other than land described in subparagraph *c* or *d* or an interest therein that was not held primarily for the purpose of gaining or producing income from the land for the period referred to in the first paragraph;

(*b*) an interest in a building that was being constructed, renovated or altered;

(*c*) land subjacent to the building described in subparagraph *b* or an interest in such land;

(*d*) land contiguous to the land described in subparagraph *c*, or an interest in such contiguous land that was used or was intended to

be used for a parking area, driveway, yard, garden or other use necessary for the use or intended use of the building described in subparagraph *b*.

Application
of s. 844.3

“844.4 Where, after 31 December 1987, a life insurer has transferred or loaned property, directly or indirectly in any manner whatever, to a transferee that was a designated corporation of the insurer, within the meaning of paragraph *e* of section 818R1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r.1), or a person or partnership that does not deal at arm’s length with the insurer and such property, property substituted for such property or property the acquisition of which was assisted by the transfer or loan of such property was property described in any of subparagraphs *a* to *d* of the second paragraph of section 844.3 of the transferee for a period of time in a taxation year of the insurer, the following rules apply:

(*a*) section 844.3 shall apply to the insurer to include an amount in computing its income for the year on the assumption that such property was owned by the insurer for that period, was property described in any of subparagraphs *a* to *d* of the second paragraph of section 844.3 and was used or held by it in the year in the course of carrying on an insurance business in Canada;

(*b*) an amount included in the insurer’s income for the year under section 844.3 by reason of the application of this section shall,

i. where subparagraph ii does not apply, be added by the insurer in computing the cost to it of shares of the capital stock of or an interest in the transferee at the end of the year, or

ii. where the insurer and the transferee have jointly elected in prescribed form on or before the day that is the earliest of the days on or before which any of the two is required to file its fiscal return with the Minister in accordance with section 1000 for the taxation year that includes the period, be added in computing

(1) where the property is land, or an interest therein, described in subparagraph *a* of the second paragraph of section 844.3 of the transferee, the cost to the transferee of the land or the interest therein;

(2) where the property is land, a building or an interest therein described in any of subparagraphs *b* to *d* of the second paragraph of section 844.3, the capital cost to the transferee of the interest in the building described in subparagraph *b* of the said paragraph.

Time of
completion

“844.5 For the purposes of section 844.3, the construction, renovation or alteration of a building is completed at the earlier of the day on which the construction, renovation or alteration is actually completed and the day on which all or substantially all of the building is used for the purpose for which it was constructed, renovated or altered.”

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

c. I-3,
s. 845, am.

323. (1) Section 845 of the said Act is amended by replacing the second paragraph by the following paragraph:

Deductions
in respect
of dividends

“It may, however, deduct in computing its taxable income, except as otherwise provided by sections 738 to 745, the aggregate of taxable dividends, other than dividends on term preferred shares acquired by it in the ordinary course of carrying on its business, included in computing its income for the year and received by it in the year from a taxable Canadian corporation.”

(2) This section applies in respect of dividends received after 8:00 p.m. Eastern Daylight Saving Time, 18 June 1987.

c. I-3,
s. 851.3,
replaced

324. (1) Section 851.3 of the said Act is replaced by the following section:

Where the
income of a
segregated
fund trust
is deemed
to be an
amount
payable to
the benefi-
ciaries

“851.3 For the purposes of paragraph *a* of section 657 and sections 652 and 663, the income of a segregated fund trust for a taxation year is deemed to be an amount that has become payable in the year to the beneficiaries under the trust and the amount payable to each beneficiary is equal to the amount determined in conformity with the terms and conditions of the segregated fund policy relating to the trust.”

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

c. I-3,
s. 851.28,
replaced

325. (1) Section 851.28 of the said Act is replaced by the following section:

Election of
a trust
referred to
in s. 851.25
under
s. 851.29

“851.28 A trust referred to in section 851.25 may, in accordance with section 851.29, elect that the amount that would be its taxable income for a taxation year if no deductions were made in respect of expenses incurred for the support, maintenance and satisfaction of the personal needs of the members of the congregation be deemed to have been payable by the trust in the year to the beneficiaries thereunder in accordance with sections 851.30 to 851.32.”

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

c. I-3,
s. 921.3, am. **326.** (1) Section 921.3 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) the income of a trust includes dividends described in sections 501 to 503; and”.

(2) This section applies from the taxation year 1986 in respect of property acquired after 31 October 1985.

c. I-3,
s. 951,
replaced **327.** (1) Section 951 of the said Act is replaced by the following section:

Income of
a trust **“951.** For the purposes of section 950, income of a trust includes dividends described in sections 501 to 503, and the first paragraph of section 231 shall be read as if the taxable capital gain or the allowable capital loss were the total capital gain or the total capital loss, as the case may be, from the disposition of property.”

(2) This section has effect from 24 May 1985.

c. I-3,
s. 961.16,
replaced **328.** (1) Section 961.16 of the said Act is replaced by the following section:

Income of
a trust **“961.16** For the purposes of section 961.15, income of a trust includes dividends described in sections 501 to 503, and the first paragraph of section 231 shall be construed as if the taxable capital gain or the allowable capital loss were the total capital gain or the total capital loss, as the case may be, from the disposition of property.”

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

c. I-3,
s. 965.22,
am. **329.** (1) Section 965.22 of the said Act, amended by section 186 of chapter 5 of the statutes of 1989, is again amended by replacing the first paragraph by the following paragraph:

Splitting or
replacement
of a share **“965.22** The splitting or replacement, without any consideration other than a share, following a transaction occurring after 10 May 1983 and described either in section 301 in respect of a preferred share contemplated in subparagraph *a* of the first paragraph of section 965.9 or subparagraph *c* of the first paragraph of section 965.9.1 or in section 536, 541 or 544 in respect of a qualifying share, of a qualifying share included in a stock savings plan does not entail the withdrawal of the share from the plan if the requirement set out in paragraph *g* of section 965.7 is met in relation to each share issued in respect of the split or replaced share.”

(2) This section has effect from 21 December 1983. However, the first paragraph of section 965.22 of the Taxation Act, enacted by this section, shall

(a) for the period from 21 December 1983 to 3 May 1984, read as follows:

Splitting or
replacement
of a share

"965.22 The splitting or replacement, without any consideration other than a share, following a transaction occurring after 10 May 1983 and described either in section 301 in respect of a preferred share contemplated in subparagraph *a* of the first paragraph of section 965.9 or in section 536, 541 or 544 in respect of a qualifying share, of a share included in a stock savings plan does not entail the withdrawal of the share from the plan if the requirement set out in paragraph *g* of section 965.7 is met in relation to each share issued in respect of the split or replaced share."

(b) for the period from 4 May 1984 to 31 May 1988, shall read as follows:

Splitting or
replacement
of a share

"965.22 The splitting or replacement, without any consideration other than a share, following a transaction occurring after 10 May 1983 and described either in section 301, in respect of a preferred share contemplated in subparagraph *a* of the first paragraph of section 965.9 or subparagraph *c* of the first paragraph of section 965.9.1, or in section 536, 541 or 544 in respect of a qualifying share, of a share included in a stock savings plan does not entail the withdrawal of the share from the plan if the requirement set out in paragraph *g* of section 965.7 is met in relation to each share issued in respect of the split or replaced share."

c. I-3,
ss. 985.4.1,
985.4.2,
repealed

330. (1) Sections 985.4.1 and 985.4.2 of the said Act are repealed.

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

c. I-3,
s. 985.4.3,
replaced

331. (1) Section 985.4.3 of the said Act is replaced by the following section:

Charity
designated
by the
Minister

"985.4.3 The Minister may, by notice sent by registered mail to a registered charity, on his own initiative or on application made to him in prescribed form, designate the charity to be a charitable organization, private foundation or public foundation."

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

c. I-3,
s. 985.5, am-

332. (1) Section 985.5 of the said Act is amended by replacing subsection 2 by the following subsection:

Canadian
charitable
organization

“(2) The following shall be considered to be a registered charity :

(a) an organization, other than a charity referred to in paragraph *b*, that, on 31 December 1976, was a Canadian charitable organization prescribed within the meaning of the regulations made under section 710, as they read in their application to the taxation year 1976, and whose registration has not been revoked by the Minister;

(b) a charity registered as a charitable organization, private foundation or public foundation, as the case may be, that is a charitable organization, private foundation or public foundation in conformity with the standards prescribed for such purpose.”

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

c. I-3,
s. 985.5.1,
repealed

333. (1) Section 985.5.1 of the said Act is repealed.

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

c. I-3,
s. 991, am.

334. (1) Section 991 of the said Act is amended by replacing paragraphs *a* and *b* of subsection 1 by the following paragraphs:

“(a) as an expenditure on scientific research and experimental development, within the meaning of section 230, but excluding an expenditure referred to in subparagraph *d* of the first paragraph of section 230.0.0.2, directly undertaken by or on behalf of the corporation, or

“(b) as a payment to any of the entities described in paragraphs *a* and *b* of subsection 1 of section 222, to be used for scientific research and experimental development.”

(2) This section has effect from 16 December 1987.

c. I-3,
s. 998, am.

335. (1) Section 998 of the said Act, amended by section 96 of chapter 77 of the statutes of 1989, is again amended by replacing paragraph *k* by the following paragraph:

Certain
insurers

“(k) an insurer engaged in no business other than insurance, if in the opinion of the Minister, on the advice of the Superintendent of Financial Institutions, within the meaning of section 835, at least 25 % of the gross premium income of the insurer and of any other person described in section 999.0.3 for a taxation year was in respect of insurance on farm property, property used for fishing or residences of farmers or fishermen;”.

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

c. I-3,
s. 999, am.

336. (1) Section 999 of the said Act is amended by adding, at the end, the following paragraph:

Interpreta-
tion

“For greater certainty, the income referred to in the first paragraph includes income from the sale of property used or held by the partnership or association in the year in the course of carrying on a life insurance business.”

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

c. I-3,
ss. 999.0.1-
999.0.4,
added

Limitation
on the
exemption
of certain
insurers

337. (1) The said Act is amended by inserting, after section 999, the following sections:

“**999.0.1** Subject to section 999.0.2, section 980 applies in respect of an insurer described in paragraph *k* of section 998 only in respect of that proportion of its taxable income for a taxation year that its gross premium income for the year that in the opinion of the Minister, on the advice of the Superintendent of Financial Institutions, within the meaning of section 835, was in respect of insurance described in the said paragraph *k*, is of its gross premium income for the year.

Amount
deemed
deducted

Furthermore, for the purposes of computing its taxable income for a taxation year referred to in the first paragraph, the insurer is deemed to have deducted, for each taxation year preceding the year, the greater of such amount as it deducted or as it may have been entitled to deduct under paragraph *a* of section 130, the second paragraph of section 152, section 832, paragraphs *a*, *a.1* and *d* of section 840 and paragraphs *a* and *b* of section 841, to the extent that that amount does not exceed its taxable income otherwise determined for such preceding taxation year.

Exception

“**999.0.2** Section 999.0.1 does not apply in respect of an insurer described in paragraph *k* of section 998 in respect of its taxable income for a taxation year where more than 90 % of the gross premium income of the insurer and any other person described in section 999.0.3 for the year was in respect of insurance referred to in the said paragraph *k*.

Person
referred to
in par. *k* of
s. 998 or in
s. 999.0.2

“**999.0.3** A person referred to in paragraph *k* of section 998 or section 999.0.2 is an insurance corporation that was a specified shareholder of the insurer described in the said paragraph *k* or the said section 999.0.2, as the case may be, or that was related to the insurer or, where the insurer is a mutual corporation, that was part of a group that controlled or was controlled by the insurer.

Gross
premium
income of
an insurer

"999.0.4 For the purposes of paragraph *k* of section 998, the first paragraph of section 999.0.1 and section 999.0.2, the gross premium income of an insurer or a person described in section 999.0.3 for a taxation year shall be established on the basis of the amount net of reinsurance ceded."

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

c. I-3,
s. 999.1, am.

338. (1) Section 999.1 of the said Act, replaced by section 97 of chapter 77 of the statutes of 1989, is amended by replacing what precedes paragraph *a* by the following:

Corporation
becoming or
ceasing to
be exempt
from tax

"999.1 Where, at any time, in this section referred to as "that time", a corporation becomes or ceases to be exempt from tax under this Part on its taxable income, otherwise than by reason of paragraph *k* of section 998, the following rules apply:"

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

c. I-3,
s. 1006.1,
added

339. (1) The said Act is amended by inserting, after section 1006, the following section:

Determina-
tion of
relevant
amounts

"1006.1 Where, by reason of section 1079.10, the Minister ascertains the tax consequences to a taxpayer with respect to a transaction, he shall, in the case of a determination pursuant to section 1079.16, or he may, in any other case, determine any amount that is relevant for the purposes of computing the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or amount refundable to, the taxpayer. Where such a determination is made, the Minister shall send, with all due dispatch, a notice of determination to the taxpayer.

Determina-
tion binding
on the
Minister
and the
taxpayer

The determination is binding on both the Minister and the taxpayer for the purposes of computing the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or amount refundable to, the taxpayer for any taxation year, subject to the taxpayer's rights of objection and appeal in respect of the determination or subject to any redetermination by the Minister.

Exception

Notwithstanding the first paragraph, no determination may be made by the Minister solely for the purposes of computing the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or amount refundable to, the taxpayer for a preceding taxation year."

(2) This section has effect from 13 September 1988.

c. I-3,
s. 1007, am. **340.** Section 1007 of the said Act is amended by replacing the second paragraph by the following paragraph:

Exception “However, sections 1005 and 1008 do not apply to determinations made under sections 1006 and 1006.1, and an original determination of a taxpayer’s loss referred to in section 1006 for a taxation year may be made by the Minister only at the request of the taxpayer.”

c. I-3,
s. 1010, am. **341.** (1) Section 1010 of the said Act, amended by section 144 of chapter 7 of the statutes of 1990, is again amended by replacing paragraph *a.1* of subsection 2 by the following paragraph:

“(a.1) within six years after the day contemplated in paragraph *a* or, in the case of a taxpayer referred to in paragraph *a.0.1*, within seven years after that day, where

i. a reassessment of the taxpayer’s tax by the Minister is required in accordance with section 1012 or would have been required if the taxpayer had claimed an amount in the prescribed time limit pursuant to the said section 1012;

ii. as a consequence of another taxpayer’s tax reassessment pursuant to this paragraph or section 1012, there is reason to reassess the taxpayer’s tax for any relevant taxation year;

iii. a reassessment of the taxpayer’s tax would be made by the Minister, but for the expiration of the time limit prescribed in paragraph *a*, as a consequence of an additional payment of any income or profits tax to, or a reimbursement of any such tax by, the government of a foreign country, a political subdivision of a foreign country or a prescribed international organization;”

(2) This section applies in respect of assessments relating to payments made or reimbursements received after 31 December 1987.

c. I-3,
s. 1012.1,
am. **342.** (1) Section 1012.1 of the said Act, amended by section 198 of chapter 5 of the statutes of 1989, is again amended by striking out paragraphs *d.2* and *e*.

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

c. I-3,
s. 1026, am. **343.** (1) Section 1026 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) on or before 15 March, 15 June, 15 September and 15 December in each taxation year, an amount equal to one-quarter of his tax for the year estimated in accordance with section 1004, computed without reference to sections 776.6 to 776.20 and, for the

taxation year 1986, computed without reference to Book V.1, or of his basic provisional account, established in the prescribed manner for the preceding year, and”.

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

c. I-3,
s. 1029.8.1,
am.

344. (1) Section 1029.8.1 of the said Act, amended by section 204 of chapter 5 of the statutes of 1989 and by section 154 of chapter 7 of the statutes of 1990, is again amended by replacing that part of paragraph *c* preceding subparagraph *i* by the following:

“controlled
corporation”

“(c) “controlled corporation” means a corporation controlled at any time in a taxation year, directly or indirectly in any manner whatever, by any of the following persons:”.

(2) This section applies to taxation years commencing after 31 December 1988.

c. I-3,
s. 1029.8.21,
added

345. (1) The said Act is amended by inserting, after section 1029.8.20, the following section:

Scientific
research and
experimental
development
related to
a business

“1029.8.21 For the purposes of Divisions II to II.4, where a taxpayer is a corporation, scientific research and experimental development related to a business carried on by another corporation to which the taxpayer is related, otherwise than by reason of a right referred to in paragraph *b* of section 20, and in which that other corporation is actively engaged at the time at which an expenditure or payment in respect of scientific research and experimental development is made by the taxpayer, shall be considered to be related to a business of the taxpayer at that time.”

(2) This section has effect from 16 December 1987.

c. I-3,
s. 1047,
repealed

346. Section 1047 of the said Act is repealed.

c. I-3,
s. 1049, am.

347. (1) Section 1049 of the said Act is amended by replacing the first paragraph by the following paragraph:

False
statement

“1049. Every person who, knowingly or under circumstances amounting to gross negligence, makes a statement or omission in a return, certificate, statement or answer, in this section referred to as a “return”, made or filed under this Act in respect of a taxation year, or participates or acquiesces therein, is liable to a penalty equal to the greater of \$100 and 50 % of the amount by which

(a) the tax that would be payable by him for the year under this Act

i. if his taxable income for the year, such as indicated by him in that return, were computed by adding that portion of the amount referred to in the second paragraph that is reasonably attributable to such statement or omission, and

ii. if his tax payable for the year were computed by subtracting from the deductions from his tax otherwise payable for the year that portion of any such deduction that is reasonably attributable to such statement or omission, exceeds

(b) the tax that would have been payable by him for the year under this Act had his tax been assessed on the basis of the information provided in such return.”

(2) This section has effect from 13 September 1988. However, where section 1049 of the Taxation Act, as amended by this section, applies to the period preceding 14 December 1990, the reference therein to “equal to the greater of \$100 and 50 %” shall read as a reference to “of 25 %”.

c. 1-3,
s. 1049.0.2,
added

348. (1) The said Act is amended by inserting, after section 1049.0.1, the following section:

Penalty

“1049.0.2 Every person who files false or misleading information in an application under section 1079.2 for an identification number for a tax shelter or issues, sells or accepts a contribution for the acquisition of an interest in a tax shelter before the Minister has issued an identification number for the tax shelter is liable to a penalty equal to the greater of \$500 and 3 % of the aggregate of all amounts each of which is the cost to each person who acquired an interest in the tax shelter before the correct information respecting the tax shelter is filed with the Minister or the identification number for the tax shelter is issued, as the case may be.”

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

c. 1-3,
s. 1049.2.5,
replaced

349. (1) Section 1049.2.5 of the said Act, replaced by section 226 of chapter 5 of the statutes of 1989, is again replaced by the following section:

False
statement

“1049.2.5 Where an investment fund states falsely in its final prospectus or in an application for an exemption from filing a prospectus that the issued securities can be included in a stock savings plan described in the second paragraph of section 965.2, the fund administrator or trustee is liable to a penalty equal to 25 % of the adjusted cost that would be determined under section 965.6.0.3 if the

statement of the investment fund were true, of each security of the issue distributed in Québec to an individual other than a trust.”

(2) This section has effect from 17 May 1989.

c. I-3,
Book X.1
(ss. 1079.1-
1079.8),
added

350. (1) The said Act is amended by inserting, after section 1079, the following:

“BOOK X.1

“IDENTIFICATION NUMBER FOR A TAX SHELTER

“TITLE I

“DEFINITIONS AND INTERPRETATION

Interpreta-
tion

“**1079.1** For the purposes of this book,

“tax
shelter”

“tax shelter” means any property, other than a flow-through share or a prescribed property, in respect of which it may reasonably be considered, having regard to statements or representations made or proposed to be made in connection with the property that, if a person were to acquire an interest in the property, at the end of any particular taxation year ending within 4 years after the day of acquisition,

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

i. a loss represented to be deductible in computing income in respect of the interest in the property and expected to be incurred by or allocated to the person for the particular year or any preceding taxation year, or

ii. any other amount represented to be deductible in computing income or taxable income in respect of the interest in the property and expected to be incurred by or allocated to the person for the particular year or any preceding taxation year, other than any amount included in computing a loss described in subparagraph i, would exceed

(b) the amount by which the cost to the person of the interest in the property at the end of the particular year would exceed the aggregate of all amounts each of which is a prescribed benefit that is expected to be received or enjoyed directly or indirectly in respect of the interest in the property, by the person or a person with whom the person does not deal at arm’s length;

“promoter” “promoter” in respect of a tax shelter means a person who, in the course of a business,

(a) issues, sells or promotes the issuance, sale or acquisition of an interest in the tax shelter, or

(b) acts as an agent or advisor in respect of the issuance or sale, or the promotion of the issuance, sale or acquisition, of an interest in the tax shelter.

Tax shelter promoters For the purposes of this book, more than one person may act as a tax shelter promoter in respect of the same tax shelter.

“TITLE II

“GENERALITIES

Application for an identification number “1079.2 A promoter in respect of a tax shelter shall apply to the Minister in prescribed form for an identification number for the tax shelter, unless an application therefor has already been made in respect of the tax shelter.

Issue of an identification number “1079.3 Upon receipt of an application under section 1079.2 for an identification number for a tax shelter, together with prescribed information and an undertaking satisfactory to the Minister that books and records in respect of the tax shelter will be kept and retained at a place that is satisfactory to the Minister, the Minister shall issue an identification number for the tax shelter.

Prohibition in respect of a tax shelter “1079.4 No person shall issue, sell or accept a contribution towards the acquisition of, an interest in a tax shelter before the Minister has issued an identification number for the tax shelter.

Disclosure of the identification number “1079.5 Every promoter in respect of a tax shelter shall make reasonable efforts to ensure that all persons who acquire an interest in the tax shelter are provided with the identification number issued by the Minister for the tax shelter.

“TITLE III

“DEDUCTION

Deduction disallowed “1079.6 In computing the amount of income, taxable income, taxable income earned in Canada, tax or other amount payable by, or refundable to, a taxpayer under this Act for a taxation year, or any other amount that is relevant for the purposes of computing that

amount, no amount may be claimed or deducted by the taxpayer in respect of an interest in a tax shelter unless he provides to the Minister the identification number for the tax shelter.

“TITLE IV

“ADMINISTRATION

Information
return

“1079.7 Every promoter in respect of a tax shelter, from whom an interest in the tax shelter was acquired, who accepted a contribution in respect of an acquisition of an interest in the tax shelter or who acted as an agent in respect of such an acquisition in a calendar year, shall, in the prescribed form and manner, make an information return for that year, unless such a return in respect of the acquisition has already been made, containing

(a) the name, address and Social Insurance Number of each person who so acquired an interest in the tax shelter in the year,

(b) the amount paid by each such person for the interest, and

(c) such other information as may be required by the prescribed form.

Provisions
applicable

“1079.8 Where an application for an identification number for a tax shelter has been made under section 1079.2, sections 38 to 40.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, adapted as required and without restricting the generality thereof, for the purposes of permitting the Minister to verify or ascertain any information in respect of the tax shelter.

Applicability

The first paragraph applies, notwithstanding that a fiscal return has not been filed by any taxpayer under section 1000 for the taxation year of the taxpayer in which an amount is claimed as a deduction in respect of the tax shelter.”

(2) This section applies in respect of interests acquired after 31 May 1990.

c. I-3,
ss. 1079.9-
1079.16,
added

351. (1) The said Act is amended by inserting, after the heading of Title I of Book XI of Part I, the following sections:

Interpreta-
tion

“1079.9 For the purposes of this title and section 1006.1,

“tax conse-
quences”

“tax consequences” to a person means the amount of income, taxable income, or taxable income earned in Canada of, tax or other

amount payable by, or refundable to the person under this Act, or any other amount that is relevant for the purposes of computing that amount;

“tax benefit” “tax benefit” means a reduction, avoidance or deferral of tax or other amount payable under this Act or an increase in a refund of tax or other amount under this Act;

“transaction” “transaction” includes an arrangement or event.

General anti-avoidance rule “1079.10 Where a transaction is an avoidance transaction, the tax consequences to a person shall be determined as is reasonable in the circumstances in order to deny a tax benefit that, but for this title, would result, directly or indirectly, from that transaction or from a series of transactions that includes that transaction.

Avoidance transaction “1079.11 An avoidance transaction is any transaction that, but for this title, would result, directly or indirectly, in a tax benefit or that is part of a series of transactions, which series, but for this section, would result, directly or indirectly, in a tax benefit, unless the transaction in either case may reasonably be considered to have been undertaken or arranged primarily for *bona fide* purposes other than to obtain the tax benefit.

Exception “1079.12 For greater certainty, where it may reasonably be considered that a transaction would not result directly or indirectly in a misuse of the provisions of this Act or an abuse having regard to the provisions of this Act, other than this title, read as a whole, section 1079.10 does not apply to the transaction.

Determination of tax consequences “1079.13 Without restricting the generality of section 1079.10, in determining the tax consequences to a person as is reasonable in the circumstances in order to deny a tax benefit that, but for this title, would result, directly or indirectly, from an avoidance transaction,

(a) any deduction in computing income, taxable income, taxable income earned in Canada or tax payable or any part thereof may be allowed or disallowed in whole or in part;

(b) any deduction referred to in paragraph a, any income, loss or other amount or part thereof may be allocated to any person;

(c) the nature of any payment or other amount may be recharacterized;

(d) the tax effects that would otherwise result from the application of other provisions of this Act may be ignored.

Request for
adjustments

"1079.14 Where a notice of assessment, reassessment or additional assessment involving the application of section 1079.10 with respect to a transaction has been sent to a person, or a notice of determination pursuant to section 1006.1 has been sent to a person with respect to a transaction, any person other than a person to whom any such notice has been sent to shall be entitled, within 180 days after the day of mailing of the notice, to request in writing that the Minister make an assessment, reassessment or additional assessment applying section 1079.10 or make a determination applying section 1006.1 with respect to that transaction.

Extension

However, where the person making the request was physically unable to act or to give a mandate to act in his name within the period fixed and not more than one year has passed since the date of mailing of the notice, he may apply to a judge of the Court of Québec to extend the period for a period that may not go beyond the fifteenth day following the date of the judgment granting such extension.

Restriction

"1079.15 Notwithstanding any other provision of this Act, the tax consequences to any person, following the application of this title, shall only be determined through a notice of assessment, reassessment or additional assessment or through a notice of determination pursuant to section 1006.1 involving the application of this title.

Duties of
the Minister

"1079.16 Upon receipt of a request by a person under section 1079.14, the Minister shall, with all due dispatch, consider the request and, notwithstanding section 1010, assess, reassess or make an additional assessment or determination pursuant to section 1006.1 with respect to that person.

Restriction

However, an assessment, reassessment, additional assessment or determination may be made under this section only to the extent that it may reasonably be regarded as relating to the transaction referred to in section 1079.14."

(2) This section applies in respect of transactions entered into after 12 September 1988. However, it does not apply in respect of transactions entered into as part of a series of transactions, determined without reference to section 1.5 of the Taxation Act, commencing before 13 September 1988 and completed before 1 January 1989.

c. I-3,
ss. 1080-
1081,
repealed

352. (1) Sections 1080 to 1081 of the said Act are repealed.

(2) This section applies in respect of transactions entered into after 12 September 1988. However, it does not apply in respect of

transactions entered into as part of a series of transactions, determined without reference to section 1.5 of the Taxation Act, commencing before 13 September 1988 and completed before 1 January 1989.

c. I-3,
ss. 1082.1,
1082.2,
added

353. (1) The said Act is amended by inserting, before Title II of Book XI of Part I, the following:

“TITLE I.1

“BENEFIT CONFERRED ON A TAXPAYER

Benefit
conferred
on a
taxpayer

“**1082.1** Where, at any time, a person confers a benefit, either directly or indirectly, by any means whatever, on a taxpayer, the amount of the benefit shall be included in computing the taxpayer’s income or taxable income earned in Canada under this Part or Part II, respectively, for the taxation year that includes that time, to the extent that it is not otherwise included in computing the taxpayer’s income or taxable income earned in Canada under this Part or Part II, respectively, and would be included in computing his income if the amount of the benefit were a payment made directly by the person to the taxpayer and if the taxpayer were resident in Canada.

Arm’s-
length
transaction

“**1082.2** Where it is established that a transaction was entered into by persons dealing at arm’s length, *bona fide* and not pursuant to, or as part of, any other transaction and not to effect payment, in whole or in part, of an existing or future obligation, no party to the transaction is deemed, for the purposes of section 1082.1, to have conferred a benefit on the party with whom he was so dealing.”

(2) This section applies in respect of transactions entered into after 12 September 1988. However, it does not apply in respect of transactions entered into as part of a series of transactions, determined without reference to section 1.5 of the Taxation Act, commencing before 13 September 1988 and completed before 1 January 1989.

c. I-3,
title,
repealed

354. (1) Title II of Book XI of Part I of the said Act is repealed.

(2) This section applies in respect of transactions entered into after 12 September 1988. However, it does not apply in respect of transactions entered into as part of a series of transactions, determined without reference to section 1.5 of the Taxation Act, commencing before 13 September 1988 and completed before 1 January 1989.

c. I-3,
s. 1086, am. **355.** (1) Section 1086 of the said Act is amended by striking out subparagraph *e.1* of the first paragraph.

(2) This section has effect from 1 October 1989.

c. I-3,
s. 1106, am. **356.** (1) Section 1106 of the said Act is amended by replacing paragraph *b* of subsection 1 by the following paragraph:

“(b) notwithstanding any other provision of this Act, any amount received in a taxation year by a taxpayer as such a dividend must not be included in computing his income for the year as income from a share of the capital stock of the corporation, but shall be 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 shall be deemed to have been disposed of by him in the year.”

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

c. I-3,
s. 1106.1,
added **357.** (1) The said Act is amended by inserting, after section 1106, the following section:

Election by
a restricted
financial
institution **“1106.1** Notwithstanding any other provision of this Act, an investment corporation that at any time would, but for this section, be a restricted financial institution is deemed not to be a restricted financial institution at that time, if before that time it has made the election prescribed in subsection 10 of section 131 of the Income Tax Act (Statutes of Canada).

Filing of
documents An investment corporation that has made the election referred to in the first paragraph shall transmit to the Minister, at or before the time the election was made, a copy of the documents it is required to file under subsection 10 of section 131 of the Income Tax Act (Statutes of Canada).”

(2) This section has effect from 16 December 1987. However, where the election referred to in subsection 10 of section 131 of the Income Tax Act (Statutes of Canada) was made before 14 March 1989, the first paragraph of section 1106.1 of the Taxation Act, enacted by this section, shall read without reference to “before that time”, and where the election was made on or before 14 December 1990, the second paragraph of the said section 1106.1, enacted by this section, shall read as follows:

Filing of
documents “An investment corporation that has made the election referred to in the first paragraph shall transmit to the Minister, at any time

on or before 14 March 1991, a copy of the documents it is required to file under subsection 10 of section 131 of the Income Tax Act (Statutes of Canada).”

c. I-3,
s. 1110,
replaced

358. (1) Section 1110 of the said Act is replaced by the following section:

Deduction
of capital
gains
dividends

“1110. A mortgage investment corporation may also deduct in computing its income $\frac{3}{4}$ of the capital gains dividends which it pays during the period beginning 91 days after the commencement of the year and ending 90 days after the end of such year.”

(2) This section applies to taxation years of corporations ending after 30 June 1988. However, for taxation years ending after 30 June 1988 and commencing before 1 January 1990, the reference to “ $\frac{3}{4}$ ” in section 1110 of the Taxation Act, enacted by this section, shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of

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

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

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

c. I-3,
s. 1113, am.

359. (1) Section 1113 of the said Act is amended by replacing paragraphs *a* and *b* of subsection 1 by the following paragraphs:

“(a) the dividend is deemed to be a capital gains dividend to the extent that it does not exceed $\frac{4}{3}$ of its taxed capital gains for the year less any dividend which it has paid during the period and before the particular time and which is deemed to be a capital gains dividend under this subsection; and

“(b) notwithstanding any other provision of this Act, any amount received in a taxation year by a taxpayer as such a dividend must not be included in computing his income for the year as income from a share of the capital stock of the corporation, but shall be 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 him in the year.”

(2) This section, where it replaces paragraph *a* of subsection 1 of section 1113 of the Taxation Act, applies to taxation years of

corporations ending after 30 June 1988. However, for taxation years ending after 30 June 1988 and commencing before 1 January 1990, the reference to “4/3” in that paragraph, enacted by this section, shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of

(a) that proportion of 2 that the number of days in the year that are before 1 July 1988 is of the number of days in the year,

(b) that proportion of 3/2 that the number of days in the year that are after 30 June 1988 but before 1 January 1990 is of the number of days in the year, and

(c) that proportion of 4/3 that the number of days in the year that are after 31 December 1989 is of the number of days in the year.

(3) This section, where it replaces paragraph *b* of subsection 1 of section 1113 of the Taxation Act, applies from the taxation year 1985.

c. I-3,
s. 1116, am.

360. (1) Section 1116 of the said Act is amended by replacing paragraph *b* of subsection 1 by the following paragraph:

“(b) notwithstanding any other provision of this Act, any amount received in a taxation year by a taxpayer as such a dividend must not be included in computing his income for the year as income from a share of the capital stock of the corporation, but shall be 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 shall be deemed to have been disposed of by him in the year.”

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

c. I-3,
s. 1118.1,
added

361. (1) The said Act is amended by inserting, after section 1118, the following section:

Election by
a mutual
fund cor-
poration

“1118.1 Notwithstanding any other provision of this Act, a mutual fund corporation that at any time would, but for this section, be a restricted financial institution is deemed not to be a restricted financial institution at that time, if before that time it has made the election contemplated in subsection 10 of section 131 of the Income Tax Act (Statutes of Canada).

Filing of
documents

A mutual fund corporation that has made the election referred to in the first paragraph shall transmit to the Minister, at or before

the time the election was made, a copy of the documents it is required to file under subsection 10 of section 131 of the Income Tax Act (Statutes of Canada)."

(2) This section has effect from 16 December 1987. However, where the election referred to in subsection 10 of section 131 of the Income Tax Act (Statutes of Canada) was made before 14 March 1989, the first paragraph of section 1118.1 of the Taxation Act, enacted by this section, shall read without reference to "before that time", and where the election was made on or before 14 December 1990, the second paragraph of the said section 1118.1, enacted by this section shall read as follows:

Filing of
documents

"A mutual fund corporation that has made the election referred to in the first paragraph shall transmit to the Minister, at any time on or before 14 March 1991 a copy of the documents it is required to file under subsection 10 of section 131 of the Income Tax Act (Statutes of Canada)."

c. I-3,
ss. 1121.1-
1121.6,
added

362. (1) The said Act is amended by inserting, after section 1121, the following sections:

Amounts
designated
by a mutual
fund trust

"1121.1 For the purposes of Part I, where a trust in its fiscal return filed under this Part for a taxation year throughout which it was a mutual fund trust designates a particular amount, established for the year under section 1121.2, in respect of a particular unit of the trust owned by a taxpayer at any time in the year, the following rules apply:

(a) the particular amount shall, subject to section 1121.4, be deductible in computing the income of the trust for the year;

(b) the particular amount shall be included in computing the income of the taxpayer for his taxation year in which the year of the trust ends, except that where the particular unit was owned by two or more taxpayers during the year, such part of the particular amount as the trust may determine shall, if the aggregate of all such parts is equal to that particular amount, be included in computing the income of each such taxpayer for his taxation year in which the year of the trust ends.

Computation
of the
particular
amount

"1121.2 The particular amount referred to in section 1121.1 for a taxation year of a mutual fund trust in respect of a particular unit thereof is equal to the aggregate of

(a) such amount as the trust may determine in respect of the particular unit for the year not exceeding the amount by which the

aggregate of all amounts determined by it under section 670 for its taxation years commencing before 1 January 1988 exceeds the aggregate of those determined by it under this paragraph for the year or a preceding taxation year in respect of all its units, except the amount determined by it in respect of the particular unit for the year under this paragraph;

(b) such amount as the trust may determine in respect of the particular unit for the year not exceeding the amount by which the aggregate of all amounts described in subparagraph i.1 of paragraph *n* of section 257 that became payable by the trust after 31 December 1987 and before the year exceeds the aggregate of those determined by it under this paragraph for the year or a preceding taxation year in respect of all its units, except the amount determined by it in respect of the particular unit for the year under this paragraph.

Adjusted
cost base
of a unit
in a mutual
fund trust

“1121.3 A taxpayer shall add, in computing, at any time in his taxation year, the adjusted cost base to him of a unit in a mutual fund trust, that part of the amount included in computing his income under section 1121.1 that is reasonably attributable to the amount determined under paragraph *b* of section 1121.2 by the trust for its taxation year ending in the year in respect of the unit owned by the taxpayer.

Limitation
on current
year deduc-
tion

“1121.4 The aggregate of amounts deductible under paragraph *a* of section 1121.1 in computing the income of a trust for a taxation year shall not exceed the amount that would be the income of the trust for the year if no deductions were allowed under paragraph *a* of section 657 and section 1121.1.

Carry-over
of excess

“1121.5 For the purposes of paragraph *a* of section 1121.1 and section 1121.4, the amount by which the aggregate of all amounts each of which is an amount designated by a trust for a particular taxation year under section 1121.1 exceeds the amount deductible under section 1121.1 in computing its income for the particular year is deemed to be an amount designated by the trust under section 1121.1 for its taxation year following the particular year.

Anti-
avoidance
rule

“1121.6 For the purposes of paragraph *a* of section 1121.1, a particular amount designated under the said section for a taxation year of a mutual fund trust in respect of a unit of the trust owned at any time in the year by a taxpayer who was a person exempt from tax under this Part by reason of Book VIII of Part I shall have no effect where it is reasonable to conclude that an amount determined by the trust under paragraph *a* or *b* of section 1121.2 for the year in respect of the unit or, in respect of the amount designated, under paragraph

b of section 1121.1 differs from the amount that would have been so determined for the year in respect of the taxpayer had he not been such a person.”

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

c. I-3,
s. 1174.1,
added

363. (1) The said Act is amended by inserting, after section 1174, the following section:

Limitation
on the
exemption
of certain
insurers

“1174.1 Notwithstanding section 1174, where an insurance corporation is an insurer in respect of which section 999.0.1 applies, it shall be exempt from the tax provided for in this Part only in respect of premiums payable in consideration for insurance referred to in paragraph *k* of section 998.”

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

c. I-3,
s. 1177, am.

364. (1) Section 1177 of the said Act is amended by replacing paragraph *d* by the following paragraph:

“(d) the cutting of standing timber in Québec or the acquiring of forest products derived therefrom by a taxpayer where such products are processed in a sawmill, pulp or paper plant or other plant for processing forest products in Canada by the taxpayer or on his behalf.”

(2) This section applies to taxation years ending after 9 December 1987.

c. I-3,
s. 1178, am.

365. (1) Section 1178 of the said Act is amended by replacing paragraph *d* by the following paragraph:

“(d) when the taxpayer carries on the operations described in paragraph *d* of section 1177, his income or loss from all sources, as determined under Part I, without taking into account any amount included or deducted in computing the income or loss contemplated in paragraphs *a* to *c* or from sources other than logging operations and the processing in Québec by him or on his behalf, transportation and sale of logs, wood and products produced therefrom, less the deduction provided for in paragraph *e*;”.

(2) This section applies to taxation years ending after 9 December 1987.

c. I-4,
s. 41.3,
added

366. (1) The Act respecting the application of the Taxation Act (R.S.Q., chapter I-4) is amended by inserting, after section 41.2, the following section:

Receivable
amount

“41.3 In this chapter, a receivable amount, an amount receivable or an amount that becomes receivable by a taxpayer is an amount that the taxpayer has or may become entitled to receive.”

(2) This section applies in respect of a receivable amount, an amount receivable or that becomes receivable by a taxpayer by reason of a disposition of property occurring after 17 June 1987, otherwise than pursuant to the terms of an obligation entered into in writing before 18 June 1987.

c. M-31,
s. 58.2,
added

367. (1) The Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by inserting, after section 58.1, the following section:

Disclosure
of identi-
fication
number

“58.2 Every person shall, on request, provide his identification number referred to in section 58.1 to any person required under a fiscal law to file any return, report or other document requiring such number.

Other
person's
identi-
fication
number

Every person required under a fiscal law to file any return, report or other document requiring another person's identification number shall make a reasonable effort to obtain such number from the other person.”

(2) This section, where it enacts the first paragraph of section 58.2 of the Act respecting the Ministère du Revenu, applies from the taxation year 1988, and where it enacts the second paragraph of that section, it has effect from 13 September 1988.

c. M-31,
ss. 59.0.2-
59.0.4,
added

368. The said Act is amended by inserting, after section 59.0.1, the following sections:

Penalty

“59.0.2 Every person who fails to provide any information required on a prescribed form filed in accordance with a fiscal law is liable to a penalty of \$100.

Exception

Notwithstanding the foregoing, the penalty does not apply in the case of

(a) a failure to provide the identification number referred to in section 58.1 with respect to another person where the person required to provide such number has made a reasonable effort to obtain the Social Insurance Number from the other person, or

(b) a failure to provide the identification number referred to in section 58.1 on a return of income where the person required to provide such number has applied for the assignment of such number and has not received it at the time the return is filed.

Penalty

“59.0.3 Every person who fails to provide his identification number referred to in section 58.1 at the request of another person required under a fiscal law to file any return, report or other document requiring such number is liable to a penalty of \$100.

Exception

Notwithstanding the foregoing, the penalty does not apply where, no later than 15 days following the request, the person himself has applied for the assignment of such a number and has provided the number to the person requiring it within 15 days after receiving it.

Penalty on partnership members

“59.0.4 Where a penalty has been imposed under section 59 for failure to file a return for a fiscal year of a partnership, a demand for such return has been made to the members of the partnership under section 39, and a penalty has been imposed on them under section 59 for failure to file a return for any of the 3 preceding fiscal periods of the partnership, the members of the partnership are liable, in addition to the penalty provided in section 59, to a penalty of \$100 per member of the partnership for each month or part of a month, not exceeding 24, during which the failure continues.”

c. M-31,
s. 60, am.

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

Offences
and
penalties

“60. Every person who fails to file a return or report as and when prescribed by a fiscal law or a regulation thereunder, or fails to furnish the register mentioned in subsection 3 of section 34 is guilty of an offence and liable, in addition to any other penalty provided in that fiscal law, to a fine of at least \$25 for each day during which the failure continues.”

(2) This section has effect from 1 October 1989.

c. M-31,
s. 69, am.

370. Section 69 of the said Act is amended by replacing the sixth paragraph by the following paragraph:

Offence and
penalty

“Whoever contravenes this section is guilty of an offence and liable to a fine of not more than \$5 000.”

c. M-31,
s. 83,
replaced

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

Proof of
absence of
opposition
or appeal

“83. An affidavit of a functionary of the Ministère du Revenu attesting that he is entrusted with the appropriate registers, that he is familiar with the operation of the department and that an examination of the registers shows that a notice of assessment for a particular taxation year or other period or a notice of determination was mailed or otherwise communicated to a taxpayer or other person

subject to a fiscal law, on a designated day, in accordance with a fiscal law, and that after making a careful examination of the registers and having made a search therein, he was unable to ascertain that a notice of objection or appeal respecting the assessment or determination or a request referred to in section 1079.14 of the Taxation Act (R.S.Q., chapter I-3), as the case may be, was received within the time allowed therefor, shall be *prima facie* proof of the statements contained therein.”

(2) This section has effect from 13 September 1988.

1972, c. 24,
s. 19,
repealed

372. (1) Section 19 of the Act respecting the application of the Taxation Act (1972, chapter 24) is repealed.

(2) This section has effect from 13 September 1988.

1987, c. 67,
s. 103, am.

373. Section 103 of the Act to amend the Taxation Act and other fiscal legislation (1987, chapter 67) is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of deaths of individuals occurring after 31 December 1987.”

1987, c. 67,
s. 104, am.

374. Section 104 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of deaths of individuals’ spouses occurring after 31 December 1987.”

1987, c. 67,
s. 106, am.

375. Section 106 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of deaths of individuals occurring after 31 December 1987.”

1987, c. 67,
s. 107, am.

376. Section 107 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of deaths of individuals occurring after 31 December 1987. However, where it strikes out subparagraph *c* of section 451 of the Taxation Act, it applies from the taxation year 1985.”

1988, c. 18,
s. 52, am.

377. Section 52 of the Act to again amend the Taxation Act and other fiscal legislation (1988, chapter 18) is amended by replacing what follows paragraph *c* of subsection 2 by the following subsections:

“(3) For the purposes of subparagraph ii of paragraph *b* of subsection 2, the words “arm’s length” shall be interpreted as though Part I of the Taxation Act were read without reference to paragraph *b* of section 20 thereof.

“(4) Where the second paragraph of section 623 of the Taxation Act, as it existed before its replacement by subsection 1, applies to taxation years or fiscal periods ending after 31 December 1987 in respect of a property other than a property referred to in subsection 2, the reference therein to “one-half” shall be a reference to “ $\frac{3}{4}$ ”. However, where the said second paragraph, as amended by this subsection, applies to a person where the person is

(a) an individual, for taxation years or fiscal periods ending after 31 December 1987 and before 1 January 1990, the reference in the said second paragraph to “ $\frac{3}{4}$ ” shall read as a reference to “ $\frac{2}{3}$ ”;

(b) a corporation that is a Canadian-controlled private corporation throughout its taxation year, for such taxation years ending after 31 December 1987 and commencing before 1 January 1990, the reference in the said second paragraph to “ $\frac{3}{4}$ ” shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of

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

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

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

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

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

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

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

1988, c. 18,
s. 54, am.

378. Section 54 of the said Act is amended by replacing what follows paragraph *c* of subsection 2 by the following subsections:

“(3) For the purposes of subparagraph ii of paragraph *b* of subsection 2, the words “arm’s length” shall be interpreted as though Part I of the Taxation Act were read without reference to paragraph *b* of section 20 thereof.

“(4) Where the second paragraph of section 629 of the Taxation Act, replaced by subsection 1, applies to taxation years or fiscal periods ending after 31 December 1987 in respect of a property other than a property referred to in subsection 2, the reference therein to “one-half” shall be a reference to “ $\frac{3}{4}$ ”. However, where the said second paragraph, as amended by this subsection, applies to a person where the person is

(a) an individual, for taxation years or fiscal periods ending after 31 December 1987 and before 1 January 1990, the reference in the said second paragraph to “ $\frac{3}{4}$ ” shall read as a reference to “ $\frac{2}{3}$ ”;

(b) a corporation that is a Canadian-controlled private corporation throughout its taxation year, for such taxation years ending after 31 December 1987 and commencing before 1 January 1990, the reference in the said second paragraph to “ $\frac{3}{4}$ ” shall, in respect of the corporation for the year, read as a reference to the fraction determined as the aggregate of

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

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

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

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

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

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

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

Coming into
force

379. This Act comes into force on 14 December 1990.