

1988, chapter 18

## AN ACT TO AGAIN AMEND THE TAXATION ACT AND OTHER FISCAL LEGISLATION

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### **Bill 6**

Introduced by Mr Yves Séguin, Minister of Revenue

Introduced 11 May 1988

Passage in principle 25 May 1988

Passage 17 June 1988

**Assented to 17 June 1988**

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**Coming into force: 17 June 1988**

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### **Acts amended:**

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

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

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

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

Act to amend the Taxation Act and other fiscal legislation (1988, chapter 4)





## CHAPTER 18

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

[Assented to 17 June 1988]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. I-2,  
s. 17.2, am.

**1.** (1) The English text of section 17.2 of the Tobacco Tax Act (R.S.Q., chapter I-2) is amended by replacing the first paragraph by the following paragraph:

Collection

**“17.2** Every collection officer holding a registration certificate shall collect, as an agent for the Minister, an amount equal to the tax provided for in section 8 from every person to whom he sells, delivers or causes to be delivered tobacco identified in accordance with section 13.1, unless the tobacco is prescribed by regulation and is delivered outside Québec for consumption outside Québec.”

(2) This section has effect from 1 September 1986.

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

**2.** (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 7 of chapter 21 of the statutes of 1987, by section 4 of chapter 67 of the statutes of 1987 and by section 17 of chapter 4 of the statutes of 1988, is again amended

(1) by replacing paragraph *a* of the definition of the expression “small business corporation” by the following paragraph:

“(a) used in a qualified business within the meaning of paragraph *e* of section 451 carried on primarily in Canada by the corporation or by a corporation related to it;”;

(2) by inserting, after the definition of the expression “retiring allowance”, the following definition:

*“salary  
deferral  
arrange-  
ment”*

““salary deferral arrangement” in respect of an individual has the meaning assigned by sections 47.15 and 47.16;”;

(3) by inserting, after the definition of the expression “death benefit”, the following definition:

*“deferred  
amount”*

““deferred amount” at the end of a taxation year under a salary deferral arrangement in respect of an individual has the meaning assigned by section 47.17;”;

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

*“prescribed”*

““prescribed” means, in the case of a form or the information to be given on a form, prescribed by order of the Minister, and, in any other case, prescribed by regulation or determined in accordance with rules prescribed by regulation;”.

(2) Paragraph 1 of subsection 1 has effect from 1 January 1986.

(3) Paragraphs 2 and 3 of subsection 1 apply after 25 February 1986 with respect to plans or arrangements contemplated in section 47.15 of the Taxation Act. They do not apply, however, with respect to an amount which, but for this exception, would be a deferred amount under an agreement in writing made before 26 February 1986 by an individual and his employer or former employer, where the amount is in respect of services rendered by the individual after 30 June 1986, where the individual is obliged to defer receipt of the deferred amount and cannot cancel or otherwise avoid that obligation, or services rendered by the individual before 1 July 1986.

*c. I-3,  
s. 1.4,  
repealed*

**3.** (1) Section 1.4 of the said Act is repealed.

(2) This section has effect from 2 January 1986.

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

**4.** (1) Section 47.6 of the said Act, amended by section 11 of chapter 21 of the statutes of 1987, is again amended by replacing the second paragraph by the following paragraph:

*Excluded  
plans and  
trusts*

“However, such a plan does not include a plan referred to in the first paragraph of section 38 or in section 43 or 47, a trust referred to in paragraph *m* of section 998, an employee trust, an arrangement the sole purpose of which is to provide education or training for employees of the employer to improve their work or work-related skills and abilities, a salary deferral arrangement in respect of an individual under which a deferred amount must be included as a benefit under

section 37 in computing the income of that individual or a prescribed fund or plan.”

(2) This section applies after 25 February 1986 with respect to plans or arrangements contemplated in section 47.15 of the Taxation Act. It does not apply, however, with respect to an amount which, but for this exception, would be a deferred amount under an agreement in writing made before 26 February 1986 by an individual and his employer or former employer, where the amount is in respect of services rendered by the individual after 30 June 1986, where the individual is obliged to defer receipt of the deferred amount and cannot cancel or otherwise avoid that obligation, or services rendered by the individual before 1 July 1986.

c. I-3, ss.  
47.10-47.17,  
added

**5.** (1) The said Act is amended by inserting, after section 47.9, the following:

“DIVISION V.2

“SALARY DEFERRAL ARRANGEMENTS

Computation

**“47.10** An individual shall include in computing his income for a taxation year an amount equal to the amount by which the aggregate of amounts received by any person as benefits, other than amounts received by or from a trust governed by a salary deferral arrangement, in the year out of or under a salary deferral arrangement in respect of the taxpayer exceeds the amount by which

(a) the aggregate of all deferred amounts under the arrangement that were included under section 37 as benefits in computing the individual’s income for preceding taxation years exceeds

(b) the aggregate of all deferred amounts received by any person in preceding taxation years out of or under the arrangement, and all deferred amounts under the arrangement that were deducted under section 78.2 in computing the individual’s income for the year or preceding taxation years.

Salary  
deferral  
arrangement

**“47.11** Where at the end of a taxation year any person has a right under a salary deferral arrangement in respect of an individual to receive a deferred amount, an amount equal to the deferred amount is deemed, for the purposes only of section 37, to have been received by the individual as a benefit in the year, to the extent that the amount was not otherwise included in computing the individual’s income for the year or any preceding taxation year.

Salary  
deferral  
arrangement

**“47.12** Where at the end of a taxation year any person has a right under a salary deferral arrangement, other than a trust governed by a salary deferral arrangement, in respect of an individual to receive a deferred amount, an amount equal to any interest or other additional amount that accrued to that person or for his benefit to the end of the year in respect of the deferred amount is deemed at the end of the year, for the purposes only of section 47.11, to be a deferred amount that the person has a right to receive under the arrangement.

Applicability

**“47.13** Section 47.11 does not apply in respect of a deferred amount under a salary deferral arrangement in respect of an individual that was established primarily for the benefit of one or more employees not resident in Canada in respect of services to be rendered in a country other than Canada, to the extent that the deferred amount

(a) was in respect of services rendered by an employee who was not resident in Canada at the time the services were rendered, or was resident in Canada for a period, in this subsection referred to as an “excluded period”, of not more than 36 of the 72 months preceding the time the services were rendered and was an employee to whom the arrangement applied before he became resident in Canada; and

(b) cannot reasonably be regarded as being in respect of services rendered or to be rendered during a period, other than an excluded period, when the employee was resident in Canada.

Applicable  
rules

**“47.14** For the purposes of this Part, other than this section, where deferred amounts under a salary deferral arrangement in respect of an individual are required to be included as benefits under section 37 in computing his income and that arrangement is part of a plan or arrangement under which amounts or benefits not related to the deferred amounts are payable or provided, the following rules apply:

(a) that arrangement is deemed to be a separate arrangement independent of other parts of the plan or arrangement of which it is a part;

(b) where any person has a right to a deferred amount under that arrangement, an amount received by the person as a benefit at any time out of or under the plan or arrangement is deemed to have been received out of or under that arrangement except to the extent that it exceeds the amount by which

i. the aggregate of all deferred amounts under that arrangement that were included under section 37 as benefits in computing the individual's income for taxation years ending before that time exceeds

ii. the aggregate of all deferred amounts received by any person before that time out of or under the plan or arrangement that were deemed by this paragraph to have been received out of or under that arrangement, and all deferred amounts under that arrangement that were deducted under section 78.2 in computing the individual's income for the year or a preceding taxation year.

Salary  
deferral  
arrangement

**“47.15** For the purposes of this division, a salary deferral arrangement in respect of an individual means a plan or arrangement, whether funded or not, under which any person has a right in a taxation year to receive an amount after the end of the year where it is reasonable to consider that one of the main purposes for the creation or existence of the right is to postpone tax payable under this Part by the individual in respect of an amount that is, or is on account or in lieu of, salary or wages of the individual for services rendered by him in the year or a preceding taxation year.

Conditions

The right referred to in the first paragraph includes a right that is subject to one or more conditions unless there is a substantial risk that any one of those conditions will not be satisfied.

Salary  
deferral  
arrangement

**“47.16** For the purposes of section 47.15, a salary deferral arrangement does not include

- (a) a registered retirement plan,
- (b) a disability or income maintenance insurance plan under a policy with an insurance corporation,
- (c) a deferred profit sharing plan,
- (d) an employees profit sharing plan,
- (e) an employee trust,
- (f) a group sickness or accident insurance plan,
- (g) a supplementary unemployment benefit plan,
- (h) a trust described in paragraph *m* of section 998,
- (i) a plan or arrangement the sole purpose of which is to provide education or training for employees of an employer to improve their work or work-related skills and abilities,
- (j) a plan or arrangement established for the purpose of deferring the salary or wages of a professional athlete for his services as such

with a team that participates in a league having regularly scheduled games,

(k) a plan or arrangement under which an individual has a right to receive a bonus or similar payment in respect of services rendered by him in a taxation year to be paid within three years following the end of the year, or

(l) a prescribed plan or arrangement.

Deferred  
amount

“**47.17** For the purposes of this division, a deferred amount at the end of a taxation year under a salary deferral arrangement in respect of an individual means

(a) in the case of a trust governed by the arrangement, any amount that a person has a right under the arrangement at the end of the year to receive after the end of the year where the amount has been received, is receivable or may at any time become receivable by the trust as salary or wages of the individual for services rendered in the year or a preceding taxation year;

(b) in the case where no trust is governed by the arrangement, any amount that a person has a right under the arrangement at the end of the year to receive after the end of the year.

Conditions

The right referred to in the first paragraph includes a right that is subject to one or more conditions unless there is a substantial risk that any one of those conditions will not be satisfied.”

(2) This section, so far as it enacts sections 47.10 to 47.14 of the Taxation Act, applies from the taxation year 1986.

(3) This section, so far as it enacts sections 47.15 to 47.17 of the Taxation Act, applies after 25 February 1986 with respect to plans or arrangements contemplated in section 47.15 of that Act. It does not apply, however, with respect to an amount which, but for this exception, would be a deferred amount under an agreement in writing made before 26 February 1986 by an individual and his employer or former employer, where the amount is in respect of services rendered by the individual after 30 June 1986, where the individual is obliged to defer receipt of the deferred amount and cannot cancel or otherwise avoid that obligation, or services rendered by the individual before 1 July 1986.

c. I-3,  
ss. 78.2 and  
78.3, added

**6.** (1) The said Act is amended by inserting, after section 78.1, the following sections:

Deduction

**“78.2** An individual may deduct the amount determined under section 78.3 where at the end of the year the rights of any person to receive benefits under a salary deferral arrangement in respect of the individual have been extinguished or no person has any further right to receive any amount under the arrangement.

Computation

**“78.3** The amount referred to in section 78.2 is equal to the amount by which the aggregate of all deferred amounts under the arrangement included in computing the individual's income for the year and preceding taxation years as benefits under section 37 exceeds the aggregate of

(a) all such deferred amounts received by any person in that year or preceding taxation years out of or under the arrangement,

(b) all such deferred amounts receivable by any person in subsequent taxation years out of or under the arrangement, and

(c) all amounts deducted under section 78.2 in computing the individual's income for preceding taxation years in respect of deferred amounts under the arrangement.”

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

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

**7.** (1) Section 87 of the said Act, amended by section 19 of chapter 67 of the statutes of 1987, is again amended

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

deferred  
amounts

**“(j.2)** any amount in respect of deferred amounts under a salary deferral arrangement in respect of another person, that was deductible under section 78.2 in computing the income of that other person for a taxation year ending in the year where the deferred amounts have been deducted under paragraph *p* of section 157 in computing the taxpayer's income for preceding taxation years;”;

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

investment  
tax credit

**“(u)** the prescribed amount deducted in computing the taxpayer's tax payable for the year under a prescribed law, to the extent that such amount is not included in an amount determined under subparagraph vii of paragraph *e* of section 93, section 101 or 225, subparagraph vi of paragraph *l* of section 257, subparagraph ii of paragraph *n* of section 257 or paragraph *g* of section 399;”.

(2) Paragraph 1 of subsection 1 applies from the taxation year 1986.

(3) Paragraph 2 of subsection 1 has effect from 1 December 1985.



c. I-3,  
s. 92.7, am. **8.** (1) Section 92.7 of the said Act is amended by replacing paragraph *a* by the following paragraph:

*“investment contract”* **“(a) “investment contract”, in relation to a taxpayer, means any debt obligation, other than a prescribed contract, a salary deferral arrangement, an income bond, an income debenture, a development bond or a small business bond;”.**

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

c. I-3,  
s. 135, am. **9.** (1) Section 135 of the said Act, amended by section 37 of chapter 67 of the statutes of 1987, is again amended

(1) by replacing the period at the end of paragraph *c* by a semicolon;

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

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

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

c. I-3,  
s. 135.1.1,  
added **10.** (1) The said Act is amended by inserting, after section 135.1, the following section:

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

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

c. I-3,  
s. 157, am. **11.** (1) Section 157 of the said Act, amended by section 13 of chapter 21 of the statutes of 1987 and by section 40 of chapter 67 of the statutes of 1987, is again amended

(1) by striking out paragraph *j*;

(2) by replacing the period at the end of paragraph *o* by a semicolon;

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

*deferred amount* **“(p) any deferred amount under a salary deferral arrangement in respect of another person to the extent that the deferred amount is in respect of services rendered to the taxpayer and is included under**

section 37 as a benefit in computing the income of the other person for the taxation year of the other person that ends in the taxpayer's taxation year."

(2) Paragraph 1 of subsection 1 applies to taxation years commencing after 25 February 1986. However, in the application of paragraph *j* of section 157 of the Taxation Act to taxation years that include that date, the reference in that paragraph to "the number of days in the fiscal period" shall be read as a reference to "the number of days in the fiscal period and before 26 February 1986".

(3) Paragraphs 2 and 3 of subsection 1 apply from the taxation year 1986.

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

**12.** (1) Section 175.1 of the said Act is amended by adding, after subsection 2, the following subsection:

"(3) For the purposes of subsection 1, an outlay or expense is deemed not to include any expenditure described in paragraph *e* of subsection 1 of section 222."

(2) This section applies with respect to expenses made after 25 February 1986.

c. I-3,  
s. 222, am.

**13.** (1) Section 222 of the said Act, replaced by section 45 of chapter 67 of the statutes of 1987, is amended

(1) by replacing the period at the end of paragraph *d* of subsection 1 by a semicolon;

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

"(e) to an organization approved by the Minister that makes payments to an association, institution or corporation described in any of paragraphs *a* to *c* to be used for scientific research and experimental development related to the class of business of the taxpayer, where the taxpayer is entitled to exploit the results of such scientific research and experimental development."

(2) This section applies with respect to expenditures made after 25 February 1986.

c. I-3,  
s. 232.1.1,  
added

**14.** (1) The said Act is amended by inserting, after section 232.1, the following section:

"small business corporation"

**"232.1.1** For the purposes of sections 232.1 and 236.1, the expression "small business corporation" at any particular time includes a corporation that was at any time in the 12 months preceding that time a small business corporation."

(2) This section has effect from 1 January 1986.

c. I-3,  
s. 293,  
replaced

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

Prize

**"293.** The gain or loss of a taxpayer from the disposition of a chance to win a prize or a right to receive an amount as a prize, in connection with a lottery scheme, is deemed nil."

(2) This section has effect from 20 June 1985.

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

**16.** (1) Section 312 of the said Act, amended by section 77 of chapter 67 of the statutes of 1987 and by section 30 of chapter 4 of the statutes of 1988, is again amended by replacing paragraph *d* by the following paragraph:

Surrender  
of income-  
averaging  
annuity  
contract

**"(d)** an amount received as proceeds of the surrender, cancellation, redemption, sale or other disposition of an income-averaging annuity contract, or an amount deemed to have been received under the first paragraph of section 346;"

(2) This section applies from 26 May 1976.

c. I-3,  
s. 313.4,  
added

**17.** (1) The said Act is amended by inserting, after section 313.3, the following section:

Benefit

**"313.4** A taxpayer shall also include every amount received by him as a benefit in the year out of or under a salary deferral arrangement in respect of another person except to the extent that the amount, or another amount that may reasonably be considered to relate thereto, has been included in computing the income of that other person for the year or for any preceding taxation year.

Applicability

Notwithstanding the foregoing, the first paragraph does not apply to an amount received by or from a trust governed by a salary deferral arrangement."

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

c. I-3,  
s. 332.1,  
am.

**18.** (1) Section 332.1 of the said Act is amended

(1) by replacing the period at the end of paragraph *f* by a semi-colon;

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

“(g) 33 $\frac{1}{3}$ % 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 property disposed of by the taxpayer to any person with whom he was not dealing at arm’s length, 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, of a person with whom he was not dealing at arm’s length or of a specified predecessor of the taxpayer.”

(2) This section has effect from 1 January 1987.

c. I-3,  
s. 333, am.

**19.** (1) Section 333 of the said Act is amended by replacing the second paragraph by the following paragraph:

Interpreta-  
tion

“Similarly, the expressions “exploration base”, “resource exploration base”, “oil and gas exploration base”, “supplementary depletion”, “earned depletion”, “Canadian oil and gas exploration expense”, “bituminous sands equipment”, “enhanced recovery equipment”, “qualified tertiary oil recovery project”, and “non-conventional lands” have, for the purposes of this chapter, the meaning assigned to them by regulation.”

(2) This section has effect from 1 January 1987.

c. I-3,  
s. 339, am.

**20.** (1) Section 339 of the said Act is amended by replacing paragraph *f* by the following paragraph:

premium  
under a  
registered  
savings plan

“(f) such part as is designated by the taxpayer in his fiscal return filed for the year under this Part, of the aggregate of every amount, to the extent that it was not deducted in computing his income for a previous taxation year, paid by him or on his behalf in the year or within 60 days after the end of the year, either as a premium to a registered retirement savings plan under which he is the annuitant, or in order to acquire, from a person licensed or otherwise authorized by the laws of Canada or a province to carry on an annuities business in Canada or a province, an annuity described in section 339.4 under which he is the annuitant or to a carrier as consideration for a registered retirement income fund under which the taxpayer is the annuitant, if such part does not exceed the aggregate of the following amounts:

i. the amount included in computing his income for the year as a refund of premiums out of or under a registered retirement savings plan under which the taxpayer's spouse was the annuitant;

ii. the amount included in computing his income for the year as a refund of premiums out of or under a registered retirement savings plan, where the taxpayer was dependent by reason of physical or mental infirmity on the annuitant under the plan;

iii. where the amount is paid by a direct transfer from the issuer of a registered retirement savings plan or a carrier of a registered retirement income fund, the amount included in computing his income for the year as a consequence of a payment described in subparagraph ii of paragraph *b* of subsection 1 of section 908 and the portion of the amount received by the taxpayer out of or under a registered retirement income fund and included in computing his income for the year by virtue of section 961.17 that exceeds the minimum amount, within the meaning assigned by paragraph *c* of section 961.1.5, required to be paid to the annuitant in the year under that fund;"

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

c. I-3,  
s. 339.4,  
added

**21.** (1) The said Act is amended by inserting, after section 339.3, the following section:

Annuity

**"339.4** The annuity referred to in paragraph *f* of section 339 is an annuity

(a) for the life of the taxpayer, or for the lives jointly of the taxpayer and his spouse, either with a guaranteed period that is not greater than 90 years minus his age, or the age of his spouse, at the time of its acquisition, or without a guaranteed period;

(b) for a term of years equal to 90 minus the age of the taxpayer, or the age of his spouse, at the time of its acquisition.

Payment

Notwithstanding the first paragraph, the annuity described therein must not provide for any payment except

(a) the single payment by the taxpayer;

(b) equal annual or more frequent periodic payments commencing not later than one year after the date of the payment referred to in subparagraph *a*;

(c) payments in full or partial commutation of the annuity and, where the commutation is partial, equal annual or more frequent periodic payments thereafter.”

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

c. I-3,  
s. 345,  
French text  
am.

**22.** (1) Section 345 of the said Act is amended by replacing paragraph *e* of the French text by the following paragraph:

“*e*) un montant inclus dans le calcul du revenu du particulier en vertu de l’article 929, mais uniquement dans la mesure où ce montant constitue un remboursement de primes effectué en vertu d’un régime enregistré d’épargne-retraite lorsque le particulier reçoit ce montant au décès ou après le décès de la personne qui était, immédiatement avant son décès, le rentier en vertu de ce régime;”.

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

c. I-3,  
s. 352,  
replaced

**23.** (1) The English text of section 352 of the said Act, replaced by section 31 of chapter 4 of the statutes of 1988, is again replaced by the following section:

Restrictions

“**352.** For the purposes of paragraph *b* of section 351, child care expenses shall not include expenses incurred in the year for lodging at a boarding school or camp which exceed the total amount of \$70 per week for each child who is under six years of age on 30 September or 31 December of that year or would have been had he then been living and \$35 per week for any other child, or the medical expenses contemplated in sections 717 to 721 or other expenses for medical or hospital care, clothing, transport or education or for board or lodging other than those provided in the said paragraph *b*.”

(2) This section applies from the taxation year 1986. However, where it applies in respect of the taxation year 1986, it shall read as follows:

Restrictions

“**352.** For the purposes of paragraph *b* of section 351, child care expenses shall not include expenses incurred in the year for lodging at a boarding school or camp which exceed the total amount of \$70 per week for each child who is under six years of age on 31 December of that year or would have been had he then been living and \$35 per week for any other child, or the medical expenses contemplated in sections 717 to 721 or other expenses for medical or hospital care, clothing, transport or education or for board or lodging other than those provided in the said paragraph *b*.”

c. I-3,  
s. 358.1,  
replaced

**24.** (1) Section 358.1 of the said Act, enacted by section 34 of chapter 4 of the statutes of 1988, is replaced by the following section:

Deduction

**“358.1** An individual may deduct, in computing his income for a taxation year, an amount not exceeding the amount by which 33 1/3% of the expenditures deductible under subsection 1 of section 222 or paragraph *a* of section 223 made by him in Québec in the year or in a previous taxation year, in carrying on a business in Canada, on scientific research and experimental development, within the meaning of the regulations made under section 222, undertaken in Québec by him or on his behalf, except expenditures referred to in paragraph *e* of subsection 1 of section 222 which, but for subsection 3 of section 175.1, would not be deductible in computing the individual's income for the year and expenditures deductible under section 358.10, exceeds the aggregate of all amounts deducted by him under this section in computing his income for a previous taxation year.”

(2) This section applies in respect of expenditures made after 30 April 1987.

c. I-3,  
s. 358.2,  
am.

**25.** (1) Section 358.2 of the said Act, enacted by section 34 of chapter 4 of the statutes of 1988, is amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) 33 1/3% of his share of the expenditures deductible under subsection 1 of section 222 or paragraph *a* of section 223 made by the partnership in Québec, in carrying on a business in Canada, in a fiscal period of the partnership if he was a member of the partnership at the end of that fiscal period, for that scientific research and experimental development undertaken in Québec by or on behalf of the partnership, except expenditures referred to in paragraph *e* of subsection 1 of section 222 which, but for subsection 3 of section 175.1, would not be deductible in computing the partnership income for that fiscal period and expenditures deductible under section 358.11, exceeds”.

(2) This section applies in respect of expenditures made after 30 April 1987.

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

**26.** (1) Section 359 of the said Act, amended by section 79 of chapter 67 of the statutes of 1987, is again amended by inserting, after paragraph *c*, the following paragraph:

“assistance”

“(c.0.1) “assistance” means any amount, other than a prescribed amount, received or receivable at any time from a person or government, municipality or other public authority whether such amount is by way of a grant, subsidy, rebate, forgivable loan, deduction from royalty or

tax, rebate of royalty or tax, investment allowance or any other form of assistance or benefit;”.

(2) This section applies with respect to expenses incurred after 28 February 1986.

c. 1-3,  
ss. 359.1-  
359.17,  
added

**27.** (1) The said Act is amended by inserting, after section 359, the following:

“DIVISION 1.1

“FLOW-THROUGH SHARES

“flow-  
through  
share”

**“359.1** In this chapter, “flow-through share” means a share, other than a prescribed share, of the capital stock of a principal-business corporation that is issued to a person pursuant to an agreement in writing entered into between the person and the principal-business corporation after 28 February 1986, under which the corporation agrees

(a) to incur, during the period commencing on the day the agreement was entered into and ending 24 months after the end of the month that includes that day, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses in an amount not less than the consideration for which the share is to be issued, and

(b) to renounce, within that period or within 30 days thereafter, in prescribed form to the person in respect of the share, an amount in respect of the Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses so incurred by it not exceeding the consideration received by the corporation for the share.

Interest

In this chapter, flow-through share includes a right of a person to have a share referred to in the first paragraph issued to him and any interest acquired in such a share by a person pursuant to an agreement referred to in the first paragraph.

“selling  
instrument”

In this chapter, “selling instrument” in respect of flow-through shares means a prospectus, registration statement, offering memorandum, term sheet or other similar document that describes the terms of the offer, including the price and number of shares, pursuant to which a corporation offers to issue flow-through shares.

Renuncia-  
tion

**“359.2** Where a person has given consideration under an agreement to a corporation for the issue of a flow-through share of



the corporation and, during the period commencing on the day the agreement was entered into and ending 24 months after the end of the month that included that day, the corporation has incurred Canadian exploration expenses, the corporation may, after it has complied with section 359.10 in respect of the share and within that period or within 30 days thereafter, renounce to the person in respect of the share the amount by which those expenses incurred by it during that period and on or before the effective date of the renunciation exceed the aggregate of

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

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

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

Renuncia-  
tion

Notwithstanding the first paragraph, the amount that may be renounced by the corporation must not in any case exceed

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

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

Date of  
effect

For the purposes of this section, a renunciation in respect of a share is effective on the date on which the renunciation is made by the corporation or on such earlier date as may be set out in respect of the share in the form prescribed for the purposes of section 359.12.

Renuncia-  
tion

**“359.3** Where a corporation renounces an amount to a person under section 359.2, the following rules apply:

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

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

Renuncia-  
tion

**“359.4** Where a person has given consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, during the period commencing on the day the agreement was entered into and ending 24 months after the end of the month that included that day, the corporation has incurred Canadian development expenses, the corporation may, after it has complied with section 359.10 in respect of the share and within that period or within 30 days thereafter, renounce to the person in respect of the share the amount by which those expenses incurred by it during that period and on or before the effective date of the renunciation exceed the aggregate of

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

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

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

Renuncia-  
tion

Notwithstanding the first paragraph, the amount that may be renounced by the corporation must not in any case exceed

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

(b) the amount by which the cumulative Canadian development expense of the corporation on the effective date of the renunciation computed before taking into account any amounts renounced by the corporation under this section on the date on which the renunciation

is made, exceeds the aggregate of all amounts renounced by the corporation under this section in respect of any other share on the date on which the renunciation is made, and effective on or before the effective date of the renunciation.

Date of  
effect

For the purposes of this section, a renunciation in respect of a share is effective on the date on which the renunciation is made by the corporation or on such earlier date as may be set out in respect of the share in the form prescribed for the purposes of section 359.12.

Renuncia-  
tion

**“359.5** Where a corporation renounces an amount to a person under section 359.4, the following rules apply:

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

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

Renuncia-  
tion

**“359.6** Where a person has given consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, during the period commencing on the day the agreement was entered into and ending 24 months after the end of the month that included that day, the corporation has incurred Canadian oil and gas property expenses, the corporation may, after it has complied with section 359.10 in respect of the share and within that period or within 30 days thereafter, renounce to the person in respect of the share the amount by which those expenses incurred by it during that period and on or before the effective date of the renunciation exceed the aggregate of

(a) the assistance that it has received, is entitled to receive, or may reasonably be expected to receive at any time, and that may reasonably be related to those expenses, and

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

Renuncia-  
tion

Notwithstanding the first paragraph, the amount that may be renounced by the corporation must not in any case exceed

(a) the amount, if any, by which the consideration for the share exceeds the aggregate of other amounts renounced by the corporation

in respect of the share under this section or section 359.2 or 359.4 on or before the date on which the renunciation is made, or

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

Date of  
effect

For the purposes of this section, a renunciation in respect of a share is effective on the date on which the renunciation is made by the corporation or on such earlier date as may be set out in respect of the share in the form prescribed for the purposes of section 359.12.

Renuncia-  
tion

**“359.7** Where a corporation renounces an amount to a person under section 359.6, the following rules apply:

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

(b) the Canadian oil and gas property expenses to which the amount relates are, except for the purposes of that renunciation, deemed on and after the effective date of the renunciation never to have been Canadian oil and gas property expenses incurred by the corporation.

Canadian  
exploration  
expenses

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

(a) the Canadian exploration expenses are expenses described in paragraph c of section 395 incurred in respect of a mineral resource other than a bituminous sands deposit, an oil sands deposit or an oil shale deposit,

(b) before the end of the year, the agreement was entered into between the corporation and the person and the person paid the consideration for the share in money,

(c) the corporation and the person deal with each other at arm's length throughout the 60 days after the end of the year, and

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

Renuncia-  
tion

**“359.9** A corporation shall not renounce under any of sections 359.2, 359.4 and 359.6 any expenses that are deemed to have been incurred by it by virtue of a renunciation under this chapter by another corporation that is not related to it.

Selling ins-  
trument

**“359.10** A corporation that agrees to issue or prepares a selling instrument in respect of flow-through shares shall file with the Minister a prescribed form together with a copy of the selling instrument or agreement to issue the shares on or before the last day of the month following the earlier of

(a) the month in which the agreement to issue the shares is entered into, and

(b) the month in which the selling instrument is first delivered to a potential investor.

Identifica-  
tion number

The Minister shall assign an identification number to the prescribed form and notify the corporation of the number.

Information  
return

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

Prescribed  
form

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

Renuncia-  
tion

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

Applicable  
provisions

**“359.14** Where a corporation has renounced any amount under section 359.2, 359.4 or 359.6, sections 38 to 40.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) apply, with such modifications as the circumstances require and without restricting their generality, for the purpose of permitting the Minister to verify or ascertain

(a) the Canadian exploration expenses, Canadian development expenses, or Canadian oil and gas property expenses of the corporation in respect of which the amount was renounced by it,

(b) the amounts renounced by the corporation in respect of those expenses, and

(c) any information in respect of the expenses or the amounts renounced by the corporation.

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 the amount so renounced by the corporation is deemed to be Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses incurred by the taxpayer or a partnership of which the taxpayer is a member.

Excess  
amount

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

(a) reduce the amounts so renounced to one or more of those persons to effect a reduction in the aggregate of the amounts so purported to be renounced by the amount of the excess; and

(b) file a statement with the Minister indicating the adjustments made in the amounts so renounced.

Reduction

Where, in the case described in the first paragraph, the corporation fails to comply with subparagraphs *a* and *b* of that paragraph within 30 days after notice in writing by the Minister has been forwarded to the corporation that a reduction as provided in the said subparagraph *a* is or will be required for the purposes of any assessment of tax under this Part, the Minister may, for the purposes of this division, reduce the amounts purported to be renounced by the corporation to one or more of the persons referred to in the first paragraph to effect a reduction

in the aggregate of the amounts so purported to be renounced by the corporation by the amount of the excess.

Renuncia-  
tion

In either such case, notwithstanding sections 359.3, 359.5 and 359.7, the amount renounced to each of the persons by the corporation is deemed to be the amount as reduced by the corporation or the Minister, as the case may be.

Partnership

**“359.16** For the purposes of paragraph *c*.0.1 of section 359, subparagraph *a* of the first paragraph of section 359.1, sections 359.2 to 359.8 and section 419.0.1, a partnership is deemed to be a person and its taxation year is deemed to be its fiscal period.

Expense  
incurred by  
partnership

**“359.17** For the purposes of paragraph *c* of section 359.8, where an expense incurred during a period by a corporation that is, but for this section, deemed by section 359.3 to be incurred by a partnership is attributable directly or indirectly to a member of the partnership who does not deal with the corporation at arm's length, the partnership and the corporation are deemed not to deal with each other at arm's length during the period.”

(2) This section, so far as it relates to the definition of the expression “flow-through share” in section 359.1 of the Taxation Act enacted thereby, applies with respect to

(a) shares issued pursuant to an agreement entered into after 31 December 1986; and

(b) shares issued pursuant to an agreement entered into by a corporation after 28 February 1986 but before 1 January 1987 where the corporation elects in prescribed form, filed with the Minister of Revenue with its fiscal return pursuant to section 1000 of the Taxation Act for the taxation year in respect of which the election is made or on or before the day that is 120 days after the day of assent to this Act.

(3) Where, on or before 15 October 1988 the corporation files with the Minister of Revenue a copy of an election it has made for the purposes of the Income Tax Act (Statutes of Canada) pursuant to paragraph *b* of subsection 12 of section 11 of chapter 55 of the Statutes of Canada, 1986, with respect to shares described in paragraph *b* of subsection 2, a similar election is deemed to have also been made with respect to those shares for the purposes of the Taxation Act, in prescribed form, pursuant to the said paragraph *b* and to have also been filed with the Minister of Revenue within the time set down in the said paragraph.

(4) This section, so far as it relates to the definition of the expression “selling instrument” in section 359.1 of the Taxation Act as enacted thereby, applies with respect to expenses incurred after 28 February 1986.

(5) This section, so far as it enacts sections 359.2 to 359.15 of the Taxation Act, applies with respect to expenses incurred after 28 February 1986, except that a prescribed form referred to in section 359.10, 359.11 or 359.12 of the said Act that is filed with the Minister of Revenue on or before 15 October 1988 is deemed to have been filed with the Minister of Revenue on or before the day on or before which it is required by that section to be so filed. In addition, where a copy of such a form required to be filed by subsection 12.68, 12.69 or 12.7, as the case may be, of section 66 of the Income Tax Act (Statutes of Canada) with the Minister of National Revenue is filed with the Minister of Revenue on or before 15 October 1988 the prescribed form required by section 359.10, 359.11 or 359.12, as the case may be, of the Taxation Act is deemed to have been filed on or before the day on or before which it is required to be filed under that section.

(6) This section, so far as it enacts sections 359.16 and 359.17 of the Taxation Act, applies with respect to taxation years ending after 28 February 1986.

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

**28.** (1) Section 395 of the said Act, amended by section 88 of chapter 67 of the statutes of 1987, is again amended

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

“Canadian  
exploration  
expense”

**“395.** For the purposes of this chapter, “Canadian exploration expense” of a taxpayer means any expense incurred after 6 May 1974 in the case of an oil business, or after 31 March 1975 in the case of a mining business, to such extent as that expense is”;

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

“(b) any expense incurred before 1 April 1987, in drilling or completing an oil or gas well in Canada, or in building a temporary access road to, or preparing a site in respect of, any such well, incurred by him in the year or in any previous year, and included by him in computing his Canadian development expenses for a previous taxation year, if the drilling of the well is completed within six months after the end of the year and”;



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

“(b.1) any expense incurred by him after 31 March 1987 and in a taxation year of the taxpayer, in drilling or completing an oil or gas well in Canada, or in building a temporary access road to, or preparing a site in respect of, any such well if

i. the well resulted in the discovery of a natural accumulation of petroleum or natural gas and the discovery occurred at any time before six months after the end of the year;

ii. the well is abandoned in the year or within six months after the end of the year without ever having produced otherwise than for specified purposes;

iii. the period of 24 months commencing on the day of completion of the drilling of the well ends in the year, the expense was incurred within that period and in the year and the well has not within that period produced otherwise than for specified purposes; or

iv. a certificate in prescribed form in respect of the well has been filed with the Minister on or before the day that is 60 days after the end of the calendar year in which the drilling of the well has commenced;

“(b.2) any expense deemed under section 399.3 to be a Canadian exploration expense incurred by him;”;

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

“(e) an expense described in paragraphs *a* to *c.1* incurred by him pursuant to an agreement in writing with a corporation entered into before 1 January 1987, under which he incurs that expense solely as consideration for a share, except a prescribed share, of the capital stock of that corporation issued to him or any interest in or right to such a share.”

(2) Paragraphs 1 and 4 of subsection 1 have effect from 19 December 1986.

(3) Paragraphs 2 and 3 of subsection 1 have effect from 1 January 1986.

**29.** (1) Section 397 of the said Act is replaced by the following section:

“**397.** Where a taxpayer has received or is entitled to receive after 25 May 1976 any assistance in respect of or related to his Canadian

c. 1-3,  
s. 397,  
replaced

No reduction of Canadian exploration expenses in case of assistance

exploration expenses, the expenses contemplated in paragraphs *a* to *e* of section 395 shall not be reduced by the amount of such assistance.”

(2) This section applies in respect of expenses incurred after 19 December 1986.

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

**30.** (1) Section 399 of the said Act, amended by section 89 of chapter 67 of the statutes of 1987, is again amended

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

“(e) all amounts of assistance that he has received or is entitled to receive in respect of any Canadian exploration expense incurred after 31 December 1980 or that can reasonably be related to Canadian exploration activities after that date, to the extent that the assistance has not reduced his Canadian exploration expense by virtue of the third paragraph of section 399.3;”;

(2) by replacing the period at the end of paragraph *f* by a semicolon;

(3) by adding, after paragraph *f*, 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 the taxation year in which that time is included or any preceding taxation year, 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.”

(2) Paragraph 1 of subsection 1 applies in respect of expenses incurred after 19 December 1986. However, where it applies in respect of expenses incurred after 19 December 1986 but before 1 April 1987, paragraph *e* of section 399 of the Taxation Act as enacted thereby shall read as follows:

“(e) all amounts of assistance that he has received or is entitled to receive in respect of any Canadian exploration expense incurred after 31 December 1980 or that can reasonably be related to Canadian exploration activities after that date;”.

(3) Paragraphs 2 and 3 of subsection 1 apply in respect of qualified Canadian exploration expenditures, within the meaning assigned by subsection 9 of section 127 of the Income Tax Act (Statutes of Canada), made after 30 November 1985.

c. 1-3,  
ss. 399.1-  
399.7,  
added

**31.** (1) The said Act is amended by inserting, after section 399, the following sections:

Addition      **“399.1** For the purposes of paragraph *e* of section 399, where, pursuant to a designation by a trust, an amount is required, under subsection 7 of section 127 of the Income Tax Act (Statutes of Canada), to be added in computing the investment tax credit, within the meaning of subsection 9 of section 127 of the said Act, of a taxpayer at the end of his taxation year, the portion thereof that can reasonably be considered to relate to a qualified Canadian exploration expenditure, within the meaning of subsection 9 of section 127 of the said Act, of the trust for a taxation year shall be deemed to have been received by the trust at the end of its taxation year in respect of which the designation was made as assistance from a government in respect of that expenditure.

Canadian  
exploration  
expenses      **“399.2** Where after 31 December 1985, a taxpayer incurs, within 60 days after the end of a calendar year, Canadian exploration expenses pursuant to an agreement referred to in paragraph *e* of section 395, the Canadian exploration expenses are deemed to have been incurred immediately before the end of the year and are deemed not to have been incurred in the subsequent year, if the following conditions are met:

(*a*) the Canadian exploration expenses are expenses described in paragraph *c* of section 395 incurred in respect of a mineral resource other than a bituminous sands deposit, an oil sands deposit or an oil shale deposit;

(*b*) the agreement was entered into between the taxpayer and the corporation on or before the last day of the year;

(*c*) the funds relating to the Canadian exploration expenses have on or before the last day of the year been advanced to an agent acting on behalf of the taxpayer for the purposes of paying the expenses; and

(*d*) the taxpayer and the corporation deal with each other at arm's length throughout the 60 days following the end of the year.

Oil or gas  
well      **“399.3** Where at any time in a taxpayer's taxation year, one of the events described in the second paragraph occurs in respect of an oil or gas well of the taxpayer, the excess amount determined under the third paragraph is, for the purposes of this Part, deemed to be a Canadian exploration expense referred to in paragraph *b.2* of section 395 incurred by the taxpayer at that time.

Well      The events referred to in the first paragraph are the following:

(*a*) the well resulted in the discovery of a natural accumulation of petroleum or natural gas;

(b) the period of 24 months commencing on the day of completion of the drilling of the well ends and the well has not, within that period, produced otherwise than for specified purposes; or

(c) the well is abandoned without ever having produced otherwise than for specified purposes.

Excess  
amount

The excess amount referred to in the first paragraph is the amount, by which the aggregate of

(a) all Canadian development expenses, other than restricted expenses, described in subparagraph ii of paragraph *a* of section 408 in respect of the well that are deemed under section 359.5 or sections 417 and 418 to have been incurred by the taxpayer in the year or a preceding taxation year;

(b) all Canadian development expenses, other than restricted expenses, described in subparagraph ii of paragraph *a* of section 408 in respect of the well that are required under the second paragraph of section 392 to be included by the taxpayer in the amount referred to in paragraph *a* of section 408 for the year or a preceding taxation year; and

(c) all Canadian development expenses, other than expenses referred to in paragraph *a* or *b* and restricted expenses, described in subparagraph ii of paragraph *a* of section 408 incurred by the taxpayer in respect of the well in a taxation year preceding the year,

exceeds any assistance that the taxpayer or a partnership of which he is a member has received or is entitled to receive in respect of the expenses referred to in any of paragraphs *a*, *b* and *c*.

Canadian  
resource  
property

**“399.4** Where a corporation acquires a Canadian resource property from another person, sections 415, 415.2 and 415.3 apply in respect of the acquisition and the cumulative Canadian development expense of the person from whom the property is so acquired, as determined under subparagraph i of paragraph *a* of subsection 1 of section 415 in respect of the corporation includes a Canadian development expense incurred by the person from whom the property is so acquired in respect of an oil or gas well that would, but for this section, be deemed under section 399.3 to be a Canadian exploration expense incurred by the person from whom the property is so acquired at any time after the acquisition in respect of the well, the following rules apply:

(a) section 399.3 does not apply to the person from whom the property is so acquired in respect of the expense;

(b) an amount equal to the lesser of

i. the amount that would be deemed under section 399.3 to be a Canadian exploration expense of the person from whom the property is so acquired at that time if that section applied in respect of the expense; and

ii. the cumulative Canadian development expense of the person from whom the property is so acquired as determined under paragraph *a* of subsection 1 of section 415 in respect of the corporation immediately before that time

shall be deducted at that time from the cumulative Canadian development expense of the person from whom the property is so acquired in respect of the corporation for the purposes of paragraph *a* of subsection 1 of section 415;

(c) the amount required under paragraph *b* to be deducted shall be added at that time to the cumulative Canadian exploration expense of the person from whom the property is so acquired, referred to in section 402, in respect of the corporation.

First suc-  
cessor cor-  
poration

**“399.5** Where a corporation acquires a Canadian resource property from another corporation, hereinafter called the “first successor corporation”, that had acquired the property from another person, sections 415.1 to 415.3 apply in respect of the acquisition and the cumulative Canadian development expense determined under subparagraph *i* of paragraph *a* of subsection 1 of section 415.1 in respect of the corporation includes a Canadian development expense incurred by the person from whom the property was acquired in accordance with section 415 in respect of an oil or gas well that would, but for section 399.4, be deemed under section 399.3 to be a Canadian exploration expense incurred by the said person at any time after the acquisition in respect of the well, the following rules apply:

(a) an amount equal to the lesser of

i. the amount that would be deemed under section 399.3 to be a Canadian exploration expense of the person from whom the property was acquired in accordance with section 415 at that time if the said section 399.3 applied in respect of the expense; and

ii. the cumulative Canadian development expense of the person from whom the property was acquired in accordance with section 415

as determined under paragraph *a* of subsection 1 of section 415.1 in respect of the corporation immediately before that time

shall be deducted at that time from the cumulative Canadian development expense of the person from whom the property was acquired in accordance with section 415 in respect of the corporation for the purposes of paragraph *a* of subsection 1 of section 415.1;

(*b*) the amount required under paragraph *a* to be deducted shall be added at that time to the cumulative Canadian exploration expense of the first successor corporation, referred to in section 403, in respect of the corporation.

*“restricted  
expense”*

**“399.6** For the purposes of this chapter, the expression “restricted expense” of a taxpayer means an expense

(*a*) incurred by him before 1 April 1987;

(*b*) that is deemed under section 418 to have been incurred by him, or included by him in the amount referred to in paragraph *a* of section 408 by virtue of the second paragraph of section 392, to the extent that the expense was originally incurred before 1 April 1987;

(*c*) that was renounced by him under section 359.4 or 417;

(*d*) in respect of which an amount referred to in section 392 becomes receivable by him;

(*e*) deemed to be a Canadian exploration expense of the taxpayer or any other taxpayer by virtue of section 399.3; or

(*f*) where the taxpayer is a corporation, that was incurred by the corporation before the time control of the corporation was last acquired by a person or persons.

*“specified  
purpose”*

**“399.7** For the purposes of this chapter, the expression “specified purpose” means

(*a*) the operation of an oil or gas well for the sole purpose of testing the well or the well head and related equipment, in accordance with generally accepted engineering practices;

(*b*) the burning of natural gas and related hydrocarbons to protect the environment; and

(*c*) any prescribed purpose.”

(2) This section, where it enacts section 399.1 of the Taxation Act, applies in respect of qualified Canadian exploration expenditures, within the meaning of subsection 9 of section 127 of the Income Tax Act (Statutes of Canada), made after 30 November 1985.

(3) This section, where it enacts section 399.2 of the Taxation Act, applies in respect of expenses incurred after 31 December 1985.

(4) This section, where it enacts sections 399.3 to 399.7 of the Taxation Act, applies in respect of expenses incurred after 31 March 1987.

c. I-3,  
ss. 402 and  
403,  
replaced

**32.** (1) Sections 402 and 403 of the said Act, replaced by section 91 of chapter 67 of the statutes of 1987, are again replaced by the following sections:

Successor  
corpora-  
tion's Cana-  
dian explo-  
ration  
expenses

**“402.** A corporation which, after 6 May 1974 in the case of an oil business or after 31 March 1975 in the case of a mining business, acquires from another person, in any manner whatever, other than as a result of an amalgamation referred to in subsection 4 of section 544 or of a winding-up to which the rules provided in sections 556 to 564.1 and 565 apply, all or substantially all of the Canadian resource properties of that person, may deduct, in computing its income for a taxation year, an amount not exceeding the lesser of the amount computed under section 404 and the aggregate of the cumulative Canadian exploration expense of the person from whom property was so acquired, determined immediately after the acquisition and the amounts required to be added under paragraph *c* of section 399.4 at any time before the end of the year to the cumulative Canadian exploration expense of the person from whom property was so acquired in respect of the corporation, to the extent that such expenses and amounts were not deducted in computing the income of the corporation for a previous taxation year nor in computing that of the person from whom property was so acquired for any taxation year and to the extent that they were not designated by that person for any taxation year for the purposes of the Income Tax Act (Statutes of Canada) under subsection 14.1 of section 66 of the said Act.

Deduction  
by second  
successor  
corporation

**“403.** A corporation which, after 6 May 1974 in the case of an oil business or after 31 March 1975 in the case of a mining business, acquires from another corporation hereinafter called the “first successor corporation”, in any manner whatever, other than as a result of an amalgamation referred to in subsection 4 of section 544 or of a winding-up to which the rules provided in sections 556 to 564.1 and 565 apply, all or substantially all of the Canadian resource properties of the first successor corporation which had itself acquired Canadian resource

properties from another person in accordance with section 402, may deduct, in computing its income for a taxation year, an amount not exceeding the lesser of the amount that would be determined under section 404 if any reference to subparagraph ii of paragraph *a* and section 376 and to this section were omitted and the aggregate of the cumulative Canadian exploration expense of the person from whom property was acquired in accordance with section 402, determined immediately after the acquisition of property by the first successor corporation, and the amounts required to be added under paragraph *b* of section 399.5 at any time before the end of the year to the cumulative Canadian exploration expense of the first successor corporation in respect of the corporation, to the extent that such expenses and amounts were not deducted in computing the income of the corporation for a previous taxation year nor in computing the income of the first successor corporation or of the other person for any taxation year and to the extent that they were not designated by that other person for any taxation year for the purposes of the Income Tax Act (Statutes of Canada) under subsection 14.1 of section 66 of the said Act.”

(2) This section applies in respect of expenses incurred after 31 March 1987.

c. I-3, s. 405,  
replaced

**33.** (1) Section 405 of the said Act is replaced by the following section:

Other  
restriction

“**405.** The person or the corporation from whom or which property was acquired in accordance with section 402 or 403 shall not, where an election referred to in section 404.1 has been made, deduct the expense included in the aggregate referred to in section 402 or 403 in computing his or its income for a taxation year subsequent to that during which the property was acquired.”

(2) This section applies in respect of expenses incurred after 31 March 1987.

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

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

“(b) of all amounts of assistance that any person has received, is entitled to receive or, at any time, becomes entitled to receive in respect of such expenses incurred during the period or that can reasonably be related to Canadian exploration activities of the joint exploration corporation during the period.”

(2) This section has effect from 19 December 1986.



c. I-3,  
s. 408, am.

**35.** (1) Section 408 of the said Act is amended

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

*"Canadian  
development  
expenses"*

**"408.** For the purposes of this chapter, "Canadian development expense of a taxpayer" means any cost or expense incurred after 6 May 1974 in the case of an oil business, or after 31 March 1975 in the case of a mining business, to the extent that such cost or expense constitutes";

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

"ii. drilling or completing an oil or gas well in Canada, building a temporary access road to the well or preparing a site in respect of the well, to the extent that the expense was not a Canadian exploration expense of the taxpayer in the taxation year during which it was incurred;";

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

"(e) any cost or expense described in paragraphs *a* to *c* incurred by him pursuant to an agreement in writing with a corporation entered into before 1 January 1987, under which agreement he so incurs such cost or expense solely as consideration for a share, except a prescribed share, of the capital stock of that corporation issued to him or any interest in or right to such a share."

(2) Paragraphs 1 and 3 of subsection 1 have effect from 19 December 1986.

(3) Paragraph 2 of subsection 1 applies in respect of expenses incurred after 31 March 1987.

c. I-3,  
s. 410,  
replaced

**36.** (1) Section 410 of the said Act is replaced by the following section:

No reduc-  
tion of  
Canadian  
develop-  
ment expen-  
ses in case  
of assis-  
tance

**"410.** Where a taxpayer has received or is entitled to receive after 25 May 1976 assistance in respect of or related to his Canadian development expenses, the expenses contemplated in paragraphs *a* to *e* of section 408 shall not be reduced by the amount of such assistance."

(2) This section applies in respect of expenses incurred after 19 December 1986.

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

**37.** (1) Section 412 of the said Act, amended by section 93 of chapter 67 of the statutes of 1987, is again amended

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

“(d) all amounts included by him under paragraph *a* of section 408 for a previous taxation year that have become Canadian exploration expenses of the taxpayer by virtue of paragraph *b* of section 395;

“(d.1) all amounts that became, before that time, Canadian exploration expenses of the taxpayer by virtue of section 399.3;”;

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

“(h) all amounts of assistance that he has received or is entitled to receive in respect of any Canadian development expense, including any amount that has become a Canadian exploration expense of the taxpayer by virtue of section 399.3, incurred after 31 December 1980 or that can reasonably be related to Canadian development activities after that date;”.

(2) Paragraph 1 of subsection 1 applies in respect of expenses incurred after 31 March 1987.

(3) Paragraph 2 of subsection 1 applies in respect of expenses incurred after 19 December 1986. However, where it applies in respect of expenses incurred after 19 December 1986 but before 1 April 1987, paragraph *h* of section 412 of the Income Tax Act as enacted thereby shall read as follows:

“(h) all amounts of assistance that he has received or is entitled to receive in respect of any Canadian development expense incurred after 31 December 1980 or that can reasonably be related to Canadian development activities after that date;”.

c. 1-3,  
s. 415, am.

**38.** (1) Section 415 of the said Act, amended by section 94 of chapter 67 of the statutes of 1987, is again amended by replacing paragraph *a* of subsection 1 by the following paragraph:

“(a) the amount by which

i. the cumulative Canadian development expenses of the person from whom property was so acquired, determined immediately after the acquisition and only to the extent that they were not deducted in computing the income of the corporation for a previous taxation year or in computing that of the person from whom property was so acquired for any taxation year, and to the extent that they were not designated by that person for any taxation year for the purposes of the Income Tax Act (Statutes of Canada) under subsection 14.2 of section 66 of the said Act, exceed

ii. any amount required to be deducted under paragraph *b* of section 399.4 in respect of the corporation at any time before the end of the year; exceeds”.

(2) This section applies in respect of expenses incurred after 31 March 1987.

c. I-3,  
s. 415.1,  
am.

**39.** (1) Section 415.1 of the said Act, amended by section 95 of chapter 67 of the statutes of 1987, is again amended by replacing paragraph *a* of subsection 1 by the following paragraph:

“(a) the amount by which

i. the cumulative Canadian development expenses of the person from whom property was acquired in accordance with section 415, determined immediately after the acquisition of property by the first successor corporation, to the extent that they were not deducted in computing the income of the corporation for a previous taxation year nor in computing the income of the first successor corporation or of the other person for any taxation year, and to the extent that they were not designated by that other person for any taxation year for the purposes of the Income Tax Act (Statutes of Canada) under subsection 14.2 of section 66 of the said Act, exceed

ii. any amount required to be deducted under paragraph *a* of section 399.5 in respect of the corporation at any time before the end of the year; exceeds”.

(2) This section applies in respect of expenses incurred after 31 March 1987.

c. I-3,  
s. 417, am.

**40.** (1) Section 417 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) of all amounts of assistance that any person has received, is entitled to receive or, at any time, becomes entitled to receive in respect of such expenses incurred during the period or that can reasonably be related to development activities of the joint exploration corporation during the period.”

(2) This section has effect from 19 December 1986.

c. I-3,  
s. 418.2,  
am.

**41.** (1) Section 418.2 of the said Act is amended

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

*“Canadian  
oil and gas  
property  
expense  
of a  
taxpayer”*

**“418.2** For the purposes of sections 362 to 418.14, “Canadian oil and gas property expense of a taxpayer” means any cost or expense incurred after 11 December 1979, to the extent that the cost or expense is”;

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

“(c) any cost or expense described in paragraph *a* incurred by the taxpayer pursuant to an agreement in writing with a corporation entered into before 1 January 1987, under which the taxpayer incurred the cost or expense solely as consideration for a share, except a prescribed share, of the capital stock of the corporation issued to him or any interest in or right to such a share.”

(2) This section has effect from 19 December 1986.

c. I-3,  
s. 418.4,  
replaced

**42.** (1) Section 418.4 of the said Act is replaced by the following section:

Assistance

**“418.4** Where a taxpayer has received or is entitled to receive any amount of assistance in respect of or related to his Canadian oil and gas property expense, the expenses contemplated in paragraphs *a* to *c* of section 418.2 shall not be reduced by the amount of such assistance.”

(2) This section has effect from 19 December 1986.

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

**43.** (1) Section 418.6 of the said Act is amended by replacing paragraph *e* by the following paragraph:

“(e) of any amount of assistance that he has received or is entitled to receive in respect of any Canadian oil and gas property expense incurred after 31 December 1980 or that can reasonably be related to any such expense incurred after that date.”

(2) This section has effect from 19 December 1986.

c. I-3,  
s. 418.13,  
am.

**44.** (1) Section 418.13 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) of all amounts of assistance that any person has received, is entitled to receive or, at any time, becomes entitled to receive in respect of such expenses incurred during the period or that can reasonably be related to such expenses incurred during the period.”

(2) This section has effect from 19 December 1986.

c. I-3,  
s. 419.0.1,  
added

**45.** (1) The said Act is amended by inserting, after section 419, the following section:

Flow-  
through  
share

**“419.0.1** Any flow-through share of a corporation acquired by a person who was a party to the agreement pursuant to which it was issued is deemed to have been acquired by the person at a cost to him of nil.”

(2) This section has effect from 1 March 1986.

c. I-3,  
ss. 419.6-  
419.8,  
added  
Deduction

**46.** (1) The said Act is amended by inserting, after section 419.5, the following sections:

**“419.6** A taxpayer may deduct in computing his income under this Part for a taxation year, an amount equal to the amount he may deduct for the year under subsection 14.6 of section 66 of the Income Tax Act (Statutes of Canada).

Canadian  
resource  
property

**“419.7** Where a particular corporation has at any time after 19 July 1985 acquired in any manner whatever from another person who is exempt from tax under this Part on his taxable income, who is not a corporation that is referred to in section 985 and is a development corporation, all or substantially all of the person's Canadian resource properties, sections 376 to 379, 402 to 405 and 415 to 415.3 do not apply to the particular corporation in respect of the acquisition of the properties except to the extent that the properties were acquired by it before 1 January 1987 pursuant to an agreement in writing made by it before 20 July 1985.

Canadian  
resource  
property

**“419.8** Where a particular corporation has at any time after 19 July 1985 acquired in any manner whatever from another person who is exempt from tax under this Part on his taxable income all or substantially all of the person's Canadian resource properties, sections 418.8 to 418.11 do not apply to the particular corporation in respect of the acquisition of the properties except to the extent that the properties were acquired by it before 1 January 1987 pursuant to an agreement in writing made by it before 20 July 1985.”

(2) This section, where it enacts section 419.6 of the Taxation Act, applies from the taxation year 1985 and where it enacts sections 419.7 and 419.8 of the said Act, it applies in respect of taxation years ending after 19 July 1985.

c. I-3,  
ss. 482 and  
483,  
replaced

**47.** (1) Sections 482 and 483 of the said Act are replaced by the following sections:

Unpaid  
salary,  
wages

**“482.** Where an amount in respect of a taxpayer’s expense that is salary, wages or other remuneration in respect of an office or employment is unpaid on the day that is 180 days after the end of the taxation year in which the expense was incurred, for the purposes of this Part other than this section, the amount is deemed not to have been incurred as an expense in the year and is deemed to be incurred as an expense in the taxation year in which the amount is paid.

Applicability

The first paragraph does not apply in respect of reasonable vacation or holiday pay or of a deferred amount under a salary deferral arrangement.

Time limit

**“483.** For the purposes of section 481 where the agreement contemplated in paragraph *b* of subsection 1 of the said section is filed after the time limit fixed therein, paragraphs *a* and *b* of subsection 1 of the said section both apply in respect of the unpaid amount except that only 25 per cent of the amount unpaid must be included in computing the taxpayer’s income for the purposes of paragraph *a* of subsection 1 of the said section.

Applicability

**“483.1** Subsection 1 of section 481 does not apply to any case to which section 482 applies.”

(2) This section applies in respect of expenses incurred in a taxation year commencing after 25 February 1986.

c. I-3,  
s. 497, am.

**48.** (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, one-third 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 after 31 December 1986.

c. I-3,  
s. 599, am.

**49.** (1) Section 599 of the said Act is amended by inserting the following paragraph:

Member of  
particular  
partnership

**“Moreover,** a reference to a member of a particular partnership or a reference to a person or 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.”

(2) This section has effect from 26 February 1986.

c. I-3,  
s. 613.3,  
French text  
am.

**50.** (1) The French text of section 613.3 of the said Act, enacted by section 40 of chapter 4 of the statutes of 1988, is amended by replacing subparagraph IV of paragraph *b* by the following subparagraph:

“iv. d’une convention en vertu de laquelle le contribuable peut aliéner l’intérêt dans la société pour un montant qui n’excède pas sa juste valeur marchande au moment de l’aliénation, déterminée sans égard à la convention;”.

(2) This section has effect from 26 February 1986.

c. I-3,  
s. 622, am.

**51.** (1) Section 622 of the said Act is amended

(1) by replacing the semicolon and the word “and” at the end of paragraph *a* by a period;

(2) by striking out paragraph *b*.

(2) This section applies in respect of property received by a member of a partnership if

(a) the property was acquired by the partnership after 4 December 1985, otherwise than pursuant to an agreement in writing entered into before that date,

(b) the property is received in satisfaction of an interest in the partnership acquired by the member after 4 December 1985, otherwise than

i. pursuant to an agreement in writing entered into on or before that date, or

ii. from a person with whom the member was not dealing at arm’s length, where the interest in the partnership has not been acquired in an arm’s length transaction after 4 December 1985, otherwise than pursuant to an agreement in writing entered into on or before that date, or

(c) the property is received in satisfaction of an interest in the partnership that was owned by a corporation at a time when control thereof was acquired, otherwise than by virtue of an acquisition described in section 21.3 of the Taxation Act, after 4 December 1985, otherwise than pursuant to an agreement in writing entered into on or before that date.

“arm’s  
length”

For the purposes of paragraph ii of subparagraph *b* of the first paragraph, the words “arm’s length” shall be interpreted as though

Part I of the Income Tax Act were read without reference to paragraph *b* of section 20 thereof.

c. I-3,  
s. 623,  
replaced

**52.** (1) Section 623 of the said Act is replaced by the following section:

Maximum  
amount to  
be added  
upon com-  
puting cost  
of undivided  
interest for  
each ex-  
partner  
Non-  
depreciable  
capital pro-  
perty

**“623.** The amount designated under paragraph *a* of section 622 by a person contemplated in section 620 shall not exceed the excess of his share of the fair market value of the property concerned, immediately after its distribution, over his share of the cost amount of that property, to the partnership, immediately before its distribution.

Likewise, the aggregate of such designated amounts shall not exceed, in the case of non-depreciable capital property, the excess contemplated in section 622.”

(2) This section applies in respect of property received by a member of a partnership if

(a) the property was acquired by the partnership after 4 December 1985, otherwise than pursuant to an agreement in writing entered into before that date,

(b) the property is received in satisfaction of an interest in the partnership acquired by the member after 4 December 1985, otherwise than

i. pursuant to an agreement in writing entered into on or before that date, or

ii. from a person with whom the member was not dealing at arm's length, where the interest in the partnership has not been acquired in an arm's length transaction after 4 December 1985, otherwise than pursuant to an agreement in writing entered into on or before that date, or

(c) the property is received in satisfaction of an interest in the partnership that was owned by a corporation at a time when control thereof was acquired, otherwise than by virtue of an acquisition described in section 21.3 of the Taxation Act, after 4 December 1985, otherwise than pursuant to an agreement in writing entered into on or before that date.

“arm's  
length”

For the purposes of paragraph ii of subparagraph *b* of the first paragraph, the words “arm's length” shall be interpreted as though Part I of the Income Tax Act were read without reference to paragraph *b* of section 20 thereof.



c. I-3,  
s. 628, am.

**53.** (1) Section 628 of the said Act is amended

(1) by replacing the semicolon and the word “or” at the end of paragraph *a* by a period;

(2) by striking out paragraph *b*.

(2) This section applies in respect of property received by a member of a partnership if

(a) the property was acquired by the partnership after 4 December 1985, otherwise than pursuant to an agreement in writing entered into before that date,

(b) the property is received in satisfaction of an interest in the partnership acquired by the member after 4 December 1985, otherwise than

i. pursuant to an agreement in writing entered into on or before that date, or

ii. from a person with whom the member was not dealing at arm’s length, where the interest in the partnership has not been acquired in an arm’s length transaction after 4 December 1985, otherwise than pursuant to an agreement in writing entered into on or before that date, or

(c) the property is received in satisfaction of an interest in the partnership that was owned by a corporation at a time when control thereof was acquired, otherwise than by virtue of an acquisition described in section 21.3 of the Taxation Act, after 4 December 1985, otherwise than pursuant to an agreement in writing entered into on or before that date.

“arm’s  
length”

For the purposes of paragraph ii of subparagraph *b* of the first paragraph, the words “arm’s length” shall be interpreted as though Part I of the Income Tax Act were read without reference to paragraph *b* of section 20 thereof.

c. I-3,  
s. 629,  
replaced

**54.** (1) Section 629 of the said Act is replaced by the following section:

Maximum  
amount con-  
templated in  
s. 628

**“629.** The amount designated under paragraph *a* of section 628 shall not exceed the excess of the fair market value of the property concerned, immediately after the particular time, over its cost amount to the partnership immediately before that time.

Non-depreciable capital property

Likewise, the aggregate of such designated amounts shall not exceed, in the case of non-depreciable capital property, the excess contemplated in section 628.”

(2) This section applies in respect of property received by a member of a partnership if

(a) the property was acquired by the partnership after 4 December 1985, otherwise than pursuant to an agreement in writing entered into before that date,

(b) the property is received in satisfaction of an interest in the partnership acquired by the member after 4 December 1985, otherwise than

i. pursuant to an agreement in writing entered into on or before that date, or

ii. from a person with whom the member was not dealing at arm’s length, where the interest in the partnership has not been acquired in an arm’s length transaction after 4 December 1985, otherwise than pursuant to an agreement in writing entered into on or before that date, or

(c) the property is received in satisfaction of an interest in the partnership that was owned by a corporation at a time when control thereof was acquired, otherwise than by virtue of an acquisition described in section 21.3 of the Taxation Act, after 4 December 1985, otherwise than pursuant to an agreement in writing entered into on or before that date.

“arm’s length”

For the purposes of paragraph ii of subparagraph *b* of the first paragraph, the words “arm’s length” shall be interpreted as though Part I of the Income Tax Act were read without reference to paragraph *b* of section 20 thereof.

c. I-3,  
s. 646, am.

**55.** Section 646 of the said Act is amended by replacing the second paragraph by the following paragraph:

Beneficiary

“Likewise, a beneficiary shall include every person having a beneficial interest in a trust.”

c. I-3,  
ss. 657.2  
and 657.3,  
added

**56.** (1) The said Act is amended by inserting, after section 657.1, the following sections:

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 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.

**Applicability** However, the first paragraph applies neither in respect of a testamentary trust nor in respect of a 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.

**Interest in a trust** “**657.3** Notwithstanding any other provision of this Act, where a taxpayer acquires a right to or to acquire an interest in a trust, or a right to or to acquire a property of a trust, and it is reasonable to consider that one of the main purposes of the acquisition is to avoid the application of section 657.2 in respect of the trust, there shall be included in computing the income of the taxpayer for the taxation year in which he disposes of the right, otherwise than pursuant to the exercise thereof, the interest or the property, the amount by which the proceeds of disposition of the right, interest or property, as the case may be, exceeds its cost amount to the taxpayer.”

(2) This section, where it enacts section 657.2 of the Taxation Act, applies from the taxation year 1986 of a trust other than a trust created before 27 November 1985, in which no beneficial interest is issued after 5 p.m. Eastern Standard Time on 26 November 1985, unless the interest is issued on account of a distribution of the income of the trust in accordance with the terms of the trust in effect on 26 November 1985.

(3) This section, where it enacts section 657.3 of the Taxation Act, has effect from 19 December 1986.

c. I-3,  
s. 665,  
replaced

**57.** (1) Section 665 of the said Act is replaced by the following section:

Deduction

“**665.** A taxpayer who has included in computing his income for a taxation year, under section 663 or 684, an amount in respect of his income interest in the trust may deduct, for the same year, except to the extent that an amount in respect thereof has been deducted in computing his taxable income pursuant to section 702, 709.1, 738 or 845 the lesser of such amount and the excess of the cost of his interest over the aggregate of the amounts deductible as such under this section in computing his income for previous taxation years.”

(2) This section applies from the taxation year 1986 in respect of income interest in a trust acquired after 5 p.m. Eastern Standard Time

on 26 November 1985. However, where section 665 of the Taxation Act which it enacts refers to section 709.1 of the said Act, this section applies from the taxation year 1987.

c. I-3,  
s. 669.1,  
replaced

**58.** (1) Section 669.1 of the said Act is replaced by the following section:

Income of  
testamen-  
tary trust

**“669.1** The amount that would otherwise be included under section 317 in computing the income of a testamentary trust for a taxation year is deemed, for the purposes of sections 707 to 709.2, where the particular beneficiary was the spouse of the individual upon and in consequence of whose death the trust arose, and paragraph *d* of section 339, to be included under the said section 317 in computing the income for the year of a particular beneficiary of the trust and not to be so included in computing the income of the trust to the extent that the amount may, having regard to all the circumstances including the terms and conditions of the trust arrangement, reasonably be considered to be part of the amount included, under section 663, in computing the income of a particular beneficiary for the taxation year and if the amount has been designated by the trust exclusively to the particular beneficiary in the return of its income for the year.”

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

c. I-3,  
s. 670.1,  
am.

**59.** (1) Section 670.1 of the said Act is amended by replacing that which precedes paragraph *a* by the following:

Designation  
or determi-  
nation

**“670.1** No effect shall be given to a designation under paragraph *a* of section 664 or to a determination under section 670 by a testamentary trust or a 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 in respect of a taxation year of the trust if, as a result of such designation or determination, the amount that any beneficiary of the trust is entitled to deduct in computing his income under regulations made under paragraph *a* of section 130 or section 360 for any period during which he is beneficially interested in the trust is greater than the proportion of the aggregate of amounts available to be so designated or determined by the trust in respect of the period that”.

(2) This section applies in respect of designations or determinations made by a trust in respect of any taxation year subsequent to the taxation year 1986.

c. 1-3,  
s. 670.2,  
added

**60.** (1) The said Act is amended by inserting, after section 670.1, the following section:

Designation  
or determi-  
nation

**“670.2** No effect shall be given to a designation under paragraph *a* of section 664 or to a determination under section 670 by a trust, other than a trust described in section 670.1, in respect of a taxation year of the trust unless an amount is so designated or determined in respect of the year for each beneficiary of the trust and the amount in respect of each such beneficiary is equal to the proportion of the aggregate of amounts that the trust so designates or determines for all beneficiaries in respect of the year, that

(*a*) the beneficiary's share of the amount determined under paragraph *b* is of

(*b*) the amount that would be the income of the trust for the year if no deduction were made under section 130.1, under paragraph *a* or *b* of section 657 or under regulations made under paragraph *a* of section 130 or section 360 for the taxation year.”

(2) This section applies in respect of designations and determinations made in respect of any taxation year subsequent to the taxation year 1986 by a trust created after 26 November 1985. It also applies where a trust created before 27 November 1985 issues a beneficial interest after 5 p.m. Eastern Standard Time on 26 November 1985, other than an interest issued on account of a distribution of income of the trust in accordance with the terms of the trust in effect on 26 November 1985, with respect to designations and determinations made in respect of any taxation year that is subsequent to the taxation year 1986 and that is a taxation year in which or after which it issued such a beneficial interest.

c. 1-3,  
s. 695, am.

**61.** (1) Section 695 of the said Act, amended by section 16 of chapter 21 of the statutes of 1987, by section 135 of chapter 67 of the statutes of 1987 and by section 42 of chapter 4 of the statutes of 1988, is again amended by replacing paragraph *f* by the following paragraph:

post-  
secondary  
educational  
program

**“(f)** for each person described in paragraph *c*, an amount equal to \$1 345 for the taxation year 1986, \$1 450 for the taxation year 1987 and \$1 505 from the taxation year 1988 in respect of each completed quarter, without exceeding two, which began in the year and during which the person was in full-time attendance at an educational institution contemplated in subparagraph *i* or *iv* of paragraph *a* of section 337 or in paragraph *b* or *c* of the said section, where he was enrolled in a prescribed postsecondary educational program and was not a prescribed excluded person;”.

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

c. 1-3,  
s. 697,  
replaced

**62.** (1) Section 697 of the said Act is replaced by the following section:

Certification  
of enrol-  
ment

**“697.** No deduction is granted under paragraph *f* of section 695 unless the enrolment in an educational institution for a postsecondary educational program is certified by sending to the Minister a declaration, in prescribed form, issued by the educational institution and including the prescribed information.

Post-  
secondary  
educational  
program

In addition, in respect of an educational institution contemplated in subparagraph iv of paragraph *a* of section 337, the student must be enrolled in a postsecondary educational program to enable him to acquire or improve the qualifications necessary for employment.”

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

c. 1-3,  
s. 709, am.

**63.** (1) Section 709 of the said Act is amended by replacing paragraph *g* by the following paragraph:

“(g) an amount received out of or under a salary deferral arrangement in respect of an individual, an employee trust or an employee benefit plan;”.

(2) This section has effect from 26 February 1986.

c. 1-3,  
s. 726.18,  
French text  
replaced

**64.** The French text of section 726.18 of the said Act, enacted by section 142 of chapter 67 of the statutes of 1987, is replaced by the following section:

**“726.18** Une participation dans une fiducie à laquelle l'article 726.17 réfère est une participation dans une fiducie testamentaire ou une participation dans une fiducie dans laquelle aucun *beneficial interest* n'a été acquis pour une contrepartie à payer directement ou indirectement à la fiducie ou à une personne qui a fait une contribution à la fiducie au moyen d'un transfert, d'une cession ou d'une autre aliénation de biens.”

c. 1-3,  
ss. 726.21-  
726.23,  
added

**65.** (1) The said Act is amended by inserting, after section 726.20, the following:

## “TITLE VI.6

“DEDUCTIONS FOR INDIVIDUALS RESIDING  
IN REMOTE AREASPrescribed  
area

“**726.21** An individual who, throughout a period of not less than six months commencing or ending in a taxation year, resided in an area that was a prescribed area for the year or for one of the two preceding taxation years and who files a claim in prescribed form with his return of income for the year pursuant to sections 1000 to 1003, may deduct, in computing his taxable income for the year, such of the amounts determined under section 726.22 as are applicable in his regard, in the proportion determined under the second paragraph.

Deductible  
amount

The proportion that may be deducted referred to in the first paragraph is

(a) where the area was a prescribed area for the year, 100 per cent;

(b) where the area was not a prescribed area for the year but was a prescribed area for the immediately preceding taxation year, 66 2/3 per cent;

(c) where the area was not a prescribed area for the year or the immediately preceding taxation year but was a prescribed area for the second preceding taxation year, 33 1/3 per cent.

Amounts  
referred to  
in s. 737.22

“**726.22** Subject to paragraph *f* of section 737.22, the amounts to which section 726.21 refers are the following:

(a) an amount received, or the value of a benefit received or enjoyed, in the year by the individual in respect of his employment in the area referred to in section 726.21 by a person with whom he was dealing at arm's length in respect of travelling expenses incurred by the individual, to the extent that

i. the amount received or the value of the benefit, as the case may be, does not exceed a prescribed amount, is included and is not otherwise deducted in computing his income for the year, and is not included in computing an amount deducted under sections 717 to 719 for the year or any other taxation year; and

ii. the travelling expenses were incurred in connection either with a trip made in the year for the purpose of obtaining medical services not available in the locality in which he resided, or with not more than two trips made in the year for any other purpose;

(b) subject to section 726.23, the lesser of 20% of his income for the year, and the aggregate of the following amounts:

i. \$450 multiplied by the quotient obtained when the number of days in the year included in that portion of the period referred to in section 726.21 throughout which he maintained and resided in a self-contained domestic establishment, except any day included in computing a deduction claimed under this paragraph by another person who resided on that day in the establishment, is divided by 30;

ii. \$225 multiplied by the amount by which the quotient obtained when the number of days in the year included in the period referred to in section 726.21 is divided by 30 exceeds the quotient determined under paragraph i.

Whole  
number

For the purposes of paragraphs i and ii of subparagraph *b* of the first paragraph where a quotient is not a whole number, it shall be rounded to the nearest whole number or where it is equidistant from two such consecutive whole numbers, it shall be rounded to the higher thereof.

Computation

**“726.23** The amount referred to in subparagraph *b* of the first paragraph of section 726.22 and deductible in computing the taxable income of the individual for the year under section 726.21 shall not exceed the amount by which the aggregate determined under the said subparagraph exceeds the value of, or an allowance in respect of expenses incurred by the individual for, his board and lodging

(a) that would, but for paragraph *a* of subsection 1 of section 42, be included in computing his income for the year; and

(b) that can reasonably be considered to be attributable to that portion of the period referred to in section 726.21 during which he maintained a self-contained domestic establishment as his principal place of residence in an area other than a prescribed area.”

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

c. I-3,  
s. 737.22,  
am.

**66.** (1) Section 737.22 of the said Act, enacted by section 58 of chapter 4 of the statutes of 1988, is amended

(1) by replacing the period at the end of paragraph *d* by a semicolon;

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

“(e) where he has included in computing his income for the year an amount received, or the value of a benefit received or enjoyed by



him and such amount or such value is both described in paragraph *a* of the first paragraph of section 726.22 and included in his eligible income for the year, the amount or value, as the case may be, is, for the purposes of the deduction under section 726.21, deemed to be nil;

“(f) paragraphs i and ii of subparagraph *b* of the first paragraph of section 726.22 shall be read as follows:

“i. \$450 multiplied by the quotient obtained when the number of days in the year included in that portion of the period referred to in section 726.21 throughout which he maintained and resided in a self-contained domestic establishment, except any day either included in his research activity period as defined in paragraph *c* of section 737.19 or included in computing a deduction claimed under this paragraph by another person who resided on that day in the establishment, is divided by 30;

“ii. \$225 multiplied by the amount by which the quotient obtained when the number of days in the year included in the period referred to in section 726.21, except any day included in his research activity period as defined in paragraph *c* of section 737.19, is divided by 30 exceeds the quotient determined under paragraph i.”.”

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

c. 1-3,  
s. 767, am.

**67.** (1) Section 767 of the said Act, amended by section 64 of chapter 4 of the statutes of 1988, is again amended by replacing the first paragraph by the following paragraph:

Deduction  
in respect of  
taxable divi-  
dends

“**767.** An individual may deduct from his tax otherwise payable under this Part, computed without taking account of sections 752.1 to 752.11, 44 1/3 per cent of the amount he is required to include in computing his income for the year under subsection 2 of section 497.”

(2) This section applies in respect of a taxable dividend received after 31 December 1986.

c. 1-3,  
s. 776.7,  
am.

**68.** (1) Section 776.7 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“tax other-  
wise  
payable”

“(c) “tax otherwise payable” by an individual under this Part for a taxation year means the tax payable by him for the year under this Part, computed without reference to sections 752.1 to 752.11, 776.17 and 776.21 to 776.28.”

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

c. I-3,  
s. 776.17,  
replaced

**69.** (1) Section 776.17 of the said Act, replaced by section 160 of chapter 67 of the statutes of 1987 and by section 71 of chapter 4 of the statutes of 1988, is again replaced by the following section:

Deduction

**“776.17** An individual other than a trust may deduct from his tax otherwise payable for a taxation year under this Part an amount not greater than the aggregate of his scientific research and experimental development tax credit for the year and his unused scientific research and experimental development tax credit for the following taxation year.”

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

c. I-3,  
s. 835, am.

**70.** (1) Section 835 of the said Act, amended by section 162 of chapter 67 of the statutes of 1987, is again amended by replacing paragraph *a* by the following paragraph:

“Superin-  
tendent of  
Financial  
Institutions”

“(a) “Superintendent of Financial Institutions” means the Superintendent of Financial Institutions of Canada, the Superintendent of Insurance of a province, or the Inspector General of Financial Institutions, according to the person upon whom the law confers the supervision of the insurer concerned;”.

(2) This section has effect from 2 July 1987.

c. I-3,  
s. 905.1,  
am.

**71.** (1) Section 905.1 of the said Act is amended

(1) by replacing the semicolon at the end of paragraph *c* by a period;

(2) by striking out paragraph *d*.

(2) This section applies in respect of premiums paid after 23 May 1985 under a registered retirement savings plan in respect of taxable capital gains resulting from the disposal of a qualified farm property after 31 December 1984.

c. I-3,  
s. 907, am.

**72.** Section 907 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) an arrangement under which an individual or his spouse pays as a contribution a premium in trust to a corporation licensed or otherwise authorized by the laws of Canada or a province to offer its services as trustee in Canada, if such corporation must invest or otherwise use such premium to pay to the individual a retirement income from the date provided in the contract;”.

c. I-3,  
s. 908, am.

**73.** (1) Section 908 of the said Act is amended by replacing subsection 1 by the following subsection:

Conditions  
respecting  
payment of  
benefits

**“908.** (1) The plan shall not provide for the payment of any benefit,  
(a) before the date provided for the first payment of benefits, except  
a refund of premiums or a payment to the annuitant;

(b) after the date provided for the first payment of benefits, except  
in the following cases:

- i. by way of retirement income to the annuitant;
- ii. to the annuitant in full or partial commutation of retirement  
income under the plan;
- iii. in respect of a commutation referred to in paragraph *b* of section  
910.”

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

c. I-3,  
s. 909,  
replaced

**74.** (1) Section 909 of the said Act is replaced by the following  
section:

Retirement  
income

**“909.** The plan shall not provide for a payment to the annuitant  
of a retirement income except by way of equal annual or more frequent  
periodic payments until such time as there is a payment in full or partial  
commutation of the retirement income and, where such commutation  
is partial, equal annual or more frequent periodic payments thereafter.

Periodic  
payments

The plan shall not provide for periodic payments in a year under  
an annuity after the death of the first annuitant, the aggregate of which  
exceeds the aggregate of the payments under the annuity in a year  
before that death.

Premium

Furthermore, the plan shall not provide for the payment of any  
premium after the date provided for the first payment of benefits, nor  
shall it provide for a date for the first payment of benefits after the  
end of the year in which the annuitant attains 71 years of age.”

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

c. I-3,  
s. 910, am.

**75.** (1) Section 910 of the said Act is amended

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

“(a) that no retirement income under the plan may be assigned in whole or in part;”;

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

“(c) for the payment in whole or in part of,

i. the amount by which, for a year, at any particular time, the aggregate of all amounts paid in the year and before the particular time by the individual to all the registered retirement savings plans under which he or his spouse is the annuitant, other than the amounts to which paragraph *d*, *d.1* or *f* of section 339 or section 913 applies or would apply if the individual was resident in Canada throughout the year, and all gifts made in the year and before the particular time to such plans under which he is the annuitant, other than gifts made by his spouse, exceeds the aggregate of all amounts that the individual is entitled to deduct in computing his income for the immediately preceding year in respect of those payments and the greater of \$5 500 and the amount that the individual is entitled to deduct in computing his income for the year in respect of those payments; or

ii. the excess amount referred to in section 924;”.

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

c. 1-3,  
s. 911, am.

**76.** (1) Section 911 of the said Act, amended by section 167 of chapter 67 of the statutes of 1987, is again amended by striking out paragraph *e*.

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

c. 1-3,  
s. 913, am.

**77.** (1) Section 913 of the said Act is amended

(1) by replacing what precedes subparagraph *b* in the first paragraph, by the following:

Transfer of  
funds

**“913.** Notwithstanding any other provision of this title, a registered retirement savings plan may be revised or amended to provide for the payment or transfer of any property under the plan by the issuer on behalf of the individual who is the annuitant under the plan

(a) to any issuer of another registered retirement savings plan or carrier of a registered retirement income fund under which the annuitant is the individual, or the spouse or former spouse of the individual, from whom he is living apart, where in the latter case the payment or transfer is made pursuant to a decree, order or judgment of a competent tribunal, or a written separation agreement, relating to a division of property

between the individual and his spouse or former spouse in settlement of rights arising out of their marriage, on or after the breakdown of the marriage;”;

(2) by replacing the semicolon and the word “or” at the end of subparagraph *b* of the first paragraph by a period;

(3) by striking out subparagraph *c* of the first paragraph;

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

Paid or  
transferred  
amount not  
included

“In computing his income for a taxation year, where a payment or transfer referred to in the first paragraph is made before the year in which the individual who is an annuitant under the plan attains 72 years of age, the individual, or his spouse or former spouse shall not include, under section 929, by the mere fact of such payment or transfer, the amount so paid or transferred, and no deduction may be made in computing the income of any individual under section 59, 339, 922, 923 or 924 in respect of the amount so paid or transferred.”

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

c. I-3,  
s. 914, am.

**78.** (1) Section 914 of the said Act is amended by replacing the second paragraph by the following paragraph:

Amounts  
included in  
annuitant's  
income

“In such case, the individual who was the annuitant under the plan before such operation must, in computing his income for the taxation year in which the operation took place, include as income received at the time of that operation, an amount equal to the fair market value of all the property of the plan immediately before that time.”

(2) This section applies after 25 May 1976. However, where it applies to a plan to which the first paragraph of section 914 of the Taxation Act applied on or before that date, the second paragraph of section 914 of the Taxation Act as enacted thereby shall be read as follows:

Amounts  
included

“In such case, the individual must, in computing his income for a taxation year, include all amounts received by him in the year that, by virtue of section 929 or 932, would have been so included if the plan resulting from such operation had been a registered retirement savings plan at the time he received those amounts, and no amount may be deducted under paragraph *f* of subsection 1 of section 336 in respect of those amounts in computing the individual's income for that year.”

c. I-3,  
ss. 915.1  
and 915.3,  
repealed

**79.** (1) Sections 915.1 and 915.3 of the said Act are repealed.

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

c. I-3,  
s. 918,  
replaced

**80.** (1) Section 918 of the said Act is replaced by the following section:

Interpreta-  
tion

**“918.** For the purposes of this title, where, before a particular time, an individual has received a payment in respect of the excess amount referred to in paragraph *c* of section 910 the amounts paid by him to all the registered retirement savings plans under which he or his spouse is the annuitant in the year in respect of which that payment was received are deemed to be the amounts so paid by him to such plans in that year less the aggregate of all such payments received by him in respect of that year before that particular time.”

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

c. I-3,  
s. 922, am.

**81.** (1) Section 922 of the said Act is amended

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

“(b) in any other case the lesser of \$7 500 and 20 per cent of his earned income for that taxation year.”;

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

Amount  
decreased  
by amount  
permitted

“However, the amount deductible under the preceding paragraph shall be decreased by the amount deductible in computing the income of the individual for the year under section 926.”

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

c. I-3,  
s. 924,  
replaced

**82.** (1) Section 924 of the said Act is replaced by the following sections:

Computation

**“924.** Where the aggregate of all premiums paid in a taxation year by an individual to one or more registered retirement savings plans under which he or his spouse is the annuitant is not deductible by the individual in computing his income for the year or the immediately preceding taxation year, and the individual or his spouse can reasonably be regarded as having received, in the year in which a notice of assessment for the year was sent or in the following year, a payment in respect of the part that was not deductible from one or more such registered retirement savings plans, or from one or more registered retirement income funds to which any such plan was transferred, the payment may be deducted in computing the individual’s income for

the taxation year in which the payment is received and included in computing his income.

Deductible  
amounts

**“924.1** Where, in respect of an amount received by the spouse of an individual, all or part of a premium is, by virtue of section 931.1 or 961.17.0.1, included at any time in computing the individual's income for a taxation year, the following rules apply:

(a) the premium or part thereof, as the case may be, is, for the purposes of sections 931.1 and 961.17.0.1 after that time, deemed not to be deductible under section 923;

(b) an amount equal to the premium or part thereof, as the case may be, may be deducted in computing the income of the spouse for the year.”

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

c. I-3,  
s. 925, am.

**83.** (1) Section 925 of the said Act is amended by replacing paragraph *a* of subsection 1 by the following paragraph:

“(a) of wages or salary, pension benefits, retiring allowances, death benefits, royalties relating to a work or invention of which the individual is the author, amounts included in computing his income under paragraphs *a* and *b* of section 312, amounts allocated to him by a trustee under a supplementary unemployment benefit plan and amounts included in computing his income under this title and sections 879, 885 and 955;”.

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

c. I-3,  
s. 926,  
replaced

**84.** (1) Section 926 of the said Act is replaced by the following section:

Disposition  
of a non-  
qualified  
investment  
by trust

**“926.** Where, in a taxation year, a trust governed by a registered retirement savings plan disposes of a property that, when acquired, was a non-qualified investment, the individual who is the annuitant under the plan may deduct, in computing his income for the year, the lesser of the amount included in computing his income under section 933 in respect of the acquisition of that property and the proceeds of disposition of the property.”

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

c. I-3,  
ss. 929 and  
930,  
replaced

**85.** (1) Sections 929 and 930 of the said Act are replaced by the following sections:

Benefits to  
include in  
computing  
income

**“929.** An individual shall include in computing his income for a taxation year an amount, other than an amount that is included in computing his income pursuant to the second paragraph of section 914, received by him in the year as a benefit out of or under a registered retirement savings plan.

Refund of  
premium to  
estate

**“930.** Where, in a taxation year, the legal representative of a deceased individual who was an annuitant under a registered retirement savings plan receives an amount paid out of or under that plan, and where a portion of that amount would have been a refund of premiums had it been paid under the plan to a beneficiary of the deceased's estate, that portion is deemed to be received by the beneficiary in the year as a benefit that is a refund of premiums, to the extent that it is so designated jointly by the legal representative and the beneficiary in prescribed form filed with the Minister.”

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

c. 1-3,  
ss. 931.1 to  
931.3,  
replaced

**86.** (1) Sections 931.1 to 931.3 of the said Act are replaced by the following sections:

Amounts to  
be included  
in compu-  
ting income

**“931.1** Where, at any time in a taxation year, a particular amount in respect of a registered retirement savings plan to which a premium deductible under section 923 has been paid is required under the second paragraph of section 914 or section 929 to be included in computing the income of the individual's spouse before the date provided for the first payment of benefits under the plan or as a payment in full or partial commutation of a retirement income under the plan, all or any part of each premium paid by the individual in the year or in one of the two immediately preceding taxation years that is deductible under section 923 in computing his income for a year shall be included at that time in computing his income for the year, except to the extent that the aggregate of those premiums or parts thereof exceeds the particular amount.

Applicability

The first paragraph does not apply where, at the time contemplated therein, the individual is living separate and apart from his spouse by reason of the breakdown of their marriage.

Plan de-  
emed to be a  
plan refer-  
red to in  
s. 931.1

**“931.2** Where a registered retirement savings plan receives a payment out of or a transfer from a plan described in section 931.1 or a registered retirement income fund described in section 961.17.0.1, the plan is deemed to be a registered retirement savings plan to which a premium deductible under section 923 has been paid.



Ordering of  
premium  
payment

**“931.3** Where an individual has paid more than one premium described in section 931.1, such a premium or part thereof paid by him at any time is deemed to have been included in computing his income by virtue of the said section before premiums or parts thereof paid by him after that time.”

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

c. I-3,  
s. 931.4,  
repealed

**87.** (1) Section 931.4 of the said Act is repealed.

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

c. I-3,  
s. 931.5,  
replaced

**88.** (1) Section 931.5 of the said Act is replaced by the following section:

**“931.5** Section 931.1 does not apply

Where  
s. 931.1  
does not  
apply

(a) in respect of an individual at any time during the year in which the individual dies;

(b) in respect of an individual where either the individual or his spouse is not resident in Canada at the time referred to in the said section;

(c) in respect of amounts paid out of or under a new plan referred to in section 914 to which the first paragraph of the said section applied before 26 May 1976; nor

(d) to any payment that is received in full or partial commutation of a registered retirement income fund or a registered retirement savings plan and in respect of which a deduction was made under paragraph *f* of section 339 if, where the deduction was in respect of the acquisition of an annuity, the terms thereof provide that it cannot be commuted, and it is not commuted, in whole or in part within three years after the acquisition thereof.”

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

c. I-3,  
s. 933,  
replaced

**89.** (1) Section 933 of the said Act is replaced by the following section:

Non-  
qualified  
investments  
and use of  
property as  
security for  
a loan

**“933.** Where, at any time in a taxation year, a trust governed by a registered retirement savings plan acquires a non-qualified investment or commences to use or permit to be used any property of the trust as security for a loan, the individual who is an annuitant under the plan at the time shall include in computing his income for the year the fair market value of the investment at the time it was

acquired by the trust or, as the case may be, the fair market value of the property at the time it commenced to be so used.”

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

c. I-3,  
s. 935,  
replaced  
Qualified  
investment  
respecting  
life insu-  
rance policy

**90.** Section 935 of the said Act is replaced by the following section:

“**935.** For the purposes of sections 926, 932 and 933,

(a) the acquisition of a right in a life insurance policy or the payment of an amount under such a policy is deemed not to be the acquisition of a non-qualified investment; and

(b) the disposition of a right in a life insurance policy is deemed not to be the disposition of a non-qualified investment.

Non-  
qualified  
investment

However, where a trust governed by a registered retirement savings plan or revoked plan makes a payment under or to acquire a right in a life insurance policy, other than a life insurance policy referred to in the third paragraph, the making of the payment is deemed to be the acquisition of a non-qualified investment at a cost equal to the amount of the payment.

Life insu-  
rance policy

The life insurance policy referred to in the second paragraph is a life insurance policy under which

(a) the trust is, or is to become by virtue of the payment, the only beneficiary of the rights and benefits under the policy, except those of the insurer;

(b) the cash surrender value of the policy, exclusive of accumulated dividends, is or will be, before the seventy-first birthday of the insured person, if all premiums under the policy are paid, not less than the maximum total amount payable by the insurer under the policy, exclusive of the accumulated dividends; and

(c) the total of the premiums payable in any year under the policy is not greater than the aggregate of the amounts that, if the annual premiums had been payable in monthly instalments, would have been payable as such instalments in the 12 months commencing with the date the policy was issued.”

c. I-3,  
heading  
replaced

**91.** (1) The heading of Chapter I of Title V.1 of Book VII of Part I of the said Act is replaced by the following heading:

“INTERPRETATION AND REGISTRATION”.

(2) This section applies from the taxation year 1986 in respect of any arrangement entered into after 28 February 1986 in connection with a registered retirement income fund. It also applies, in respect of each arrangement entered into before 1 March 1986 and revised or amended after 28 February 1986 in connection with a retirement income fund, from the taxation year in which the arrangement was revised or amended.

c. I-3,  
s. 961.1.5,  
added

**92.** (1) The said Act is amended by inserting, after the heading of Chapter I of Title V.1 of Book VII of Part I, the following section:

Interpreta-  
tion

**“961.1.5** In this Title,

“property  
held”

(a) “property held” in connection with a retirement income fund means property held by the carrier of the fund, whether held by the carrier as trustee or beneficial owner thereof, the value of which, or the income or loss from which is relevant in determining the amount for a year payable to the annuitant under the fund;

“carrier”

(b) “carrier” of a retirement income fund means any of the following persons that has agreed to make payments under a retirement income fund to the individual who is the annuitant under the fund:

i. a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an annuities business;

ii. a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee;

iii. a corporation approved by the Government for the purposes of Title IV and licensed or otherwise authorized under the laws of Canada or a province to issue investment contracts;

iv. a person referred to as a depositary in Title IV and described in paragraph *d* of section 907;

“minimum  
amount”

(c) “minimum amount” under a retirement income fund for the year in which the arrangement in connection with the fund was entered into means an amount equal to zero and for each subsequent year means the quotient obtained when the fair market value of the property held in connection with the fund at the beginning of the year is divided by the number that is the difference between 90 and:

i. the number that is, or would be, the age in whole years of the annuitant at the beginning of the year; or

ii. where the annuitant so elects before any payment has been made by the carrier of the fund, the number that is or would be the age in whole years of the annuitant's spouse at the beginning of the year;

*"annuitant"* (d) "annuitant" under a retirement income fund at any particular time means the individual to whom the carrier has undertaken to make the payments described in subsection 1 of section 961.3 out of or under the fund."

(2) This section applies from the taxation year 1986 in respect of an arrangement entered into after 28 February 1986 in connection with a registered retirement income fund. It also applies, in respect of each arrangement entered into before 1 March 1986 and revised or amended after 28 February 1986 in connection with a retirement income fund, from the taxation year in which the arrangement was revised or amended.

c. I-3,  
s. 961.2,  
replaced

**93.** (1) Section 961.2 of the said Act is replaced by the following section:

Approval of  
a retirement  
income fund  
for registra-  
tion

**"961.2** (1) The Minister may accept for registration for the purposes of this Part a retirement income fund of an individual if, in his opinion, it complies with the requirements of this chapter and of the regulations which may be made in that respect.

Registered  
retirement  
income fund

(2) A fund which complies with the standards enacted for that purpose by the regulations shall be considered to be a registered retirement income fund for the purposes of this Part."

(2) This section applies from the taxation year 1986 in respect of an arrangement entered into after 28 February 1986 in connection with a registered retirement income fund. It also applies, in respect of each arrangement entered into before 1 March 1986 and revised or amended after 28 February 1986 in connection with a retirement income fund, from the taxation year in which the arrangement was revised or amended.

c. I-3,  
s. 961.3,  
am.

**94.** (1) Section 961.3 of the said Act is amended

(1) by replacing subsection 1 by the following:

Arrange-  
ment for  
registration

**"961.3** (1) A retirement income fund acceptable for registration as contemplated in section 961.2 is an arrangement between an annuitant and a carrier under which, in consideration for the transfer of property by the annuitant, the carrier undertakes to pay to the annuitant or, if the annuitant so elects, to his spouse after his death, in each year, commencing not later than the first calendar year after the year in which

the arrangement is entered into, in one or more payments, one or more amounts the aggregate of which is not less than the minimum amount under the arrangement for a year, while the amount of any such payment shall not exceed the value of the property held in connection with the arrangement immediately before the time of the payment, and, at the end of the year in which the last payment under the arrangement is required to be made in accordance with the terms and conditions of the arrangement, an amount equal to the value of the property held in connection with the arrangement at that time.”;

(2) by striking out subsection 2.

(2) This section applies from the taxation year 1986 in respect of an arrangement entered into after 28 February 1986 in connection with a registered retirement income fund. It also applies, in respect of each arrangement entered into before 1 March 1986 and revised or amended after 28 February 1986 in connection with a retirement income fund, from the taxation year in which the arrangement was revised or amended.

c. I-3,  
ss. 961.4,  
repealed

**95.** (1) Section 961.4 of the said Act is repealed.

(2) This section applies from the taxation year 1986 in respect of an arrangement entered into after 28 February 1986 in connection with a registered retirement income fund. It also applies, in respect of each arrangement entered into before 1 March 1986 and revised or amended after 28 February 1986 in connection with a retirement income fund, from the taxation year in which the arrangement was revised or amended.

c. I-3,  
ss. 961.5-  
961.6,  
replaced  
Retirement  
income fund

**96.** (1) Sections 961.5 to 961.6 of the said Act are replaced by the following sections:

“**961.5** A retirement income fund of an individual shall provide that no payment under the fund may be assigned in whole or in part.

Distribution  
of property

It shall also provide for the distribution, as a consequence of the death of the annuitant, of the property held in connection with the fund at the time of his death or an amount equal to the value of such property at that time, except where the spouse of the annuitant becomes, at that time, the annuitant under the fund pursuant to the terms of the fund or the provisions of the will of the annuitant.

Conditions  
of approval  
in respect of  
registration

The fund shall also provide that, at the direction of the annuitant, the carrier shall, in the prescribed form and manner, transfer all or part of the property held in connection with the fund at the time of

such direction or an amount equal to the value of such property at that time, together with all information relevant to the continuance of the fund, to any person who has agreed to be a carrier of another registered retirement income fund of the annuitant.

**Restriction** The fund shall also provide that no benefit or loan by reason of the existence of the fund may be extended to the annuitant or a person with whom he is not dealing at arm's length, except a benefit the amount of which is required to be included in computing the annuitant's income, an amount referred to in paragraph *a* or *b* of the first paragraph of section 961.17 or a benefit derived from the provision of administrative or investment services in respect of the fund.

**Conditions for registration of fund** “**961.5.1** Where the carrier of a retirement income fund of an individual is a person referred to as a depositary in paragraph *d* of section 907, the fund shall also provide that the carrier has no right of offset as regards the property held by him in connection with the fund in respect of any debt or obligation owing to the annuitant.

**Restriction** In addition, the fund shall provide that the property held in connection with the fund cannot be pledged, assigned or in any way alienated as security for a loan or for any purpose other than that of allowing the making by the carrier to the annuitant those payments contemplated in the first paragraph of section 961.6.

**Conditions for registration of fund** “**961.6** A retirement income fund of an individual shall provide that the carrier shall make only those payments contemplated in section 961.3, in the second and third paragraphs of section 961.5 and in subparagraph *b* of the second paragraph of section 961.17.

**Conditions of approval in respect of registration** In addition, the fund shall provide that the carrier shall not accept the transfer of any property in consideration for the payments under the fund other than property transferred from

(*a*) a registered retirement savings plan under which the individual is the annuitant;

(*b*) another registered retirement income fund under which the individual is the annuitant;

(*c*) the individual to the extent only that the amount of the consideration was an amount contemplated in subparagraphs *i* to *iv* of paragraph *f* of section 339; or

(*d*) a registered retirement income fund or registered retirement savings plan of the individual's spouse or former spouse pursuant to a decree, order or judgment of a competent tribunal or a written

separation agreement, relating to a division of property between the annuitant and his spouse or former spouse in settlement of rights arising out of their marriage, on or after the breakdown of their marriage.”

(2) This section applies from the taxation year 1986 in respect of an arrangement entered into after 28 February 1986 in connection with a registered retirement income fund. It also applies, in respect of each arrangement entered into before 1 March 1986 and revised or amended after 28 February 1986 in connection with a retirement income fund, from the taxation year in which the arrangement was revised or amended.

c. I-3,  
s. 961.7,  
repealed

**97.** (1) Section 961.7 of the said Act is repealed.

(2) This section applies from the taxation year 1986 in respect of an arrangement entered into after 28 February 1986 in connection with a registered retirement income fund. It also applies, in respect of each arrangement entered into before 1 March 1986 and revised or amended after 28 February 1986 in connection with a retirement income fund, from the taxation year in which the arrangement was revised or amended.

c. I-3,  
ss. 961.8  
and 961.8.1,  
replaced

**98.** (1) Sections 961.8 and 961.8.1 are replaced by the following sections:

Refund of  
premium to  
estate

“**961.8** Where, in a taxation year, the legal representative of a deceased individual who was the last annuitant under a registered retirement income fund receives an amount out of or under the fund and portion of that amount, had that portion been paid under the fund to a particular beneficiary of the estate of the deceased annuitant, would have been a refund of premiums, within the meaning of subsection 2 of section 908, out of or under a registered retirement savings plan if the fund had been such a plan, that portion is deemed to be received by the particular beneficiary in the year as a benefit, within the meaning of paragraph *a* of section 905.1, that is such a refund of premiums, and not to be received out of or under a registered retirement income fund, to the extent that that portion is so indicated jointly by the legal representative and the particular beneficiary in the prescribed form filed with the Minister.

Deposit  
within a  
registered  
retirement  
income fund

“**961.8.1** Where, at a particular time, an amount is credited or added to a deposit with a depository described in paragraph *d* of section 907 as interest or other income in respect of the deposit and where, at that time, the deposit is a registered retirement income fund the annuitant under which is alive during the year in which the amount

is credited or added, the amount is deemed not to be received by the annuitant by reason only of such crediting or adding.”

(2) This section applies from the taxation year 1986 in respect of an arrangement entered into after 28 February 1986 in connection with a registered retirement income fund. It also applies, in respect of each arrangement entered into before 1 March 1986 and revised or amended after 28 February 1986 in connection with a retirement income fund, from the taxation year in which the arrangement was revised or amended.

c. I-3,  
heading,  
replaced

**99.** (1) The heading of Chapter II of Title V.1 of Book VII of Part I of the said Act is replaced by the following heading:

“CHANGE IN FUND AFTER REGISTRATION”.

(2) This section applies from the taxation year 1986 in respect of an arrangement entered into after 28 February 1986 in connection with a registered retirement income fund. It also applies, in respect of each arrangement entered into before 1 March 1986 and revised or amended after 28 February 1986 in connection with a retirement income fund, from the taxation year in which the arrangement was revised or amended.

c. I-3,  
s. 961.9,  
replaced

**100.** (1) Section 961.9 of the said Act is replaced by the following section:

Amended  
fund

“**961.9** Where, on any day after a retirement income fund of an individual has been accepted by the Minister for registration for the purposes of this Part or has been considered to be registered under subsection 2 of section 961.2 for the purposes of this Part, the fund is revised or amended or a new fund is substituted therefor, and the fund as revised or amended or the new fund substituted therefor, as the case may be, hereinafter in this section referred to as the “amended fund”, does not comply with the requirements of this Title or the regulations for its acceptance by the Minister for registration for the purposes of this Part or so that it may continue to be considered to be registered under subsection 2 of section 961.2 for the purposes of this Part, as the case may be, the following rules apply:

(a) the amended fund is deemed, for the purposes of this Part, not to be a registered retirement income fund;

(b) the individual who was the annuitant under the fund before it became an amended fund shall, in computing his income for the taxation year that includes that day, include as income received out



of the fund at that time an amount equal to the fair market value of all the property held in connection with the fund immediately before that time.”

(2) This section has effect from 19 December 1986.

c. I-3,  
ss. 961.9.1  
and 961.9.2,  
added

**101.** (1) The said Act is amended by inserting, after section 961.9, the following sections:

Extended  
benefit or  
loan

**“961.9.1** Where at any time a benefit or loan is extended or continues to be extended as a consequence of the existence of a registered retirement income fund and that benefit or loan would be prohibited if the fund met the requirement for registration contained in the fourth paragraph of section 961.5, the fund is, for the purposes of the first paragraph of section 961.9, deemed to have been revised or amended at that time so that it fails to meet the requirement for registration contained in the fourth paragraph of section 961.5.

New fund

**“961.9.2** For the purposes of section 961.9, either of the following arrangements is deemed to be a new fund substituted for a retirement income fund:

(a) an arrangement under which payment of any amount by way of loan or otherwise is made on the security of a right under a retirement income fund; or

(b) an arrangement, other than an arrangement the sole object and legal effect of which is to revise or amend the fund, under which a right or obligation under a retirement income fund is released or extinguished either wholly or in part and either in exchange or substitution for any right or obligation, or otherwise.”

(2) This section has effect from 19 December 1986.

c. I-3,  
ss. 961.10  
and 961.11,  
repealed

**102.** (1) Sections 961.10 and 961.11 of the said Act are repealed.

(2) This section has effect from 19 December 1986.

c. I-3,  
s. 961.16.1,  
replaced

**103.** (1) Section 961.16.1 of the said Act is replaced by the following section:

Other  
exceptions  
from tax  
exemption

**“961.16.1** A trust governed by a registered retirement income fund shall pay tax under this Part on its taxable income for each taxation year after the year in which the last annuitant under the fund died, and sections 961.12 to 961.16 do not apply to such a taxation year.”

(2) This section applies from the taxation year 1986 in respect of an arrangement entered into after 28 February 1986 in connection with a registered retirement income fund. It also applies, in respect of each arrangement entered into before 1 March 1986 and revised or amended after 28 February 1986 in connection with a retirement income fund, from the taxation year in which the arrangement was revised or amended.

c. F-3,  
s. 961.17,  
replaced

**104.** (1) Section 961.17 of the said Act is replaced by the following section:

Amount to  
be included  
in compu-  
ting the  
income

**“961.17** An individual shall include in computing his income for a taxation year an amount received by him in the year out of or under a registered retirement income fund, other than the portion of that amount that can reasonably be regarded as

(a) part of the amount included in computing the income of another individual under section 961.17.1; or

(b) an amount received in respect of the income of the trust under the fund for a taxation year referred to in section 961.16.1.

Restriction

Notwithstanding the other provisions in this Title, any of the following amounts is deemed not to be an amount received by an annuitant out of or under a registered retirement income fund:

(a) an amount transferred as described in the third paragraph of section 961.5; or

(b) an amount transferred from a registered retirement income fund of the annuitant to a registered retirement income fund or a registered retirement savings plan of his spouse or former spouse pursuant to a decree, order or judgment of a competent tribunal or a written separation agreement, relating to a division of property between the annuitant and his spouse or former spouse in settlement of rights arising out of their marriage, on or after the breakdown of their marriage.”

(2) This section, where it enacts the first paragraph of section 961.17 of the Taxation Act, applies from the taxation year 1986 in respect of any arrangement entered into after 28 February 1986 in connection with a registered retirement income fund. It also applies, in respect of each arrangement entered into before 1 March 1986 and revised or amended after 28 February 1986 in connection with a retirement income fund, from the taxation year in which the arrangement was revised or amended. However, where it enacts the second paragraph of section 961.17 of the Taxation Act, it has effect from 19 December 1986.

c. I-3,  
ss. 961.17.0.1-  
961.17.0.5,  
added

**105.** (1) The said Act is amended by inserting, after section 961.17, the following sections:

Computation

**“961.17.0.1** Where, at any time in a taxation year, a particular amount in respect of a registered retirement income fund, that received property from a registered retirement savings plan to which a premium deductible under section 923 has been paid, is required to be included in computing the income of the individual’s spouse, all premiums paid by the individual in the year or in one of the two immediately preceding taxation years to the extent that they were deductible under section 923 in computing his income for a year shall be included at that time in computing the individual’s income for the year to the extent that the aggregate of the particular amounts paid in the year exceeds the minimum amount under the fund for the year.

Applicability

The first paragraph does not apply where, at the time referred to therein, the individual is living separate and apart from his spouse by reason of the breakdown of their marriage.

Registered  
retirement  
income fund

**“961.17.0.2** A registered retirement income fund to which a payment or transfer has been made from a registered retirement income fund described in section 961.17.0.1 is deemed to be a fund described in the said section.

Premiums

**“961.17.0.3** Where an individual has paid more than one premium described in section 961.17.0.1, such a premium or part thereof paid by him at any time is deemed to have been included in computing his income by virtue of the said section before premiums or parts thereof paid by him after that time.

Applicability

**“961.17.0.4** Section 961.17.0.1 does not apply

(a) in respect of an individual at any time during the year in which the individual dies;

(b) in respect of an individual where either the individual or the annuitant is not a resident in Canada at the particular time referred to in the said section; or

(c) to any payment that is received in full or partial commutation of a registered retirement savings plan or a registered retirement income fund and in respect of which a deduction was made under paragraph *f* of section 339 if, where the deduction was in respect of the acquisition of an annuity, the terms thereof provide that it cannot be commuted, and it is not commuted, in whole or in part within three years after the acquisition thereof.

Individual's  
income

**"961.17.0.5** Where, in respect of an amount received by an individual's spouse all or part of a premium has, by virtue of section 931.1 or 961.17.0.1, been included at any time in computing the individual's income for a taxation year, the following rules apply:

(a) the premium or part thereof, as the case may be, is, for the purposes of sections 931.1 and 961.17.0.1, after that time, deemed not to be deductible under section 923;

(b) an amount equal to the premium or part thereof, as the case may be, may be deducted in computing the income of the spouse for the year."

(2) This section applies from the taxation year 1986 in respect of any arrangement entered into after 28 February 1986 in connection with a registered retirement income fund. It also applies, in respect of each arrangement entered into before 1 March 1986 and revised or amended after 28 February 1986 in connection with a retirement income fund, from the taxation year in which the arrangement was revised or amended.

c. I-3,  
ss. 961.17.1-  
961.20,  
replaced

**106.** (1) Sections 961.17.1 to 961.20 of the said Act are replaced by the following sections:

Death of the  
last annui-  
tant

**"961.17.1** Where the last annuitant under a registered retirement income fund dies, he is deemed to have received, immediately before his death, an amount out of or under a registered retirement income fund equal to the amount by which the fair market value of all the property of the fund, at the time of his death, exceeds the portion of that amount that his spouse becomes entitled to receive by reason of the death.

Deduction

However, the annuitant referred to in the first paragraph may deduct from the amount he is deemed to have received under that paragraph the aggregate of the amounts paid under the fund to his child or grandchild that, had such amounts been paid out of or under a registered retirement savings plan, would have been a refund of premiums, within the meaning of subsection 2 of section 908, and that portion of the amounts paid out of or under the fund that is deemed to be received by a beneficiary as a benefit that is a refund of premiums pursuant to section 961.8.

Payment to  
children or  
grandchil-  
dren

An amount referred to in the second paragraph that is paid to a child or grandchild of the deceased annuitant is deemed to be received by the child or grandchild, as the case may be, as a benefit, within the meaning of paragraph *a* of section 905.1, that is a refund of premiums,

within the meaning of subsection 2 of section 908, out of or under a registered retirement savings plan and not to be received out of or under a registered retirement income fund.

Acquisition  
of property

**“961.18** Where, at any time in a taxation year, a trust governed by a registered retirement income fund acquires property for a consideration greater than its fair market value at that time or disposes of property for no consideration or for a consideration less than its fair market value at that time, the annuitant under the fund at that time shall include, in computing his income for the year, twice the difference between such value and such consideration.

Non-  
qualified  
investment

**“961.19** Where, at any time in a taxation year, a trust governed by a registered retirement income fund acquires a non-qualified investment, or commences to use or permit the use of a property of the trust as security for a loan, the annuitant under the fund at that time shall include, in computing his income for the year, the fair market value of the investment at the time of the acquisition or, as the case may be, the fair market value of the property at the time the property commences to be so used.

Disposition  
of property

**“961.20** Where a trust governed by a registered retirement income fund disposes in a taxation year of a property that, when acquired, was a non-qualified investment the cost of which to the trust was included by virtue of section 961.19 in computing the income of an individual, the annuitant under the fund at the time of the disposition may deduct, in computing his income for the year, the lesser of that cost and the proceeds of disposition of the property.”

(2) This section applies from the taxation year 1986 in respect of any arrangement entered into after 28 February 1986 in connection with a registered retirement income fund. It also applies, in respect of each arrangement entered into before 1 March 1986 and revised or amended after 28 February 1986 in connection with a retirement income fund, from the taxation year in which the arrangement was revised or amended.

c. I-3,  
s. 961.21,  
am.

**107.** (1) Section 961.21 of the said Act is amended by replacing subsection 1 by the following subsection:

Use of trust  
as security

**“961.21** (1) Where, at any time in a taxation year, a loan for which a trust governed by a registered retirement income fund has permitted the use of a property of the trust as security ceases to be extant and the fair market value of the property has been included in computing the income of an individual by virtue of section 961.19, the annuitant under the fund at that time may deduct in computing his income for

the year the amount remaining after deducting from the amount so included in consequence of such use the net loss sustained by the trust in consequence of such use.”

(2) This section applies from the taxation year 1986 in respect of any arrangement entered into after 28 February 1986 in connection with a registered retirement income fund. It also applies, in respect of each arrangement entered into before 1 March 1986 and revised or amended after 28 February 1986 in connection with a retirement income fund, from the taxation year in which the arrangement was revised or amended.

c. I-3,  
heading,  
replaced

**108.** (1) The heading of Chapter III of Title VII of Book VII of Part I of the said Act is replaced by the following heading:

“COMPUTATION OF THE ADJUSTED COST BASIS”.

(2) This section has effect from 29 October 1985.

c. I-3,  
s. 985.9,  
am.

**109.** (1) Section 985.9 of the said Act is amended by replacing paragraph *d* by the following paragraph:

“(d) the amount determined for the year in respect of the foundation under section 985.9.2; and”.

(2) This section applies to taxation years commencing after 31 December 1983.

c. I-3,  
s. 985.9.2,  
am.

**110.** (1) Section 985.9.2 of the said Act is amended

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

Computation  
of amount  
under para-  
graph *d* of  
s. 985.9

“**985.9.2** For the purposes of paragraph *d* of section 985.9, the amount for a taxation year in respect of a charitable foundation is the proportion, represented by the ratio between the number of days in the year and 365, of 4.5% of the amount by which

(a) the prescribed amount for the year in respect of property, other than a prescribed property, or a portion thereof owned by the foundation at any time in the immediately preceding 24 months that was not used directly in charitable activities or administration exceeds”;

(2) by striking out the second paragraph.

(2) This section applies to taxation years commencing after 31 December 1983.

c. I-3,  
s. 985.9.4,  
added

**111.** (1) The said Act is amended by inserting, after section 985.9.3, the following section:

Powers of  
Minister

**“985.9.4** For the purposes of paragraph *a* of section 985.9.2, the Minister may

(a) authorize a change in the number of periods chosen by a charitable foundation in determining the prescribed amount;

(b) accept any method for the determination of the fair market value of property or a portion thereof that may be required in determining the prescribed amount.”

(2) This section applies to taxation years commencing after 31 December 1983.

c. I-3,  
s. 998, am.

**112.** (1) Section 998 of the said Act, amended by section 180 of chapter 67 of the statutes of 1987, is again amended by replacing subparagraphs ii to iv of paragraph *c.2* by the following subparagraphs:

“ii. has limited, without interruption since the later of the date on which it was incorporated and 16 November 1978, its activities to acquiring, holding, maintaining, improving, leasing or managing capital property that is real property or an interest therein owned by the corporation, a registered retirement plan or another corporation described in this subparagraph, other than a corporation without share capital, borrowed money solely for the purpose of earning income from real property or an interest therein and made no investments other than investments in real property or an interest therein or investments that a registered retirement plan is permitted to make under the Pension Benefits Standards Act, 1985 (Statutes of Canada) or a similar law of a province; or

“iii. has made no investments other than investments that a registered retirement plan is permitted to make under the Pension Benefits Standards Act, 1985 (Statutes of Canada) or a similar law of a province, and whose assets were at least 98 per cent cash and investments, that has not issued debt obligations or accepted deposits, and has derived at least 98 per cent of its income for the period referred to in section 980 that is a taxation year of the corporation from, or from the disposition of, investments; or

“iv. throughout the period contemplated in section 980, has limited its activities to acquiring Canadian resource properties by purchase or by incurring Canadian exploration expenses or Canadian development expenses, or holding, exploring, developing, maintaining, improving, managing, operating or disposing of its Canadian resource properties,

borrowed money solely for the purpose of earning income from Canadian resource properties and made no investments other than in Canadian resource properties, in property to be used in connection with Canadian resource properties acquired by purchase or by incurring Canadian exploration expenses or Canadian development expenses, in loans secured by Canadian resource properties for the purpose of acquiring, holding, exploring, developing, maintaining, improving, managing, operating or disposing of a Canadian resource property or in investments that a pension plan is permitted to make under the Pension Benefits Standards Act, 1985 (Statutes of Canada) or of a similar law of a province;"

(2) This section has effect from 1 January 1987.

c. I-3,  
s. 1029.7,  
am.

**113.** (1) Section 1029.7 of the said Act, amended by section 183 of chapter 67 of the statutes of 1987 and by section 123 of chapter 4 of the statutes of 1988, is again amended by replacing subparagraph *a* of the third paragraph by the following subparagraph:

"(a) constitute, for the corporation, a deductible expenditure referred to in subsection 1 of section 222, other than an expenditure referred to in paragraph *e* of the said subsection which, but for subsection 3 of section 175.1, would not be deductible;"

(2) This section applies in respect of wages and remuneration paid after 30 April 1987.

c. I-3,  
s. 1029.8,  
am.

**114.** (1) Section 1029.8 of the said Act, amended by section 184 of chapter 67 of the statutes of 1987 and by section 124 of chapter 4 of the statutes of 1988, is again amended by replacing subparagraph *a* of the fourth paragraph by the following subparagraph:

"(a) constitute, for the partnership, a deductible expenditure referred to in subsection 1 of section 222, other than an expenditure referred to in paragraph *e* of the said subsection which, but for subsection 3 of section 175.1, would not be deductible;"

(2) This section applies in respect of wages and remuneration paid after 30 April 1987. However, where subparagraph *a* of the fourth paragraph of section 1029.8 of the Taxation Act, as enacted by this section, applies in respect of wages and remuneration paid between 30 April 1987 and 1 January 1988, the following rules apply:

(a) the said subparagraph *a* shall be read as if it also applied to an individual who is a partner in a partnership at the end of the partnership's fiscal period ending during the taxation year 1987, but



only in respect of wages and remuneration referred to in the said section paid by the partnership after 30 April 1987 and during the said fiscal period out of the amounts gathered before 1 May 1987;

(b) for the purposes of subparagraph *a*, the amounts gathered by a partnership before 1 May 1987 are the aggregate of

i. the amounts received by the partnership under a final prospectus in respect of which the receipt was granted before 1 May 1987;

ii. the amounts received by the partnership under a final prospectus in respect of which the receipt was granted between 30 April 1987 and 1 July 1987 if the preliminary prospectus was granted before 1 May 1987, to the extent that the amounts correspond to the amounts provided for in the preliminary prospectus;

iii. the amounts received by the partnership under a notice of offer filed before 1 May 1987, to the extent that the amounts correspond to the amounts provided for in the notice of offer;

iv. the amounts received by the partnership under the declaration of a partnership registered before 1 May 1987, to the extent that the amounts correspond to the amounts provided for in the declaration of the partnership;

v. the amounts received by the partnership before 1 July 1987 and used to pay wages and remuneration referred to in the said section 1029.8, to the extent that the wages and remuneration are paid pursuant to a written contract made before 30 April 1987;

(c) where a deduction provided for in section 358.2 of the Taxation Act is claimed by an individual referred to in subparagraph *a*, the said subparagraph *a* does not apply to the individual.

c. I-3,  
s. 1034.1,  
replaced

**115.** (1) Section 1034.1 of the said Act is replaced by the following section:

Joint liability in the case of a registered retirement savings plan

**“1034.1** (1) Where an amount is received out of or under a registered retirement savings plan by an individual other than an annuitant within the meaning of paragraph *b* of section 905.1 under the plan, and that amount or part thereof would, but for subparagraph *i* of paragraph *a* of that section, be received by the individual as a benefit within the meaning of the said paragraph *a*, the individual and the last annuitant under the plan are jointly and severally liable to pay a part of the annuitant's tax under this Part for the year of his death equal to that proportion of the amount by which that tax exceeds the tax that would have been computed but for section 915.2 that the aggregate

of all amounts received from the plan by the individual and that would, but for the said subparagraph i, be a benefit, within the meaning of the said paragraph *a*, received by the taxpayer, is of the amount included under section 915.2 in computing the income of the annuitant.

Joint liability in the case of a registered retirement savings plan

(2) Where an amount is received out of or under a registered retirement income fund by an individual other than an annuitant under the fund, and that amount or part thereof would, but for paragraph *a* of section 961.17, be included in computing the individual's income for the year of receipt pursuant to that section, the individual and the annuitant under the fund are jointly and severally liable to pay a part of the annuitant's tax under this Part for the year of his death equal to that proportion of the amount by which that tax exceeds the tax that would have been computed but for section 961.17.1, that the aggregate of all amounts received from the fund by the individual and that would, but for that paragraph *a*, be included in computing the individual's income for the year of receipt pursuant to section 961.17, is of the amount included pursuant to section 961.17.1 in computing the annuitant's income.

Liabilities

(3) However, this section does not free the annuitant under the plan or fund, as the case may be, from his liabilities under any other provision of this Act."

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

c. 1-3,  
s. 1036,  
replaced

**116.** (1) Section 1036 of the said Act is replaced by the following section:

Rules applicable in the case of a joint liability

**"1036.** Where a transferor and a transferee or an annuitant and an individual, are, by virtue of section 1034 or 1034.1, jointly and severally liable in respect of all or part of a liability of the transferor or annuitant, the following rules apply:

(a) a payment by the transferee or the individual, on account of his liability, discharges up to the amount of the payment, the joint and several liability, and

(b) a payment on account of his liability by the transferor, or for the annuitant discharges the liability of the transferee or the individual only to the extent that the payment operates to reduce the transferor's or annuitant's liability to an amount less than the amount in respect of which the transferee or the individual is jointly and severally liable by virtue of section 1034 or 1034.1."

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

c. I-3,  
s. 1049.0.1,  
added

**117.** (1) The said Act is amended by inserting, after section 1049, the following section:

False state-  
ments in  
renunciation

**"1049.0.1** Every person who, knowingly or under circumstances amounting to gross negligence, makes, or acquiesces or participates in the making of, a false statement or omission in any renunciation that is effective as of a particular date and that is made under section 359.2, 359.4, 359.6, 381, 406, 417 or 418.13 is liable to a penalty of 25 per cent of the amount by which the amount set out in the renunciation in respect of Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses exceeds the amount in respect of Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses, as the case may be, that the corporation was entitled under the section to renounce as of that particular date."

(2) This section has effect from 19 December 1986.

c. I-3,  
s. 1086, am.

**118.** Section 1086 of the said Act is amended by inserting, after subparagraph *e* of the first paragraph, the following subparagraph:

"(*e.1*) requiring any person who has acquired a debt obligation in bearer form to provide information respecting his name, address and Social Insurance Number to any other person who is required to make an information return in respect thereof;"

c. M-31,  
s. 60, am.

**119.** Section 60 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by replacing the first paragraph by the following paragraph:

Offences  
and penal-  
ties

**"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 or the information mentioned in subparagraph *e.1* of the first paragraph of section 1086 of the Taxation Act (R.S.Q., chapter I-3) as and when prescribed by the said Act or a regulation thereunder, is guilty of an offence and, in addition to any other penalty provided by that fiscal law or Act, is liable to a fine of at least \$25 for each day during which the failure continues."

1987, c. 67,  
s. 19, am.

**120.** Section 19 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 amounts received after 22 May 1985. However, it does not apply in respect of amounts received after that date pursuant to the terms of an agreement in writing entered into before 4:30 p.m. Eastern Daylight Time on 23 May 1985 or to the terms of a final prospectus, preliminary prospectus or registration statement filed before 24 May 1985 with a public authority in Canada pursuant to and in accordance with the securities legislation of Canada or of any province and, where required by law, accepted for filing by such authority.”

1987, c. 67,  
s. 20, am.

**121.** Section 20 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of amounts received after 22 May 1985. However, it does not apply in respect of amounts received after that date pursuant to the terms of an agreement in writing entered into before 4:30 p.m. Eastern Daylight Time on 23 May 1985 or to the terms of a final prospectus, preliminary prospectus or registration statement filed before 24 May 1985 with a public authority in Canada pursuant to and in accordance with the securities legislation of Canada or of any province and, where required by law, accepted for filing by such authority.”

1987, c. 67,  
s. 55, am.

**122.** Section 55 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of dispositions made after 31 December 1985.”

1987, c. 67,  
s. 141, am.

**123.** Section 141 of the said Act is amended by replacing subsection 3 by the following subsections:

“(3) This section, where it enacts sections 725.3 and 725.4 of the Taxation Act, applies in respect of shares acquired after 22 May 1985.

“(4) This section, where it enacts section 725.5 of the Taxation Act, applies in respect of shares acquired on terminations of interests in deferred profit sharing plans occurring after 23 May 1985.

“(5) This section, where it enacts sections 725.6 and 725.7 of the Taxation Act, applies from the taxation year 1985.”

1987, c. 67,  
s. 166, am.

**124.** Section 166 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of terminations of interests in deferred profit sharing plans occurring after 23 May 1985.”

1987, c. 67,  
s. 189, am.

**125.** Section 189 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of deaths occurring after 31 December 1984.”

1987, c. 67,  
s. 190, am.

**126.** Section 190 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of deaths occurring after 31 December 1984.”

1987, c. 67,  
s. 191, am.

**127.** Section 191 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of deaths occurring after 31 December 1984.”

1988, c. 4,  
s. 124, am.

**128.** (1) Section 124 of the Act to amend the Taxation Act and other fiscal legislation (1988, chapter 4) is amended

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

“(a) section 1029.8 shall be read as if it also applied to an individual who is a partner in a partnership at the end of the partnership’s fiscal period ending during the taxation year 1987, but only in respect of wages and remuneration referred to in the said section paid by the partnership after 30 April 1987 and during the said fiscal period out of the amounts gathered before 1 May 1987;”;

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

“v. the amounts received by the partnership before 1 July 1987 and used to pay wages and remuneration referred to in the said section 1029.8, to the extent that the wages and remuneration are paid pursuant to a written contract made before 30 April 1987;”.

(2) This section has effect from 31 March 1988.

Coming into  
force

**129.** This Act comes into force on 17 June 1988.