

NATIONAL ASSEMBLY
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1987, chapter 67
**AN ACT TO AMEND THE TAXATION ACT AND OTHER
FISCAL LEGISLATION**

Bill 12

Introduced by Mr Michel Gratton, Minister of Revenue

Introduced 9 April 1987

Passage in principle 15 June 1987

Passage 28 October 1987

Assented to 1 December 1987

Coming into force: 1 December 1987

Acts amended:

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

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 (1985, chapter 25)



CHAPTER 67

An Act to amend the Taxation Act and other fiscal legislation

[Assented to 1 December 1987]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. D-17,
s. 31, am.

1. Section 31 of the Land Transfer Duties Act (R.S.Q., chapter D-17) is amended by replacing what precedes paragraph *a* of subsection 1 by the following:

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laneous

“**31.** (1) Payment of the duties shall be deferred in the case where the transferee declares that the land subject to the transfer is not situated, in whole or in part, in a reserved area or in an agricultural zone established in accordance with the Act to preserve agricultural land (R.S.Q., chapter P-41.1), except where the Commission de protection du territoire agricole du Québec has authorized its use for purposes other than agriculture, and that he has acquired the whole of the land for one of the following purposes, provided that the area and value of the land are reasonable, all things considered:”

c. D-17,
s. 38,
replaced

2. Section 38 of the said Act is replaced by the following section:

Decision of
Minister

“**38.** Where the circumstances of a transfer relating to land allow it to be believed that the payment of duties will be deferred pursuant to section 31 or that there will be an exemption from the payment of duties under section 44.1, the Minister shall, if the transferee applying therefor establishes the merits of the application, send him a decision attesting that the conditions of section 31 or section 44.1 will be fulfilled if the facts are as described in the application.”

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

3. Section 44.1 of the said Act is amended by replacing paragraph *c* of subsection 1 by the following paragraph:

“(c) the land acquired is adjacent or nearly so to the installations of the transferee’s business and is neither wholly nor partly situated in a reserved area or agricultural zone established pursuant to the Act to preserve agricultural land (R.S.Q., chapter P-41.1), except where the Commission de protection du territoire agricole du Québec has authorized its use for purposes other than agriculture.”

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

4. (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 31 of chapter 15 of the statutes of 1986, by section 1 of chapter 19 of the statutes of 1986 and by section 7 of chapter 21 of the statutes of 1987, is again amended

(1) by inserting, after the definition of the expression “small business bond”, the following definition:

«small business corporation»

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

(a) used in a qualified business within the meaning of paragraph e of section 451 carried on in Canada by the corporation or by a corporation controlled by it,

(b) shares of the capital stock of a small business corporation connected with the corporation within the meaning of the regulations;

(c) bonds, debentures, bills, notes, hypothecs, mortgages or other similar obligations issued by a corporation described in subparagraph b, or

(d) assets described in subparagraphs a to c;”;

(2) by striking out subparagraph e.1 in the definition of the expression “cost amount”;

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

«dividend»

““dividend” includes a stock dividend;”;

(4) by replacing, in the French version, the definition of “organisme de charité enregistré” by the following definition:

«organisme de charité enregistré»

““organisme de charité enregistré” à un moment quelconque signifie une oeuvre de charité, une fondation privée ou une fondation publique, au sens de l’article 985.1, qui est enregistrée à ce moment à titre d’oeuvre

de charité, de fondation privée ou de fondation publique, au sens de cet article 985.1, auprès du ministre ou qui est réputée l'être conformément aux articles 985.5 à 985.5.2;"

(5) by striking out the definition of the expression "participant";

(6) by inserting, after the definition of the expression "group term life insurance policy", the following definition:

«home relocation plan»

““home relocation loan” means a loan made to an individual or his spouse in circumstances where he has commenced employment at a new work location in Canada and by reason thereof has moved from the old residence in Canada at which, before the move, he ordinarily resided to a new residence in Canada at which, after the move, he ordinarily resides, if

(a) the distance between his old residence and his new work location is at least 40 kilometres greater than the distance between his new residence and his new work location;

(b) the loan is used to acquire a dwelling for the habitation of the individual that is his new residence;

(c) the loan is received in the circumstances described in sections 487.1 and 487.2;

(d) the loan is designated by the taxpayer to be a home relocation loan, but in no case shall more than one loan in respect of a particular move, or more than one loan at any particular time, be designated as a home relocation loan by the taxpayer;”;

(7) by inserting, after the definition of the expression "office", the following definition:

«oil or gas well»

““oil or gas well” has the meaning assigned by paragraph *d* of section 359;”;

(8) by striking out the definition of the expression "indexed security investment plan";

(9) by striking out the definition of the expression "indexed security".

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

(3) Paragraphs 2, 5, 8 and 9 of subsection 1 apply from the taxation year 1986.

(4) Paragraph 3 of subsection 1 applies in respect of dividends paid after 23 May 1985 other than dividends declared before 24 May 1985.

(5) Paragraph 4 of subsection 1 applies in respect of charities registered after 15 February 1984, or charities that began after that date to be deemed to be registered in accordance with subsection 2 of section 985.5 of the Taxation Act or that are designated pursuant to section 985.4.3 of the said Act.

(6) Paragraph 6 of subsection 1 applies in respect of loans made to individuals who commenced employment at a new work location after 23 May 1985.

(7) Paragraph 7 of subsection 1 applies to taxation years ending after 31 March 1985.

c. I-3, s. 1.2,
replaced **5.** (1) Section 1.2 of the said Act is replaced by the following section:

Substituted
property **“1.2** For the purposes of this Part, excepting subsection 1 of section 618, the following rules apply:

(a) where a person has acquired a property in substitution for a particular property that he disposed of or exchanged and subsequently, by one or more transactions, has acquired another property in substitution for that property or for a property already acquired in substitution, every property so acquired is deemed to be a property that has been substituted for the particular property;

(b) any share received as a stock dividend on another share of the capital stock of a corporation is deemed to be property substituted for that other share.”

(2) This section applies in respect of exchanges of property made after 21 November 1985 and shares received as stock dividends after 21 November 1985 other than shares received as payment of a stock dividend declared before 22 November 1985.

c. I-3, s. 1.5,
added **6.** (1) The said Act is amended by inserting, after section 1.4, the following section:

Series of
transactions
or events **“1.5** For the purposes of this Part, where there is a reference to a series of transactions or events, the series is deemed to include any related transactions or events completed in contemplation of the series.”

(2) This section has effect from 13 February 1986.

c. 1-3,
s. 21.4,
replaced

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

Corporation
deemed not
to be
controlled

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

Conditions

The conditions referred to in the first paragraph are:

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

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

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

c. 1-3, s. 28,
am.

8. (1) Section 28 of the said Act is amended by replacing subparagraphs ii and iii of paragraph *c* by the following subparagraph:

“ii. the losses incurred in the year by the taxpayer from an office, employment, business or property and his allowable business investment losses for the year.”

(2) This section applies from the taxation year 1985, but for the taxation year 1985 that part of paragraph *c* of section 28 of the Taxation Act following subparagraph *i*, enacted by this section, shall be read as follows:

“ii. the losses incurred in the year by the taxpayer from an office, employment, business or property and his allowable business investment losses for the year and, if there is a remainder,

“iii. in the case of an individual, the amount by which the amount determined under subparagraph ii of paragraph *b* for the year exceeds the amount determined under subparagraph i of paragraph *b*, up to the lesser of the amount by which the amount determined under subparagraph ii of paragraph *b* for the year would exceed the amount determined under subparagraph i of paragraph *b*, if his taxable capital gains and allowable capital losses did not include those arising on the disposition by him of properties in the year and after 22 May 1985 and if the rules contained in the second paragraph applied in computing the latter excess amount, and \$1 000, but not exceeding the remainder determined under subparagraph ii.

Applicable
rules

The rules referred to in subparagraph iii of paragraph *c* of the first paragraph are the following:

(*a*) where the individual made a disposition of property after 22 May 1985 and before 1 January 1986 pursuant to an agreement in writing entered into before 23 May 1985, he is deemed to have disposed of the property in the year and prior to 23 May 1985;

(*b*) a capital gains dividend received by the individual after 22 May 1985 is deemed to be a capital gain of the individual from the disposition of property by him after 22 May 1985;

(*c*) an amount designated by a trust under section 668 in respect of its net taxable capital gains in respect of the individual in the fiscal return of the trust for a taxation year ending after 22 May 1985 is deemed to be a taxable capital gain of the individual from the disposition of property by him after 22 May 1985.”

c. I-3, s. 48,
replaced

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

Sale or is-
sue of
shares to
employee

“**48.** This division applies where a particular corporation agrees to sell or issue shares of its capital stock or of the capital stock of a corporation with which it does not deal at arm’s length to one of its employees or an employee of a corporation with which it does not deal at arm’s length.”

(2) This section applies in respect of agreements made after 23 April 1985.

c. I-3,
s. 49.1, am.

10. (1) Section 49.1 of the said Act, enacted by section 40 of chapter 15 of the statutes of 1986, is amended

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

Application
of s. 49

“**49.1** In section 49, the words “in which he acquires the shares” shall be read as the words “in which he disposes of or exchanges the shares” where”;

(2) by striking out paragraph *a*;

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

(4) by replacing paragraph *c* by the following paragraphs:

“(c) the employee, immediately after the agreement contemplated in section 48 was made, was dealing at arm’s length with the particular corporation contemplated in section 48, with the corporation shares of the capital stock of which were agreed to be sold or issued by the particular corporation contemplated in section 48, and with the corporation of which he is an employee;

“(d) the share is contemplated in subparagraph ii of paragraph *d* of subsection 1 of section 110 of the Income Tax Act (Statutes of Canada) at the time of its sale or issue, as the case may be.”

(2) This section applies in respect of shares acquired after 22 May 1985 pursuant to an agreement made after 23 April 1985.

c. I-3,
s. 49.2, am.

11. (1) Section 49.2 of the said Act, enacted by section 40 of chapter 15 of the statutes of 1986, is amended

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

Application
of s. 49

“**49.2** In section 49, the words “in which he acquires the shares” shall be read as the words “in which he disposes of or exchanges the shares” where”;

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

(3) by striking out paragraph *c*.

(2) This section applies in respect of shares acquired after 22 May 1985 pursuant to an agreement made after 23 April 1985.

c. I-3,
s. 49.3,
repealed

12. (1) Section 49.3 of the said Act, enacted by section 40 of chapter 15 of the statutes of 1986, is repealed.

(2) This section applies in respect of shares acquired after 22 May 1985 pursuant to an agreement made after 23 April 1985.

c. I-3,
s. 49.5, am.

13. (1) Section 49.5 of the said Act, enacted by section 8 of chapter 19 of the statutes of 1986, is amended by replacing what precedes paragraph *b* by the following:

Exchange of
shares

“49.5 For the purposes of sections 49.1, 49.2, 725.2 and 725.3, where, in circumstances where sections 536 to 539 or 551 to 554 apply, a taxpayer acquires shares of a Canadian corporation in exchange for shares of another Canadian corporation acquired under an agreement referred to in section 48, the following rules apply:

(a) the taxpayer is deemed not to have exchanged or disposed of the exchanged shares and not to have acquired the shares obtained in exchange;”.

(2) This section applies in respect of shares acquired after 22 May 1985.

c. I-3, s. 53,
replaced

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

Trustee
holding
share

“53. Where a trustee holds a share for an employee in any manner, the employee is deemed, for the purposes of this division and of sections 725.2 and 725.3, to acquire the share at the time the trustee commences to hold it for him and to exchange or dispose of the share at the time the trustee exchanges it or disposes of it to any person other than the employee.”

(2) This section applies in respect of shares acquired after 22 May 1985.

c. I-3, s. 68,
am.

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

“(d) dues to a parity or advisory committee or similar body where such payment is required under the Act respecting collective agreement decrees (R.S.Q., chapter D-2) or under similar laws of a Canadian province in respect of his employment for the year;”.

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

c. I-3, s. 69,
replaced

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

Dues not
deductible

“69. Notwithstanding paragraphs *a*, *b*, *d*, *e* and *f* of section 68, the dues contemplated therein are not allowable to the extent that they are in fact collected under a retirement, annuities or insurance plan

or one for similar benefits or for any other purpose not directly connected with the ordinary operations of the committee or similar body, association or body to which they are paid.”

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

c. I-3, s. 82,
replaced

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

Income or
loss from
property

“**82.** For the purposes of this Part, income or loss from a property does not include, respectively, any capital gain or any capital loss resulting from the disposition of the property.”

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

c. I-3,
ss. 85.4-
85.6, added

18. (1) The said Act is amended by inserting, after section 85.3, the following sections:

«artistic en-
deavour»

“**85.4** For the purposes of sections 83 to 85.6, the expression “artistic endeavour” of an individual means the business of creating paintings, prints, etchings, drawings, sculptures or similar works of art, where such works of art are created by the individual, but does not include a business of reproducing works of art.

Value of
property in
inventory

“**85.5** Notwithstanding section 83, for the purpose of computing the income of an individual other than a trust for a taxation year from an artistic endeavour, the value of his property in inventory for that year is, if the individual so elects in his fiscal return under this Part for the year, deemed to be nil.

Election
pursuant to
s. 85.5

“**85.6** Where an individual makes an election pursuant to section 85.5 for a taxation year, the value of the property in his inventory in respect of his artistic endeavour is, for each subsequent taxation year, deemed to be nil.

Revocation
of election

Notwithstanding the foregoing, the election may be revoked with the concurrence of the Minister and on such terms and conditions as are specified by him.”

(2) This section applies to taxation years ending after 31 December 1984.

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

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

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

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

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

Inducement

“(w) any amount, other than a prescribed amount, received by the taxpayer in the year, in the course of earning income from a business or property, from a person who pays the amount in the course of earning income from a business or property or in order to achieve a benefit or advantage for himself or for persons with whom he does not deal at arm’s length, or from a government, municipality or other public authority where the amount can reasonably be considered to have been received as a reimbursement, contribution, allowance or as assistance, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of assistance, in respect of the cost of property or in respect of an expense, or as an inducement, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of inducement, to the extent that the amount

i. was not otherwise included in computing the taxpayer’s income for the year or a preceding taxation year;

ii. does not reduce, for the purposes of this Act, the cost or capital cost of the property or the amount of the expense;

iii. does not reduce, pursuant to paragraph *f.2* of section 257 or sections 101.6 and 101.7, the cost or capital cost of the property, as the case may be;

iv. may not reasonably be considered to be a payment made in respect of the acquisition by the person or the public authority of an interest in the taxpayer, his business or his property.”

(2) This section applies in respect of amounts received after 22 May 1985. However, it does not apply to amounts received after that date pursuant to the terms of an agreement in writing entered into before 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.

c. 1-3,
s. 87.3,
added

20. (1) The said Act is amended by inserting, after section 87.2, the following section:

Beneficiary
of trust or
member of
partnership

“**87.3** For the purposes of paragraph *w* of section 87, where at a particular time a taxpayer who is a beneficiary of a trust or a member of a partnership has received an amount in respect of the activities of the trust or partnership, or in respect of the cost of property or in respect of an expense of the trust or partnership, on any basis

contemplated in that paragraph, the amount is deemed to have been received at that time by the trust or partnership, as the case may be, on the same basis.”

(2) This section applies in respect of amounts received after 22 May 1985. However, it does not apply to amounts received after that date pursuant to the terms of an agreement in writing entered into before 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.

c. I-3, s. 88,
am.

21. (1) Section 88 of the said Act is amended by replacing the first paragraph by the following paragraph:

Cash bonus
on Québec
or Canada
Savings
Bonds

“**88.** Notwithstanding any other provision of this Act, where, in a taxation year, a taxpayer receives a cash bonus that the Gouvernement du Québec or the Government of Canada has undertaken to pay in respect of a Québec or Canada Savings Bond, he shall, in computing his income for the year, include as interest in respect of the Québec or Canada Savings Bond one-half of the cash bonus so received.”

(2) This section applies in respect of cash bonuses received after 31 December 1984.

c. I-3, s. 89,
am.

22. (1) Section 89 of the said Act, replaced by section 10 of chapter 19 of the statutes of 1986, is amended by replacing subparagraph *i* of subparagraph *b* of the first paragraph by the following subparagraph:

“*i.* of petroleum, natural gas or related hydrocarbons from a natural accumulation of petroleum or natural gas other than a mineral resource or from an oil or gas well;”.

(2) This section applies in respect of amounts that become receivable after 31 March 1985.

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

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

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

(2) by replacing the words “exceeds the aggregate of” at the end of subparagraph *ii.1* of paragraph *e* by the word “and”;

(3) by inserting, after subparagraph *ii.1* of paragraph *e*, the following subparagraph:

“ii.2 all amounts each of which is an amount repaid in respect of a property of the class subsequent to the disposition thereof by him that would have been an amount described in paragraph *b* of section 101.6 had the repayment been made before the disposition, exceeds the aggregate of”.

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

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

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

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

Property ac-
quired for
another pur-
pose

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

i. its fair market value at that time;

ii. the aggregate of its cost to him at that time determined without reference to this paragraph, paragraph *a* and subparagraph ii of paragraph *d*, and one-half of the amount by which his proceeds of disposition of the property exceeds the cost to him of the property immediately before that time, except to the extent that it can be established that a deduction under sections 726.6 to 726.20 was claimed by him in respect of that amount;”;

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

Property
used partly
to gain in-
come and
partly for
another pur-
pose

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

i. where the proportion of the use made of the property to gain income has increased at a particular time, the taxpayer is deemed to have acquired at that time depreciable property of that class at a capital cost equal to the aggregate of the proportion of the lesser of its fair market value at that time, and its cost to him at that time determined without reference to this subparagraph, subparagraph ii and paragraph *a* that the amount of the increase in the use regularly made by him of the property to gain income is of the whole of the use regularly made of it, and one-half of the amount by which his proceeds of disposition of the property exceeds the cost to him of the property immediately before that time, except to the extent that it can be established that a deduction under sections 726.6 to 726.20 was claimed by him in respect of that amount;

ii. where the proportion of the use made of the property to gain income has decreased at a particular time, the taxpayer is deemed to have disposed at that time of depreciable property of that class and the proceeds of disposition are deemed to be an amount equal to the proportion of the fair market value of the property as of that time that the amount of the decrease in the use regularly made by him of the property to gain income is of the whole of the use regularly made of it;

Depreciable
property of
a prescribed
class

“(d.1) notwithstanding any other provision of this Part, where at any time a particular person or partnership has, in any manner whatever, acquired a depreciable property of a prescribed class from a transferor being a person or partnership with whom the particular person or partnership did not deal at arm’s length and the property was a capital property of the transferor, the following rules apply:

i. where the transferor was an individual resident in Canada or a partnership any member of which was either an individual resident in Canada or another partnership and the cost of the property to the particular person or partnership at that time determined without reference to this paragraph exceeds the cost or capital cost, as the case may be, of the property to the transferor immediately before he disposed of it, the capital cost of the property to the particular person or partnership at that time is deemed to be the amount that is equal to the aggregate of the cost or capital cost, as the case may be, of the property to the transferor immediately before that time, and one-half of the amount by which the transferor’s proceeds of disposition of the property exceeds the cost or capital cost, as the case may be, of the property to the transferor immediately before that time, except to the extent that it can be established that a deduction under sections 726.6 to 726.20 was claimed by any person in respect of that amount and, for the purposes of paragraph *b* and subparagraph *i* of paragraph *d*, the cost of the property to the particular person or partnership is deemed to be the same amount;

ii. where the transferor is not a transferor described in subparagraph *i*, the rules provided in that subparagraph apply in the same manner, but without reference to the words “except to the extent that it can be established that a deduction under sections 726.6 to 726.20 was claimed by any person in respect of that amount”;

iii. where the cost or capital cost, as the case may be, of the property to the transferor immediately before he disposed of it exceeds the capital cost of the property to the particular person or partnership at that time determined without reference to this paragraph, the capital cost of the property to the particular person or partnership at that time is deemed to be an amount equal to the cost or capital cost, as the case may be,

of the property to the transferor immediately before he disposed of it and the excess is deemed to have been allowed as depreciation to the particular person or partnership in respect of the property under regulations made under paragraph *a* of section 130 in computing his or its income for taxation years ending before the acquisition of the property by the particular person or partnership.”

(2) This section applies in respect of property acquired after 22 May 1985 other than property acquired before 1 January 1986 pursuant to an agreement in writing entered into before 23 May 1985.

c. I-3,
s. 101,
replaced

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

Capital cost
of property
acquired
through as-
sistance

“**101.** For the purposes of this Part, where a taxpayer has received or is entitled to receive assistance from a government, municipality or other public authority in respect of, or for the acquisition of depreciable property, whether as a subsidy, grant, forgivable loan, deduction from tax, investment allowance or in any other form, the capital cost of the property to the taxpayer is deemed to be, unless otherwise prescribed, the amount by which the aggregate of the capital cost of the property determined without reference to this section and sections 101.6 and 101.7 and the amount of the assistance, in respect of that property, repaid by the taxpayer, pursuant to an obligation to repay, before the disposition of the property exceeds the amount of such assistance the taxpayer has received or is entitled to receive in respect of that property before the disposition thereof.”

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

c. I-3,
ss. 101.5-
101.7,
added

26. (1) The said Act is amended by inserting, after section 101.4, the following sections:

Corpora-
tions
controlled
by the same
trustee

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

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

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

Amount
elected as
capital cost
of property

“**101.6** Notwithstanding section 101, where a taxpayer has in a taxation year received an amount that would, but for this section, be included in his income under paragraph *w* of section 87 in respect of the cost of a depreciable property acquired by him in the year, in the three taxation years immediately preceding the year or in the taxation year immediately following the year, he may elect under this section on or before the day on or before which he is required to file his fiscal return under this Part for the year, or, where the property is acquired in the taxation year immediately following the year, for that following year, that the capital cost of the property to him be deemed to be the amount by which the aggregate of the following amounts exceeds the amount elected by him under this section:

(a) the capital cost of the property to him otherwise determined, applying section 101, where necessary;

(b) such part, if any, of the amount so received by the taxpayer as has been repaid by him pursuant to a legal obligation to repay all or any part of that amount, in respect of that property and before the disposition thereof by him, and as may reasonably be considered to be in respect of the amount elected under this section in respect of the property.

Limit

“**101.7** For the purposes of section 101.6, in no case shall the amount elected by the taxpayer under this section exceed the least of

(a) the amount received by the taxpayer and to which that section refers;

(b) the capital cost of the property to the taxpayer otherwise determined;

(c) where the taxpayer has disposed of the property before the year, nil.”

(2) This section applies from the taxation year 1985, but where it enacts section 101.5 of the Taxation Act, it applies in respect of property acquired after 22 May 1985 other than property acquired before 1 January 1986 pursuant to an agreement in writing entered into before 23 May 1985.

c. I-3,
s. 112.1,
added

27. (1) The said Act is amended by inserting, after section 112, the following section:

Stock divi-
dend

“**112.1** Notwithstanding sections 111 and 112, a person shall include in computing his income for a taxation year the fair market value of a stock dividend paid to him by a corporation in the year, except

to the extent that it is otherwise included in computing that person's income under subsection 1 of section 497, if it may reasonably be considered that one of the purposes of such payment was to significantly alter the value of the interest of any specified shareholder of the corporation."

(2) This section applies in respect of stock dividends paid after 21 November 1985 other than stock dividends declared before 22 November 1985.

c. I-3,
s. 119.2,
am.

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

(1) by replacing, in paragraph *e*, what precedes subparagraph i by the following:

«qualifying
debt obliga-
tion»

“(e) “qualifying debt obligation” of a corporation at any particular time means an obligation that is a bond, debenture, bill, note, hypothec, mortgage or similar obligation issued between 11 December 1979 and 1 January 1988 and not more than five years before the particular time, the principal amount of which is not less than \$10 000 nor more than \$500 000, that is issued for a term of not less than one year, except in the event of a failure or default under the terms or conditions of the obligation, nor more than five years, if the obligation is issued by the corporation in any of the circumstances described in subparagraphs i to iii of paragraph *c* of section 119.5 or if all of the proceeds from the issuance of the obligation before 1 February 1982 are used by the corporation”;

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

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

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

(3) Paragraph 2 of subsection 1 applies to taxation years ending after 23 May 1985.

c. I-3,
s. 119.4,
replaced

29. (1) Section 119.4 of the said Act is replaced by the following section:

Develop-
ment bond

“**119.4** Notwithstanding any other provision of this Part, where a corporation has issued an obligation that is at any time a development bond, the following rules apply:

(a) no deduction may be made in computing its income for a taxation year in respect of an amount paid or payable as interest on that bond, depending on the method regularly followed by the corporation in computing its income for a period that includes that time;

(b) any amount paid by the corporation as interest on the bond, to the extent that it is not allowed as a deduction by virtue of paragraph *a* is, when paid, deemed to have been paid as a taxable dividend.”

(2) This section has effect from 1 July 1985.

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

30. (1) Section 119.5 of the said Act is amended by replacing what precedes paragraph *a* by the following:

Deemed
taxable in-
come

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

(2) This section has effect from 1 July 1985, except where the part of section 119.5 of the Taxation Act enacted thereby refers to subparagraph *ii* of paragraph *e* of subsection 1 of section 771 and to paragraph *b* of section 771.8 of the said Act, in which case it has effect from 2 May 1986.

c. I-3,
s. 119.11,
am.

31. (1) Section 119.11 of the said Act is amended by replacing what precedes subparagraph *a* of the second paragraph by the following:

Joint elec-
tion in re-
spect of a
development
bond

“**119.11** Where a corporation or any corporation associated with the corporation, within the meaning of section 230.2, has made a joint election in respect of a development bond, section 119.9 does not apply with respect to the corporation nor to any corporation associated with that corporation that would, but for the said section 119.9, be an eligible corporation in respect of any obligation issued at any time after 23 May 1985 in circumstances described in any of subparagraphs *i* to *iii* of paragraph *c* of section 119.5.

Application The first paragraph applies only if the issue price of any such bond does not exceed the amount by which \$500 000 exceeds the aggregate of all amounts each of which is the principal amount outstanding at that time”.

(2) This section applies in respect of bonds issued after 23 May 1985.

c. I-3,
s. 119.15,
am.

32. (1) Section 119.15 of the said Act is amended by replacing, in paragraph *b*, what precedes subparagraph *i* by the following:

“qualifying
debt obliga-
tion”

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

(2) This section has effect from 1 July 1985.

c. I-3,
s. 119.17,
replaced

33. (1) Section 119.17 of the said Act is replaced by the following section:

Small busi-
ness bond

“**119.17** Where an individual or partnership has issued an obligation that is at any time a small business bond, notwithstanding any other provision of this Part, in computing his or its income for a taxation year, no deduction may be made in respect of any amount paid or payable as or on account of interest on the bond, depending on the method regularly followed by the individual or the partnership in computing his or its income, for a period that includes that time.”

(2) This section has effect from 1 July 1985.

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

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

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

Amount ad-
ded to tax
payable

“**119.18** Notwithstanding any other provision of this Part, where an individual or partnership has issued an obligation that is at any time a small business bond, the issuer shall add to his or its tax otherwise payable for a taxation year under this Part an amount equal to 28% of the amount of interest paid or payable in respect of the bond,

depending on the method regularly followed by the individual or the partnership in computing his or its income, in respect of a period of the year throughout which the obligation was a small business bond and throughout which”;

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

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

(2) This section has effect from 1 July 1985, but for the application of section 119.18 of the Taxation Act, as amended by this section, to the taxation year 1985, the reference in that section to “28%” shall be read as a reference to “33%”.

c. I-3,
s. 119.20,
replaced

35. (1) Section 119.20 of the said Act is replaced by the following section:

False decla-
ration

“**119.20** Where an individual or partnership knowingly or under circumstances amounting to gross negligence makes a false declaration in a joint election in respect of an obligation that was issued by the individual or partnership, the reference in section 119.18 to “28%” shall be read as a reference to “84%”.”

(2) This section has effect from 1 July 1985, but for the application of section 119.20 of the Taxation Act, as amended by this section, to the taxation year 1985, the references in that section to “28%” and “84%” shall be read as references to “33%” and “99%”, respectively.

c. I-3,
s. 119.22,
am.

36. (1) Section 119.22 of the said Act is amended by replacing what precedes subparagraph i of subparagraph *b* of the second paragraph by the following:

Majority
interest
partner
deemed to
be an eligi-
ble issuer

“**119.22** Where an individual, a partnership of which the individual is a majority interest partner, within the meaning assigned by section 616, or a corporation that is controlled by the individual, a related group of which the individual is a member, or a member of the partnership who is a majority interest partner of the partnership has previously made a joint election in respect of a small business bond or, in the case of a corporation, a development bond, the individual and any partnership of which the individual is a majority interest partner is deemed to be

an eligible issuer in respect of any additional small business bond that the individual or partnership may issue at any time after 23 May 1985 if at the time of its issue the issue price of such additional bond does not exceed the amount by which \$500 000 exceeds the aggregate described in the second paragraph.

Aggregate
defined

The aggregate referred to in the first paragraph is,

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

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

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

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

(2) This section applies in respect of obligations issued after 23 May 1985.

c. I-3,
s. 135, am.

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

Scientific
research

“(a) an amount in respect of scientific research and experimental development, except as provided by sections 222 to 230.11;”.

(2) This section applies to taxation years ending after 23 May 1985.

c. I-3,
s. 144, am.

38. (1) Section 144 of the said Act, amended by section 25 of chapter 19 of the statutes of 1986, is again amended by replacing subparagraph i of paragraph *b* of subsection 1 by the following subparagraph:

“i. petroleum, natural gas or related hydrocarbons from a natural accumulation of petroleum or natural gas in Canada other than a mineral resource or from an oil or gas well in Canada;”.

(2) This section applies in respect of amounts paid or payable after 31 March 1985.

c. I-3,
s. 145,
replaced

39. (1) Section 145 of the said Act is replaced by the following section:

Petroleum
or natural
gas accumu-
lations

“145. A taxpayer may deduct the amount determined under the regulations in respect of a natural accumulation of petroleum or natural gas, an oil or gas well or mineral resource in Canada.

Allowance

Such regulations may allow an amount for any or all accumulations, wells or mineral resources and the Government may prescribe a formula to determine such amount.”

(2) This section applies to taxation years ending after 31 March 1985.

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

40. (1) Section 157 of the said Act, amended by section 50 of chapter 15 of the statutes of 1986, by section 27 of chapter 19 of the statutes of 1986 and by section 13 of chapter 21 of the statutes of 1987, is again amended

(1) by replacing subparagraph *j* by the following subparagraph:

Inventory
deduction

“(j) an amount, in respect of the fiscal period of a business carried on by him in the year if the fiscal period coincides with the year or terminates in the year, equal to that proportion of the product of 3% of the cost amount to him, at the beginning of the fiscal period, of a corporeal property other than immovable property or an interest therein and other than currency that is held for other than its numismatic value, described in his inventory in respect of the business and held by him for sale or for being transformed or otherwise changed into a property for sale in the ordinary course of the business, incorporated or annexed to such property or used in the packing of such property, that the number of days in the fiscal period is of 365;”;

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

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

Repayment
of inducement

“(o) an amount repaid by the taxpayer in the year pursuant to a legal obligation to repay all or part of an amount included under paragraph *w* of section 87 in computing his income for the year or a preceding taxation year.”

(2) Paragraph 1 of subsection 1 applies to taxation years beginning after 23 May 1985.

(3) Paragraphs 2 and 3 of subsection 1 apply from the taxation year 1985.

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

41. (1) Section 175.2 of the said Act is amended

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

(2) by striking out paragraphs *e* to *h*.

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

c. I-3,
s. 175.3,
repealed

42. (1) Section 175.3 of the said Act is repealed.

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

c. I-3,
s. 218,
replaced

43. (1) Section 218 of the said Act is replaced by the following section:

Shares paid
to prospec-
tor as
considera-
tion for min-
ing property

“218. Where a prospector receives a share of the capital stock of a corporation as consideration for the disposition to the corporation of a mining property or interest in that property acquired by him as a result of his efforts as a prospector, the following rules apply:

(a) he shall not include any amount in respect of the receipt of the share in computing his income, except as provided in paragraph *b*, or in computing the amount contemplated in paragraph *b* of section 412;

(b) he shall include in respect of the receipt of the share in computing his income for the year in which the share is disposed of or exchanged an amount equal to the lesser of the following amounts:

i. the fair market value of the share at the time of its acquisition;

ii. the fair market value of the share at the time of its disposition or exchange;

(c) he shall not include any amount in computing the cost of the share in respect of the disposition of the mining property or the interest therein, as the case may be;

(d) the corporation shall not include any amount in respect of the share in computing the cost of the mining property or the interest therein;

(e) for the purpose of paragraph *b*, a prospector is deemed to have disposed of or exchanged shares that are identical properties in the order in which they were acquired.”

(2) This section applies in respect of shares received after 22 May 1985.

c. I-3, s. 220,
am.

44. (1) Section 220 of the said Act is amended by adding the following paragraph:

Restriction

“Notwithstanding the foregoing, the rules provided in paragraphs *b* and *e* of section 218 do not apply to such person unless he is an individual or a partnership other than a partnership each member of which is a taxable Canadian corporation.”

(2) This section applies in respect of shares received after 22 May 1985.

c. I-3, s. 222
and heading,
replaced

45. (1) The heading of Division XI of Chapter V of Title III of Book III of Part I and section 222 of the said Act are replaced by the following:

“SCIENTIFIC RESEARCH AND EXPERIMENTAL DEVELOPMENT

Deduction
of expendi-
tures

“222. (1) A taxpayer who carries on a business in Canada and who files with his fiscal return under this Part for a taxation year a prescribed form containing prescribed information may deduct in computing his income for that taxation year an amount not exceeding his expenditures of a current nature made in Canada in that year or in any previous taxation year ending after 1973, on scientific research and experimental development related to his business and directly undertaken by him or on his behalf, and the expenditures of a current nature made by him in Canada in such a year for scientific research and experimental development:

(a) to an association recognized by the Minister, to undertake scientific research and experimental development related to the class of business of the taxpayer;

(b) to a university, college, research institute or other similar institution recognized by the Minister, to be used for scientific research and experimental development related to the class of business of the taxpayer;

(c) to a corporation resident in Canada and exempt from tax under section 991;

(d) to a corporation resident in Canada, for scientific research and experimental development related to the class of business of the taxpayer.

« scientific
research and
experimental
develop-
ment »

(2) For the purposes of this division, the expression “scientific research and experimental development” has the meaning given to it by regulation.”

(2) This section applies to taxation years ending after 23 May 1985, except that the prescribed form referred to in section 222 as enacted by it may be filed not later than 29 February 1988.

c. I-3,
s. 223, am.

46. (1) Section 223 of the said Act is amended by replacing what precedes paragraph *b* by the following:

Other
deductible
expendi-
tures

“223. A taxpayer may also deduct as expenditures in respect of scientific research and experimental development in the year an amount not exceeding the lesser of:

(a) the expenditures of a capital nature made in Canada to acquire property other than land in the year or in any previous year ending after 1958 on scientific research and experimental development relating to the business of the taxpayer and directly undertaken by him or on his behalf;”

(2) This section applies to taxation years ending after 23 May 1985.

c. I-3,
s. 224,
replaced

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

Repayment
of amounts
paid to in-
crease tech-
nological
capability of
an industry

“224. A taxpayer may also deduct all amounts included by virtue of paragraph *t* of section 87 in computing his income for any previous taxation year and, to the extent prescribed, an amount not exceeding the expenditures made in the year or in any previous taxation year ending after 1973 as repayment of amounts paid to him in respect of expenditures on scientific research and experimental development incurred for the purpose of advancing or sustaining the technological capability of a Canadian industry.”

(2) This section applies to taxation years ending after 23 May 1985.

c. I-3,
ss. 226-228,
replaced

48. (1) Sections 226 to 228 of the said Act are replaced by the following sections:

Research
and de-
velopment
carried on
outside
Canada

“226. The taxpayer contemplated in section 222 may also deduct expenditures of a current nature he makes in the year on scientific research and experimental development related to his business and carried on by him or on his behalf outside Canada and payments made for similar purposes to the organizations mentioned in paragraphs *a* and *b* of subsection 1 of section 222.

Advice

“227. The Minister may obtain the advice of the Ministère de l'Industrie et du Commerce or any Government commission carrying on activities in the field of scientific research and experimental

development as to whether any particular activity constitutes scientific research and experimental development.

Restrictions
respecting
certain ex-
penditures

“**228.** No deduction may be made under this division in respect of an expenditure made to acquire rights in or arising out of scientific research and experimental development and no deduction permitted under this division may be claimed under section 710.”

(2) This section applies to taxation years ending after 23 May 1985.

c. I-3,
s. 230,
replaced

49. (1) Section 230 of the said Act is replaced by the following section:

Expendi-
tures on re-
search and
development

“**230.** Expenditures on scientific research and experimental development include only

(a) in the cases referred to in section 226,

i. expenditures each of which was an expenditure incurred for and all or substantially all of which was attributable to the prosecution of scientific research and experimental development, and

ii. expenditures of a current nature that were directly attributable, as determined by regulation, to the prosecution of scientific research and experimental development;

(b) in cases other than those referred to in section 226,

i. expenditures each of which was an expenditure incurred for and all or substantially all of which was attributable to the prosecution, or to the provision of premises, facilities or equipment for the prosecution of scientific research and experimental development in Canada, and

ii. expenditures of a current nature that were directly attributable, as determined by regulation, to the prosecution, or to the provision of premises, facilities or equipment for the prosecution, of scientific research and experimental development in Canada.

Type of re-
search and
development
included

Scientific research and experimental development relating to a business or class of business includes any scientific research and experimental development that may lead to or facilitate an extension of that business or class of business.”

(2) This section applies in respect of expenditures made in taxation years ending after 23 May 1985, except that where it refers to the notion of “experimental development”, it applies to taxation years ending after 23 May 1985.

c. I-3, heading, replaced

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

"ADDITIONAL ALLOWANCE FOR SCIENTIFIC RESEARCH
AND EXPERIMENTAL DEVELOPMENT".

(2) This section applies to taxation years ending after 23 May 1985.

c. I-3, s. 230.1, am.

51. (1) Section 230.1 of the said Act is amended

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

«*qualified expenditure*»

“(b) “qualified expenditure” of a corporation for a taxation year means the aggregate of expenditures, other than prescribed expenditures, that are either expenditures that the corporation made in the year in respect of scientific research and experimental development carried on in Canada or to acquire property that had not been used for any purpose whatever before it was acquired, that are expenditures referred to in subsection 1 of section 222 or in paragraph *a* of section 223, as the case may be, or amounts paid by it during the year to Her Majesty in right of Canada or of a province to the extent that the amounts may reasonably be considered to be a repayment of an amount described in paragraph *a* of section 230.3, that the corporation has received;”;

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

«*scientific research and experimental development*»

“(e) “scientific research and experimental development” has the meaning given to that expression by regulation.”

(2) This section applies to taxation years ending after 23 May 1985.

c. I-3, s. 230.3, am.

52. (1) Section 230.3 of the said Act is amended by replacing paragraphs *a* and *b* by the following paragraphs:

“(a) Her Majesty in right of Canada or of a province in respect of scientific research and experimental development to the extent that the amounts may reasonably be considered to relate to the qualified expenditure of the corporation in a taxation year ending after 1977 or the cost of or depreciation on any research property of the corporation;

“(b) a corporation resident in Canada for scientific research and experimental development related to the business of the latter; or”.

(2) This section applies to taxation years ending after 23 May 1985.

c. I-3,
s. 230.8,
am.

53. (1) Section 230.8 of the said Act is amended by replacing paragraphs *a* and *b* by the following paragraphs:

“(a) if the payment so made would otherwise be included in the qualified expenditure made by the corporation in the taxation year, such portion of the payment as may reasonably be regarded as having been made on account of scientific research and experimental development to be effected by the other corporation in a taxation year ending after the particular calendar year is deemed to have been paid on the last day of such latter taxation year; and

“(b) if the payment is received by the other corporation in a taxation year ending in a calendar year preceding the particular calendar year, and that payment may reasonably be regarded as a payment to that other corporation on account of scientific research and experimental development to be effected by it in a taxation year following the year in which the payment was received by it, the payment is deemed to have been made to it on the last day of that following taxation year.”

(2) This section applies to taxation years ending after 23 May 1985.

c. I-3,
s. 232, am.

54. (1) Section 232 of the said Act, amended by section 40 of chapter 19 of the statutes of 1986, is again amended by replacing the first paragraph by the following paragraph:

Capital gain
or loss

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

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

c. I-3,
s. 232.1,
am.

55. (1) Section 232.1 of the said Act is amended by replacing the first paragraph by the following paragraph:

Business in-
vestment
loss

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

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

c. I-3,
s. 234.1,
am.

56. (1) Section 234.1 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(c) a share of the capital stock of a small business corporation.”

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

c. I-3,
s. 236.1,
am.

57. (1) Section 236.1 of the said Act, amended by section 41 of chapter 19 of the statutes of 1986, is again amended by adding, after the third paragraph, the following paragraph:

“Lastly, a business investment loss is computed by subtracting the amount determined in respect of the taxpayer under section 264.4 or 264.5, as the case may be.”

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

Subtraction
from busi-
ness invest-
ment loss

c. I-3,
s. 238, am.

58. (1) Section 238 of the said Act is amended

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

(2) by striking out paragraph *d*.

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

c. I-3,
ss. 241.1,
241.2,
repealed

59. (1) Sections 241.1 and 241.2 of the said Act are repealed.

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

c. I-3,
s. 242, am.

60. (1) Section 242 of the said Act is amended by replacing the second paragraph by the following paragraph:

Exception

“Prescribed property and property that would be taxable Canadian property if the taxpayer had not been resident in Canada during the year are not subject to this rule except where the taxpayer is an individual other than a trust and he has elected in prescribed manner and within a prescribed time to be deemed to have disposed of such property immediately before the particular time.”

(2) This section applies from the taxation year 1985, except that where it applies to the taxation year 1985, the second paragraph of section 242 of the Taxation Act as enacted by it shall be read as follows:

Exception

“Property which is an indexed security, prescribed property or property which would be taxable Canadian property if the taxpayer had not been resident in Canada during the year is not subject to this

rule, except where the taxpayer is an individual other than a trust and he has elected in prescribed manner and within a prescribed time to be deemed to have disposed of such property immediately before the particular time.”

c. I-3,
s. 244,
repealed

61. (1) Section 244 of the said Act is repealed.

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

c. I-3,
s. 245,
replaced

62. (1) Section 245 of the said Act is replaced by the following section:

Aggregate
of allowable
capital losses
after
election

“**245.** Where a taxpayer has made the election contemplated in section 242 or 243, the aggregate of his allowable capital losses for the year from the disposition contemplated in section 242 of property other than precious property is deemed to be the lesser of that aggregate otherwise determined and the aggregate of his taxable capital gains for the year from the disposition contemplated in section 242 of his property other than his precious property.”

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

c. I-3,
s. 250.2,
replaced

63. (1) Section 250.2 of the said Act is replaced by the following section:

“Canadian
security”

“**250.2** For the purposes of this division, “Canadian security” means a security, other than a prescribed security, that is a share of the capital stock of a corporation resident in Canada, a unit of a mutual fund trust, or a bond, debenture, bill, note, hypothec, mortgage or other similar obligation issued by a person resident in Canada.”

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

c. I-3,
s. 251,
replaced

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

Proceeds of
disposition
of property

“**251.** The proceeds of disposition of property include, for the purposes of this Title, the same elements as the proceeds of disposition of property referred to in paragraph *f* of section 93 and any amount deemed not to be a dividend under paragraph *b* of section 568; it does not include an amount deemed to be a dividend paid to a taxpayer under sections 517.1 to 517.3.1, an amount deemed to be a dividend received under section 508 to the extent that it refers to a dividend deemed paid under sections 505 and 506 and not deemed not to be a dividend under paragraph *a* of section 308.1 or under paragraph *b* of section 568, nor a prescribed amount.”

(2) This section applies from the taxation year 1986, except that where section 251 of the Taxation Act as enacted by it refers to “an amount deemed to be a dividend paid to a taxpayer under sections 517.1 to 517.3.1”, it applies in respect of dispositions made after 22 May 1985.

c. I-3,
s. 257, am.

65. (1) Section 257 of the said Act, amended by section 43 of chapter 19 of the statutes of 1986, is again amended

(1) by replacing paragraph *f.1* by the following paragraphs:

“(f.1) where the property is a debt owing to the taxpayer by a corporation, the amount required by section 511, or sections 517.1 to 517.6 as they applied before 23 May 1985, to be deducted before the particular time in computing the adjusted cost base of that debt;

“(f.2) the amount by which the amount elected by the taxpayer before the particular time under section 257.2 exceeds any repayment before that time by the taxpayer of an amount received by him as described in section 257.2 that may reasonably be considered to relate to the amount elected where the repayment is made pursuant to a legal obligation to repay all or any part of the amount so received;”;

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

“ii. any amount required by sections 517.1 to 517.6, as they applied before 23 May 1985, to be deducted before the particular time in computing the adjusted cost base of that share;”;

(3) by striking out paragraph *j.1*.

(2) Paragraphs 1 and 2 of subsection 1 apply from the taxation year 1985.

(3) Paragraph 3 of subsection 1 applies in respect of dividends paid after 23 May 1985.

c. I-3,
s. 257.2,
added

66. (1) The said Act is amended by inserting, after section 257.1, the following section:

Election

“**257.2** For the purposes of paragraph *f.2* of section 257, where a taxpayer has in a taxation year received an amount that would, but for this section, be included in computing his income under paragraph *w* of section 87 in respect of the cost of a property acquired by him in the year, in the three taxation years immediately preceding the year or in the taxation year immediately following the year, he may elect under this section on or before the date on or before which he is required

to file his fiscal return under this Part for the year or, where the property is acquired in the immediately following year, for that following year, to reduce the cost of the property by such amount as he may specify, not exceeding the least of

(a) the adjusted cost base, determined without reference to paragraph *f.2* of section 257, at the time the property was acquired;

(b) the amount so received by the taxpayer;

(c) where the taxpayer has disposed of the property before the year, nil.”

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

c. I-3,
s. 260.1,
repealed

67. (1) Section 260.1 of the said Act is repealed.

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

c. I-3,
ss. 264.2,
264.3,
replaced

68. (1) Sections 264.2 and 264.3 of the said Act are replaced by the following sections:

Unused
scientific re-
search and
experimen-
tal develop-
ment tax
credit

“**264.2** The amount of any unused scientific research and experimental development tax credit, within the meaning of paragraph *b* of subsection 2 of section 127.3 of the Income Tax Act (Statutes of Canada), of a corporation for a particular taxation year, to the extent that it was not deducted from its tax otherwise payable under Part I of that Act for the immediately preceding taxation year, is deemed to be a capital loss of the corporation from a disposition of property for the year immediately following the particular taxation year.

Unused
scientific re-
search and
experimen-
tal develop-
ment tax
credit

“**264.3** The amount of any unused scientific research and experimental development tax credit, within the meaning of paragraph *b* of section 776.6, of an individual for a particular taxation year, to the extent that it was not deducted from his tax otherwise payable under this Part for the immediately preceding taxation year, and in the proportion of 200% of the product obtained by multiplying that amount not so deducted by the inverse proportion of what is determined pursuant to the second paragraph of section 22, 25 or 26, as the case may be, for the particular taxation year, is deemed to be a capital loss of the individual from a disposition of property for the year immediately following the particular taxation year.

"DIVISION III.2

"DEDUCTION FROM BUSINESS INVESTMENT LOSS

Amounts to
be deducted
from invest-
ment busi-
ness loss

"264.4 An individual other than a trust, in computing his business investment loss for a taxation year from the disposition of a particular property, shall deduct an amount equal to the lesser of

(a) the amount that would be his business investment loss from the disposition of that particular property if section 236.1 were read without reference to the fourth paragraph thereof;

(b) the amount by which twice the aggregate of all the amounts deducted by the individual under sections 726.6 to 726.20 in computing his taxable income for taxation years preceding the year exceeds the aggregate of all amounts deducted by him under the fourth paragraph of section 236.1 in computing his business investment loss from the disposition of property in taxation years preceding the year, or from the disposition of property other than the particular property in the year.

Amounts to
be deducted
from invest-
ment busi-
ness loss

"264.5 A trust, in computing its business investment loss for a taxation year from the disposition of a particular property, shall deduct an amount equal to the lesser of

(a) the amount that would be its business investment loss from the disposition of that particular property if section 236.1 were read without reference to the fourth paragraph thereof;

(b) the amount by which twice the amount designated by the trust under section 668.1 in respect of a beneficiary in its fiscal return for taxation years preceding the year exceeds the aggregate of all amounts deducted by the trust under the fourth paragraph of section 236.1, in computing its business investment loss from the disposition of property in taxation years preceding the year, or from the disposition of property other than the particular property in the year."

(2) This section applies to taxation years ending after 23 May 1985, except that where it enacts Division III.2 of Chapter IV of Title IV of Book I of Part I of the Taxation Act, it applies from the taxation year 1986.

c. I-3,
s. 294, am.

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

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

(2) by striking out paragraph *c* of the second paragraph.

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

c. 1-3,
s. 296,
replaced

70. (1) Section 296 of the said Act is replaced by the following section:

Rules ap-
plicable
where op-
tion exer-
cised

“296. Where an option to purchase or sell is exercised for purposes of computing the income of the vendor, other than an individual in the case of an option to purchase, and the purchaser, the granting of the option and the exercise thereof are deemed not to be dispositions of property and the following rules apply:

(a) in the case of an option to purchase, the consideration received by the vendor for such option must be included in computing the proceeds of disposition to him of the property, and the adjusted cost base of the option to the purchaser must be included in computing the cost of the property to him;

(b) in the case of an option to sell, the adjusted cost base of the option to the vendor must be deducted in computing the proceeds of disposition to him of the property and the consideration received by the purchaser for such option must be deducted in computing the cost of the property to him.”

(2) This section applies in respect of dispositions of property under options granted, renewed or extended after 21 November 1985, except that with respect to the taxation year 1985, paragraphs *a* and *b* of section 296 of the Taxation Act as enacted by it shall be read as follows:

“(a) in the case of an option to purchase, the consideration received by the vendor for such option must be included in computing the proceeds of disposition to him of the property, other than a property that is an indexed security, and the adjusted cost base of the option to the purchaser must be included in computing the cost of the property to him, other than a property acquired by him under an indexed security investment plan;

“(b) in the case of an option to sell, the adjusted cost base of the option to the vendor must be deducted in computing the proceeds of disposition to him of the property, other than a property that is an indexed security, and the consideration received by the purchaser for such option must be deducted in computing the cost of the property to him, other than a property acquired by him under an indexed security investment plan.”

c. 1-3,
s. 297, am.

71. (1) Section 297 of the said Act is amended by replacing what precedes paragraph *a* by the following:

Option exercised in subsequent taxation year

“297. Where an option granted by a taxpayer in a taxation year is exercised in a subsequent taxation year other than an option to purchase granted by an individual, the taxpayer may file an amended fiscal return to exclude from his income for the taxation year the amount received as consideration for the option:”.

(2) This section applies in respect of dispositions of property under options granted, renewed or extended after 21 November 1985.

c. I-3,
s. 299, am.

72. (1) Section 299 of the said Act is amended by replacing the second paragraph by the following paragraph:

Bad debts

“The same rule applies where the taxpayer is the owner, at the end of a taxation year, of a share other than a share received by him as consideration in respect of the disposition of personal-use property, of the capital stock of

(a) a corporation that has during the year become a bankrupt within the meaning of section 777; or

(b) a corporation referred to in section 6 of the Winding-up Act (Statutes of Canada) that is insolvent within the meaning of that Act and in respect of which a winding-up order under that Act has been made in the year.”

(2) This section applies in respect of the taxation year 1985.

c. I-3,
s. 301, am.

73. (1) Section 301 of the said Act, replaced by section 55 of chapter 19 of the statutes of 1986, is amended

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

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

“(c) for the purposes of sections 462.11 to 462.24, the exchange is deemed to be a transfer of the exchanged capital property by the taxpayer to the corporation.”

(2) This section applies in respect of exchanges of property occurring after 21 November 1985.

c. I-3,
s. 305,
replaced

74. (1) Section 305 of the said Act is replaced by the following section:

Cost of stock dividend

“305. A shareholder of a corporation who receives after 1971 a stock dividend, in respect of a share owned by him of the capital stock

of the corporation, is deemed to acquire the share received by him at a cost equal to the aggregate of

(a) the amount of the stock dividend, and

(b) the amount included under section 112.1 in computing the shareholder's income in respect of the stock dividend."

(2) This section applies in respect of stock dividends received after 23 May 1985 other than such stock dividends that were declared by the corporation before 24 May 1985 and paid before 1 January 1986.

c. I-3,
ss. 307.1-
307.23,
repealed

75. (1) Sections 307.1 to 307.23 of the said Act are repealed.

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

c. I-3,
s. 307.24,
added

76. (1) The said Act is amended by inserting, immediately before Division XV of Chapter IV of Title IV of Book III of Part I, the following section:

Transitional
rules for
taxation
year 1986

"307.24 Where a taxpayer was a participant under an indexed security investment plan on 1 January 1986, the following rules apply:

(a) each indexed security owned under the Plan by the taxpayer on that date is deemed to have been disposed of by him under the Plan at its fair market value on that date and to have been reacquired outside the Plan by the taxpayer immediately after that date at a cost equal to that fair market value;

(b) each put or call option referred to in section 307.12 outstanding under the Plan is deemed to have been closed out under the Plan by the taxpayer on that date at a cost equal to the amount that the taxpayer would have had to pay on that date if he had actually closed out the option on a prescribed stock exchange in Canada and to have been written outside the Plan immediately after that date for proceeds of disposition equal to that amount;

(c) the taxpayer's gains for the year from the actual or deemed disposition of an indexed security under the Plan shall not be included in computing his income for the taxation year 1986, nor may his losses for the year from that disposition be deducted in such computation."

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

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

77. (1) Section 312 of the said Act, amended by section 60 of chapter 15 of the statutes of 1986 and amended, in the French text,

by section 58 of chapter 19 of the statutes of 1986, is again amended by replacing paragraph *g* by the following paragraph:

Scholarships
or other
prizes

“(g) the excess, over \$500, of the aggregate of all amounts other than an amount contemplated in paragraph *i* of section 311, an amount received in the course of business and an amount received in respect of or by virtue of an office or employment, received by the taxpayer in the year as a scholarship, fellowship or bursary or a prize for achievement in a field of endeavour ordinarily carried on by the taxpayer;”.

(2) This section applies in respect of amounts received after 23 May 1985.

c. 1-3,
s. 330, am.

78. (1) Section 330 of the said Act, amended by section 60 of chapter 19 of the statutes of 1986, is again amended by replacing paragraph *e* by the following paragraph:

“(e) the amount by which the total of the aggregate described in section 412 and the amount designated by him for the year for the purposes of the Income Tax Act (Statutes of Canada) under subsection 14.2 of section 66 of the said Act exceeds the aggregate described in section 411 at the end of the year;”.

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

c. 1-3,
s. 359, am.

79. (1) Section 359 of the said Act, amended by section 67 of chapter 19 of the statutes of 1986, is again amended by replacing paragraph *d* by the following paragraph:

“oil or gas
well”

“(d) “oil or gas well” means any well, other than an exploratory probe or a well drilled from below the surface of the earth, drilled for the purpose of producing petroleum or natural gas or of determining the existence, location, extent or quality of a natural accumulation of petroleum or natural gas.”

(2) This section applies to taxation years ending after 31 March 1985.

c. 1-3,
s. 360, am.

80. (1) Section 360 of the said Act, replaced by section 68 of chapter 19 of the statutes of 1986, is amended

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

Allowances
for oil or
gas well or
mineral
resources

“**360.** A taxpayer may deduct, in computing his income for a taxation year, the amount determined by regulation as an allowance

in respect of a natural accumulation of petroleum or natural gas, oil or gas well, mineral resource or timber limit, or in respect of”;

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

Determina-
tion of
amount

“Such regulation may allow an amount for only a part of or for all of the natural accumulations of petroleum or natural gas, oil or gas wells or mineral resources in which the taxpayer has an interest, or of the ore processing operations referred to in the first paragraph and carried on by the taxpayer, and the Government may prescribe a formula to determine such amount.”

(2) This section applies to taxation years ending after 31 March 1985.

c. I-3,
s. 370, am.

81. (1) Section 370 of the said Act, amended by section 71 of chapter 19 of the statutes of 1986, is again amended by replacing paragraphs *c* and *d* by the following paragraphs:

“(c) any oil or gas well in Canada or any real property in Canada the principal value of which depends upon its petroleum or natural gas content, but not including any depreciable property used or to be used in connection with the extraction or removal of petroleum or natural gas therefrom;

“(d) any rental or royalty computed by reference to the amount or value of production from an oil or gas well in Canada or from a natural accumulation of petroleum or natural gas in Canada;”.

(2) This section applies to taxation years ending after 31 March 1985.

c. I-3,
s. 374, am.

82. (1) Section 374 of the said Act, amended by section 72 of chapter 19 of the statutes of 1986, is again amended by replacing subparagraph *i* of paragraph *b* by the following subparagraph:

“i. his income for the taxation year which may reasonably be attributed to the production of petroleum or natural gas from natural accumulations thereof outside Canada or from oil or gas wells outside Canada, or to the production of minerals from mines outside Canada and that which derives from royalties in respect of such an accumulation, well or a mine outside Canada, and”.

(2) This section applies to taxation years ending after 31 March 1985.

c. I-3,
s. 377, am.

83. (1) Section 377 of the said Act, amended by section 74 of chapter 19 of the statutes of 1986, is again amended by replacing paragraph *b* by the following paragraph:

“(b) the production of petroleum or natural gas from natural accumulations thereof or from oil or gas wells or the production of minerals from mines, situated on property in Canada in respect of which the person from whom property was acquired in accordance with the said section 376 had, immediately before the acquisition, an interest or a right of removal; and”.

(2) This section applies to taxation years ending after 31 March 1985.

c. I-3,
s. 380, am.

84. (1) Section 380 of the said Act, amended by section 76 of chapter 19 of the statutes of 1986, is again amended by replacing paragraph *b* of subsection 2 by the following paragraph:

“(b) the production of petroleum or natural gas from natural accumulations thereof or from oil or gas wells or the production of minerals from mines, situated on property outside Canada in respect of which the person from whom property was acquired in accordance with subsection 1 had, immediately before the acquisition, an interest or a right of removal; and”.

(2) This section applies to taxation years ending after 31 March 1985.

c. I-3,
s. 384.1,
am.

85. (1) Section 384.1 of the said Act, amended by section 77 of chapter 19 of the statutes of 1986, is again amended

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

(2) by replacing subparagraph *iv* of paragraph *d* by the following subparagraph:

“iv. the production contemplated in paragraph *b* of section 377, paragraph *b* of subsection 2 of section 380, paragraph *b* of section 404, subparagraph *i* of paragraph *c* of subsection 2 of section 415 and paragraph *a* of sections 415.2 and 418.10 is deemed to include the production from natural accumulations of petroleum or natural gas, oil or gas wells or mines, as the case may be, situated on property in respect of which the corporation had an interest or a right of removal in the year and before that time;”;

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

“(e) any other corporation, in this paragraph and in section 384.1.1 referred to as the “subsidiary”, which is at that time a subsidiary wholly-owned corporation, within the meaning assigned by subsection 5 of section 544, of the corporation, in this paragraph and in section 384.1.1 referred to as the “parent”, may designate in favour of the parent in respect of a taxation year of the subsidiary ending after that time the amount computed under section 384.1.1, to the extent that the amount is not designated in favour of another taxpayer under this paragraph and only if both corporations agree to have this paragraph apply to them in respect of that year and notify the Minister in writing of the agreement in the return of income under this Part of the subsidiary for that year; the amount so designated is deemed, for the purposes of determining an amount under section 377, subsection 2 of section 380, section 404, paragraph *c* of subsection 2 of section 415 and sections 415.2 and 418.10, to be the income from the sources described in paragraph *a* or *b*, as the case may be, of section 384.1.1, of the parent for its taxation year in which that taxation year of the subsidiary ends, and not to be the income from those sources of the subsidiary for that year.”

(2) Paragraphs 1 and 3 of subsection 1 apply from the taxation year 1985, except that a notice referred to in paragraph *e* of section 384.1 of the Taxation Act, as enacted by the said paragraph 3, of an agreement between a subsidiary and a parent to have that paragraph *e* apply to them in respect of a taxation year of the subsidiary that ended after 1984 and before the day this Act is assented to, that is filed in writing with the Minister not later than 90 days after the day this Act is assented to is deemed to have been given in the return of income of the subsidiary under Part I of the Taxation Act for that taxation year.

(3) Paragraph 2 of subsection 1 applies to taxation years ending after 31 March 1985.

c. 1-3,
s. 384.1.1,
added

86. (1) The said Act is amended by inserting, after section 384.1, the following section:

Income of
subsidiary

“**384.1.1** The amount referred to in paragraph *e* of section 384.1 is such portion of the income of the subsidiary for the year referred to in that paragraph before any deduction under sections 360 to 418.14 and 419.1 to 419.4 and section 86 of the Act respecting the application of the Taxation Act (1972, chapter 24) as may reasonably be attributed to

(a) the production of petroleum or natural gas from natural accumulations thereof or from oil or gas wells, or the production of

minerals from mines, situated on property in respect of which the subsidiary had, immediately before the time referred to in section 384.1, an interest or right of removal; and

(b) the disposition of any Canadian resource property or foreign resource property, owned by the subsidiary immediately before the time referred to in section 384.1.”

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

c. I-3,
ss. 392.2,
392.3,
added

87. (1) The said Act is amended by inserting, after section 392.1, the following sections:

Designation
of amount

“**392.2** Where a corporation designates an amount for a taxation year for the purposes of the Income Tax Act (Statutes of Canada) under subsection 14.1 of section 66 of the said Act, the amount designated shall be deducted in computing its cumulative Canadian exploration expenses at any time after the end of the year.

Designation
of amount

“**392.3** Where a corporation designates an amount for a taxation year for the purposes of the Income Tax Act (Statutes of Canada) under subsection 14.2 of section 66 of the said Act, the amount designated shall be deducted in computing its cumulative Canadian development expenses at any time after the end of the year.”

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

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

88. (1) Section 395 of the said Act, amended by section 80 of chapter 15 of the statutes of 1986 and by section 80 of chapter 19 of the statutes of 1986, is again amended by inserting, after paragraph *a*, the following paragraph:

“(a.1) any expense, including clearing, removing overburden and stripping, sinking a well and constructing an adit or other underground entry, incurred by him after 31 March 1985 for the purpose of bringing a natural accumulation of petroleum or natural gas, other than a mineral resource, in Canada into production other than an expense incurred in drilling or completing an oil or gas well or in building a temporary access road to, or preparing a site in respect of, any such well and incurred prior to the commencement of the production, other than the production from an oil or gas well, in reasonable commercial quantities from such accumulation;”.

(2) This section applies in respect of expenses incurred after 31 March 1985.

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

89. (1) Section 399 of the said Act is amended

- (1) by striking out the word “and” at the end of paragraph *d*;
- (2) by replacing the period at the end of paragraph *e* by a semicolon;
- (3) by adding, after paragraph *e*, the following paragraph:

“(f) all amounts that are required to be deducted before that time under section 392.2 in computing his cumulative Canadian exploration expenses.”

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

c. I-3,
s. 400, am.

90. (1) Section 400 of the said Act is amended

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

Deductions
by a de-
velopment
corporation
or a taxpay-
er carrying
on a mining
business

“**400.** A development corporation or any other taxpayer carrying on a mining business must deduct, in computing its income for a taxation year, the amount by which its cumulative Canadian exploration expenses at the end of the year exceed the amount designated by it for the year for the purposes of the Income Tax Act (Statutes of Canada) under subsection 14.1 of section 66 of the said Act, not exceeding the amount its income for the year would be, computed without taking into account sections 332.1 and 332.2, if no deduction, other than a prescribed deduction, were allowed under this section and sections 360 and 361, minus the deductions allowed for the year under sections 738 to 749.”;

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

“(b) the amount by which the amount described in the first paragraph exceeds the amount that its income for the year would be as described in the said paragraph; or”.

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

c. I-3,
ss. 401-403,
replaced

91. (1) Sections 401 to 403 of the said Act, replaced by section 81 of chapter 19 of the statutes of 1986, are again replaced by the following sections:

Deductions
for other
taxpayers

“**401.** A taxpayer not contemplated in section 400 may deduct in computing his income for a taxation year an amount not exceeding the amount by which his cumulative Canadian exploration expenses at the end of the year exceeds the amount designated by him for the year for the purposes of the Income Tax Act (Statutes of Canada) under subsection 14.1 of section 66 of the said Act.

Successor
corporation's
Canadian
exploration
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 cumulative Canadian exploration expenses of the person from whom property was so acquired, determined immediately after the acquisition was made and only to the extent that such expenses 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 cumulative Canadian exploration expenses 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, to the extent that such expenses 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 from the taxation year 1985.

c. I-3,
s. 404, am. **92.** (1) Section 404 of the said Act, amended by section 82 of chapter 19 of the statutes of 1986, is again amended by replacing paragraph *b* by the following paragraph:

“(b) the production of petroleum or natural gas from natural accumulations thereof or from oil or gas wells or the production of minerals from mines, situated on property in Canada in respect of which the person from whom property was acquired in accordance with the said section 402 had, immediately before the acquisition, an interest or a right of removal; and”.

(2) This section applies to taxation years ending after 31 March 1985.

c. I-3,
s. 412, am. **93.** (1) Section 412 of the said Act, amended by section 84 of chapter 19 of the statutes of 1986, is again amended

- (1) by striking out the word “and” at the end of paragraph *g*;
- (2) by replacing the period at the end of paragraph *h* by a semicolon;
- (3) by adding, after paragraph *h*, the following paragraph:

“(i) all amounts required to be deducted before that time under section 392.3 in computing his cumulative Canadian development expenses.”

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

c. I-3,
s. 415, am. **94.** (1) Section 415 of the said Act, amended by section 86 of chapter 19 of the statutes of 1986, is again amended by replacing paragraph *a* of subsection 1 by the following paragraph:

“(a) the cumulative Canadian development expenses of the person from whom property was so acquired, determined immediately after the acquisition was made and only to the extent that these expenses 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,”.

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

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

95. (1) Section 415.1 of the said Act, amended by section 87 of chapter 19 of the statutes of 1986, is again amended by replacing paragraph *a* of subsection 1 by the following paragraph:

“(a) 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 these expenses 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”.

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

c. I-3,
s. 415.2,
am.

96. (1) Section 415.2 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) the production of petroleum or natural gas from natural accumulations thereof or from oil or gas wells, or the production of minerals from mines, situated on property in Canada in respect of which the person from whom property was acquired in accordance with section 415 had, immediately before the acquisition, an interest or a right of removal, and”.

(2) This section applies to taxation years ending after 31 March 1985.

c. I-3,
s. 418.10,
am.

97. (1) Section 418.10 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) the production of petroleum or natural gas from natural accumulations thereof or from oil or gas wells, or the production of minerals from mines, situated on property in Canada in respect of which the person from whom property was acquired in accordance with the said section 418.8 had, immediately before the acquisition, an interest or a right of removal; and”.

(2) This section applies to taxation years ending after 31 March 1985.

c. I-3,
s. 419.5,
added

98. (1) The said Act is amended by inserting, after section 419.4, the following section:

Deductible
amount

“419.5 A corporation that does not designate an amount for a taxation year for the purposes of the Income Tax Act (Statutes of Canada) under subsection 14.1 or 14.2 of section 66 of the said Act may deduct in computing its income for the year an amount equal to the amount deducted by it under section 66.5 of the said Act in computing its income for the year for the purposes of the said Act.”

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

c. 1-3,
s. 425, am.

99. (1) Section 425 of the said Act is amended by replacing what precedes paragraph *a* by the following:

Transaction
concerning
oil deemed
to be made
at the fair
market
value

“425. The disposition by virtue of an obligation imposed by statute or a contractual obligation substituted for an obligation imposed by statute or the acquisition by a taxpayer of petroleum, natural gas or other related hydrocarbons, or metal or industrial minerals produced in the operation by the taxpayer of a natural accumulation of petroleum or natural gas, an oil or gas well or a mineral resource, situated in Canada, is deemed to be made at the fair market value thereof at the time of the disposition or acquisition, as the case may be, where:”.

(2) This section applies to taxation years ending after 31 March 1985.

c. 1-3,
s. 429, am.

100. (1) Section 429 of the said Act, amended by section 94 of chapter 19 of the statutes of 1986, is again amended by replacing the first paragraph by the following paragraph:

Rights and
property
owned at
death

“429. The rights and property that the taxpayer owned when he died, if they are not property contemplated in section 428, or capital property, and if the proceeds thereof when realized or disposed of would have been included in computing the taxpayer’s income, shall be included at their value in computing his income for the year in which he died.”

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

c. 1-3,
heading
replaced

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

“CAPITAL PROPERTY AND DEPRECIABLE PROPERTY”.

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

c. 1-3,
s. 438.1,
am.

102. (1) Section 438.1 of the said Act is amended by replacing the first paragraph by the following paragraph:

Partition
owing to
dissolution
of
matrimonial
regime

“438.1 For the purposes of determining the property referred to in section 433, 434, 436, 437 or 438 which belonged to an individual immediately before his death, where property is subject to a partition following the dissolution, owing to that death, of the matrimonial regime to which that individual was then subject, only the property forming part of his patrimony once that partition is effected is to be taken into account.”

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

c. I-3,
s. 444.1,
repealed

103. (1) Section 444.1 of the said Act, amended by section 101 of chapter 19 of the statutes of 1986, is repealed.

(2) This section applies in respect of transfers or dispositions made after 31 December 1987.

c. I-3,
s. 450.1,
repealed

104. (1) Section 450.1 of the said Act, amended by section 103 of chapter 19 of the statutes of 1986, is repealed.

(2) This section applies in respect of transfers or dispositions made after 31 December 1987.

c. I-3,
ss. 450.3,
450.4,
repealed

105. (1) Section 450.3 of the said Act and section 450.4 of the said Act, amended by section 105 of chapter 19 of the statutes of 1986, are repealed.

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

c. I-3,
ss. 450.7,
450.8,
repealed

106. (1) Section 450.7 of the said Act, enacted by section 83 of chapter 15 of the statutes of 1986 and replaced by section 106 of chapter 19 of the statutes of 1986, and section 450.8 of the said Act, enacted by section 83 of chapter 15 of the statutes of 1986, are repealed.

(2) This section applies in respect of transfers or dispositions made after 31 December 1987.

c. I-3,
s. 451, am.

107. (1) Section 451 of the said Act, amended by section 84 of chapter 15 of the statutes of 1986, is again amended by striking out paragraphs *b* and *c*.

(2) This section applies with respect to transfers or dispositions made after 31 December 1987, except that where it strikes out paragraph *c* of section 451 of the Taxation Act it applies from the taxation year 1985.

c. I-3,
s. 452,
replaced

108. (1) Section 452 of the said Act is replaced by the following section:

Computation
of income
for taxation
year of
death

“**452.** In computing the income of a taxpayer for the taxation year in which he died, sections 153, 208, 357 and 358 and subparagraph *b* of the first paragraph of section 234 do not apply, subject to section 453.”

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

(3) For the purposes of the application of section 452 of the Taxation Act to the taxation year 1985, the said section shall be read as follows:

Rules for
taxation
year 1985

“**452.** Where a taxpayer dies in the taxation year 1985, the following rules apply:

(*a*) for the purposes of computing his income for the taxation year 1985,

i. subparagraph iii of paragraph *c* of the first paragraph of section 28 shall be read as follows:

“iii. in the case of an individual, the amount by which the amount determined under subparagraph ii of paragraph *b* exceeds the amount determined under subparagraph i of paragraph *b* but not exceeding the remainder determined under subparagraph ii.”;

ii. sections 153, 208, 357 and 358 and subparagraph *b* of the first paragraph of section 234 do not apply, subject to section 453;

(*b*) for the purposes of computing his income for the taxation year 1984, subparagraph iii of paragraph *c* of section 28, as it read in its application to that year, shall be read without reference to the words “up to \$1 000”.

c. I-3,
s. 453, am.

109. (1) Section 453 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(*b*) the amounts provided for in paragraph *a* are deemed to have been included in computing the income or, except for the purposes of section 28 as it applies for the purposes of sections 726.6 to 726.20, the earnings of the beneficiary for a previous year, from a similar source;”.

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

c. I-3,
s. 456,
repealed

110. (1) Section 456 of the said Act is repealed.

(2) This section applies in respect of transfers of property made after 22 May 1985.

c. I-3,
ss. 457-458,
repealed

111. (1) Sections 457 to 458 of the said Act are repealed.

(2) This section applies in respect of transfers of property made after 22 May 1985.

c. I-3,
ss. 462.1-
462.24,
added

112. (1) The said Act is amended by inserting, after section 462, the following sections:

Transferred
or loaned
property for
spouse

“462.1 Where an individual has transferred or loaned property, either directly or indirectly, by means of a trust or otherwise, to or for the benefit of a person who is his spouse or who has since become his spouse, any income or loss of that person for a taxation year from the property or from any property substituted therefor, that relates to the period in the year throughout which the individual is resident in Canada and that person is his spouse, is deemed to be income or a loss of the individual for the year and not of that person.

Transferred
or loaned
property for
person un-
der 18 years
of age

“462.2 Where an individual has transferred or loaned property, either directly or indirectly, by means of a trust or otherwise, to or for the benefit of a person who was under 18 years of age and who does not deal with the individual at arm's length, or is the niece or nephew of the individual, any income or loss of that person for a taxation year from the property or from property substituted therefor, that relates to the period in the year throughout which the individual is resident in Canada, is deemed to be income or a loss of the individual for the year and not of that person unless that person has, before the end of the year, attained the age of 18 years.

Repayment
of borrowed
money

“462.3 For the purposes of sections 462.1 and 462.2, where, at any time, an individual has loaned or transferred property, either directly or indirectly, by means of a trust or otherwise, to or for the benefit of a person, and the loaned or transferred property or property substituted therefor is used to repay, in whole or in part, borrowed money with which other property was acquired, or to reduce an amount payable for other property, there shall be included in computing the income from the loaned or transferred property, or from any property substituted therefor, that is so used, the amount determined under section 462.4.

Restriction

However, nothing in this section shall affect the application of sections 462.1 and 462.2 to any income or loss derived from the other property or from any property substituted therefor.

Amount to
be included

“462.4 The amount referred to in section 462.3 is equal to that proportion of the income or loss, as the case may be, derived after that time from the other property or from any property substituted therefor

that the fair market value at that time of the loaned or transferred property, or property substituted therefor, that is so used is of the cost to that person of the other property at the time of its acquisition.

Loaned or
transferred
property for
recipient

“462.5 Where an individual has loaned or transferred property, either directly or indirectly, by means of a trust or otherwise, to or for the benefit of a person hereinafter referred to as the “recipient” who is his spouse or who has since become his spouse, the following rules apply for the purposes of computing the income of the individual and the recipient for a taxation year:

(a) the amount, if any, by which the aggregate of the recipient’s taxable capital gains for the year from dispositions of property, other than precious property, that is property so loaned or transferred or property substituted therefor occurring in the period throughout which the individual is resident in Canada and the recipient is his spouse exceeds the aggregate of the recipient’s allowable capital losses for the year from dispositions of such property occurring in such period, or the amount, if any, by which the aggregate of such losses exceeds, for the year, the aggregate of such gains, is deemed to be a taxable capital gain or an allowable capital loss, as the case may be, of the individual for the year from the disposition of property other than precious property;

(b) the amount, if any, by which the amount that the aggregate of the recipient’s gains for the year from dispositions occurring in the period described in paragraph *a* of precious property that is property so loaned or transferred or property substituted therefor would be if the recipient had at no time owned other precious property exceeds the amount that the aggregate of the recipient’s losses for the year from dispositions of such property would be during that period if the recipient had at no time owned other precious property or the amount, if any, by which the aggregate of such losses so determined exceeds, for the year, the aggregate of such gains so determined is deemed to be a gain or a loss, as the case may be, of the individual for the year from the disposition of precious property;

(c) any taxable capital gain or allowable capital loss or any gain or loss taken into account in computing an amount described in paragraph *a* or *b* is, except for the purposes of those paragraphs and to the extent that the amount so described is deemed by virtue of this section to be a taxable capital gain or an allowable capital loss or a gain or loss of the individual, deemed not to be a taxable capital gain or an allowable capital loss or a gain or loss, as the case may be, of the recipient.

Taxable capital gain or allowable capital loss

“**462.6** For the purposes of sections 28 and 727 to 737 as they apply for the purposes of sections 726.6 to 726.20, where an individual is deemed under section 457, 458, 462.5 or 463 to have a taxable capital gain or allowable capital loss for a taxation year, such portion of the gain or loss as may reasonably be considered to relate to the disposition of a property by another person in the year is deemed to arise from the disposition of that property by the individual in the year.

«designated person»

“**462.7** For the purposes of sections 462.8 to 462.24, “designated person”, in respect of an individual, means a person

(a) who is the individual’s spouse; or

(b) who is under 18 years of age and who does not deal with the individual at arm’s length, or is the niece or nephew of the individual.

Property loaned or transferred to a trust

“**462.8** The rules provided in sections 462.9 and 462.10 apply where an individual has loaned or transferred property, either directly or indirectly, by means of a trust or otherwise, to a trust in which another individual who is at any time a designated person in respect of the individual is a beneficiary at any time.

Income of designated person

“**462.9** The income of the designated person referred to in section 462.8 for a taxation year from the property so loaned or transferred is deemed, for the purposes of sections 462.1 to 462.4, to be an amount equal to the lesser of

(a) the amount in respect of the trust that was included by virtue of paragraph *n* of section 87 in computing the income for the year of the designated person, and

(b) that proportion of the amount that would be the income of the trust for the year from the property or from any property substituted therefor if no deduction were made under paragraph *a* or *b* of section 657 or section 657.1 that

i. the amount determined under paragraph *a* in respect of the designated person for the year is of

ii. the aggregate of all amounts each of which is an amount determined under paragraph *a* for the year in respect of the designated person or any other person who is throughout the year a designated person in respect of the individual.

Property other than precious property

“**462.10** The designated person referred to in section 462.8 is deemed, for the purposes of sections 462.5 and 462.6, to have derived a taxable capital gain for the year from the disposition of property other

than precious property that is property so loaned or transferred for an amount equal to the lesser of

(a) the amount that was designated under section 668 in respect of the designated person in the trust's fiscal return for the year, and

(b) the amount, if any, by which the aggregate of all taxable capital gains for the year exceeds the aggregate of all allowable capital losses for the year from the disposition by the trust of property that is so loaned or transferred or any property substituted therefor.

Interpreta-
tion

“**462.11** For the purposes of this section and of sections 462.12 to 462.14,

« excluded
consider-
ation »

(a) “excluded consideration”, at any time, means consideration received by an individual that is

i. a title of indebtedness,

ii. a share of the capital stock of a corporation, or

iii. a right to receive a title of indebtedness or a share of the capital stock of a corporation;

« outstanding
amount »

(b) “outstanding amount” of a transferred property or loan at a particular time means

i. in the case of a transfer of property to a corporation, the amount, if any, by which the fair market value of the property at the time of the transfer exceeds the aggregate of the fair market value, at the time of the transfer, of the consideration, other than consideration that is excluded consideration at the particular time, received by the transferor for the property, and the fair market value, at the time of receipt, of any consideration, other than consideration that is excluded consideration at the particular time, received by the transferor at or before the particular time from the corporation or from a person with whom the transferor deals at arm's length, in exchange for excluded consideration previously received by the transferor as consideration for the property or for excluded consideration substituted for such consideration;

ii. in the case of a loan of money or property to a corporation, the amount, if any, by which the principal amount of the loan of money at the time the loan was made, or the fair market value of the property loaned at the time the loan was made, as the case may be, exceeds

the fair market value, at the time the repayment is received by the lender, of any repayment of the loan, other than a repayment that is excluded consideration at the particular time.

Property transferred or loaned to a corporation

“462.12 Where an individual has transferred or loaned property, either directly or indirectly, by means of a trust or otherwise, to a corporation and one of the main purposes of the transfer or loan may reasonably be considered to be to reduce the income of the individual and to benefit, either directly or indirectly, by means of a trust or otherwise, a person who is a designated person in respect of the individual, the individual is deemed in computing his income for any taxation year to have received as interest in the year, an amount equal to the amount determined under section 462.13, where the taxation year includes a period after the loan or transfer throughout which

(a) the individual was resident in Canada;

(b) the corporation was not a small business corporation; and

(c) the person is a designated person in respect of the individual and would have been a specified shareholder of the corporation, within the meaning of section 21.17, if section 21.18 were read without reference to paragraphs *a* and *d* thereof.

Interest

“462.13 The amount referred to in section 462.12 is equal to the amount, if any, by which the amount that would be interest on the outstanding amount of the loan or transferred property for such periods in the year as are contemplated in section 462.12 exceeds the amount determined under section 462.14 if the interest were computed thereon at the prescribed rate for such periods.

Computation

“462.14 The amount contemplated in section 462.13 is equal to the aggregate of the following amounts:

(a) any interest received in the year by the individual in respect of the transfer or loan other than amounts deemed to be interest under section 462.12;

(b) $\frac{4}{3}$ of all taxable dividends received, other than dividends deemed under sections 504 to 510.1 to have been received, by the individual in the year on shares that were received from the corporation as consideration for the transfer or as repayment for the loan that were excluded consideration at the time the dividends were received or on shares substituted therefor that were excluded consideration at that time.

Applicability “**462.15** Notwithstanding any other provision of this Act, sections 462.1, 462.2, 462.5 and 462.6 do not apply to any income, gain or loss derived in a particular taxation year from transferred or loaned property, as the case may be, or from property substituted therefor if

(a) at the time of the transfer the fair market value of the transferred property did not exceed the fair market value of the property received by the transferor as consideration for the transferred property;

(b) where the consideration received by the transferor included indebtedness or in the case of a loan,

i. interest was charged on the indebtedness or loan, as the case may be, at a rate equal to or greater than the lesser of the prescribed rate that was in effect at the time the indebtedness was incurred or the loan was made, and the rate that would, having regard to all the circumstances, have been agreed upon, at the time the indebtedness was incurred or the loan was made, between parties dealing with each other at arm’s length;

ii. the amount of interest that was payable in respect of the particular year in respect of the indebtedness or loan was paid not later than 30 days after the end of the particular year;

iii. the amount of interest that was payable in respect of each taxation year preceding the particular year in respect of the indebtedness or loan was paid not later than 30 days after the end of each such taxation year;

(c) where the property was transferred to or for the benefit of the transferor’s spouse, the transferor elected in his fiscal return under section 1000 for the taxation year in which the property was transferred not to have the provisions of section 454 apply.

Applicability “**462.16** Section 462.1 does not apply with respect to any income or loss from property that relates to the period throughout which the persons referred to therein are living separate and apart from each other by reason of a breakdown of their marriage; and sections 462.5 and 462.6 do not apply with respect to a disposition of property during the period throughout which the persons referred to therein are living separate and apart from each other by reason of a breakdown of their marriage, if the individual files with his fiscal return under section 1000 for the taxation year during which the individual’s cohabitation with his spouse ceased an election to that effect completed jointly with his spouse.

* Separated spouses
“462.17 No amount shall be included in computing the income of an individual under sections 462.12 to 462.14 in respect of a designated person in respect of the individual who is the spouse of the individual for any period throughout which the individual is living separate and apart from the designated person by reason of a breakdown of their marriage.

«specified person»
“462.18 For the purposes of sections 462.19 and 462.20, “specified person”, with respect to an individual, means

(a) a designated person in respect of the individual; or

(b) a corporation, other than a small business corporation, of which a designated person in respect of the individual would have been a specified shareholder, within the meaning of section 21.17, if section 21.18 were read without reference to paragraphs *a* and *d* thereof.

Property loaned or transferred by third person
“462.19 Where an individual has loaned or transferred property to another person and that property, or property substituted therefor, is loaned or transferred by a third person directly or indirectly to or for the benefit of a specified person with respect to the individual, or to another person on condition that the property be loaned or transferred by a third person directly or indirectly to or for the benefit of a specified person with respect to the individual, the following rules apply:

(a) for the purposes of sections 462.1 to 462.14, the property loaned or transferred by the third person is deemed to have been loaned or transferred, as the case may be, by the individual to or for the benefit of the specified person;

(b) for the purposes of section 462.15, the consideration received by the third person for the transfer of the property is deemed to have been received by the individual.

Repayment of loan
“462.20 Where an individual is obligated, either absolutely or contingently, to effect any undertaking including any guarantee, covenant or agreement given to ensure the repayment, in whole or in part, of a loan made by a third person directly or indirectly to or for the benefit of a specified person with respect to the individual or the payment, in whole or in part, of any interest payable in respect of the loan, the following rules apply:

(a) for the purposes of sections 462.1 to 462.14, the property loaned by the third person is deemed to have been loaned by the individual to or for the benefit of the specified person;

(b) for the purposes of subparagraphs ii and iii of paragraph b of section 462.15, the amount of interest that is paid in respect of the loan is deemed not to include any amount paid by the individual to the third person as interest on the loan.

Property
loaned or
transferred
to a trust

“462.21 Where a taxpayer has loaned or transferred property, either directly or indirectly, by means of a trust or otherwise, to a trust in which another taxpayer is a beneficiary, the taxpayer is, for the purposes of sections 462.1 to 462.24, deemed to have loaned or transferred the property, as the case may be, to or for the benefit of the other taxpayer.

Beneficiary
in a trust

“462.22 For the purposes of sections 462.1 to 462.24, a taxpayer is a beneficiary in a trust if the taxpayer has any right, whether immediate or future, whether absolute or contingent or whether conditional on or subject to the exercise of a discretionary power by any person or persons, to receive any of the income or capital of the trust either directly from the trust or indirectly through one or more other trusts.

Applicability

“462.23 Notwithstanding any other provision of this Act, sections 462.1 to 462.14 do not apply to a transfer or loan of property where it may reasonably be concluded that one of the main reasons for the transfer or loan, as the case may be, was to reduce the amount of tax that would, but for those sections, be payable under this Part on the income and gains derived from the property or from property substituted therefor.

Exception

“462.24 Sections 462.1 to 462.10 do not apply in respect of a transfer by an individual of property

(a) as a payment of a premium under a registered retirement savings plan under which the individual's spouse is, immediately after the transfer, the annuitant, within the meaning of section 905.1, to the extent that the premium is deductible in computing the income of the individual for a taxation year;

(b) as a payment to another individual who is his spouse or a person who was under 18 years of age in a taxation year and with whom the individual does not deal at arm's length or who is the nephew or niece of the individual of an amount that is deductible by the individual in computing his income for the year and is required to be included in computing the income of the other individual.”

(2) This section, where it enacts sections 462.1 to 462.5, 462.7 to 462.10 and 462.15 to 462.23 of the Taxation Act, is applicable with respect to transfers of property made after 22 May 1985 and to loans

outstanding after 21 May 1985. However, in the case of a loan outstanding on 22 May 1985, sections 462.1 to 462.5 of the Taxation Act, as enacted by subsection 1, do not apply with respect to loans that are repaid before 1 January 1988; and if the loan is not repaid before 1 January 1988, sections 462.1 to 462.4 of the Taxation Act, as enacted by subsection 1, do not apply to any income or loss relating to any period ending before 1 January 1988 and sections 462.5 and 462.6 of the Taxation Act, as enacted by subsection 1, do not apply to any disposition of property occurring before 1 January 1988.

(3) This section, where it enacts section 462.6 of the Taxation Act, applies from the taxation year 1985.

(4) This section, where it enacts sections 462.11 to 462.14 of the Taxation Act, applies from the taxation year 1987 but only with respect to loans and transfers of property made after 27 October 1986.

(5) This section, where it enacts section 462.24 of the Taxation Act, applies with respect to transfers of property made after 22 May 1985.

113. (1) Section 463 of the said Act is replaced by the following section:

“463. Where after 1971 a taxpayer has transferred property to one of his children in circumstances that entail the application of section 459 for an amount less than the fair market value of the property immediately before the transfer and where, in a taxation year during which he has not reached 18 years of age, the transferee disposes of the property, the following rules apply during the life-time of the transferor while he is resident in Canada:

(a) the amount, if any, by which the aggregate of the transferee's taxable capital gains for the year from dispositions of property so transferred exceeds the aggregate of the transferee's allowable capital losses from such dispositions or the amount, if any, by which the aggregate of such losses exceeds, in the year, the aggregate of such gains is deemed to be a taxable capital gain or an allowable capital loss, as the case may be, of the transferor for the year from dispositions of property;

(b) any taxable capital gain or allowable capital loss taken into account in computing an amount described in paragraph *a* is, except for the purposes of that paragraph, to the extent that the amount so described is deemed by virtue of this section to be a taxable capital

c. I-3,
s. 463,
replaced

Gain
deemed tax-
able capital
gain in case
of transfer
by minor

gain or an allowable capital loss of the transferor, deemed not to be a taxable capital gain or an allowable capital loss, as the case may be, of the transferee.”

(2) This section applies with respect to transfers of property made after 22 May 1985.

c. I-3,
s. 463.1,
repealed

114. (1) Section 463.1 of the said Act is repealed.

(2) This section applies with respect to dispositions made after 31 December 1987. However, for the purposes of the application of section 463.1 of the Taxation Act at any time after 22 May 1985, that part of that section which precedes paragraph *a* must be read as follows:

Transfer of
a share of
the capital
stock of a
small busi-
ness corpo-
ration

“**463.1** Where an individual transfers, to his child who was resident in Canada immediately before the transfer, property that was for him, immediately before the transfer, a share of the capital stock of a small business corporation, the following rules apply, except where section 457 or 462.5 applies in respect of the taxable capital gain from the disposition by the individual of the property:”

c. I-3,
s. 466,
repealed

115. (1) Section 466 of the said Act is repealed.

(2) This section applies with respect to transfers of property made after 22 May 1985.

c. I-3,
s. 485.2,
am.

116. (1) Section 485.2 of the said Act, replaced by section 110 of chapter 19 of the statutes of 1986, is amended by replacing the second paragraph by the following paragraph:

Amount of
obligation

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

(2) This section applies with respect to obligations settled or extinguished after 31 December 1983.

c. I-3,
s. 489, am.

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

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

(2) by striking out paragraphs *g* and *h*.

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

c. I-3,
s. 498,
replaced

118. (1) Section 498 of the said Act is replaced by the following section:

Dividends
deemed
received by
taxpayer

“**498.** A taxpayer who must, under sections 316, 456 to 458, 462.1 to 462.24 or 466 to 467.1, include in computing his income for a taxation year a dividend received by another person is deemed, for the purposes of this chapter and sections 738 to 745 and 767, to have received such dividend.”

(2) This section has effect from 22 May 1985.

c. I-3,
s. 502.1,
repealed

119. (1) Section 502.1 of the said Act is repealed.

(2) This section applies with respect to dividends paid after 23 May 1985.

c. I-3,
s. 503,
replaced

120. (1) Section 503 of the said Act is replaced by the following section:

Election re-
ferred to in
s. 502

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

(2) This section applies with respect to dividends paid after 23 May 1985.

c. I-3,
s. 510.1,
replaced

121. (1) Section 510.1 of the said Act is replaced by the following section:

Dividend
deemed
received by
shareholder

“**510.1** Section 508 does not apply to deem a dividend to have been received by a shareholder of a public corporation where that section would otherwise have been applicable as a consequence of the application of section 506 and the following conditions are met:

(a) the shareholder is an individual resident in Canada who deals at arm's length with the corporation;

(b) the shares redeemed, acquired or cancelled are prescribed shares of the capital stock of the corporation.”

(2) This section applies in respect of transactions or events occurring after 23 May 1985.

c. I-3,
ss. 517.1-
517.4,
replaced

122. (1) Sections 517.1 to 517.4 of the said Act are replaced by the following sections:

Disposition
of «subject
shares»

“**517.1** The rules provided in this chapter apply where, after 22 May 1985, a taxpayer resident in Canada other than a corporation disposes of shares, hereinafter referred to as the “subject shares”, that are capital property for him, of any class of the capital stock of a particular corporation resident in Canada in favour of another corporation, hereinafter referred to as the “purchaser corporation”, with which he does not deal at arm’s length and, immediately after the disposition, the particular corporation is connected, within the meaning of the regulations, with the purchaser corporation.

Dividend
deemed
paid

“**517.2** For the purposes of this Part, a dividend equal to the amount by which the aggregate determined under section 517.3 exceeds the aggregate determined under section 517.3.1 is deemed to have been paid to the taxpayer by the purchaser corporation at the time of the disposition.

Computation

“**517.3** The aggregate referred to in the first instance in section 517.2 is the sum of

(a) the increase, determined without reference to section 84.1 of the Income Tax Act (Statutes of Canada) as it applies to the acquisition of the subject shares, in the paid-up capital in respect of all shares of the capital stock of the purchaser corporation as a result of the issue by that corporation of new shares as consideration for the subject shares;

(b) the fair market value, immediately after the disposition, of any consideration, other than the new shares, received by the taxpayer from the purchaser corporation for the subject shares.

Computation

“**517.3.1** The aggregate referred to in the second instance in section 517.2 is the sum of

(a) the greater of

i. the paid-up capital, immediately before the disposition, in respect of the subject shares, and

ii. subject to sections 517.4 to 517.4.2, the adjusted cost base to the taxpayer, immediately before the disposition, of the subject shares;

(b) the aggregate of all amounts required to be deducted by the purchaser corporation under paragraph *a* of subsection 1 of section 84.1 of the Income Tax Act (Statutes of Canada) in computing the paid-up capital in respect of any class of shares of its capital stock by virtue of the acquisition of the subject shares.

Shares ac-
quired be-
fore
1 January
1972

“517.4 For the purposes of this chapter, where a share disposed of by the taxpayer was acquired by him before 1 January 1972 or was a share substituted for such a share, the adjusted cost base to the taxpayer of the share is deemed to be the amount that would be its adjusted cost base to him if the Act respecting the application of the Taxation Act (R.S.Q., chapter I-4) were read without reference to the first two paragraphs of section 68 or to section 72.

Shares
acquired
after
31 Decem-
ber 1971

“517.4.1 For the purposes of this chapter, where a share disposed of by the taxpayer was acquired by him after 31 December 1971 from a person with whom he was not dealing at arm’s length, or was a share substituted for such a share, the adjusted cost base to the taxpayer of the share is deemed to be the amount, if any, by which its adjusted cost base to him, otherwise determined, exceeds the aggregate determined under section 517.4.2.

Computation

“517.4.2 The aggregate referred to in section 517.4.1 is the sum of

(a) where the share or a share for which the share was substituted was owned at the end of 1971 by a person with whom the taxpayer did not deal at arm’s length, the amount in respect of such share equal to the amount, if any, by which the share’s fair market value on valuation day, within the meaning of section 49 of the Act respecting the application of the Taxation Act (R.S.Q., chapter I-4) exceeds the actual cost, within the meaning of section 54 of the said Act of the share, on 1 January 1972, to that person, and

(b) the aggregate of all amounts each of which is an amount determined after 31 December 1984 under that part of section 234 which precedes subparagraph *b* of the first paragraph in respect of a previous disposition of the share or a share for which the share was substituted, or such lesser amount as is established by the taxpayer to be the amount in respect of which a deduction under sections 726.6 to 726.20 was claimed, by the taxpayer or an individual with whom the taxpayer did not deal at arm’s length.

Arm’s
length trans-
action

“517.4.3 For the purposes of sections 517.4.1 and 517.4.2, where a corporation issues previously unissued shares of a class of its capital stock to a taxpayer, the taxpayer and the issuing corporation are deemed not to have been dealing with each other at arm’s length at the time the new shares were acquired by the taxpayer.”

(2) This section applies in respect of dispositions made after 22 May 1985.

c. I-3,
s. 517.6,
repealed

123. (1) Section 517.6 of the said Act is repealed.

(2) This section applies in respect of dispositions made after 22 May 1985.

c. 1-3,
s. 568, am.

124. (1) Section 568 of the said Act is amended by replacing paragraphs *a.1* to *d* by the following paragraphs:

“(b) the portion of the dividend equal to the lesser of its pre-1972 capital surplus on hand within the meaning of the regulations made under section 567, immediately before the particular time, and the amount by which the dividend exceeds the portion that has been the subject of an election under section 502 is deemed not to be a dividend;

“(c) the portion of the dividend that exceeds the aggregate of the amount deemed, under paragraph *a*, to be a separate dividend for all purposes and the portion deemed under paragraph *b* not to be a dividend is deemed, notwithstanding paragraph *g* of section 570, to be a separate dividend that is a taxable dividend;

“(d) every person who holds shares of that class at that particular time is deemed to receive the proportion of any separate dividend determined under paragraph *a* or *c* represented by the proportion between the number of shares of that class held by him immediately before the particular time and the number of shares of that class then issued and outstanding.”

(2) This section applies in respect of winding-up dividends paid after 23 May 1985.

c. 1-3,
s. 570, am.

125. (1) Section 570 of the said Act is amended

(1) by striking out paragraph *b.1*;

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

«taxable
dividend»

“(g) “taxable dividend” means a dividend other than a dividend in respect of which the corporation paying it elects in accordance with section 501 as it reads before 1 January 1979, or with section 502, or other than a dividend contemplated in section 501.1;”.

(2) Paragraph 1 of subsection 1 has effect from 24 May 1985.

(3) Paragraph 2 of subsection 1 applies in respect of dividends paid after 23 May 1985.

c. 1-3,
s. 587,
replaced

126. (1) Section 587 of the said Act is replaced by the following section:

Adjusted
cost base of
a share of
the capital
stock of a
foreign af-
filiate

“587. A taxpayer resident in Canada, in computing at any time in a taxation year the adjusted cost base of a share owned by him of the capital stock of a foreign affiliate of the taxpayer, shall add any amount required to be included in respect of that share by virtue of sections 580 and 582 in computing his income for the year or any preceding year, or that would have been so required but for sections 456 to 458, 462.1 to 462.24 and 466 to 467.1, and deduct any amount deducted by him in respect of that share, in computing his income for that year, by virtue of sections 581 and 583, or that would have been deductible by him but for sections 456 to 458, 462.1 to 462.24 and 466 to 467.1, and any dividend received by him before that time in respect of that share, to the extent of the amount deducted by him in respect thereof in so computing for that year by virtue of section 584 or that would have been deductible by him but for the said sections 456 to 458, 462.1 to 462.24 and 466 to 467.1.”

(2) This section has effect from 22 May 1985.

c. I-3,
s. 597,
replaced

127. (1) Section 597 of the said Act is replaced by the following section:

Adjusted
cost base of
capital in-
terest in a
trust

“597. A taxpayer resident in Canada, in computing, at any time in a taxation year, the adjusted cost base of his capital interest in a trust to which section 596 applies shall add any amount required by sections 580 and 582 to be included in computing his income for the year or a preceding year in respect of that interest, or that would have been so required to be included but for sections 456 to 458, 462.1 to 462.24 and 466 to 467.1, and deduct any amount deducted by him in that respect in computing his income for such year by virtue of sections 581 and 583 or that would have been so deductible by him but for sections 456 to 458, 462.1 to 462.24 and 466 to 467.1.”

(2) This section has effect from 22 May 1985.

c. I-3,
s. 649, am.

128. (1) Section 649 of the said Act is amended by replacing subparagraph iii of paragraph *b* by the following subparagraph:

“iii. at least 80 per cent of its property consists of shares, bonds, mortgages, hypothecs, marketable securities or cash, or rights to or interests in any rental or royalty, computed by reference to the volume or value of the production from a natural accumulation of petroleum or natural gas, from an oil or gas well, or from a mineral resource, situated in Canada;”

(2) This section applies to taxation years ending after 31 March 1985.

c. I-3,
s. 651.1,
replaced

129. (1) Section 651.1 of the said Act is replaced by the following section:

Amount
deemed in-
come from
interest in a
trust

“651.1 Except as otherwise provided in this Part and without restricting the application of sections 456 to 458, 462.1 to 462.24 and 466 to 467.1, an amount included in computing the income for a taxation year of a beneficiary of a trust by virtue of sections 659 and 661 to 663 shall be deemed to be income of the beneficiary for the year from property that is an interest in the trust and not from any other source, and an amount deductible in computing the amount that would, but for paragraphs *a* and *b* of section 657, be the income of a trust for a taxation year shall not be deducted by a beneficiary of the trust in computing his income for a taxation year.”

(2) This section has effect from 22 May 1985.

c. I-3,
s. 668,
replaced

130. (1) Section 668 of the said Act is replaced by the following sections:

Deemed
taxable cap-
ital gain of
beneficiary

“668. (1) The portion of the net taxable capital gains of a trust for a taxation year that may, having regard to the circumstances and the terms and conditions of a trust arrangement, be reasonably considered to be part of the amount included under sections 659 or 661 to 663, in computing the income for the taxation year of a particular beneficiary under the trust if the trust is a mutual fund trust, or of a particular beneficiary under the trust who is resident in Canada if the trust is not a mutual fund trust, is deemed to be, for the purposes of sections 28 and 727 to 737 except as they apply for the purposes of sections 726.6 to 726.20, a taxable capital gain for the year of the particular beneficiary resulting from the disposition by him of capital property.

Restriction

(2) The presumption contemplated in subsection 1 applies only if such portion has been exclusively designated by the trust, in its fiscal return for the year under this Part, to be payable to that particular beneficiary.

Deemed
taxable cap-
ital gain of
beneficiary

“668.1 Where a trust has, for the purposes of section 668, designated an amount, hereinafter referred to as the “designated amount”, to be payable to a beneficiary of the trust in respect of its net taxable capital gains for a taxation year, hereinafter referred to as the “designation year”, and by virtue thereof the designated amount is deemed, for the purposes described in section 668, to be a taxable capital gain for the year of the beneficiary from the disposition by him of capital property, the following rules apply:

(a) the trust shall in its fiscal return for the designation year designate an amount in respect of its eligible taxable capital gains for the designation year to be payable to the beneficiary equal to the amount determined in respect of the beneficiary under section 668.2;

(b) the beneficiary is, for the purposes of sections 28, 462.8 to 462.10 and 727 to 737 as they apply for the purposes of sections 726.6 to 726.20, deemed to have a taxable capital gain for the year from the disposition by him in the year of capital property equal to the amount determined under section 668.2.

Designated amount

“**668.2** The amount referred to in paragraphs *a* and *b* of section 668.1 is equal to that proportion of the eligible taxable capital gains of the trust for the designation year that the amount designated to be payable to the beneficiary is of the net taxable capital gains of the trust for the designation year.

Net taxable capital gains of a trust

“**668.3** For the purposes of sections 646 to 648, 652 to 657.1, 659, 660, 663, 664, 666 to 674, 676, 676.1 and 678 to 682, the net taxable capital gains of a trust for a taxation year is the amount, if any, by which the aggregate of the taxable capital gains of the trust for the year exceeds the aggregate of its allowable capital losses for the year and of its net capital losses deducted under section 729 in computing its taxable income for the year.

“eligible taxable capital gains”

“**668.4** For the purposes of sections 668.1 and 668.2, “eligible taxable capital gains” of a trust for a taxation year means the lesser of

(a) its annual gains limit, within the meaning of subparagraph *b* of the first paragraph of section 726.6, for the year, and

(b) the amount, if any, by which its cumulative gains limit, within the meaning of subparagraph *c* of the first paragraph of section 726.6, if that subparagraph were read without reference to the words “and of the amounts deducted by the individual under this Title in computing his taxable income for preceding taxation years”, at the end of the year exceeds the aggregate of all amounts designated by the trust under sections 668.1 and 668.2 to be payable to a beneficiary in a taxation year preceding that year.”

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

c. I-3,
s. 669.4,
am.

131. (1) Section 669.4 of the said Act, enacted by section 94 of chapter 15 of the statutes of 1986, is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) the aggregate of all amounts deductible in computing the income of the trust for the year under section 145 or which, but for section 486, would be included in computing its income for the year.”

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

c. I-3,
s. 689,
replaced

132. (1) Section 689 of the said Act is replaced by the following section:

Property
other than
non-
depreciable
capital prop-
erty

“**689.** Where the property contemplated in section 688 is other than non-depreciable capital property, the cost to the taxpayer of the property shall be determined under paragraph *b* of section 688 as if the words “the excess” were replaced therein by the words “one-half of the excess”.

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

c. I-3,
s. 693, am.

133. (1) Section 693 of the said Act, amended by section 96 of chapter 15 of the statutes of 1986, is again amended by replacing the second paragraph by the following paragraph:

Order of
deductions

“However, the taxpayer shall apply the provisions of this book in the following order: sections 737.8 and 737.17, Titles II, III, IV, V, V.1, VI, VI.1, VI.2, VI.3, VII and VI.5 and sections 737.14 to 737.16 and 737.4 to 737.6.”

(2) This section applies from the taxation year 1985. However, where the second paragraph of section 693 of the Taxation Act enacted by this section refers to Title VI.3 of Book IV of Part I of the said Act, it has effect from 28 August 1985, where the said paragraph refers to Title VI.2 of the said book, it has effect from 7 September 1985 and where the said paragraph refers to sections 737.14 to 737.17 of the said Act, it has effect from 1 January 1986.

c. I-3,
s. 693.1,
replaced

134. (1) Section 693.1 of the said Act, enacted by section 139 of chapter 19 of the statutes of 1986, is replaced by the following section:

Separate fis-
cal return
with respect
to one in-
dividual

“**693.1** Where a separate fiscal return with respect to an individual is filed under any of sections 429, 681 or 1003 for a particular period and another fiscal return under this Part with respect to the same individual is filed for a period ending in the calendar year in which the particular period ends, for the purpose of computing the taxable income under this Part of the individual in such fiscal returns, the aggregate of all deductions claimed in all such returns under any of sections 702

to 725.7 shall not exceed the aggregate that could be deducted under such section for the year with respect to the individual if a separate fiscal return were not filed under any of sections 429, 681 or 1003.”

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

c. I-3,
s. 695, am. **135.** (1) Section 695 of the said Act, replaced by section 100 of chapter 15 of the statutes of 1986 and amended by section 16 of chapter 21 of the statutes of 1987, is again amended by replacing paragraph *h* by the following paragraph:

Person over
65 years of
age “(*h*) \$ 2 200, if he has reached the age of 65 years before the end of the year, less the aggregate, for the year, of his income from an office or employment computed under sections 32 to 79.3 and his income from a business carried on by him either alone or as an active partner; and”.

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

c. I-3,
ss. 705, 706,
replaced **136.** (1) Section 705 of the said Act, replaced by section 102 of chapter 15 of the statutes of 1986, and section 706 of the said Act are, respectively, again replaced and replaced by the following sections:

Grossed-up
dividend “**705.** For the purposes of this title, a grossed-up dividend means the amount that must be included, by virtue of subsections 1 and 2 of section 497, in computing the income of an individual for a taxation year, but does not include any such amount in respect of a dividend received by him from a corporation with which he does not deal at arm’s length, that he is deemed to receive by virtue of sections 504 to 510.1 and 517 or which is included in that part, contemplated in the first paragraph of section 737.16, of his income for the year.

Amount
deemed to
be interest
income “**706.** An amount received by another person as interest and included in computing the income of a taxpayer for a taxation year by virtue of sections 316, 456 to 458, 462.1 to 462.24 or 466 to 467.1 is deemed, for the purposes of this title, to be interest included in computing the income of the taxpayer for the year.”

(2) This section, where it enacts section 705 of the Taxation Act, applies from the taxation year 1986.

(3) This section, where it enacts section 706 of the Taxation Act, has effect from 22 May 1985.

c. I-3,
s. 716,
replaced

137. (1) Section 716 of the said Act, replaced by section 104 of chapter 15 of the statutes of 1986, is again replaced by the following sections:

Gift of capital or immovable property

“716. Where a taxpayer makes a gift of capital property to a donee contemplated in paragraphs *a* or *c* to *j* of section 710 or where a taxpayer who is not resident in Canada makes a gift of immovable property situated in Canada to a prescribed donee who provides an undertaking, in a form satisfactory to the Minister, to the effect that such property will be held for use in the public interest and the fair market value of the capital property or immovable property, as the case may be, exceeds the adjusted cost base to him at the time of the gift, the taxpayer or his legal representative may designate in the fiscal return which must be filed by or for the taxpayer under section 1000 for the year during which the gift is made, an amount which is deemed to be both the proceeds of the disposition of the capital property or immovable property, as the case may be, and the amount of the gift, and which, at the time of the gift, must not be greater than the fair market value nor less than the adjusted cost base to the taxpayer of the capital property or immovable property, as the case may be.

Gift of a work of art

“716.1 Where at any time after 31 December 1984 an individual has made a gift of a work of art created by him that is property in his inventory to a donee described in paragraph *a* or *c* to *j* of section 710, and the fair market value of the work of art at that time exceeded its cost amount to him, the individual or his legal representative may designate in the fiscal return which must be filed by or for the individual under section 1000 for the year during which the gift was made, an amount which is deemed to be both the individual's proceeds of disposition of the work of art and the amount of the gift made by him, which must not be greater than the fair market value nor less than the cost amount to the individual of the work of art at that time.”

(2) This section applies in respect of gifts made after 31 December 1984.

c. I-3,
ss. 723, 724,
replaced

138. (1) Section 723 of the said Act, amended by section 107 of chapter 15 of the statutes of 1986, and section 724 of the said Act, amended by section 108 of chapter 15 of the statutes of 1986 and by section 147 of chapter 19 of the statutes of 1986, are replaced by the following sections:

Conditions
for deduc-
tion

“723. An individual may deduct an amount of \$2 200 if

(a) the individual has a severe and prolonged mental or physical impairment;

(b) a physician licensed to practise under the laws of a province of Canada or of the place where the individual resides has certified, in prescribed form, that the individual has such impairment;

(c) the individual has filed with the Minister the certificate contemplated in paragraph *b*; and

(d) neither the individual nor any other person has included, in computing a deduction under section 717 for the year an amount as remuneration for a full-time attendant or care in a nursing home by reason of the individual's mental or physical impairment.

Deduction
for child or
other person

“724. An individual may deduct the excess of \$2 200 over the taxable income for the year, computed before making any deduction allowed by section 723, of any person resident in Canada at any time in the year, in respect of whom he has claimed a deduction under paragraph *b*, *c*, *d* or *e* of section 695 where the person is his child or grandchild or under section 695.1 or could have claimed such deduction if such person had had no income during the year, if

(a) the person is an individual who is entitled to the deduction provided for in section 723 for the year; and

(b) neither the individual nor any other person has included, in computing a deduction under section 717 for the year, an amount as remuneration for a full-time attendant or care in a nursing home by reason of the person's mental or physical impairment.”

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

c. I-3,
s. 724.2,
added

139. (1) The said Act is amended by inserting, after section 724.1, the following section:

Severe and
prolonged
impairment

“724.2 For the purposes of section 723 and the regulations under section 717, a person is considered to have a severe and prolonged impairment only if by reason thereof he is markedly restricted in his activities of daily living and the impairment has lasted or can reasonably be expected to last for a continuous period of at least 12 months.

Advice

The Minister may obtain the advice of an agency or of another department to help him determine whether a person has a severe and prolonged impairment.”

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

c. I-3,
s. 725, am.

140. Section 725 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) an amount exempt from income tax in Québec by virtue of a provision contained in a tax convention or agreement between Québec and a particular country in respect of income tax that has the force of law in Québec or, in the absence of such a convention or agreement, an amount exempt from income tax in Canada by virtue of a tax convention or agreement between Canada and a particular country that has the force of law in Canada;”.

c. I-3,
ss 725.2-
725.7,
added

141. (1) The said Act is amended by inserting, after section 725.1, the following:

“TITLE V.1

“STOCK OPTIONS, DEFERRED
PROFIT SHARING PLANS,
HOME RELOCATION LOANS, ETC.

Sale or is-
sue of share
of the capi-
tal stock of
a corpora-
tion

“725.2 Where a corporation has agreed to sell or issue a share of its capital stock, or of the capital stock of a corporation with which it does not deal at arm’s length, to an individual, he may deduct an amount equal to one-half of the amount of the benefit he is deemed to have received in the year under section 49, by virtue of section 49.1 or 49.2, in respect of a share acquired by him after 22 May 1985, or under section 50, 51 or 52, in respect of the share or the transfer or other disposition of the rights under the agreement contemplated in section 48, if

(a) the price for the exercise of the option to acquire a share is equal to or greater than the fair market value of the share at the time the option was granted;

(b) immediately after the agreement contemplated in section 48 was made, the individual was dealing at arm’s length with the particular corporation contemplated in section 48, with the corporation the shares of the capital stock of which the particular corporation contemplated in section 48 has agreed to sell, and with the corporation of which he is an employee; and

(c) the share is a share contemplated in subparagraph ii of paragraph *d* of subsection 1 of section 110 of the Income Tax Act (Statutes of Canada) at the time of its sale or issue, as the case may be.

Conditions
for deduc-
tion

“**725.3** An individual may deduct an amount equal to one-half of the amount of the benefit he is deemed to have received in the year under section 49, by virtue of section 49.2, in respect of a share acquired by him after 22 May 1985, if

(a) the individual has not disposed of the share otherwise than as a consequence of his death or exchanged the share within two years after the date he acquired it; and

(b) the individual has not deducted an amount under section 725.2 in respect of the benefit deemed received in computing his taxable income for the year.

Amount ex-
empt from
income tax

“**725.4** A taxpayer may deduct an amount equal to one-half of the amount he has included under paragraph *b* of section 218 in computing his income for the year in respect of a share received after 22 May 1985, unless the amount is exempt from income tax in Québec by virtue of a provision contained in a tax convention or agreement between Québec and a particular country in respect of income tax that has the force of law in Québec or, in the absence of such a convention or agreement, the amount is exempt from income tax in Canada by virtue of a provision contained in a tax convention or agreement between Canada and a particular country that has the force of law in Canada.

Deductible
amount

“**725.5** An individual may deduct an amount equal to one-half of the amount he has included under section 888.1 in computing his income for the year.

Home relo-
cation loan

“**725.6** An individual who has, by virtue of sections 487.1 to 487.6, included an amount in computing his income for the year in respect of a benefit received by him in respect of a home relocation loan, may deduct an amount equal to the least of

(a) the amount, if any, by which the amount of interest, computed at the prescribed rate referred to in section 487.2 in respect of the loan for the period of the year in which it was unpaid exceeds the amount of interest for the year paid on the loan not later than 30 days after the end of the year;

(b) the amount of interest for the year that would be computed at the prescribed rate referred to in section 487.2 in respect of a home relocation loan of the individual if that loan were in the amount of \$25 000 and were extinguished on the earlier of

- i. the day that is five years after the day on which the home relocation loan was made, and
 - ii. the day on which the home relocation loan was extinguished; and
- (c) the amount of the benefit he is deemed to have received under sections 487.1 to 487.6 in the year.

Home relocation loan

“725.7 For the purposes of section 725.6, a loan received by an individual that is used to repay a home relocation loan is deemed to be the same loan as the relocation loan and to have been made on the same day as the relocation loan.”

(2) This section, where it enacts section 725.2 of the Taxation Act, applies in respect of a convention made after 23 April 1985 where the benefit is deemed to have been received after 22 May 1985.

(3) This section, where it enacts sections 725.3 to 725.5 of the Taxation Act, applies in respect of shares acquired after 22 May 1985, and where it enacts sections 725.6 and 725.7 of the said Act, it applies from the taxation year 1985.

c. 1-3,
ss. 726.6-
726.20,
added

142. (1) The said Act is amended by inserting, after section 726.5, the following:

“TITLE VI.5

“CAPITAL GAINS EXEMPTION

“CHAPTER I

“INTERPRETATION

Interpretation

“726.6 In this Title, the expression

“qualified farm property”

(a) “qualified farm property” of an individual means a property owned by him or his spouse that was

- i. an immovable used in the course of carrying on a business of farming in Canada either by the individual, his spouse or any of his children, or by a corporation, a share of the capital stock of which is a share of the capital stock of a family farm corporation, within the meaning of paragraph *a* of section 451, of the individual, his spouse or any of his children, or by a partnership, an interest in which is an interest in a family farm partnership, within the meaning of paragraph *f* of section 451, of the individual, his spouse or any of his children;

ii. a share of the capital stock of a family farm corporation, within the meaning of paragraph *a* of section 451, of the individual or his spouse; or

iii. an interest in a family farm partnership, within the meaning of paragraph *f* of section 451, of the individual or his spouse;

«*annual gains limit*» (b) “annual gains limit” of an individual for a taxation year means the amount, if any, by which

i. the amount that would be determined in respect of the individual for the year under paragraph *b* of section 28 in respect of capital gains and capital losses if the properties referred to in that paragraph were, in the case of properties other than qualified farm properties, only such properties disposed of by him in the year, and in the case of qualified farm properties, only such properties disposed of by him after 31 December 1984, exceeds

ii. the aggregate of the amount of his net capital losses for other taxation years deducted in computing his taxable income for the year under section 729 and his allowable business investment losses for the year;

«*cumulative gains limit*» (c) “cumulative gains limit” of an individual at the end of a taxation year means the amount, if any, by which

i. the aggregate of the amounts determined in respect of the individual for the year or a preceding taxation year ending after 31 December 1984 under subparagraph *i* of subparagraph *b* exceeds

ii. the aggregate of the amounts determined in respect of the individual for the year or a preceding taxation year ending after 31 December 1984 under subparagraph *ii* of subparagraph *b* and of the amount deducted by the individual under subparagraph *iii* of subparagraph *c* of the first paragraph of section 28 for his 1985 taxation year, and of the amounts deducted by the individual under this Title in computing his taxable income for preceding taxation years.

Farming
business

For the purpose of subparagraph *i* of subparagraph *a* of the first paragraph, property will be considered to have been used by the individual in the course of carrying on the business of farming in Canada if the property or property for which that immovable was substituted was used by a person or partnership, as the case may be, referred to in the said subparagraph *i* in the course of carrying on a business of farming in Canada in the year the property was disposed of by the individual or in a period of at least five years during which the property was owned by the individual, his spouse or any of his children.

“CHAPTER II

“DEDUCTIONS

Individual
other than a
trust

“**726.7** An individual other than a trust, in computing his taxable income for a taxation year ending before 1 January 1990 may deduct, if he was resident in Canada throughout the year and disposed of qualified farm property in the year or a preceding taxation year ending after 31 December 1984, such amount as he may claim not exceeding the least of

(a) the amount, if any, by which \$250 000 exceeds the aggregate of the amounts deducted by the individual under this section in computing his taxable income for preceding taxation years;

(b) his cumulative gains limit at the end of the year;

(c) his annual gains limit for the year; and

(d) the amount that would be determined in respect of the individual for the year under paragraph *b* of section 28 in respect of capital gains and capital losses if the only properties referred to in that paragraph were qualified farm properties disposed of by him after 31 December 1984.

Individual
other than a
trust

“**726.8** An individual other than a trust who was resident in Canada throughout a year may deduct, in computing his taxable income for the year, such amount as he may claim not exceeding the least of

(a) the amount, if any, by which \$250 000 exceeds the aggregate of the amounts deducted by the individual under this Title in computing his taxable income for preceding taxation years;

(b) the amount, if any, by which his cumulative gains limit at the end of the year exceeds the amount deducted under section 726.7 in computing his taxable income for the year; and

(c) the amount, if any, by which his annual gains limit for the year exceeds the amount deducted under section 726.7 in computing his taxable income for the year.

Maximum
deduction

“**726.9** Notwithstanding sections 726.7 and 726.8, the total amount that may be deducted under this Title in computing the taxable income of an individual for a taxation year shall not exceed the amount, if any,

by which \$250 000 exceeds the aggregate of the amounts deducted by the individual under this Title in computing his taxable income for preceding taxation years.

“CHAPTER III

“SPECIAL RULES OF APPLICATION

Deemed resident

“**726.10** For the purposes of this Title, an individual is deemed to have been resident in Canada throughout a particular taxation year where he was resident in Canada at any time in the particular year and throughout the immediately preceding taxation year or the immediately following taxation year.

Restriction

“**726.11** Notwithstanding sections 726.7 and 726.8, where an individual has a capital gain for a taxation year from the disposition of a capital property, no amount may be deducted under this Title in respect of the capital gain in computing his taxable income for the particular year or any subsequent taxation year where knowingly or under circumstances amounting to gross negligence

(a) he has failed to file a return of his income for the particular year within one year after the day on or before which he is required to file a return of his income for the year pursuant to section 1000; or

(b) he has failed to report the capital gain in his fiscal return for the particular year required to be filed pursuant to section 1000.

Burden of proof

“**726.12** For the purposes of section 726.11, the burden of establishing the facts justifying the denial of a deduction under that section is on the Minister.

Restriction

“**726.13** Notwithstanding sections 726.7 and 726.8, where an individual has a capital gain for a taxation year from the disposition of property, no amount in respect of that capital gain shall be deducted under this Title in computing his taxable income for the year, if the disposition occurred as part of a series of transactions or events each of which is effected or to be effected after 21 November 1985

(a) to which section 308.1 would, but for sections 308.3 and 308.4, apply; or

(b) in which any property is acquired by a corporation or partnership for consideration that does not approximate its fair market value at the time of acquisition other than an acquisition as the result of an

amalgamation or merger of corporations or the winding-up of a corporation or partnership or a distribution of property of a trust in satisfaction of all or part of a corporation's capital interest in the trust.

Unpaid or
insufficient
dividends

“726.14 Notwithstanding sections 726.7 and 726.8, where an individual has a capital gain for a taxation year from the disposition, after 21 November 1985, of a property, no amount in respect of that capital gain shall be deducted under this Title in computing his taxable income for the year where it may reasonably be concluded, having regard to all the circumstances, that a significant portion of the capital gain is attributable to the fact that dividends were not paid on a share, other than a prescribed share, of a corporation or that dividends paid on such a share in the year or in any preceding taxation year were less than 90% of the average annual rate of return thereon for that year.

Annual rate
of return

“726.15 For the purposes of section 726.14, the average annual rate of return on a share other than a prescribed share of a corporation for a taxation year is the annual rate of return by way of dividends that a knowledgeable and prudent investor who purchased the share on the day it was issued would expect to receive in that year, other than the first year after the issue, in respect of the share if

(a) there was no delay or postponement of the payment of dividends and no failure to pay dividends in respect of the share;

(b) there was no variation from year to year in the amount of dividends payable in respect of the share other than where the amount of dividends payable is expressed as an invariant percentage of or by reference to an invariant difference between the dividend expressed as a rate of interest and a generally quoted market interest rate; and

(c) the proceeds to be received by the investor on the disposition of the share is the same amount the corporation received as consideration on the issue of the share.

Extension
or renewal
of option

“726.16 Notwithstanding sections 726.7 and 726.8, where an individual has a capital gain for a taxation year arising as a result of his granting, after 21 November 1985, an extension or renewal of an option to acquire property, no amount in respect of that capital gain shall be deducted under this Title in computing his taxable income for the year.

Interest in
partnership
or trust

“726.17 Notwithstanding the other provisions of this Act, where it is reasonable to consider that one of the main reasons for an individual acquiring, holding or having an interest in a partnership or trust, other than an interest in a trust contemplated in section 726.18, or a share of an investment corporation, mortgage investment corporation or

mutual fund corporation, or that one of the main reasons for the existence of any terms, conditions, rights or other attributes of the interest or share, as the case may be, is to enable the individual to receive or have allocated to him a percentage of any capital gain or taxable capital gain of the partnership, trust or corporation that is larger than his percentage of the income of the partnership, trust or corporation, the following rules apply:

(a) no amount may be deducted under this Title by the individual in respect of any gain contemplated in this section allocated or distributed to him after 21 November 1985; and

(b) where the individual is a trust, any gain contemplated in this section allocated or distributed to it after 21 November 1985 shall not be included in computing its eligible taxable capital gain within the meaning of section 668.4.

Interest in a trust

“726.18 An interest in a trust as referred to in section 726.17 is an interest in a testamentary trust or an interest in 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 a transfer, assignment or other disposition of property.

Deduction for a trust

“726.19 Notwithstanding any other provision of this Act, a trust described in subparagraph *a* of the first paragraph and in the second paragraph of section 653 may, in computing its taxable income for its taxation year in which the taxpayer’s spouse referred to in that paragraph died, deduct under this Title an amount equal to the lesser of

(a) the amount, if any, by which the eligible taxable capital gains, within the meaning of section 668.4, of the trust for that year exceeds, at the end of the taxation year in which the spouse died, the amount, if any, by which the aggregate of the amounts determined in respect of the spouse for the year or for a preceding taxation year ending after 31 December 1984 under subparagraph ii of subparagraph *b* of the first paragraph of section 726.6, and the amount deducted by the spouse under subparagraph iii of paragraph *c* of the first paragraph of section 28 for his taxation year 1985, exceeds the aggregate of the amounts determined in respect of the spouse for the year or a preceding taxation year ending after 31 December 1984 under subparagraph i of subparagraph *b* of the first paragraph of section 726.6; and

(b) the amount, if any, by which \$250 000 exceeds the aggregate of all amounts deducted by the spouse under this Title for the taxation year in which the spouse died or a preceding taxation year.

Non-
resident

“**726.20** For the purposes of this Title, the excess amount determined under paragraph *b* of section 28 in respect of an individual for a period throughout which he was not resident in Canada is nil.”

(2) This section applies from the taxation year 1985 except that

(1) in applying it to the taxation year 1985,

(a) subparagraph ii of subparagraph *b* of the first paragraph of section 726.6 of the Taxation Act, as enacted by it, shall be read as follows:

“ii. the aggregate of the amount of his net capital losses for other taxation years deducted in computing his taxable income for the year under section 729, of his allowable business investment losses for the year, and the amount, if any, by which the aggregate of all amounts deducted under section 923.1 in computing his income for the year in respect of his capital gains for the year from the disposition of property in the year exceeds the aggregate of all amounts included under section 929 in computing his income for the year;”;

(b) paragraph *d* of section 726.7 of the Taxation Act, as enacted by it, shall be read as follows:

“(d) the amount, if any, by which the amount that would be determined in respect of the individual for the year under paragraph *b* of the first paragraph of section 28 in respect of capital gains and capital losses if the only properties referred to in the said paragraph *b* were qualified farm properties disposed of by him after 31 December 1984 exceeds the amount, if any, by which the aggregate of all amounts deducted under section 923.1 in computing his income for the year in respect of his capital gains for the year from the disposition of property in the year exceeds the aggregate of all amounts included under section 929 in computing his income for the year.”;

(2) in applying it to the taxation years ending after 31 December 1984 and before 1 January 1990

(a) paragraph *a* of section 726.8 of the Taxation Act, as enacted by it, shall be read as follows:

“(a) the amount, if any, by which the allowable exemption for the year exceeds the aggregate of the amounts deducted by the individual under this section in computing his taxable income for a preceding taxation year and, for the purposes of this paragraph, “allowable exemption” for a taxation year means

- i. for the taxation year 1985, \$10 000,
- ii. for the taxation year 1986, \$25 000,
- iii. for the taxation year 1987, \$50 000,
- iv. for the taxation year 1988, \$100 000, and
- v. for the taxation year 1989, \$150 000;”;

(b) paragraph *b* of section 726.19 of the Taxation Act, as enacted by it, shall be read as follows:

“(b) the amount, if any, by which the allowable exemption, within the meaning of paragraph *a* of section 726.8, for the taxation year in which the spouse died exceeds the aggregate of the amounts deducted by the spouse under this Title for the taxation year in which the spouse died or a preceding taxation year.”

c. I-3,
s. 728.0.1,
am.

143. (1) Section 728.0.1 of the said Act, enacted by section 151 of chapter 19 of the statutes of 1986, is amended by replacing paragraph *a* by the following paragraph:

“(a) the aggregate of his losses for the year from an office, employment, business or property, his allowable business investment losses for the year and of all amounts deductible in computing his taxable income for the year pursuant to sections 725, 725.2 to 725.6, 726.6 to 726.20, 738 to 746 or 845 exceeds”.

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

c. I-3,
s. 729,
replaced

144. (1) Section 729 of the said Act is replaced by the following section:

Net capital
losses

“**729.** A taxpayer may deduct his net capital losses for the taxation years preceding and the three taxation years following the year, up to the aggregate of the excess contemplated in paragraph *b* of section 28 for the year in respect of the taxpayer and, if the taxpayer is an individual, the lesser of \$1 000 and his pre-1986 capital loss balance for the year.”

(2) This section applies for the purposes of computing taxable income for a taxation year subsequent to the taxation year 1984, and for the purposes of determining the deductibility of losses for a taxation year subsequent to the taxation year 1984, in computing taxable income

for taxation years preceding the taxation year 1985. However, where section 729 of the Taxation Act, enacted by this section, applies to the taxation year 1985, the said section 729 shall be read as follows:

Net capital
losses

“729. A taxpayer may deduct his net capital losses for the taxation years preceding and the three taxation years following the year, up to the aggregate of the excess contemplated in paragraph *b* of the first paragraph of section 28 for the year in respect of the taxpayer and, if the taxpayer is an individual, the amount by which the lesser of \$1 000 and his pre-1986 capital loss balance for the year exceeds the lesser of the excess of the amount determined for the year under subparagraph ii of paragraph *b* of the first paragraph of section 28 over the amount determined under subparagraph i of paragraph *b* of the first paragraph of section 28 and of the amount that would represent the excess of the amount determined for the year under subparagraph ii of paragraph *b* of the first paragraph of section 28 over the amount determined under subparagraph i of paragraph *b* of the first paragraph of section 28, if his taxable capital gains and his allowable capital losses did not include such gains or losses from the disposition of property by him in the year and after 22 May 1985 and if the rules set forth in the second paragraph of section 28 applied for the purposes of computing that last excess amount.”

c. 1-3,
s. 730, am.

145. (1) Section 730 of the said Act, replaced by section 152 of chapter 19 of the statutes of 1986, is amended by replacing paragraph *a* by the following paragraph:

“(a) the amount by which the amount obtained under subparagraph ii of paragraph *b* of section 28, for the year, exceeds the amount obtained under subparagraph i of paragraph *b* of section 28; and;”

(2) This section applies from the taxation year 1985, except that where it applies to the taxation year 1985, paragraph *a* of section 730 of the Taxation Act, enacted by this section, shall be read as follows:

“(a) the amount by which the amount obtained under subparagraph ii of paragraph *b* of the first paragraph of section 28, for the year, exceeds the amount obtained under subparagraph i of paragraph *b* of the first paragraph of section 28, after deducting, in the case of an individual, the lesser of \$1 000, the amount of the income that would be obtained for the year according to section 28 without reference to subparagraph iii of paragraph *c* of the first paragraph of section 28 and the amount that would represent the excess, for the year, of the amount obtained under subparagraph ii of paragraph *b* of the first paragraph of section 28 over the amount obtained under subparagraph i of paragraph *b* of the first paragraph of section 28, if his taxable capital gains and his

allowable capital losses did not include such gains or losses from the disposition of property by him in the year and after 22 May 1985 and if the rules set forth in the second paragraph of section 28 applied for the purposes of computing the latter excess amount; and”.

c. I-3,
ss. 730.1
and 730.2,
added

«pre-1986
capital loss
balance»

146. (1) The said Act is amended by inserting, after section 730, the following sections:

“**730.1** For the purposes of this Title, “pre-1986 capital loss balance” of an individual for a particular taxation year means the amount by which the amount determined under section 730.2 in respect of the individual for the particular taxation year exceeds the aggregate of amounts deducted under sections 726.6 to 726.20 in computing his taxable income for taxation years preceding the particular taxation year.

Computation

“**730.2** The amount to which section 730.1 refers is equal to the aggregate of

(a) the amount by which the individual’s net capital loss for taxation years ending before 1 January 1985 exceeds the aggregate of amounts deducted by him under this Title, in respect of those losses, in computing his taxable income for taxation years preceding the particular taxation year; and

(b) the amount by which the aggregate of amounts deducted by him under this Title in respect of his net capital loss for the taxation year 1985 in computing his taxable income for a taxation year preceding the particular taxation year is exceeded by the lesser of

i. the amount of his net capital loss for the taxation year 1985, and

ii. the excess amount that would represent, in respect of the individual for the taxation year 1985, the amount by which the amount determined under subparagraph ii of paragraph *b* of the first paragraph of section 28 exceeds the amount determined under subparagraph i of paragraph *b* of the first paragraph of section 28 if the individual’s taxable capital gains and his allowable capital losses did not include such gains or losses from the disposition of property by him in the year and after 22 May 1985 and if the rules set forth in the second paragraph of section 28 applied for the purposes of computing that last excess amount, the amount deductible by virtue of subparagraph iii of paragraph *c* of the first paragraph of section 28 in computing his taxable income for the taxation year 1985.”

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

c. 1-3,
s. 737,
replaced

147. (1) Section 737 of the said Act is replaced by the following section:

Net capital
losses

“737. Where a taxpayer dies in a taxation year, section 729 shall be read, for the purpose of computing his taxable income for that year and the preceding taxation year, in such a manner as to permit the taxpayer to deduct his net capital losses for all taxation years not deducted by him in computing his taxable income for any other taxation year up to the aggregate of

(a) the excess amount referred to in paragraph *b* of section 28 in respect of the taxpayer for the year; and

(b) the amount by which the aggregate of such net capital losses exceeds the aggregate of the excess amount referred to in paragraph *a* in respect of the taxpayer for the year and the aggregate of all amounts deducted by the taxpayer under sections 726.6 to 726.20 in computing his taxable income for a taxation year.”

(2) This section applies from the taxation year 1985, except that where it applies to the taxation year 1985, section 737 of the Taxation Act, enacted by this section, shall be read as follows:

Death of
taxpayer in
1985

“737. Where a taxpayer dies in the taxation year 1985, the following rules apply:

(a) for the purpose of computing his taxable income for the taxation years 1984 and 1985, section 729 shall be read in such a manner as to permit the taxpayer to deduct “his net capital losses for the taxation years preceding and the taxation year immediately following the year”;

(b) for the purpose of determining his net capital loss for the taxation year 1985, paragraph *a* of section 730, as it shall be read when it applies to the taxation year 1985, shall be read as follows:

“(a) the amount by which the amount obtained under subparagraph ii of paragraph *b* of the first paragraph of section 28, for the year, exceeds the amount obtained under subparagraph i of paragraph *b* of the first paragraph of section 28, after deducting the amount of the income that would be obtained for the year according to section 28 without reference to subparagraph iii of paragraph *c* of the first paragraph of section 28;”;

(c) for the purpose of determining his net capital loss for the taxation year 1984, section 730, as it read in 1984, shall be read without reference to the words “the lesser of \$1 000 and”.”

c. I-3,
s. 737.3,
replaced

148. (1) Section 737.3 of the said Act, the French version of which was replaced by section 155 of chapter 19 of the statutes of 1986, is again replaced by the following section:

Computation
of adjusted
income of
an in-
dividual

“737.3 The adjusted income of an individual for a taxation year is obtained by multiplying the amount by which his income for the year exceeds the amount deducted in computing his taxable income for the year under sections 726.6 to 726.20 by the ratio that the Consumer Price Index for Canada, published by Statistics Canada under the Statistics Act (Statutes of Canada) for the twelve-month period ending on 30 September preceding the year of averaging bears to the Consumer Price Index so published for the twelve-month period ending 30 September preceding the taxation year, which ratio must be adjusted and rounded in the manner mentioned in paragraph *b* of section 737.2.”

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

c. I-3,
s. 737.5, am

149. (1) Section 737.5 of the said Act, the French version of which was amended by section 157 of chapter 19 of the statutes of 1986, is again amended by replacing, in paragraph *b*, what precedes subparagraph *i* by the following:

“(b) the amount by which the income of the individual for the year of averaging exceeds the aggregate of the amount deducted under sections 726.6 to 726.20 in computing his taxable income for the year of averaging and of 110% of the quotient obtained by dividing:”.

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

c. I-3,
s. 737.18,
added

150. (1) The said Act is amended by inserting, after section 737.17, the following:

“CHAPTER IV

“COMPUTATION OF TAXABLE INCOME

Applicable
rules

“737.18 For the purpose of computing the taxable income of an individual contemplated in section 737.15 for a taxation year, the following rules apply:

(a) for the purposes of the deduction contemplated in section 725.2, the amount of the benefit he is deemed to receive in the year by virtue of section 49, following the application of section 49.1 or 49.2 or by virtue of section 50, 51 or 52 in respect of a share or the transfer or other disposition of the rights under the agreement contemplated in section 48 and which he has included in computing his income for the

year, shall not include the part of the amount included in that part of his income contemplated in the first paragraph of section 737.16 for the year;

(b) for the purposes of the deduction contemplated in section 725.3, the amount of the benefit he is deemed to receive by virtue of section 49, by virtue of section 49.2, in respect of a share acquired by him after 22 May 1985 and which he has included in computing his income for the year shall not include the part of the amount included in that part of his income contemplated in the first paragraph of section 737.16 for the year;

(c) for the purposes of the deduction contemplated in section 725.4, the amount he has included under paragraph *b* of section 218 in computing his income for the year in respect of a share he has received after 22 May 1985 shall not include the part of the amount included in that part of his income contemplated in the first paragraph of section 737.16 for the year;

(d) for the purposes of the deduction contemplated in section 725.5, the amount he has included under section 888.1 in computing his income for the year shall not include the part of the amount included in that part of his income contemplated in the first paragraph of section 737.16 for the year;

(e) for the purposes of the deduction contemplated in section 725, the amount he has included in computing his income for the year and which is referred to in paragraph *a*, *b* or *c* of section 725 shall not include the part of the amount included in that part of his income contemplated in the first paragraph of section 737.16 for the year;

(f) paragraph *a*, that part of paragraph *b* which precedes subparagraph *i* and paragraph *c* of section 725.6 shall be read as follows:

“(a) the amount, if any, by which the amount of interest, computed at the prescribed rate referred to in section 487.2 in respect of the loan for the part that is not included in that part of the prescribed period established in his regard which is included in that year and referred to in the first paragraph of section 737.16 for the period of the year in which it was unpaid exceeds the amount of interest for that part of the year paid on the loan not later than 30 days after the end of the year;”;

“(b) the amount of interest for that part of the year that is not included in that part of the prescribed period established in his regard which is included in that year and referred to in the first paragraph of section 737.16 that would be computed at the prescribed rate referred

to in section 487.2 in respect of a home relocation loan of the individual if that loan were in the amount of \$25 000 and were extinguished on the earlier of”;

“(c) the part of the amount of the benefit he is deemed to have received under sections 487.1 to 487.6 in the year as a loan, that may reasonably be considered to have been received in the part of the year that is not included in that part of the prescribed period established in his regard which is included in that year and referred to in the first paragraph of section 737.16.”;

(g) every capital gain realized during the prescribed period in his regard for the purposes of the first paragraph of section 737.16 and every capital loss, including allowable business investment losses, for that period are deemed to be nil for the purposes of sections 726.6 to 726.20.”

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

151. (1) Section 740.3 of the said Act is amended

(1) by adding, after the semicolon at the end of paragraph *b*, the word “or”;

(2) by striking out paragraph *c*.

(2) This section applies in respect of shares issued after 23 May 1985 other than shares issued pursuant to an agreement in writing entered into not later than 23 May 1985 and shares distributed to the public in accordance with 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.

152. (1) Sections 743 and 744 of the said Act are replaced by the following sections:

“**743.** The amount of any loss sustained by a taxpayer arising from transactions relating to a share he owned that was not a capital property and in respect of which he received a dividend, is deemed to be the amount of that loss otherwise determined, minus the aggregate of all amounts received by him as dividends on that share, other than capital gains dividends within the meaning of sections 1106 and 1116, to the extent that the amount was not an amount on which he was required to pay a prescribed tax.

c. 1-3,
s. 740.3,
am.

c. 1-3,
ss. 743 and
744,
replaced

Loss related
to share
other than
capital prop-
erty

Computation
of fair mar-
ket value of
share

“744. For the purposes of section 83 and the regulations made thereunder, a taxpayer other than a prescribed trust or a partnership, holding a share that is not a capital property and who receives a dividend in respect of the share shall, in computing at any particular time after 12 November 1981 the fair market value of the share, add to such value otherwise computed the aggregate of all amounts, determined without reference to section 666, he has received before that time as dividends on the share, other than capital gains dividends within the meaning of sections 1106 and 1116.”

(2) This section applies in respect of dividends received after 31 December 1985.

c. I-3,
s. 776.1.1,
replaced

153. (1) Section 776.1.1 of the said Act is replaced by the following section:

Shares of
the Fonds
de solidarité
des
travailleurs
du Québec

“776.1.1 An individual who is not a dealer acting as an intermediary or as firm underwriter may deduct from his tax payable for a taxation year, otherwise determined under this Part, 20% of the amount he pays in the year or within the following 60 days, to such extent as he did not deduct it for a preceding taxation year, for the purchase, as first purchaser, of a class “A” share issued by the corporation governed by the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (R.S.Q., chapter F-3.2.1).”

(2) This section applies in respect of shares acquired after 23 May 1985.

c. I-3,
s. 776.1.3,
replaced

154. (1) Section 776.1.3 of the said Act is replaced by the following section:

Maximum
amount

“776.1.3 In no case may the amount that an individual may deduct for a taxation year under sections 776.1.1 and 776.1.2 exceed \$700.”

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

c. I-3,
s. 776.2,
am.

155. (1) Section 776.2 of the said Act is amended by replacing the second paragraph by the following paragraph:

«eligible
child»

“For the purposes of this Title, an “eligible child” is a child under six years of age on 31 December of a year in respect of whom the individual receives an allowance under the Family Allowances Act (R.S.Q., chapter A-17).”

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

c. 1-3,
heading,
replaced

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

“SCIENTIFIC RESEARCH AND EXPERIMENTAL
DEVELOPMENT TAX CREDIT”.

(2) This section applies to taxation years ending after 23 May 1985.

c. 1-3,
s. 776.6,
am.

157. (1) Section 776.6 of the said Act is amended by replacing paragraphs *a* and *b* by the following paragraphs:

«scientific
research and
experimental
development
tax credit»

“(a) “scientific research and experimental development tax credit” of an individual other than a trust for a taxation year means the aggregate of the amounts each of which is equal to 25 % of the amount designated by a corporation under section 776.10 in respect of a qualifying security acquired in the year by the individual where the individual is the first holder thereof; however, in the case of an individual contemplated in the second paragraph of section 22, 25 or 26, that aggregate shall be multiplied by the proportion contemplated in the second paragraph of those sections;

«unused
scientific re-
search and
experimental
development
tax credit»

“(b) “unused scientific research and experimental development tax credit” of an individual other than a trust for a taxation year means an amount equal to the amount by which his scientific research and experimental development tax credit for the year exceeds his tax otherwise payable for the year under this Part.”

(2) This section applies to taxation years ending after 23 May 1985.

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

158. (1) Section 776.7 of the said Act, amended by section 124 of chapter 15 of the statutes of 1986, is again amended by replacing subparagraph iii of paragraph *a* by the following subparagraph:

“iii. a right under a scientific research and experimental development financing contract,”.

(2) This section applies to taxation years ending after 23 May 1985.

c. 1-3,
s. 776.9,
replaced

159. (1) Section 776.9 of the said Act is replaced by the following section:

«scientific
research and
experimental
development
financing
contract»

“**776.9** For the purposes of this Title, “scientific research and experimental development financing contract” means a contract in writing pursuant to which an amount is paid by a person to a corporation as consideration for the granting by the corporation to that person of an absolute or contingent right to receive income, other than interest or dividends.”

(2) This section applies to taxation years ending after 23 May 1985.

c. I-3,
s. 776.17,
replaced

160. (1) Section 776.17 of the said Act is replaced by the following section:

Maximum
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 to taxation years ending after 23 May 1985.

c. I-3,
s. 782.1,
added

161. (1) The said Act is amended by inserting, after section 782, the following section:

Individual's
cumulative
gains

“782.1 For the purpose of determining an individual's cumulative gains limit within the meaning of subparagraph *c* of the first paragraph of section 726.6 for a taxation year occurring after the taxation year in which section 782 last applied in respect of the individual, the rule set forth in the second paragraph applies.

Individual's
non-capital
loss

The portion of the individual's non-capital loss for a particular taxation year in which section 782 applied in respect of the individual and any preceding taxation year is deemed not to be a business investment loss to the extent that it does not exceed the lesser of

(a) the amount of the individual's business investment losses for the particular taxation year, and

(b) any portion of the individual's non-capital loss for that particular taxation year that was not deducted in computing his taxable income for any taxation year in which section 782 applied in respect of the individual or any preceding taxation year.”

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

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

162. (1) Section 835 of the said Act is amended by replacing what precedes paragraph *a* by the following:

Interpreta-
tion

“835. In this title, sections 92.9 to 104, 130, 130.1, 135, 137 to 163.1, 176 to 179, 183, 428 to 451, 570, 736.1 and 1087 to 1102.3:”.

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

c. I-3,
s. 844.2,
added

163. (1) The said Act is amended by inserting, after section 844.1, the following section:

Life insur-
ance busi-
ness

“844.2 For the purposes of paragraph *a* of section 844, in computing a life insurer’s income from carrying on its life insurance business in Canada for its first taxation year ending after 31 December 1984, the life insurer is deemed to have deducted under paragraph *a* of section 840, in computing its income from that business for its last taxation year ending before 1 January 1985, an amount equal to the amount by which

(*a*) the aggregate of the amounts deducted by the insurer in computing its income for a taxation year ending after 31 December 1968 and before 1 January 1985 in respect of a claim under a life insurance policy that was likely to arise after the end of the particular taxation year in respect of a death that occurred in the particular taxation year exceeds

(*b*) the aggregate of the amounts paid by the insurer or included in computing its income before the commencement of its first taxation year ending after 31 December 1984 in respect of an amount described in paragraph *a*.”

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

c. I-3,
s. 886,
replaced

164. (1) Section 886 of the said Act is replaced by the following section:

Single pay-
ment on
withdrawal,
retirement
or death

“886. For the application of sections 885 and 888, where in a taxation year a beneficiary resident in Canada receives, from a trustee under a deferred profit sharing plan, on his withdrawal from the plan or retirement or upon the death of an employee or former employee, a single payment that includes shares of the capital stock of a corporation that is an employer who contributes to the plan or shares of the capital stock of a corporation with which the employer does not deal at arm’s length and makes an election in respect of that payment in prescribed form and prescribed manner, the amount determined for the year under this section in respect of the beneficiary and in relation to the plan is equal to the amount by which the fair market value of those shares, immediately before the single payment was made, exceeds the cost amount to the plan of those shares at that time.”

(2) This section applies in respect of terminations of interests in deferred profit sharing plans occurring after 23 May 1985.

c. I-3,
s. 887,
repealed

165. (1) Section 887 of the said Act is repealed.

(2) This section applies in respect of terminations of interests in deferred profit sharing plans occurring after 23 May 1985.

c. I-3,
s. 888,
replaced

166. (1) Section 888 of the said Act is replaced by the following sections:

Effect of
election by
beneficiary

“888. Where a trustee under a deferred profit sharing plan has at any time in a taxation year made under the plan a single payment that included shares referred to in section 886 to a beneficiary who was resident in Canada at the time and the beneficiary has made an election under section 886 in respect of that payment, the following rules apply:

(a) the trustee is deemed to have disposed of those shares for proceeds of disposition equal to the cost amount to the trust of those shares immediately before the single payment was made;

(b) the cost to the beneficiary of those shares is deemed to be equal to their cost amount to the trust immediately before the single payment was made;

(c) the cost to the beneficiary of each of those shares is deemed to be equal to the proportion of the amount determined under paragraph *a* in respect of all those shares that the fair market value of the share at the time the single payment was made is of that of all those shares at the same time.

Computation

“888.1 A taxpayer who has a share in respect of which he has made an election under section 886 shall include in computing his income for the taxation year in which he disposed of or exchanged the share or ceased to be resident in Canada, whichever is the earlier, the amount by which the fair market value of the share at the time he acquired it exceeds the cost to him, determined under paragraph *c* of section 888, of the share at the time he acquired it.

Order of ac-
quisition

“888.2 For the purposes of section 888.1, a taxpayer is deemed to have exchanged or disposed of shares that are identical properties in the order in which he acquired them.”

(2) This section, where it enacts section 888 of the Taxation Act, applies in respect of terminations of interests in deferred profit sharing plans occurring after 23 May 1985, except that where it enacts sections 888.1 and 888.2 of the Taxation Act, it applies from the taxation year 1985.

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

167. (1) Section 911 of the said Act is amended by inserting, after paragraph *d*, the following paragraph:

“(d.1) that the periodic payment of a benefit to any person as an annuity shall be increased or reduced in accordance only with a change in the interest rate on which the annuity is based, if the interest rate, as increased or reduced, equals or approximates a generally available Canadian market interest rate;”.

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

c. I-3,
ss. 921.2,
921.3,
added

Non-
qualified in-
vestment

168. (1) The said Act is amended by inserting, after section 921.1, the following sections:

“**921.2** Notwithstanding section 919, where in a taxation year a trust governed by a registered retirement savings plan holds a property that is a non-qualified investment, tax is payable under this Part by the trust on the amount that its taxable income for the year would be if it had no incomes or losses from sources other than non-qualified investments and no capital gains or losses other than from dispositions of non-qualified investments.

Interpreta-
tion

“**921.3** For the purposes of section 921.2,

(a) “income” includes dividends described in sections 501 to 502.1; and

(b) the first paragraph of section 231 shall be interpreted as if the taxable capital gain or the allowable capital loss represented the total capital gain or total capital loss, as the case may be, resulting from the disposition of a property.”

(2) This section applies from the taxation year 1986 in respect of property acquired after 31 October 1985.

c. I-3,
ss. 923.1,
923.2,
923.2.1,
923.3,
repealed

169. (1) Section 923.1 of the said Act, enacted by section 132 of chapter 15 of the statutes of 1986, section 923.2 of the said Act, enacted by section 132 of chapter 15 of the statutes of 1986 and amended by section 170 of chapter 19 of the statutes of 1986, section 923.2.1 of the said Act, enacted by section 171 of chapter 19 of the statutes of 1986 and section 923.3 of the said Act, enacted by section 132 of chapter 15 of the statutes of 1986, are repealed.

(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 realized on a disposition of qualified farm property after 31 December 1984.

c. I-3,
s. 936,
replaced

170. (1) Section 936 of the said Act is replaced by the following section:

Approval of
plan for
registration

“**936.** (1) The Minister may approve for registration a home ownership savings plan which, in his opinion, complies with the requirements of this chapter, where a person referred to in section 937 applies therefor on the prescribed form.

Registered
home
ownership
savings plan

(2) Subject to the Minister’s power to refuse or revoke a registration, every plan which, immediately before 1 January 1986, was validly registered as a registered home ownership savings plan pursuant to the Income Tax Act (Statutes of Canada) is deemed registered as such with the Minister for the purposes of this Act.”

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

c. I-3,
s. 944, am.

171. (1) Section 944 of the said Act is amended by striking out the second paragraph.

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

c. I-3,
s. 945,
replaced

172. (1) Section 945 of the said Act is replaced by the following section:

Notice to
depository
or benefi-
ciary

“**945.** The Minister shall give notice by registered or certified mail to the trust or the depository, as the case may be, and to the beneficiary, of the revocation contemplated in section 944 which shall take effect as of the day fixed by the Minister; such day shall not, however, in the case contemplated in paragraph *a* of the said section, be prior to the day following the 120 days contemplated therein and, in the case contemplated in paragraph *d* of the said section, be prior to the particular date contemplated therein.”

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

c. I-3,
s. 955, am.

173. (1) Section 955 of the said Act is amended by replacing paragraph *c* by the following paragraph:

“(c) is the refund, made within 120 days after the end of the preceding year, of the excess described in paragraph *a* of section 944; or”.

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

c. I-3,
ss. 961.23,
961.24,
added

174. (1) The said Act is amended by inserting, after section 961.22, the following:

"TITLE V.2

"PRESCRIBED ELECTION IN RESPECT OF AN
INTEREST IN A QUALIFIED TRUST

«qualified trust» **"961.23** For the purposes of this Title, the expression "qualified trust" has the meaning assigned by regulation.

Interest in a qualified trust **"961.24** For the purposes of sections 921.2, 921.3, 926, 933, 950, 951, 954, 957, 961.15, 961.16, 961.19 and 961.20, a taxpayer which is a trust governed by a registered retirement savings plan, a registered home ownership savings plan or a registered retirement income fund may, where it acquires, holds or disposes of an interest in a qualified trust at any time, make a prescribed election for any prescribed period that includes that time.

Application and effects of election Such an election, when made in the prescribed form, applies in respect of the prescribed period and shall have the effects described in the regulations."

(2) This section, where it enacts section 961.23 of the Taxation Act, applies in respect of a period occurring after 31 December 1985.

(3) This section, where it enacts section 961.24 of the Taxation Act, applies from the taxation year 1980, except that where section 961.24 of the Taxation Act, enacted by this section, applies to a period prior to 1 January 1986, it shall be read as follows:

Interest in a qualified trust **"961.24** For the purposes of sections 926, 933, 950, 951, 954, 957, 961.15, 961.16, 961.19 and 961.20, where, at any time in a taxation year, a taxpayer which is a trust governed by a registered retirement savings plan, a registered home ownership savings plan or a registered retirement income fund acquires, holds or disposes of an interest in a qualified trust, within the meaning of paragraph *a* of subsection 3 of section 259 of the Income Tax Act (Statutes of Canada) that was not in 1980 a qualified investment for the taxpayer and where the trust and each trust beneficiary jointly make, in the year, the election referred to in subsection 1 of section 259 of the said Act, the rules set forth in paragraphs *a* to *d* of subsection 1 of the said section 259 as they are read for their application to that year for the purposes of the provisions contained in the latter subsection also apply to that taxpayer in respect of that taxation year as if they were set forth in this section."

c. 1-3, s. 965.1, am. **175.** (1) Section 965.1 of the said Act, amended by section 135 of chapter 15 of the statutes of 1986 and by section 36 of chapter 21 of the statutes of 1987, is again amended, in paragraph *j*,

- (1) by striking out subparagraph ii;
- (2) by striking out the word “and” at the end of subparagraph iv;
- (3) by replacing the semicolon at the end of subparagraph v by the following: “; and”;
- (4) by adding, after subparagraph v, the following subparagraph:
 - “vi. the amount deducted by him in computing his taxable income under sections 726.6 to 726.20;”.

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

c. 1-3,
s. 965.21,
am.

176. (1) Section 965.21 of the said Act is amended by striking out the second paragraph.

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

c. 1-3,
s. 985.2.1,
replaced

177. (1) Section 985.2.1, enacted by section 156 of chapter 15 of the statutes of 1986, is replaced by the following section:

Specified
gift and ex-
penditure on
political ac-
tivities

“**985.2.1** For the purposes of paragraph *b* of sections 985.6 to 985.8 and section 985.21, the following are deemed to be neither an amount expended in a taxation year on charitable activities nor a gift made to a qualified donee:

(a) a specified gift; and

(b) an expenditure on political activities made by a charitable organization or a charitable foundation.”

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

c. 1-3,
ss. 985.2.3,
985.2.4,
added

178. (1) The said Act is amended by inserting, after section 985.2.2, the following sections:

Charitable
purposes
and political
activities

“**985.2.3** For the purposes of paragraph *d* of section 985.1, where a corporation or trust devotes substantially all of its resources to charitable purposes and part of its resources to political activities, it shall be considered to be constituted and operated for charitable purposes in respect of that part of its resources so devoted to political activities if

(a) such political activities are ancillary and incidental to its charitable purposes; and

(b) such political activities do not include the direct or indirect support of, or opposition to, any political party or candidate for public office.

Charitable
and political
activities

“**985.2.4** For the purposes of paragraph *g* of section 985.1, where an organization devotes substantially all of its resources to charitable activities carried on by it and part of its resources to political activities, it is deemed to be devoting that part of its resources to charitable activities carried on by it if

(a) such political activities are ancillary and incidental to its charitable activities, and

(b) such political activities do not include the direct or indirect support of, or opposition to, any political party or candidate for public office.”

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

c. I-3,
s. 991,
replaced

179. (1) Section 991 of the said Act is replaced by the following section:

Scientific
research
corporations

“**991.** (1) A corporation constituted exclusively for the purpose of carrying on or promoting scientific research and experimental development is exempt from tax if it has not acquired control of any other corporation, if it does not carry on any business and if at least 90% of its income is expended in Canada

(a) for scientific research and experimental development directly undertaken by the corporation or on its behalf, or

(b) for any association, university, college or research institution described in subsection 1 of section 222, to be used for scientific research and experimental development.

Contribu-
tions

(2) Such corporation shall, for the purposes of applying this section, include in computing its income the contributions which it has received for the purposes of scientific research and experimental development and all the gifts made to it.”

(2) This section applies to taxation years ending after 23 May 1985.

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

180. (1) Section 998 of the said Act is amended by inserting, after paragraph *c.2*, the following paragraph:

Small busi-
ness invest-
ment corpo-
ration

“(c.3) a corporation that is a small business investment corporation within the meaning of the regulations;”.

(2) This section applies to periods occurring after 31 October 1985.

c. I-3,
s. 1000, am. **181.** (1) Section 1000 of the said Act, amended by section 170 of chapter 15 of the statutes of 1986, is again amended by replacing subsection 1 by the following subsection:

Fiscal
returns to
be filed

“1000. (1) A fiscal return containing prescribed information must be filed with the Minister in prescribed form, without notice or demand therefor, for each taxation year in the case of a corporation, other than a corporation that was a registered charity throughout the year, and in the case of an individual, for each taxation year for which a tax contemplated in this Part is or would be payable, if this Part were read without reference to sections 776.6 to 776.20 or in which the individual has a taxable capital gain or disposes of capital property.”

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

c. I-3,
s. 1012.1,
am. **182.** (1) Section 1012.1 of the said Act, amended by section 173 of chapter 15 of the statutes of 1986, is again amended by replacing paragraph *e* by the following paragraph:

“(e) section 776.17 in respect of the unused portion of his scientific research and experimental development tax credit for a subsequent taxation year.”

(2) This section applies to taxation years ending after 23 May 1985.

c. I-3,
heading,
replaced
and
s. 1029.7,
am.

183. (1) The heading of Division II of Chapter III.1 of Title III of Book IX of Part I of the said Act and the first paragraph of section 1029.7 of the said Act are replaced by the following:

“CREDIT FOR SCIENTIFIC RESEARCH AND EXPERIMENTAL DEVELOPMENT

Scientific
research
and ex-
perimental
development
carried out
in Québec

“1029.7 A taxpayer not mentioned in section 984 or 985, who carries on a business in Canada and undertakes or causes to be undertaken in Québec after 10 May 1983, scientific research and experimental development within the meaning of the regulations made pursuant to section 222, is deemed to have paid to the Minister, for the taxation year during which the research and development were undertaken, as partial payment of his tax payable for that year pursuant to this Part, an amount equal to 10% of the wages he has paid during the year in respect of the research and development to his employees of an establishment situated in Québec and of the portion of the remuneration that he has paid during the year in respect of the research and development to a person who has undertaken all or part of the

research and development that may be attributed to the wages of the employees of an establishment of that person situated in Québec or would be if he had such employees.”

(2) This section applies to taxation years ending after 23 May 1985.

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

184. (1) Section 1029.8 of the said Act is amended by replacing the first paragraph by the following paragraph:

Partial pay-
ment
deemed
made

“**1029.8** Where a partnership carries on a business in Canada and undertakes or causes to be undertaken in Québec, after 10 May 1983, scientific research and experimental development within the meaning of the regulations made pursuant to section 222, every taxpayer who is a member of the partnership at the end of a fiscal period of the latter during which the research and development were undertaken and who is not exempt from tax under section 984 or 985 is deemed to have paid to the Minister for the taxation year in which the said fiscal period ends, as partial payment of his tax payable for that year pursuant to this Part, his portion of an amount equal to 10% of the wages the partnership has paid during its fiscal period and after 22 May 1984 in respect of the research and development to his employees of an establishment situated in Québec and of the portion of the remuneration that the partnership has paid during its fiscal period after 22 May 1984 in respect of the research and development to a person who has undertaken all or part of the research and development, that may be attributed to the wages paid after such latter date to the employees of an establishment of that person situated in Québec or would be if he had such employees.”

(2) This section applies to taxation years ending after 23 May 1985.

c. I-3,
s. 1029.9,
am.

185. (1) Section 1029.9 of the said Act, replaced by section 180 of chapter 15 of the statutes of 1986 and by section 13 of chapter 72 of the statutes of 1986, is amended by replacing the first paragraph by the following paragraph:

Holder of a
taxi permit

“**1029.9** A taxpayer who, on 31 December of a calendar year subsequent to the calendar year 1983 included in his taxation year, is the holder of a taxi permit in force and who meets the requirements prescribed by regulation is deemed to have paid to the Minister on the last day on which he is required, in accordance with section 1000, to file his fiscal return for that taxation year or on which he would have been required to file such return if he had had any tax to pay for that taxation year under this Part, on account of his tax payable for that

taxation year under this Part, an amount of \$500 for each such taxi permit other than a taxi permit issued for transportation by taxi in a territory wholly or partly comprised in a designated area.”

(2) This section applies from the taxation year 1984, except that where it applies to the taxation years 1984 and 1985, the first paragraph of section 1029.9 of the Taxation Act enacted by it shall be read as follows:

“**1029.9** A taxpayer who, on 31 December of a calendar year subsequent to the calendar year 1983 included in his taxation year, is the holder of a taxi permit in force and who meets the requirements prescribed by regulation, is deemed to have paid to the Minister on the last day on which he is required, in accordance with section 1000, to file his fiscal return for that taxation year or on which he would have been required to file such return if he had had any tax to pay for that taxation year under this Part, on account of his tax payable for that taxation year under this Part, an amount of \$500 for each such taxi permit.”

c. I-3,
s. 1034, am.

186. (1) Section 1034 of the said Act is amended by replacing subsection 1 by the following subsection:

Joint and
several lia-
bility for
payment of
tax

“**1034.** (1) Where a person transfers property, directly or indirectly, by means of a trust or by any means whatever to a person with whom he is not dealing at arm’s length, a person who is under 18 years of age, or his spouse or a person who, after the transfer, becomes his spouse, the transferee and transferor are jointly and severally liable to pay a part of the transferor’s tax for each taxation year equal to the amount by which the tax for the year is greater than it would have been if it were not for the operation of sections 456 to 458, 462.1 to 463 and 464 to 467.1 in respect of any income from, or gain from the disposition of, the property so transferred or property substituted therefor.”

(2) This section has effect from 22 May 1985.

c. I-3,
s. 1044, am.

187. (1) Section 1044 of the said Act, amended by section 192 of chapter 19 of the statutes of 1986, is again amended

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

Amount ex-
cluded in re-
spect of op-
tion

“**1044.** Where, for a particular taxation year, a taxpayer is entitled to exclude from his income under sections 294 to 298 an amount in respect of an option exercised in a subsequent taxation year or to deduct an amount relating to a subsequent taxation year and contemplated

in paragraphs *b* to *e* of section 1012.1 or an amount by virtue of an election by his legal representative in a subsequent taxation year under section 1054, his tax payable under this Part for the particular taxation year is deemed, for purposes of computing interest payable under sections 1037 to 1040, to be equal to that which the taxpayer would pay if he were not entitled to exclude from his income or deduct any of those amounts.”;

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

“(a) the day on which an amended fiscal return of the taxpayer or a prescribed form was filed in accordance with section 297, 1012 or 1054 so as to exclude from his income or deduct the amount for the particular taxation year;”;

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

“(d) the day on which the taxpayer or his legal representative files his fiscal return under this Part for the subsequent taxation year referred to in subparagraph *c*.”

(2) This section applies from the taxation year 1985, except that where it applies to the taxation year 1985, the reference, in the first paragraph of section 1044 of the Taxation Act enacted by it, to “paragraphs *b* to *e* of section 1012.1” shall be read as a reference to “section 1012.1”.

c. 1-3,
s. 1053, am. **188.** (1) Section 1053 of the said Act, amended by section 194 of chapter 19 of the statutes of 1986, is again amended

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

Overpay-
ment result-
ing from a
carry-back
of loss

“**1053.** For the purposes of section 1052, the part of an overpayment of the tax payable by a taxpayer for a taxation year, resulting from the exclusion from his income under sections 294 to 298 of an amount in respect of an option exercised within a subsequent taxation year or from the deduction of an amount relating to a subsequent taxation year and contemplated in paragraphs *b* to *e* of section 1012.1, or from the deduction of an amount in computing his income for the year by virtue of an election for a subsequent taxation year under section 1054 by his legal representative, is deemed to have been paid to the Minister on the latest of the following dates:

(a) the sixty-first day following the day on which an amended fiscal return of the taxpayer or a prescribed form was filed in accordance with section 297, 1012 or 1054 so as to exclude from his income or deduct the amount for the taxation year;”;

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

“(d) the sixty-first day following the day on which the taxpayer or his legal representative files his fiscal return under this Part for the subsequent taxation year referred to in paragraph *c*.”

(2) This section applies from the taxation year 1985, except that where it applies to the taxation year 1985, the reference, in that part of section 1053 of the Taxation Act which precedes paragraph *a*, enacted by this section, to “paragraphs *b* to *e* of section 1012.1” shall be read as a reference to “section 1012.1”.

c. 1-3,
s. 1054,
replaced

189. (1) Section 1054 of the said Act is replaced by the following section:

Disposition
of capital
property by
the legal
representative

“**1054.** Where the legal representative referred to in section 1055 makes an election in the prescribed manner and within the prescribed time and, not later than the last date on which he must file the election, also files an amended fiscal return in the name of the deceased taxpayer for the taxation year in which he died, notwithstanding any other provision of this Act, the following rules apply:

(a) such part of one or more capital losses from the disposition of capital property referred to in paragraph *a* of section 1055 not to exceed the excess determined in the said paragraph, as the legal representative so elects, shall be deemed to be capital losses of the deceased taxpayer from the disposition of the capital property by him in his taxation year in which he died and not to be capital losses of the estate from the disposition of the capital property for its first taxation year;

(b) such part of the deductible amount described in paragraph *b* of section 1055, not exceeding the amount that, but for this section, would be the aggregate of the non-capital loss and the farm loss of the estate for its first taxation year, as the legal representative so elects, shall be deductible in computing the income of the deceased taxpayer for his taxation year in which he died and shall not be an amount deductible in computing any loss of the estate for its first taxation year;

(c) in computing the taxable income of the deceased taxpayer for a taxation year preceding the year in which he died, no amount may be deducted in respect of an amount referred to in paragraph *a* or *b*.”

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

c. I-3,
s. 1055, am.

190. (1) Section 1055 of the said Act is amended by replacing that part which precedes paragraph *a* by the following:

Legal
representa-
tive

“**1055.** For the purposes of section 1054, the legal representative is that of a deceased taxpayer who, in the course of the administration of the estate of such taxpayer, disposes, within the first taxation year of the estate:”.

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

c. I-3,
s. 1056,
repealed

191. (1) Section 1056 of the said Act is repealed.

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

c. I-3, Part
I, Book XI,
Title I,
heading,
replaced

192. (1) The heading of Title I of Book XI of Part I of the said Act is replaced by the following:

“TAX AVOIDANCE”.

(2) This section has effect from 24 May 1985.

c. I-3,
s. 1080.1,
added

193. (1) The said Act is amended by inserting, after section 1080, the following section:

Artificial
manipula-
tions

“**1080.1** No amount shall be deducted by an individual under sections 726.6 to 726.20 in respect of a capital gain from the disposition of property where it may reasonably be considered that one of the purposes of a series of transactions or events was that the individual convert into that gain an amount that would otherwise have been received by the individual and included in computing his income under paragraph *a* of section 28

(*a*) but for one or more of such transactions or events in the series, or

(*b*) on a disposition by him of property in respect of which the property is a substituted property.”

(2) This section applies in respect of a series of transactions or events commencing after 21 November 1985.

c. I-3,
s. 1083,
replaced

194. (1) Section 1083 of the said Act is replaced by the following section:

Amount
received by
dividend
stripping

“**1083.** Where an amount is received or becomes receivable by a taxpayer in a taxation year as a result of a dividend stripping, such

part of that amount as is reasonable in the circumstances, having regard to the amount of tax that, but for this title, would have been or would be avoided, shall be included in computing the income of the taxpayer for the year,

(a) in the case of a taxpayer who is an individual or a person not resident in Canada, as a taxable dividend received by him in the year; and

(b) in the case of any taxpayer not referred to in paragraph a, as income, other than a taxable dividend, from property.”

(2) This section has effect from 13 February 1986.

c. I-3,
s. 1084, am.

195. (1) Section 1084 of the said Act is amended by replacing that part which precedes paragraph *d* by the following:

Operations
conductive to
dividend
stripping

“**1084.** Dividend stripping may occur where an amount is received or becomes receivable by a taxpayer in a taxation year,

(a) as a consequence of the disposition or exchange of any property;

(b) as a consequence of the redemption, cancellation or acquisition by a corporation of any share of any class of its capital stock or the reduction by a corporation of the paid-up capital of shares of any class of its capital stock, or the conversion by a corporation of shares of any class of its capital stock into shares of another class of its capital stock or into bonds of the corporation;

(c) otherwise, as an amount that would, but for this Title, be considered to be exempt income; or”.

(2) This section has effect from 13 February 1986.

c. I-3,
s. 1085,
replaced

196. (1) Section 1085 of the said Act is replaced by the following section:

Dividend
stripping

“**1085.** Dividend stripping occurs where it can reasonably be considered that one of the purposes of a transaction or an event effected or to be effected after 23 May 1985 and of which a transaction described in section 1084 forms part, or of a series of transactions or events effected or to be effected after 23 May 1985 and of which a transaction described in section 1084 forms part is to effect a significant reduction of or the disappearance of the assets of a corporation at any time in such a manner that the whole or any part of any tax which otherwise might have been or become payable under this Part in consequence of any distribution of property of a corporation has or will be avoided.”

(2) This section has effect from 13 February 1986.

c. I-3,
s. 1091, am.

197. (1) Section 1091 of the said Act, amended by section 198 of chapter 19 of the statutes of 1986 and by section 84 of chapter 21 of the statutes of 1987, is again amended by replacing paragraph *a* by the following paragraph:

“(a) the deductions permitted by sections 710 to 712, 723, 725 and 725.1 to 725.4;”.

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

c. I-3,
s. 1113, am.

198. (1) Section 1113 of the said Act, amended by section 204 of chapter 19 of the statutes of 1986, is again amended by replacing paragraph *b* of subsection 1 by the following paragraph:

“(b) notwithstanding any other provision of this Act, any amount received in a taxation year by a taxpayer as such a dividend must not be included in computing his income for the year as income from a share of the capital stock of the corporation, but shall be deemed to be a capital gain of the taxpayer for the year from the disposition by him in the year of capital property.”

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

c. I-3,
s. 1116, am.

199. (1) Section 1116 of the said Act is amended by replacing paragraph *b* of subsection 1 by the following paragraph:

“(b) notwithstanding any other provision of this Act, any amount received in a taxation year by a taxpayer as such a dividend must not be included in computing his income for the year as income from a share of the capital stock of the corporation, but shall be deemed to be a capital gain of the taxpayer for the year from the disposition by him in the year of capital property.”

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

c. I-3,
s. 1138, am.

200. (1) Section 1138 of the said Act, amended by section 202 of chapter 15 of the statutes of 1986 and by section 206 of chapter 19 of the statutes of 1986, is again amended by striking out subsection 5.

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

c. I-3,
s. 1165, am.

201. (1) Section 1165 of the said Act, replaced by section 207 of chapter 15 of the statutes of 1986 and amended by section 95 of

chapter 21 of the statutes of 1987, is again amended by replacing the first paragraph by the following paragraph:

Applicable provisions

1165. Except where inconsistent with this Part, sections 17 to 21, 1000 to 1029, 1030 to 1082, 1130, 1134 and 1144 apply, adapted as required, to this Part.”

(2) This section applies to taxation years ending after 10 March 1981.

c. M-31,
s. 14, am.

202. Section 14 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), amended by section 211 of chapter 15 of the statutes of 1986, is again amended by replacing the first paragraph by the following paragraph:

Prior notice of distribution of property

14. Before distributing the property under his control, every assignee, liquidator, administrator, testamentary executor or any other person who winds-up, administers or controls the property, business, succession or income of another person, with the exception of a trustee in bankruptcy, shall give the Minister written notice, by registered or certified letter, of his intention to make such distribution; in the case of a succession, the notice shall be given by means of the prescribed form and include, where required, the report or the inventory referred to in section 14.1.”

c. M-31,
s. 14.1, am.

203. Section 14.1 of the said Act, enacted by section 212 of chapter 15 of the statutes of 1986, is amended

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

Report on contents of container

14.1 Every testamentary executor or every person who winds-up, administers or controls the succession of a person shall, within six months after the person’s death, make a report certifying the opening of any container leased by the deceased from any person ordinarily engaged in the leasing of safes, safe-deposit boxes or other containers and listing in detail the contents of the container.”;

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

Copy to the lessor and the Minister

“A copy of the report showing that the formalities have been carried out or, where such is the case, an authentic copy of the inventory shall be kept by the lessor and, subject to section 14.3, a copy shall be sent to the Minister with the notice provided for in section 14 by the person who made the report.”

1985, c. 25,
s. 86, am.

204. Section 86 of the Act to amend the Taxation Act and other fiscal legislation (1985, chapter 25) is amended by replacing subsection 2 by the following subsection:

“(2) This section applies in respect of dispositions of aviation turbine fuel occurring after 30 April 1983; it applies also in respect of dispositions of aviation turbine fuel occurring before 1 May 1983 but after 31 January 1982 where the taxpayer who disposes of the fuel reimburses to the purchaser of the fuel all amounts paid by the purchaser that can reasonably be considered to relate to the excess of the “export price”, within the meaning of subsection 1 of section 2 of the Aviation Turbine Fuel Remission Order SI/86-176 of 1 October 1986 made under the Financial Administration Act (Statutes of Canada), over the “normal price”, within the meaning of subsection 1 of section 2 of the Order, of the fuel, and foregoes any action to recover any such amounts that have not been paid by the purchaser.”

Coming into
force

205. This Act comes into force on 1 December 1987.